

## **CHAPTER 12 – CONSULTANT PROCUREMENT**

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## **Introduction**

Most Florida Department of Transportation (FDOT) projects are accomplished through contracts. The FDOT commonly uses contracts for the following services:

- Professional Services
- Contractual Services
- Construction
- Maintenance

This chapter deals with professional services and contractual services. Part II, Chapter 5, of this handbook, deals with construction contracts, and Part II, Chapter 7 deals with maintenance contracts. The FDOT Project Manager (PM) plays a major role in this process and must thoroughly understand the contract procurement guidelines. To a great extent, the success of a project depends on properly scoping the contract and selecting the best consultant available. This is too critical a step for the FDOT PM to leave to others. The consultant PM must also fully understand the process in order to be selected. For both PMs, the contract procurement process is the first step in the successful completion of a project.

## **Professional Services**

Florida law requires state agencies to acquire certain professional services by competitive negotiation. The process mandates a competitive selection (based on qualifications) followed by contract negotiations to establish a fee for the desired services. The [\*\*Consultants' Competitive Negotiations Act \(CCNA\)\*\*](#), Section 287.055, Florida Statutes (F.S.), mandates the following kinds of services be acquired through the CCNA process:

- Engineering
- Surveying and Mapping
- Architecture
- Landscape Architecture

In addition right-of-way and transportation planning services may also be acquired using the CCNA process described under Section 287.055 F.S., in accordance with Sections 337.107 and 337.1075, F.S. Planning services must be provided by planners certified by the American Institute of Certified Planners under CCNA.

The FDOT uses this process for Planning, Project Development and Engineering (PD&E), Design, Construction Engineering and Inspection (CEI), and General Engineering Consulting (GEC) contracts.

The primary references that all Project Managers must be familiar with are **Procedure No. 375-030-002**, [Acquisition of Professional Services](#), and [Rule Chapter 14-75](#) of the Florida Administrative Code (F.A.C.). The process involves distinct steps described in detail in **Procedure No. 375-030-002**.

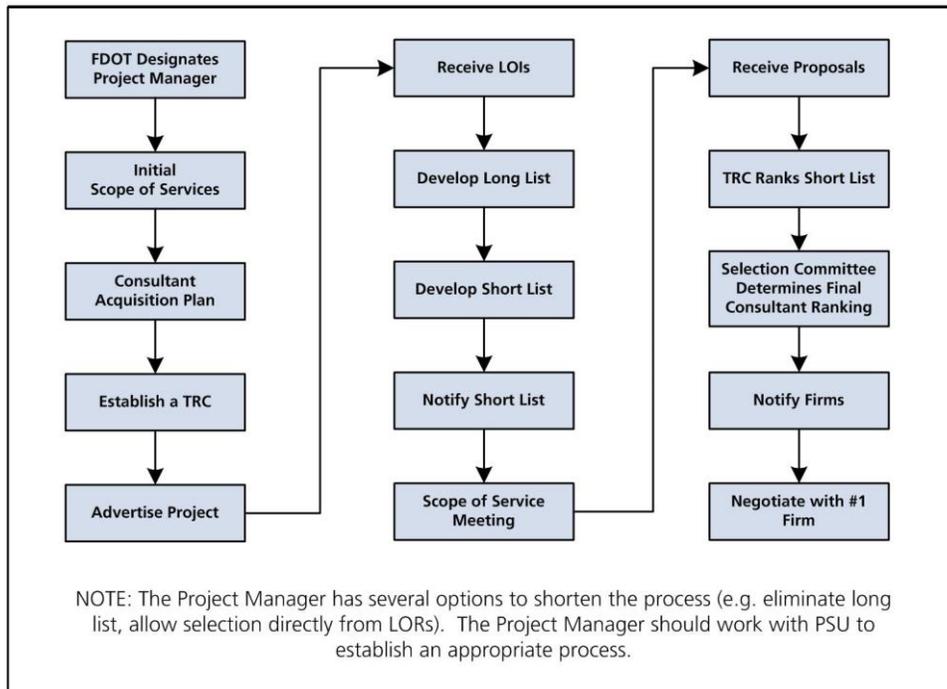
## **The Professional Services Procurement Process**

