

1. Feedback on D5/Turnpike Regional Meeting

The Liaison Committee members who attended the January 26th D5/Turnpike Regional Meeting provided feedback. All agreed that the Regional Meeting achieved the big picture goal, i.e., FDOT District and Central Office staff were engaged with the consultant community. Suggestions for future Regional Meetings included: More time should be allowed for networking; Program length was appropriate; More interaction needed between panel members; Perhaps consider fewer speakers. Many thanks to District 5 and Turnpike for organizing and hosting the event.

2. Errors and Omissions Policy Changes

Brian Blanchard responded to consultant comments compiled from the FICE Transportation Committee, regarding the proposed changes to the Errors and Omissions Procedure (Identifying and Assigning Responsibility for Errors, Omissions, and Contractual Breaches by Professional Engineers, FDOT Procedure No. 375-020-010). The Department is statutorily required to pursue claims against contractors and consultants for time overruns and substandard work products (FS 337.015) and must have written procedures (FHWA 23 CFR172.9). The Director's Group Claim Meeting replaces what were formerly two separate meetings (Consultant Evaluation Committee and the Consultant Claims Review Committee). The Director's Group Claim Meeting is made up of the District Director of Transportation Development, the District Project Manager, the Construction Project Manager, FDOT Legal Counsel, and others as deemed necessary. The EOR may include personnel, consultants, attorneys, and experts it deems necessary. The Director's Group Claim Meeting will review the claims package and determine if the claim for errors & omissions against the EOR warrants further action. Most disputes regarding claims are resolved at the project level. The Chief Engineer will review claims greater than \$100K for consistency. FDOT agreed to make additional minor edits to the procedure and flowchart. Liaison Committee members present at the meeting concurred with the proposed changes to the E&O procedure, as is. The revised procedure will be on the February Executive Board Meeting agenda, for adoption by the Department. As soon as the Procedure is approved, notice will be sent to the FICE Transportation Committee. The Department is open to further discussions in the future on the Errors and Omissions process.

3. Changes to the Conflict of Interest Policy

FDOT is proposing changes to the Conflict of Interest Procedure (Restriction on Consultants' Eligibility to Compete for Department Contracts, Procedure No. 375-030-006). The intent of the Conflict Policy is two-fold: To ensure that contracts are procured in a fair open & competitive manner, and to prevent conflicts which may hinder consultants from objective decision-making. The procedure revisions will clarify what represents a conflict. For instance, consultants developing the RFP are conflicted from pursuing either the design or the CEI on the same project. The procedure relaxes conflict restrictions for geotechnical firms. Under the revised procedure, a consultant will be permitted to work as a sub for both the EOR and the contractor on the same project as long as the geotechnical services and/or testing are unrelated. The draft revisions are currently undergoing FDOT internal review. The FICE Transportation Committee will be provided with a draft of the revised procedure subsequent to District review. Central Office (Construction Office) plans to roll out a Conflict of Interest Frequently Asked Questions webpage, to provide guidance to the districts and consultants regarding potential conflict scenarios. The FAQs will help to provide consistency in application of the conflict policy throughout the districts. The FAQ webpage should be rolled out during February. FICE will be notified. The Department also plans to revise the Public Private Partnership Conflict of Interest Policy in the near future. No detail is yet available on the proposed P3 Policy changes.

4. FICE Bill

FICE and FTBA are co-sponsoring legislation to preclude Design/Build Alternative Concept meetings, Question and Answer sessions, and P3 one-on-one sessions from Sunshine/Public Records requirements. Under the draft legislation, a complete recording would have to occur, and all information becomes public 20 days after contract award.

5. Limitations on Liability

FICE informed the Department of their intent to sponsor a bill to address the discrepancy between the statute of limitation on liability for construction contractors (820 days) versus engineers (4 years). FICE would like to reduce the limitation on liability for engineers to the same as contractors. The Department would have to review the legislation proposed by FICE before establishing a position.

The Department believes the 4 years is from ownership by the Department (receipt of final signed/sealed plans or plans updates, whichever is later). The contractor's timeframe is 820 days from final acceptance. The current language appears reasonable for the design EOR and will provide approximately the same ending date for limitations on liability. For the CEI, ownership would be upon acceptance of the work on which the error is based and could provide a different ending date from the contractor for limitations on liability.

6. Planned Advertisements

FDOT now provides auto-email notification to prequalified consultants when new and planned advertisements are published on the Department's professional services and design/build advertisement websites. The notification is sent to the individual listed as the contact person for prequalification for the firm. System modifications soon to be implemented include: 1) providing notification to the consultant when there are revisions to existing advertisements; 2) adding a second field to allow the e-mail notice to be sent to a second e-mail account; and 3) enabling consultants to "opt out" if they don't find it useful to receive these e-mail notices.

The link to district Consultant Acquisition Plans has been moved to the Procurement main page, in an effort to provide consultants with easier access to this information. The Districts have been encouraged to post projects on the Planned Projects web page well in advance of advertisement; ideally four weeks in advance. Projects for the proposed Jobs Bill would only be released for posting when approval is granted by the Secretary.

FDOT plans to implement another auto-e-mail notification process, which will be used to collect information on professional services negotiations. Based on the negotiation date entered in the Professional Services Information (PSI) Schedule file, a Negotiation Evaluation Survey will automatically be sent to the e-mail accounts of the FDOT Project Manager, Professional Services Contract Administrator, and Consultant Project Manager listed in the PSI database. The Negotiation Evaluation Survey information will be collected and compiled by Central Office Procurement, and semi-annually sent to FICE and that District's management for informational purposes. This new process should be rolled out in March.