



Approved: _____

Interim Executive Director

Professional Services Procurement Procedure

I. STATEMENT OF PROCEDURE

This procedure defines how the Metro Transportation Engineering and Construction Cooperative (hereinafter called the “MTECC”) will procure qualified professional architectural; engineering; landscape architectural; surveying and mapping; planning; and right of way services, otherwise known as professional services, in compliance with state and federal requirements. The details of implementation shall be in accordance with the Florida Department of Transportation (FDOT) Professional Services Procurement Manual. This procedure is not intended to replace the procurement policies of any of the Municipal Members, but rather to supplement those policies as necessary for the projects to be delivered by the MTECC as agreed upon in the Interlocal Agreement to ensure compliance with the requirements of the FDOT Local Agency Program (LAP) Manual and CFR Title 23 PART 172 - Procurement, Management, And Administration of Engineering and Design Related Services. It is also the intent of the MTECC to adopt the procurement policies and procedures of the Municipal Members except as otherwise noted in this procedure document.

II. CONFLICT OF INTEREST

The MTECC and its Municipal Members will adhere to the FDOT Conflict of Interest procedure and procedure as outlined in Procedure No. 375-030-006.

III. AUTHORITY

The Interlocal Agreement for the creation of the Metro Transportation Engineering & Construction Cooperative is the legal instrument that authorizes this procedure.

Section 287.055, Florida Statutes, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

IV. OBJECTIVE

This procedure shall provide the governing principles that establish the basic philosophies upon which the procurement functions of the MTECC must operate. To achieve the aforementioned objective, all persons authorized to commit MTECC funds for the purchase of supplies and services shall:

1. Ensure the uninterrupted flow of the services by obtaining and ensuring delivery of acceptable quality of supplies and services, at the right time and the most cost efficient price.



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2. Comply with all applicable federal, state and local laws, statutes, ordinances and regulations governing local government procurement. Special emphasis shall be placed on ensuring procurement actions comply with Chapter 112, Florida Statutes relating to ethical behavior in the acquisition of supplies and services, the LAP Manual, CFR Title 23 PART 172 - Procurement, Management, And Administration of Engineering and Design Related Services, and Consultant Competitive Negotiation Act (CCNA) procedures as provided in Chapter 287.055 Florida Statutes and any applicable federal requirement.
3. Provide fair and equitable treatment of all vendors who participate in procurement activities.
4. No person or business shall be excluded from participation in, denied benefits of, or otherwise be discriminated against in connection with procurement activities on the grounds of race, color, religion, sex, and any protections offered by Title VI of the Civil Rights Act of 1964 or those further established by the Municipal Members.

V. SCOPE AND APPLICABILITY

The procedure outlined herein shall apply to the MTECC and all employees referenced in the Interlocal Agreement involved in any activities associated with the procurement of supplies or services for, or on behalf of, the MTECC and related MTECC projects.

VI. DEFINITION

- a. **FDOT** means and refers to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, Florida Statutes.
- b. **Federal Aid Project** means and refers to transportation related projects funded by FDOT through a Local Agency Program (“LAP”) Agreement.
- c. **Fiscal Year** means and refers to the federal fiscal year commencing October 1st and concluding September 30th.
- d. **LAP Agreement** means and refers to a Local Agency Program Agreement between FDOT and the MTECC for the planning, design, construction and/or completion of a Federal Aid Project.
- e. **Local Projects** means and refers to any transportation related project that does not utilize federal funding and/or is not undertaken pursuant to a LAP Agreement. Projects funded exclusively by the local government.
- f. **LOI** means Letter of Interest from interested firms.
- g. **MTECC** means and refers to Metro Transportation Engineering and Construction Cooperative.
- h. **MTECC Consultants** means and refers to private contractors engaged by MTECC.
- i. **Proposal/Response** means the submittal from a firm in response to a Request for Proposal.



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- j. **RFQ** means Request for Qualifications issued by MTECC.
- k. **RFP** means Request for Proposals issued by MTECC.
- l. **Statement of Qualifications** means a firm response to a Request for Qualifications.