**Develop a Plan.** The Five-Year Work Program identifies the FDOT PM for each project. Once this occurs, the FDOT PM should contact the District Professional Services Office to begin the process of scheduling the contract acquisition. The critical stages in the acquisition process are advertisement, longlisting, shortlisting, final selection, contract negotiation, and contract execution. The contract acquisition schedule should be prepared jointly by the FDOT PM and the District Professional Services Unit (PSU).

Initially, the project will be listed by Professional Services as a planned project in order to prompt the interest of consultant firms. During this phase the FDOT PM may speak with firms who request information about the project prior to advertisement. Once the project is advertised to solicit letters of response, contact with consultants should cease. At that point, any discussions with a particular firm could be construed as giving that firm an unfair advantage. All communication should be channeled through the District PSU after advertisement.

Meetings of the Technical Review Committee or Selection Committee to discuss or rank consultant proposals are considered public meetings and require proper public notice. Proposed meetings of these committees must be noticed (time, date and place) in the advertisement. The FDOT PM should coordinate with the District PSU prior to advertisement to schedule these meetings. Figure 1, **Standard Procurement Process**, maps this process.

Figure 1  
Standard Procurement Process



**Initial Scope of Services:** Prior to advertisement, the FDOT PM must determine the appropriate work groups and develop a scope of services for the project. Work groups are described in Rule 14-75.003, **F.A.C.** Major and minor work groups must be listed in the advertisement. A proposed scope of services is also included in the advertisement. Standard scopes have been prepared for Project Development and Environment (PD&E), roadway and bridge/structural design and Construction Engineering and Inspection (CEI) projects. The PD&E and Design Standard Scopes can be found at the [Project Management Office](#) website and the CEI Standard Scope at the [Construction Office](#) website. A standard scope should be used whenever appropriate, but the FDOT PM may modify the standard language as necessary to accurately describe the specific work required and to reflect unique district procedures. The following elements should be considered for inclusion in a scope of services:

- The objectives of the project.
- A clear description of the required work.
- A listing of major tasks to be performed.
- An identification of important parameters, constraints and conditions related to the project and associated work.
- A list of all previous work done on the project that can be useful and access to relevant information.

- Schedule requirements including the total duration and any intermediate dates or durations that are important.
- Quality Control Plan requirements.
- A list of required deliverables and reporting requirements.
- Delineation of work and support to be provided by the FDOT and others.
- Unique or special conditions that the consultant should be aware of.
- Post-design services for a design project.
- Options for any additional services that can be foreseen. If there are technical requirements that may be needed but cannot be fully determined initially, it is prudent to include them as options.

The scope should be written to describe the work required, not as directions for the preparation of a proposal or presentation. A new FDOT PM may find it helpful to review scopes of currently advertised projects and files of similar projects advertised in the district. The Standard Terms and Conditions for Professional Services Contracts and the standard Method of Compensation language should also be reviewed carefully to avoid duplicating or contradicting these contract elements in the scope of services. Preparation of the draft scope and professional service fee estimate should be coordinated with all appropriate support services, such as surveying and mapping, traffic, materials and right of way. At this point, the FDOT PM should review the work program and the Long Range Estimate (LRE) for the project construction cost. This is to insure the work program contains the necessary project phases and funding amounts in line with the scope being developed for the project. The final project scope may result in significant impacts on the project phases and funding levels which should be reconciled prior to executing a contract.

**Finalize Milestones:** Once the FDOT PM submits the suggested work types and scope of services, the District PSU will establish necessary milestones and enter them into the district Consultant Acquisition Plan (CAP). The dates in the CAP are very important and should drive the FDOT PM's actions concerning procurement. The CAP is usually developed before the Secretary of Transportation approves the Work Program for the next fiscal year. It is posted to the web, ordinarily in February. Generally, the scope and suggested work types are not ready at that time.

