



Federal Aid Technical Bulletin

Bulletin No. 13-01

Date: January 24, 2013

Subject(s):

- Construction Engineering Inspection Hybrid Contracts
- MAP-21 Fund Codes
- 2010 Census Update for new Congressional District Boundaries
- New Non-participating Cost Monitoring Report
- Liquidated Damages information for LAP projects

Construction Engineering Inspection Hybrid Contracts

Per the direction of Secretary Prasad, the Department will transition over the next four years to use of a hybrid model for Construction Engineering Inspection (CEI) services. Under the Consultant CEI Inspector Services contract, the emphasis will be on the use of inspection staff provided by the consultant firm, and Project Administrators provided by the Department. CEI hybrid services will be procured using the professional services consultant selection process, in accordance with Florida Statutes Section 287.055 "Consultants' Competitive Negotiation Act" & Federal Brooks Act (40 U.S.C. 1101-1104). Although one CEI Consultant Engineer will still be a part of the approved job classifications included in the CEI contract staff and the scope of services document, the CEI Consultant Engineer will play a lesser role under the hybrid model. Department Project Administrators will be in responsible charge for hybrid contracts. These CEI hybrid contracts will be primarily procured as continuing services contracts, and will be task work order driven. The projects assigned by task work orders under the CEI continuing services contracts will be project specific. The threshold for use of the CEI hybrid Inspection Services contracts will be construction projects with a construction cost of \$3.5 million or less, however there may be occasions where the Department may use the these type of contracts to deliver a construction project greater than the stated threshold.

CEI continuing services contracts will be procured in accordance with the FDOT/FHWA Florida Federal-Aid Partnership Agreement No. 700-000-005. All task work orders will be established as cost reimbursable with fixed fee operating margin, or lump sum for the method of payment (in accordance with federal requirements). The professional services contract budgetary ceiling for these task assignment agreements will be established as \$5 million, with a 5 year limit (procedural limit for continuing services contracts, per Acquisition of Professional Services Procedure No. 375-030-002). Where projects are eligible for federal participation, FMIS authorization and approval by FHWA for each project can be requested when the projects are ready to be advanced to construction advertisement and this approval would be sought in advance of task work

Issued by Federal Aid Management Office



order issuance. All federally eligible projects will be submitted in accordance with FDOT Federal-aid Technical Bulletin No. 10-06, if federal funds will be added to the contract to fund a particular task. If federal funds will be utilized for task(s) on a contract for the first time the following comment should be submitted in FAMS,

"This is the first federally funded Task Work Order on Contract No. (xxx), which was executed on (date). All previous tasks were state funded. Costs incurred prior to this federal authorization date are not eligible and will not be submitted for reimbursement. A copy of the contract showing federal provisions was submitted to (TE's name) on (date)."

All CEI hybrid continuing services contracts will be written to incorporate federal provisions and required federal forms, to maximize funding source flexibility. A CEI Hybrid boilerplate scope of services document will be available for District use, from the Construction Office Internet website, at the following link:

<http://www.dot.state.fl.us/Construction/DesignBuild/ConsultantCEI/ConsultantMain.shtm>

In addition to the CEI Inspector services hybrid model, the Department will also utilize contracts for Resident Compliance Specialist services (DW Compliance Specialist contract). A boilerplate scope of services document is provided for this type of contract, which will be administered in much the same manner as described above for CEI hybrid Inspection Services. Please refer to the Construction Office Internet website for the Compliance Specialist boilerplate scope of services:

<http://www.dot.state.fl.us/Construction/DesignBuild/ConsultantCEI/ConsultantMain.shtm>

For CEI Hybrid & Resident Compliance Specialist contracts, the Project Cost Redistribution (PCR) application may be used, but federally funded task work orders should never be redistributed. Please note; the PCR application has edits to bypass federal projects, and prevent the redistribution from occurring. Federal projects must always be encumbered to the specific project number. For additional information on the PCR process for Districtwide contracts, please see Procedure No. 360-050-005.

Please note, most of these CEI consultant phase 62's will already exist in the Work Program as programmed on the same item segment as the Construction phase 52.

Large complex construction projects in excess of the \$3.5 million dollar threshold established for the CEI hybrid contract model will continue to be procured specifically for the individual construction project.

MAP-21 Fund Codes

On July 6, 2012, President Obama signed into law P.L. 112-141, the Moving Ahead for Progress in the 21st Century Act (MAP-21). FHWA has issued the following Federal



Appropriation Categories which have been crosswalked in the Department's financial management system to the following Work Program Administration fund codes:

FHWA Program Code	Program Description	WP Fund(s)	AC WP Fund(s)
M001	National Highway Performance Program (NHPP)	NHPP, NHRE, NHBR	ACNP, ACNR, ACBR
M002	National Highway Performance Program (NHPP) Exempt	EBNH	ACEN
M240	Surface Transportation Program (STP) Flex	SA, SABR ¹	ACSA, ACSB ¹
M230	STP - Urbanized Areas With Population Over 200K	SU	ACSU
M231	STP - Areas with Population Over 5K to 200K	SL	ACSL
M232	STP - Areas with Population 5K and Under	SN	ACSN
M233	STP Off-System Bridge	BRTZ	ACBZ
M234	Special Rule for Areas of Less Than 5,000 Population (rural minor collectors)	n/a	n/a
MT30	Highway Use Tax Evasion Projects	TCP	n/a
MS30	Highway Safety Improvement Program (HSIP)	HSP	n/a
MS40	Railway-Highway - Hazard Elimination	RHH	ACRH
MS50	Railway-Highway - Protective Devices	RHP	ACRP
M400	Congestion Mitigation & Air Quality Improvement (CMAQ)	CM	ACCM
M401	CMAQ Flexible Funding	CM	ACCM
M450	Metropolitan Planning Program	PL	n/a
M300	Transportation Alternatives Program (TAP) Flex	TALT	ACTA
M301	TAP - Urbanized Areas With Population Over 200K	TALU	ACTU
M302	TAP - Areas with Population Over 5K to 200K	TALL	ACTL
M303	TAP - Areas with Population 5K and Under	TALN	ACTN
M550	State Planning and Research (SPR)	HP	n/a
M560	Research, Development, and Technology Transfer (RD&T)	HR	n/a
M561	Future Strategic Highway Research Program Implementation	HR	n/a
M004	Innovative Project Delivery - Increased Federal Share	*to be established if needed	
M030	Redistribution of Certain Authorized Funds	RED	n/a

2010 Census Update for new Congressional District Boundaries

After each decennial Census the Florida Legislature redraws the districts from which Florida voters elect their members of the U.S. House of Representatives in Congress.

Redistricting is the redrawing of the Congressional boundaries. Reapportionment is the redistribution of seats in the United States House of Representatives among the 50

¹ ACSB and SABR will be funded with a transfer from NHPP apportionment to cover bridges that are on transportation system 05 (on-state, on-federal) and 06 (off-state, on-federal) but are not a part of the National Highway System, as enhanced. The non-AC fund version SABR (SA supplement to the Bridge program) may be used once the transfer is complete.



states, based on the decennial census. Each state gets at least one seat. Effective with elections in 2012 Florida gets 27 representatives in the U.S. House of Representatives, an increase of two. Until such time as FHWA informs Florida that the Fiscal Information Management System (FMIS) has updated their Congressional District by County verification table, please continue to use the boundaries that were in effect just prior to the November 2012 election. We will issue additional guidance on this topic as more information becomes available.

New Non-participating Cost Monitoring Report

A new report has been made available to periodically monitor non-participating expenditure/costs as they are incurred if allocated to a federal fund. Having this information in a near term timeframe will allow corrections to be made while the events are still recent. Timely review will allow billing code indicator flags to be corrected if the particular cost is known to be eligible for federal participation. The new report will arrive as an e-mail.

A review of these expenditures is needed to determine if the amount should be moved to a State Fund or if the participating code on the expenditures should be re-coded via a FLAIR transaction. Based on the review, either do a cost transfer to a state fund or request the correcting FLAIR transaction to your appropriate Financial Services or Disbursement Operations Office. If the Federal Project is already in Final Voucher status, please request the status be changed back to Active to process the correction. If the Federal Project is an HP or ER project and is Ready Final Voucher status, please contact your Office of Comptroller (OOC), Final Voucher Representative to process the corrections.

Non-participating revenue is also addressed in the closing process. OOC requests validation from the District to either cost transfer it to a state fund or request the Cashiers Office in General Accounting to move it to participating.

If the Federal Project has non-participating revenue, the same review and adjustments are required. If the review determines a FLAIR transaction is needed, send the request to the Cashier's Section in the General Accounting Office to do the transaction.

Liquidated Damages information for LAP projects

This information is in addition to the 5/16/2012 revision to FedTech Bulletin 12-01, originally issued 1/20/2012:

Contract time is an essential element of a construction contract and it is important that the work progress expediently to completion. The cost to the contracting agency for the administration of the contract, including engineering, inspection, and supervision, increases as the contract time increases. Likewise, the road user costs also increase as



the completion date of the contemplated facility is extended. The liquidated damages contract provision (LAP Manual 7.3.3 and 20.3.3-5 requiring FDOT Standard Specifications on federally funded projects) provides a mechanism for the contracting agency to recover these costs associated with the contract time overrun. FDOT is required by 23 CFR 635.127 to incorporate liquidated damages provisions into its Federal-aid contracts as a condition of the project agreements. For projects that are administered through the Local Agency Program (LAP), the local entity is required to provide information as to the status of the contract time so that a liquidated damages assessment calculation can be made if applicable and any credit/refund due to FHWA can be accomplished.

All LAP agreements executed prior to 1/20/2012 are still required to provide this information regarding liquidated damages, although they are not required to complete FDOT Form 525-010-47. A list will be provided to each District of all LAP projects where the LAP agreement was executed prior to 1/20/2012. It is FDOT's responsibility to demonstrate due diligence in notifying the Local Agency of this requirement. One of three following example statements/information documented in an e-mail from the local agency for each project and uploaded into LAPIT will be accepted to close the project:

- A statement from the local agency with the calendar day contract time information in a format comparable to form 525-010-47 entitled "Local Agency Program Record of Final Plans and Documents";
- A statement from the local agency that there were no unreasonable contract time extensions and liquidated damages were not assessed; or
- A statement from the local agency that the information is not available.

If you have any questions regarding the subjects contained in this bulletin, please do not hesitate to contact us.

James B. Jobe, CPA, CGFM
Manager, Federal Aid
Management Office
(850) 414-4448
james.jobe@dot.state.fl.us

Sean McAuliffe, CISA, CIA
Supervisor, Federal Aid Operations
Federal Aid Management Office
(850) 414-4564
sean.mcauliffe@dot.state.fl.us