VII. ROLES AND RESPONSIBILITIES

All Employees of and contracted support for the MTECC, in accordance with the requirements of their positions, shall be responsible for:

1. Complying with all adopted purchasing procedures within the parameters of their position responsibilities, except as otherwise noted.
2. Providing timely information to the procuring entity, be that the MTECC or a supporting organization by agreement (hereafter "MTECC Procurement"), the required information for the project.
3. Providing necessary information and working with the MTECC Procurement. The Executive Director shall ensure that grantor agencies and the city where the project is located are consulted and made a part of the process for the development of the procurement documents with the final issuance of the documents being the Executive Director of MTECC:
 - a) Assisting with bids and specification
 - b) Assist with the evaluation criteria
 - c) Evaluating proposer responses to solicitations for completeness and compliance.
 - d) Evaluating proposer past performance. Note that FDOT past performance for proposers may be used.
 - e) Resolving proposer and contracted professional services issues and grievances.
 - f) Identifying MTECC procurement needs.
 - g) Providing purchasing and proposers with necessary technical assistance. .
 - h) Identifying alternative goods and services
 - i) Contract documents
4. Ensuring that MTECC Procurement is made aware of all communications with proposers and contracted professional services concerning:
 - a) Letter of Interests (LOI)
 - b) Request for Qualifications (RFQ)
 - c) Requests for Proposals (RFP)
 - d) Schedule dates, including proposal due and opening dates
 - e) Responses to LOI, RFQ, and RFP that have been received and opened
 - f) List of potential contract documents

The MTECC Procurement shall provide for the acquisition of materials, supplies and services for projects, in accordance with this procedure. These responsibilities include the following:



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1. Following Section 287.055, Florida Statutes, “The Consultants Competitive Negotiation Act, FDOT rule 14-75, Florida Administrative Code and FDOT procedures 375-030-XX series related to prequalification process, advertisement, and competitive selection of professional services consultants based on qualifications, followed by negotiations to establish a fair, competitive and reasonable fee for the desired services.
2. Assisting in the development of LOI, RFQ, and RFP.
3. Assist in the development, administration and management of contracts. .
4. Assist with conducting the inventory of purchased goods.
5. Preparing and responding to LOI, RFQ, and RFP in accordance with this Procedure and related administrative procedures.
6. Making a final determination and/or recommendation, in conjunction with MTECC staff, as authorized by the Interlocal Agreement.
7. Providing appropriate procedures for ensuring proposer protests of competitive sealed proposals, competitive negotiations and requests for quotations are treated in a fair and objective manner.
8. Processing professional service contract payments in accordance with the Local Government Prompt Payment Act, Section 218.70, Florida Statutes and the prompt payment provisions of Title 49 subsection 26.29.
9. Resolving complaints between the MTECC and professional service contractor regarding purchases of services.
10. Recommending the rejection of all proposals received in response to a particular solicitation, when deemed appropriate by the MTECC.
11. Authorizing the termination of professional service contract relationships.
12. Maintaining professional service contractor performance records.
13. Verifying a professional services contractor is on the Federal System for Award Management (SAM) List.
14. Providing procedures for the evaluation of professional service contractors including suspension and debarment.

The MTECC Executive Director shall designate an evaluation team for each professional services procurement. The Executive Director shall ensure the City where the project is located has a participant on the evaluation team and for FDOT District 4 to have a participant to monitor the evaluation and selection if desired. The evaluation team shall score the professional services proposals and rank these in order 1, 2, 3, etc. The MTECC Procurement team will accumulate the scores and present these to the MTECC Executive Director. The MTECC Executive Director may request clarifications from the evaluation team on elements of the evaluation team scores and ranking, but may not change the scores and overall



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ranking without majority concurrence from the evaluation team. The MTECC Executive Director presents the ranking to the MTECC Board for concurrence or adjustment as the Board deems appropriate with an independent price evaluation and maximum budget for the project. Upon direction from the Board, the Executive Director and the MTEC Procurement Team will negotiate with the top ranked proposal for a fair, competitive and reasonable fee for the desired services within the maximum budget for the project. If the negotiation is unsuccessful, the Executive Director may move to the second ranked proposer and so forth until reaching an agreement.

If the negotiations are concluded within the maximum budget the Executive Director shall execute the professional services agreement for the project. Before doing so, the Executive Director must provide a procurement summary sheet that includes the following items for FDOT's review and concurrence:

1. Project scope
2. Summary of the procurement steps and dates
3. Name of proposers received
4. Ranking of the proposals by the evaluation team
5. Name for the select proposer and the negotiated project amount
6. Any other key items of note
7. Request for FDOT review and concurrence

The roles and authorities are summarized below:

1. MTECC Board shall approve a project plan for the year of proposed procurement of professional services at the start of each fiscal year as part of the MTECC multi-year project plan. This plan may be amended by the MTECC Board during each year. The MTECC Board will also approve Disadvantage Business Enterprise (DBE) proposed goals for each proposed professional services procurement.
2. The MTECC Executive Director shall develop a proposed schedule of proposed professional services procurements for each fiscal year based on the approval list of projects by the MTECC Board.
3. The MTECC Executive Director is responsible for the timely initiation of project procurements from the list approved by the MTECC Board in accordance with the proposed schedule of procurements.
4. The MTECC Board approves the ranking of proposals with a maximum project budget amount and delegates the negotiation to the Executive Director for finalization and execution of the professional services agreement within the maximum project budget.
5. The MTECC Executive Director is responsible for appointing an evaluation team to review and recommending all procurement rankings. The MTECC Executive Director is responsible for reviewing the rankings and passing this to the MTECC Board for consideration.