**Selection Committee:** This committee will make both shortlist and final selections. The Selection Committee composition will vary slightly by district, but it normally includes the district secretary (who will serve as chairperson) and the district directors, or their designees. The FDOT PM may not serve on the Selection Committee.

**Technical Review Committee:** The Technical Review Committee (TRC) develops the longlist. The FDOT PM is a member of the TRC and is usually the chair. The TRC members should be selected to match the technical issues that will be important on the project. A person should not accept membership on a TRC if he/she is not able to devote the time necessary to do the job properly. If a member of the TRC has any potential conflict of interest with a firm that has submitted a letter of interest, she/he should not accept membership on the committee. Examples of possible conflicts of interest are: a competing firm employs a family member, or the person owns stock in a competing firm. It is best to avoid even the appearance of a conflict of interest. Members of the TRC as well as Selection Committee members must sign a Conflict of Interest Certification Form (Form 375-030-50) which will be kept on file in the District PSU.

**Determine the Proposal Requirements to Use:** The FDOT PM should consult with the District Professional Services Office and other FDOT PMs to determine the proposal requirements that will provide the information necessary to select the best consultant for the project. This consultation should be done during the development of the CAP. There are three options: written technical proposals, oral presentations (also known as oral technical proposals), and interviews.

**Procedure No. 375-030-002**, Acquisition of Professional Services, paragraphs 3.6 and 3.7, contain information about determining proposal requirements. The “best” procedure is the one that will result in selecting the most qualified consultant for the project. Minimizing expense for consultants and the time requirements for the TRC are secondary factors to consider. The following suggestions may be helpful in determining what type of proposal requirements will be most effective:

- Generally, interviews are appropriate for small relatively simple projects and for district-wide projects. Interviews may also be used for projects when the consultant teams have been specified and are primarily competing in terms of experience, such as on CEI projects. Interviews should include planned questions that are asked of all consultants. The questions should be designed to provide the interviewers the comparative knowledge and experience of the competing teams that are being proposed. However, the interview should be structured to allow the interviewers flexibility to pursue lines of questioning that will provide insight into the consultant’s other qualifications. Interviews are usually the least costly method for the consultants.

- Oral technical presentations are most appropriate for PD&E and other projects involving public participation because they provide some insight into the consultant's presentation skills. Consultants should demonstrate awareness of project issues, explain their approach to the project and describe their staffing qualifications and capabilities. The selection of a consultant should be made on the technical qualifications of the firm, not "showmanship." Therefore, presenting consultants should have their key technical personnel proposed for the project make the presentation. Oral presentations are generally the most expensive selection procedure for the consultants.
- Written technical proposals are appropriate for large and complex projects. Sample projects, submitted as part of or instead of a technical proposal, can be helpful in evaluating consultants for projects without a specific scope, such as a district-wide project. When technical proposals are submitted, the TRC will take more time to review the material. To reduce this time requirement and expense, a proposal page limit may be set. It is important for the consultant to include input from all team members in their written proposal in order to give the TRC a clear indication of the team's knowledge and understanding of the project.
- Both technical proposals, oral and written, may be appropriate for very large and complex projects. Requirements of **Procedure No. 375-030-002**, Acquisition of Professional Services, Section 3.6, must be met.
- For projects that do not require technical proposals or presentations, such as CEI projects or district-wide projects, the alternate selection method may be used, where ranking is made directly from the letters of response. The advertisement must notify consultants if the optional alternate selection process will be followed. Section 3.7, Procedure No. 375-030-002 should be carefully reviewed when this process is used. The letter of response page limit should be increased to allow consultants to adequately portray their knowledge, qualifications and understanding of the project. The TRC will usually take additional time to review and rank the letters of response.

