

RESOLUTION NO. 2017-19

RESOLUTION AUTHORIZING THE ADOPTION OF A CONSULTANT SELECTION POLICY FOR PROJECTS FUNDED BY THE FEDERAL HIGHWAY ADMINISTRATION

WHEREAS, it is the intent of the Weakley County Highway Department to maintain the current road and bridge system in Weakley County; and

WHEREAS, it is in the best interest of the citizens of Weakley County for the Weakley County Highway Department to participate in Federal and State funded projects whenever possible; and

WHEREAS, it is required for cities and counties to adopt a consultant selection policy in order to receive funding from the Federal Highway Administration; and

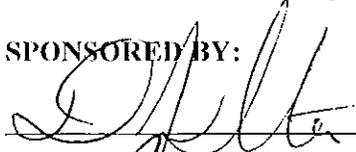
WHEREAS, the Consultant Selection Policy for Projects Funded in Whole or in Part with Funds Provided by the Federal Highway Administration is included as part of this resolution.

NOW, THEREFORE BE IT RESOLVED, by the county legislative body of Weakley County, Tennessee assembled in regular session on this the 21<sup>st</sup> of November, 2016 in Dresden, Tennessee hereby adopts the selection policy for projects funded by the Federal Highway Administration.

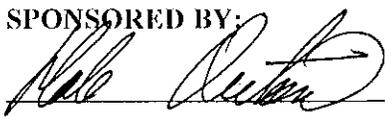
BE IT FURTHER RESOLVED, that this resolution take effect from and after its passage, the public welfare requiring it. This resolution shall be spread upon the minutes of the Board of County Commissioners.

Pursuant To The Rules Of The Commission, This Resolution Is Sponsored By The Following Members Of The Weakley County Board Of County Commissioners:

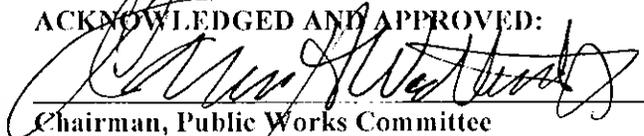
SPONSORED BY:

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SPONSORED BY:

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ACKNOWLEDGED AND APPROVED:

 \_\_\_\_\_  
Chairman, Public Works Committee

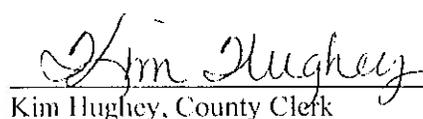
Motion made by Commissioner Dennis Doster that the foregoing resolution be adopted:

Motion seconded by Commissioner Donald Doster.

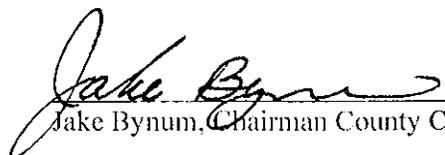
Upon being put to a voice vote, motion carried by a vote of 18 Yeas, 0 Nays,

0 Passed and 0 Absent.

ATTESTED:

 \_\_\_\_\_  
Kim Hughey, County Clerk

APPROVED:

 \_\_\_\_\_  
Jake Bynum, Chairman County Commission

THIS THE 21<sup>st</sup> DAY OF November, 2016

# WEAKLEY COUNTY, TENNESSEE

## Consultant Selection Policy for Projects Funded in Whole or in Part with Funds Provided by the Federal Highway Administration

**AUTHORITY:** 23 CFR 172.9. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected thereby and shall remain in full force and effect.

**PURPOSE:** To prescribe the policy of the Weakley County, Tennessee, (hereinafter referred to as the Agency), applicable to the retention of consultant services for architectural, engineering, and technical services for projects funded in part or in whole with funds provided by the Federal Highway Administration.

### **APPLICATION:**

- A. **Engineering and Design Related Services.** This policy is to include all engineering and design related services described in Title 40 U.S.C. Chapter 11, title 23 U.S.C. Section 112 (b)(2), 23 C.F.R. Part 172 and 49 C.F.R. Section 18.36(t) for projects funded in whole or in part with funds from the Federal Highway Administration through the Tennessee Department of Transportation (TDOT).

