



Florida Department of Transportation

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LAP MEMORANDUM: 02-11

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To: District Local Agency Program (LAP) Administrators, District Professional Service Administrators, and LAP Manual Holders

From: Brian Blanchard, P.E., Assistant Secretary for Engineering and Operations

Copies: Chris Richter, Nahir DeTizio, Duane Brautigam, Carla Perry,
Bob Crim, Roosevelt Petithomme

Subject: LAP Simplified Acquisition and Small Purchase Process

The purpose of this memorandum is to provide guidance on LAP Simplified Acquisition procedures allowed for Professional Services. Under very limited conditions, professional services may be exempted from **Federal Brooks Act** qualifications based selection procedures (as specified in 40 U.S.C. 1101-1104), and from **State of Florida Consultant Competitive Negotiations Act requirements (Section 287.055, Florida Statute)**. When the conditions outlined in this memorandum are met, Local Agencies may follow small purchase procedures [ref. 23 CFR 172.5(a) (2)]. Professional services procured using small purchase procedures must be less than the Federal simplified acquisition threshold (currently established at \$150,000), and also less than the state of Florida purchasing thresholds for Category Five (related construction project amount) or Category Two (for planning or study activity).

Both federal and state thresholds must be complied with. Where state and federal limits differ, the lesser threshold is the applicable restriction.

State law specifies:

Section 287.055(5)(a), F.S.: *Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head.*

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Category Five thresholds for construction costs are currently established as \$325,000, and Category Two threshold is currently established as \$35,000. Consequently, small purchase procedures may be used under the following conditions:

1. Are the professional services directly related to a construction project? (e.g., Project Development and Environmental (PD&E) services, design services, surveying and mapping, or construction engineering inspection services).
 - If yes, is the estimated construction cost for the project less than \$325,000 (state Category Five threshold)?
 - If yes, is the total contract amount for the professional services less than \$150,000 (federal threshold)?
 - If all are yes, then the small purchase process may be used. If the answer to one of the above questions is no, then the small purchase process cannot be used.
2. Are the professional services for a study activity or for planning activity? (Professional services not directly related to a construction project are defined as a "study activity").
 - If yes, is the total contract amount for the study activity or planning activity less than the state threshold of \$35,000 (state Category Two threshold)?
 - If yes, then the small purchase process may be used.
 - Please note, since the state threshold of \$35,000 per study or planning activity is the lesser when compared with the federal threshold, the state threshold is the limiting factor.

The requirements for acquiring professional services using the small purchase process are outlined in the following steps:

1. Local agency selects three firms from qualified list (definition below). **No *Request for Qualifications (RFQ)*** or contract advertisement is necessary to develop a short list of three firms.
 - The Local Agency must prepare an estimate, which should be used in determining that estimated construction costs or study costs meet the threshold amounts stated above.
 - The Local Agency may request a simple brief proposal, which can be used for evaluation of the firms.
2. Local agency undertakes discussions with three firms (local agencies may request a simple brief written proposal if desired).
3. Local agency ranks the three firms and documents reasons for selecting the No. 1 ranked firm (reasons should not involve price).
4. Local agency negotiates fee with No. 1 selected firm.
 - Please note the result will be a new small purchase contract. If a small purchase contract is amended and the amended amount exceeds either the state or federal thresholds, the excess costs are not eligible for reimbursement, and may jeopardize funding for the entire small purchase contract. Existing contracts should not be considered for this process. A supplemental to an existing contract or additional task work order is not eligible for federal participation and Department reimbursement under the small purchase process.

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The results of all negotiations with the Consultant must be documented in writing, made a part of the permanent project file, and uploaded into the Department's ***Local Agency Program Information Tool (LAPIT)***.

Prequalification: For projects on the State Highway and/or National Highway System the Consultant must be Florida Department of Transportation (FDOT) prequalified. Off system, non-critical projects may utilize Consultants prequalified by the Local Agency. The Consultant contract must contain the required federal aid provisions contained in Appendix I of the Department's ***Standard Professional Service Agreement (375-030-12)***.

In all instances, the Department's conflict of interest procedure ***Restriction on Consultants' Eligibility to Compete for Department Contracts*** is applicable and can be accessed at:
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/375030006.pdf>

The Federal Highway Administration (FHWA) has prepared a series of questions and answers on ***Procurement, Management, and Administration of Engineering and Design Related Services*** and can be accessed at <http://www.fhwa.dot.gov/programadmin/172qa.cfm>

Should you have any questions, please contact Carla Perry at 850-414-4484 or Roosevelt Petithomme at 850-414-4383