**Advertise the Project:** Once the project is advertised, the "clock starts." All milestones must be completed on time to meet the contract execution schedule. The advertisement should include the proposed Scope of Services.

**Receive Letters of Response From Consultants:** The District PSU will receive the Letters of Response (LOR), eliminate non-responsive consultants from consideration and verify qualifications of responding firms. Any determinations of non-responsiveness by District PSU will be communicated to the TRC and

discussed at the Selection Committee public meeting. Non-responsive LORs are posted along with the shortlist posting.

**Develop the Longlist:** Developing the longlist of potential firms is the next step. All information available on each consultant firm should be considered carefully. If performance evaluations raise questions, it is wise to call FDOT Project Managers who have previously worked with the firms being reviewed. All firms, both those that are known to the TRC as well as those that are new, should be considered fairly. The longlist should include a minimum of ten firms. If the number of qualified firms is less than ten, all should be listed.

**Develop the Shortlist:** The Selection Committee decides which firms to shortlist after considering the recommendations of the TRC. The FDOT PM, although not a member of the Selection Committee, should be prepared to offer input and suggestions when asked.

**Notify Shortlisted Firms:** Either the FDOT PM or District PSU personnel will call to notify firms selected for the shortlist. The shortlisted firms are then sent a Request for Proposal (RFP). The contents of the RFP are explained in ***Procedure No. 375-030-002***, Section 4. The RFP includes the proposed Scope of Services.

**Hold Scope of Services Meeting:** While a Scope of Services meeting with the shortlisted firms is optional, one should be held if the project is complex or scope issues exist. At the Scope meeting, the FDOT PM explains FDOT expectations and the Scope of Services. An alternative is to hold the meeting only if it is requested by any of the shortlisted firms. A teleconference Scope of Services meeting is another alternative. This meeting format may save travel time and expense for both the FDOT and the consultants. After the scope of services meeting, a specified time is provided to allow consultants to ask questions. The procedure for submitting questions should be clearly established. Normally, technical questions should be directed in writing to the FDOT PM; contractual and submittal questions should be directed in writing to the PSU. All firms on the shortlist should receive the text of all questions and FDOT responses.

**Receive Proposals From Consultants:** Shortlisted firms submit their proposals, which may involve their making presentations and/or the FDOT conducting interviews. All members of the TRC must attend the presentation and interview meetings and complete evaluations for each firm. If members of the Selection Committee decide to attend one firm's presentation or participate in one firm's interview, they must be present for those of all other firms. The FDOT PM must take time to prepare for these meetings, and should review the consultant firm submittals carefully and prepare insightful questions. If written technical proposals are the basis for selection, the submittals should be reviewed completely and carefully. It is also wise to contact consultant client references to learn how they have evaluated the firm's performance.

Section 6, **Procedure No. 375-030-002** discusses the scoring form. The items to be scored and the weight attached to each item should reflect the criteria that are important in selecting the consultant firm for a specific project. The consultant's Project Manager is critical to the success of the project. The TRC should be concerned not only about his/her qualifications but also about his/her involvement in other projects and availability. It may be useful to learn how many other FDOT projects that this individual is currently managing.

**Conduct Technical Review of Consultants.** After the selection method procedures have been completed, the TRC evaluates each consultant firm following the process outlined in Section 6, **Procedure No. 375-030-002**. Committee members should concentrate on a firm's ability to do the work. They should not be distracted by other factors such as an attractive proposal or an artistic presentation. Although these attributes are impressive, they may not reveal the qualifications required. Gathering input from various disciplines and support offices can be beneficial in evaluating technical issues. Each TRC member should include a written explanation of her/his score that explains the rationale for the score. Although the scoring must be done individually, it is appropriate to discuss the consultants in general and reach some consensus on the major issues involved before scoring. The TRC chair should review results to ensure that they are reasonable and proper. Significant discrepancies in the scores of TRC members should be addressed in the selection package.