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6. The MTECC Executive Director shall appoint a Contracting Officer for MTECC for each contracted professional services project.
7. The MTECC Executive Director may approve extensions to the term with no dollar impacts of professional services agreements. The Executive Director may approve contract price increases up to ten percent of the original professional services contract amount provided the price increase is within the maximum project amount approved by the MTECC Board.
8. The MTECC Board shall approve any professional services contract price increase above ten percent of the original professional services contract amount or that exceed the maximum project amount.
9. The MTECC Executive Director shall execute all documents, including contracts and change orders, approved by the MTECC.
10. The MTECC Executive Director shall ensure contracts are executed and disseminated to the appropriate parties.
11. The MTECC Contract Office shall tracking the professional services agreement deliverables.
12. The MTECC Executive Director shall ensure the safekeeping all procurement and contract performance security instruments, including without limitation bonds, cashier or certified checks, letters of credit, and assignments of certificates of deposit, submitted to the Agency.
13. The MTECC Executive Director shall ensure the completion and submittal of the Local Agency Program Checklist for Federally Funded Professional Services Contracts (form 525-010-49).
14. The MTECC Executive Director shall handle concerns and issues relative to responding to requests for documents per Chapter 119, Florida Statutes also known as the "Public Records Law." The MTECC Attorney, as legal advisor with regards to procurement activities, shall be responsible for the following; Advising personnel on procurement matters that arise as a result of Agency operations.
 - A. Advising personnel on procurement issues that arise as a result of Agency operations.
 - B. Reviewing of contract documents prior to contract award for legal sufficiency and completeness.
 - C. Endorsing and approving each procurement agreement for form and correctness.
 - D. Defending, for, and on behalf of the Agency, all complaints, suits, and controversies in which the Agency is a party to that arise as a result of procurement activities, in consultation with the Agency Board Attorney and/or City/County Attorney Offices.

VIII. COMPETITIVE SELECTION PROCESS

For professional services procurements, the MTECC shall utilize a competitive qualifications-based selection (QBS) process. All applicable projects will be publicly advertised in accordance with Florida law, on each occasion when professional services are required and the fee is in excess of the threshold amount



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of Category Two, Section 287.017, F.S., except in the case of a valid public emergency declared by the Governor of the State.

The MTECC Executive Director and Procurement team shall maintain procurement and contract records documenting the professional services procurement process, in compliance with applicable state and federal laws. These records shall be maintained for 10 years, in accordance with General Records Schedule GS1-SL for State and Local Government Agencies. Only Consultants qualified in accordance with FDOT Procedure No. 375-030-001, Professional Services Consultant Qualification, may respond to professional services solicitations (i.e., submit Letters in response to a professional services advertisement). Unless the selection method is final ranking directly from Letter submittals (as specified in the project advertisement), the selection process will include the following steps: public advertisement; prequalified Consultants submit Letters; longlist by the evaluation team; shortlist recommendation by evaluation team of no less than three firms (where available), Request for Proposals (RFP); written technical proposals/interviews/oral presentations submitted by the shortlisted Consultant firms; technical evaluation scoring by evaluation team deemed to be the most highly qualified. Consultant availability may be considered as a tie breaker. If fewer than three Consultants respond to the advertisement, the MTECC will extend the advertisement, if the contract schedule permits. The minimum formal advertisement period will be 14 calendar days. For Federal-Aid Highway Program (FAHP) funded projects, FDOT approval must be obtained to shorten the advertisement period to less than 14 days. A scope of services or a project concept report will be provided with the advertisement. The advertisement shall specify requirements for submittals. Pursuant to Section 287.055, F.S., and the Federal Brooks Act, price shall not be an evaluation criterion during the advertisement and selection phase for professional services procurements. Where multiple Consultants are needed for projects with similar requirements, one advertisement and one selection process may be used where practical. The advertisement for such projects will include a statement indicating the exact number of contracts intended for award. Criteria for selection shall be included in the advertisement or RFP, as applicable.