Broadly defined, these services include program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to construction projects. They may include emergency contracts.

Examples of services included within the scope of this policy are comprehensive transportation planning, project planning, environmental studies, context sensitive solution/design services, cultural resources studies, geotechnical studies, historic studies, archeological studies, socio-economic and environmental justice analyses, inspection services, intelligent transportation system design and development, traffic control systems design and development, materials inspection and testing, value engineering, and utility analysis/design services.

- B. **Technical Services.** Technical services such as inspection of structural steel fabrication, laboratory testing, inspection of welds on existing bridges, overhead sign inspection, underwater inspection, utility installation inspection, geotechnical sub-surface exploration/drilling and lab testing, etc., are also included in this policy.

- C. **Right-of-Way Services.** Selection of all consultants used in the ROW phase (appraisers, review appraisers, negotiators, closing and relocation agents) shall also follow the TDOT Consultant Selection Policy.

**DEFINITIONS:**

- A. **Project Specific Contract** – A project specific contract provides for all the work associated with a specific project that is desired to be contracted with the consultant firm and requires a detailed scope of services. These contracts may provide for all work to be placed under contract at the same time depending on availability of funds. A project specific contract is the traditional type of consultant contract between the Agency and a consultant for the performance of a fixed scope of work related to a specific project or projects.
- B. **Multiphase Contract** – Multiphase contracts are similar to project specific contracts except that the work is divided into phases such as survey, environmental, or design. The consultant contract is based on a general scope of work with a maximum contract ceiling. Individual phases are negotiated and the work authorized while future phases may wait until later in the contract period before completing negotiation and authorization. Multiphase contracts are helpful for complex projects where the scope of a future phase is not well defined. Multiphase contracts may be terminated at the end of a phase. A multiphase contract incorporates the work order concept for a specific project.
- C. **Competitive Negotiation** – Competitive negotiation is the preferred method of procurement for engineering related services. These contracts use qualifications-based selection procedures in the manner of a contract for architectural and engineering services under the “Brooks Act” provisions contained in Title 40 U.S.C. Chapter 11 (formerly 40 U.S.C. §541-544). The proposal solicitation process is by public advertisement, the county website or placement on the county’s notice board and provides qualified in-state and out-of-state consultants a fair opportunity to be considered for award of the contract. Price is not used as a factor in the evaluation and selection phases.
- D. **Noncompetitive Negotiation** – Noncompetitive negotiation is used to procure engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procedures. Circumstances which may justify a noncompetitive negotiation include when the service is available only from a single source or there is an emergency which will not permit the time necessary to conduct competitive negotiations.
- E. **Small Purchase Procedures** – Small purchase procedures are relatively simple and informal procurement methods where an adequate number of qualified sources are reviewed and the total contract costs do not exceed the simplified acquisition threshold in

41 U.S.C. 403(11) (currently \$150,000.00). Competitive negotiation in the manner of a "Brooks Act" qualifications-based selection procedure is not required. Qualifications-based selection procedure must be used, however the Local Government may directly solicit proposals or a statement of qualifications from three firms without having to advertise.

- F. **Technical Service Procurement Procedure** -- A technical service procurement procedure is used for the procurement of services as described in this policy at "APPLICATION," Item B, Technical Services. Price quotations are obtained from qualified firms for the specified work either by public advertisement, the county website, placement on the county's notice board or by requests. Awards are made to the responsible firm whose proposal is most advantageous to the Agency with price and other relevant factors considered.

## **POLICY:**

### **I. PREQUALIFICATION**

- A. **Tennessee Department of Transportation's Prequalified Consultant List.** Firms must be currently on TDOT's list of prequalified consultants.
- B. **Expiration or termination.** Expiration or termination of a consultant's prequalification status may be cause for Agency to terminate any contract with a consultant.