**Rank the Shortlist.** The selection package is prepared by the District PSU for consideration by the Selection Committee, which decides the final ranking. The FDOT PM should be prepared to answer any questions that the Selection Committee may have during this process. The PSU then notifies the shortlisted firms of the final rankings, and negotiations may begin with the number-one ranked firm.

## **Marketing Professional Services to the FDOT**

Consulting firms wishing to do business with the FDOT must understand the procedures for pre-qualification, selection and negotiations. All necessary information can be found at the [Procurement Office Professional Services](#) website. Districts schedule firms for presentation of their capabilities to key district staff on a regular basis. Firms should take advantage of this opportunity to market their skills to districts where they have not done business recently or when they have had significant changes in key project staff.

Consultant firms recognize that there is usually much competition for projects. It is to the firm's advantage to research carefully FDOT planned projects (found at the Procurement Office website). Firms should be selective when deciding projects for which to submit Letters of Response. Only those projects that are within the capabilities of the firm should be pursued. Being selective is usually more effective than a "shotgun" approach. When a firm is shortlisted, it must

avoid any contact with FDOT personnel concerning the project except as allowed in the RFP.

## **Contractual Services**

The major difference in professional services and contractual services selection is: Professional Services selections are based on qualifications only; contractual services are based on qualification and price. Contractual services procedures are used for the procurement of any services that do not fall into the categories listed as professional services at the beginning of this chapter.

They may include: environmental, archeological, emergency response, building and equipment maintenance, training, research, systems development, information technology (IT), and appraisal services. Although appraisal contracts may be advertised under the professional services procedures, FDOT uses contractual services. Appraisers proposing on contracts to prepare surplus property appraisals and for contracts to prepare Local Agency Program (LAP) project appraisals must be qualified by FDOT under Rule 14-75, Subsection 003.n of the F.A.C., Group 20, Appraisal Services.

The procedures for contractual services are covered in ***Manual No. 375-040-020, [Procurement of Commodities and Contractual Services](#)***. Procurement of contractual services under this procedure can involve either an Invitation to Bid (ITB), a Request for Proposal (RFP) or an Invitation to Negotiate (ITN). All begin with an advertisement package that includes either a Scope of Services or specification and an acquisition package plan.

The ITB process is generally used for purchase of commodities, well-defined services and temporary help. The process normally takes 8 to 10 weeks but may be shortened to 4 weeks if necessary. The lowest bidder who meets the specified minimum qualifications is awarded the contract. The FDOT Project Manager is responsible for determining which bidder meets the minimum qualifications.

The RFP process is normally used for training, research and technical expertise contracts. The process generally takes from 10 to 12 weeks, but may be shortened to 4 weeks. Vendor RFPs are rated on two factors, various technical qualifications and price. The FDOT PM and the District Contractual Services Office (CSU) must develop a two-part rating or grading system that awards points for each factor. The grading system may be weighted: that is, more or fewer points can be awarded for either technical qualification factors or price depending on their relative importance. The vendor with the highest score when technical qualifications and price factors are combined is awarded the contract.

The ITN process is typically used for high-risk and new technology contracts when FDOT is not exactly sure of the approach or the latest technologies that will be required to perform the work. The process usually takes 12 to 14 weeks but can be shortened to 6 to 8 weeks if necessary. The submittal includes a

modified proposal briefly outlining technical qualifications and a preliminary price quotation. Three or four highest ranked vendors are shortlisted. Each is invited to prepare a proposal that details both technical qualifications and price. The FDOT PM and Contractual Services then negotiate with the shortlisted vendors. There may be more than one round of negotiations. The FDOT gathers additional information and better defines the scope with each successive round. Like the RFP process, a grading procedure based on both technical factors and price is developed and then used in the final selection of a contractor.

These contracts are procured through the state's eProcurement system, [MyFloridaMarketPlace](#), and are subject to a 1 percent transaction fee on all payments. There are important differences with contracts procured through Contractual Services that the PM should understand. The district level Contractual Services Coordinator should be consulted early in the procurement process.