IX. EVALUATION CRITERIA FOR SHORT/LOGLIST; RECOMMENDATIONS AND SELECTION COMMITTEE SHORTLISTING

The following factors will be considered by the evaluation team in developing the longlist and shortlist recommendations: a) Past performance evaluations; b) Staff capabilities; c) Local presence- The location of the Consultant in relation to the work to be performed, for projects where Consultant proximity to project location is pertinent and adds value to the quality and efficiency of the project (e.g., Construction Engineering Inspection (CEI) project). If a Consultant from outside the locality area indicates that it will satisfy the local presence criterion by establishing a local office, that commitment shall be considered to have satisfied the local presence criterion. However, local preferences, i.e., State or local requirements that limit competition, are not permissible; d) Any qualification restrictions; e) Availability of proposed Consultant personnel; f) Technical approach, innovation, and any other information contained in the Letter. The Selection Committee will shortlist no less than three Consultants, if available. Where multiple contracts will be awarded with one advertisement, at least two more Consultants than number of contracts awarded will be shortlisted.



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Factors to be considered by the Selection Committee when making the shortlist decision include but are not limited to: a) Past performance evaluations; b) Workload, 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; c) Balancing the needs of the project to the abilities of the Consultants; d) Consultant's working relationship/experience on previous projects; e) General and specific information used to longlist the Consultants; f) Proposed subconsultant teaming (also applicable for projects advertised with Disadvantaged Business Enterprise (DBE) and Small Business goals; and g) Detailed Consultant Analysis Report, where available.

X. REQUIRED FORMS AND NOTICES (INCLUDING FEDERAL FORMS) -

Certification Forms to be included in the RFP: Professional Services DBE or Small Business Commitment Form, Form No. 375-030-83 (for non-Fixed Capital Outlay projects), and Truth in Negotiation Certification, Form No. 375-030-30. The RFP should encourage use of DBE, no evaluation points will be provided for their use. Vendor Certification Regarding Scrutinized Companies Lists: Vendor Certification Regarding Scrutinized Companies Lists, Form No. 375-030-60, shall be required in the RFP for professional services contracts. Federal Certification Forms: If the project is anticipated to include federal funds, a Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form, No. 375-030-32 as required by 49 CFR, Section 29; and Certification for Disclosure of Lobbying Activities, Form No. 375-030-33 and Disclosure of Lobbying Activities, Form No. 375-030-34 as required by 49 CFR, Section 20 will be included in the RFP and are required to be submitted with the proposal. Conflict of Interest/Confidentiality Certification No. 375-030-50 shall be completed in accordance with the instances noted in the form. Notice of Restrictions: For all contracts, the advertisement shall include notice that persons or entities convicted of public entity crimes may not submit bids.

XI. ESTABLISHING THE METHOD OF COMPENSATION

The method of compensation to the consultant shall be set forth in the original solicitation, contract, and in any contract modification thereto. 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. COST REIMBURSEMENT: The Consultant is reimbursed the actual costs incurred in the performance of the contract. FHWA only participates in cost reimbursement contracts in which the Consultant's operating margin is a lump sum or "fixed fee." In such instances, partially loaded hourly rates paid in conjunction with fixed fee shall exclude compensation for operating margin. COST PER UNIT OF WORK: A negotiated unit rate for a repetitive task or deliverable product is established and paid for each unit produced. 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. The MTECC shall utilize the lump sum method of payment for basic design services, where appropriate and where the level of effort and scope can be reasonably determined. The MTECC is responsible for converting Consultant rate information into fixed hourly rates. In accordance with 23 USC 112; and 23 CFR 172.11(d), cost and rate data (audit information) shall be confidential and shall not be accessible or provided, in whole or in part,



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to another individual, firm, or to any government agency which is not part of the group of agencies sharing cost data, except by written permission of the audited firm

XII. NEGOTIATING CONTRACT FEES

After final ranking, negotiations will begin with the number one ranked Consultant. At that time, the Consultant will be requested to submit a detailed staff hour estimate and Fee Proposal with support information to the MTECC. Staff hour estimates will be submitted in the manner prescribed by the MTECC. Contract negotiations shall be conducted in accordance with the FDOT Negotiation Handbook, available on the FDOT Procurement website. MTECC shall perform a detailed cost analysis of all firms (prime, subconsultants, subcontractors, and sub-vendors) on a professional services contract, to ensure the proposed compensation costs are fair, competitive, reasonable, accurate and allowable, pursuant to 23 CFR 172.7, and 2 CFR 200.333. Compensation means the amount paid by the Agency. 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, they may limit the number of Consultants and the qualifications of the Consultants who submit proposals to perform work on projects. Furthermore, direct labor limitations or benchmarks not supported by the FAR 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 172.11(b)(1). Arbitrary reduction or capping of indirect cost rates is not permitted under Federal laws and regulations.

XIII. PERFORMANCE EVALUATIONS

For professional services contracts, the MTECC will follow the FDOT's procedure for performance evaluation, Procedure No. 375-030-007, Professional Services Consultant Work Performance Evaluation.