### **II. COMPETITIVE NEGOTIATION PROCUREMENT PROCEDURE**

- A. **Confidentiality:** To the extent allowed by applicable State law, all documents relating to the evaluation and selection of consultants, and negotiations with selected consultants, shall remain confidential until selection is complete and a contract is awarded.
- B. **Consultant Advertisement:** The Agency shall advertise for proposals from prequalified firms by advertising through appropriate media, its internet website or the county's notice board. Advertisement shall provide, at a minimum, the following:
1. General scope of the work.
  2. Evaluation criteria.
  3. Method of payment.
  4. Contact information.
  5. Deadline for submittals.
  6. A statement that all firms must be pre-qualified or have a completed prequalification form filed with the Tennessee Department of Transportation by the deadline.
  7. Disadvantaged Business Enterprise (DBE) encouragements.

The advertisement may include multiple phases of a project. Note that for mid-range and large size projects, the CEI consultant shall not be associated with any other aspect of the project. The advertisement shall separate the project into phases and the consultant must indicate to which portion they are responding. If a consultant responds to the construction inspection phase along with other phases in an advertisement for a mid-range or large size project, they may not be selected for the entire project. This will be clearly indicated in the advertisement.

**C. Consultant Evaluation Criteria:** The evaluation criteria used for proposals shall, at a minimum, include the following:

1. Ability and relevant expertise of the firm's personnel to be used in performing the service.
2. Past experience in the required disciplines with TDOT and/or other clients.
3. Qualification and availability of staff.
4. Demonstrated ability to meet schedules without compromising sound engineering practice.
5. Evaluations on prior federally-funded projects, if available.
6. Size of project and limited or unlimited prequalification status.
7. Amount of work under contract with the Agency.
8. Whether the consultant can perform the work efficiently without compromising sound engineering practice.
9. Other factors, including interviews and demonstrations, as approved by the Agency.

**D. Sub-consultants for Engineering Services:**

1. A consultant who has been asked to submit a proposal shall specifically identify any sub-consultant(s) required to complete the project team. All sub-consultants identified on the submittal shall be pre-qualified by TDOT to perform the required tasks or have an application pending prior to submittal of the proposal. Failure to meet these requirements would void the submittal.
2. Once a contract has been awarded, the consultant may negotiate directly with sub-consultants. A change in sub-consultants must be approved by the Agency. A written request must be submitted to the Agency to initiate the change. This request must include an explanation of the need to change sub-consultants and the impact on the project schedule and financial elements of the contract. The substitute sub-consultant must be pre-qualified by TDOT to perform the required tasks. After consideration of all factors of the request, the Agency will respond to the request in writing.

### **III. NONCOMPETITIVE NEGOTIATION PROCUREMENT PROCEDURE**

The following procedures may be used by the Agency, subject to TDOT's prior approval, in those circumstances where there exists only one viable source for the desired services, when competition among available sources is inadequate, or in emergencies when adherence to normal procedures will entail undue delays for projects requiring urgent completion.

Upon determination of a need for this type of procurement, the Agency shall request an estimate from the qualified firm for the accomplishment of the desired assignment. The request for an estimate shall define the full scope of the desired services, together with minimum performance specifications and standards, the date materials and services are to be provided by the consultant to the Agency, and the required assignment completion schedule. Response to the request for an estimate shall be evaluated, giving due consideration to such matters as a firm's professional integrity, compliance with public policies, records or past performances, financial and technical resources, and requested compensation for the assignment.

#### **IV. SMALL PURCHASE PROCUREMENT PROCEDURE**

When the contract cost of the services does not exceed the simplified acquisition threshold fixed in 41 U.S.C. 403(11), which is currently \$150,000.00, small purchase procedures may be used. Contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures. Proposals will be obtained from an adequate number of qualified sources with a minimum of three. It is the responsibility of the Local Government to determine the level of advertisement in order to ensure a qualified pool of candidate consultants is available to choose from. Awards will be made to the responsible firm whose proposal is most advantageous to the program with relevant factors considered. Contact the Local Planning and Development Office for approval to proceed with this process.