



Division of Transportation System Development
Bureau of Project Development
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Date: November 3, 2008

To: Local Units of Government

Re: Policy Changes to Local Force Account Agreements for Local Units of Government Working on Their Local Highway System Using Federal Funds

Dear Sir or Madam:

Background

WisDOT policy is to let construction contracts through a competitive bidding process. It is also WisDOT policy to, if cost effective, negotiate directly with local governments for the performance of construction work. Local Force Account (LFA) agreements are used when a local unit of government either does work for WisDOT on the State Trunk Highway System or when they do work on their own local highway system. Under these agreements, the locals are reimbursed for the actual costs incurred in performing the work up to an agreement amount (as amended by any change orders); the labor, material, and machinery rates are estimated in advance and must be determined to be cost effective.

Our continuing review of department policies and procedures has resulted in a need to update multiple items to comply with federal regulations. Several items were discussed in a memo to local units dated March 19, 2008. (Past memos and other recent information on LFAs will soon be available on the Internet as a link on the "Programs For Local Government" website (<http://www.dot.wisconsin.gov/localgov/>). Additional policy/procedure updates are discussed below and other updates will be discussed in the future. Departmental manuals will be revised to reflect these updates. This memo is an early alert until the manuals are updated.

This memo applies only to local units working on their own local system of highways and being reimbursed for that work with federal funds. Local units of government contemplating using an LFA for construction in 2009 and beyond should be aware of these changes when planning their LFA projects.

A. Prequalification For LFA Work

To perform work under an LFA Agreement, the local unit is required to be “adequately staffed and suitably equipped”. To assure that a local unit has capable staff and needed equipment to perform certain work activities, the local unit must submit a Prequalification Form for consideration by the department. The various construction work types a local unit could request to be prequalified for include:

- Grading and gravel
- Asphalt paving
- Concrete paving
- Structures
- Electrical construction
- Incidental construction

Although not reimbursed under an LFA Agreement (the local unit would be reimbursed under a two-party agreement), a local unit could also request to be prequalified for two other work types:

- Design engineering
- Construction inspection

The presence of qualified individuals will determine if a local unit is qualified to perform the design engineering and construction inspection. This would be documented on the Prequalification Form.

To perform Design Engineering, the local unit must have at least one staff person that is registered as a professional engineer. Holding a current Certificate of Authorization to practice professional engineering in the state of Wisconsin (per. s.s. 443.08) is satisfactory evidence of professional engineering registration. The local unit would be responsible for the development of project plans and specifications including following the appropriate statutory requirements, policy, procedural requirements, and guidance for the improvement of county or municipal street/highway systems eligible for federal-aid highway funds.

To perform Construction Inspection, the local unit must have past experience in inspecting the construction work and be certified as part of the Highway Technician Certification Program for inspecting the construction materials. The local unit would support the WisDOT engineer, or consultant engineer representing WisDOT, who is responsible for and has the delegated authority to obtain work that fulfills the requirements of the agreement. Under direction of the WisDOT engineer, local unit staff would supplement the field administration of the agreement, enforce the terms of the agreement, and determine the amount of work performed and materials furnished.

Once prequalified for Design Engineering or Construction Inspection work types, a local unit would indicate their desire to provide those services on a particular LFA project by submitting a "Letter of Interest" to the department. That letter would state their desire to

provide the services, discuss the staff available for the project, detail the staff's experience in either highway design or inspection of the particular type of construction associated with the project, estimate the time each of the staff would be needed, and request approval to provide the services. BPD Local Project staff would review the "Letter of Interest" to be sure the correct number of staff are planned to be used, that the staff are available for the correct time, and that the staff are qualified for the work type. If all of these elements were in order, the local unit would be authorized to provide the requested services.

For the six work types to be constructed under an LFA Agreement, a local unit of government must own or control suitable equipment, have staff capable of properly operating the equipment, have financial and organizational ability, and have prior experience in the construction of one or more of the work types. This would be documented in the Prequalification Form. When evaluating the submitted form, BPD Local Project staff may review the existing inventory of owned equipment and determine the presence of sufficiently trained operators. (The term "owned" equipment also applies to local unit equipment procured under a long (at least one year) lease for use on other projects the local unit undertakes.) Jointly owned equipment (where each local unit has a 50% ownership share) will be considered "owned" by each local unit. The department will also consider the local unit's performance on similar projects in the past.

Once prequalified for any of the six construction work types, a local unit would indicate their desire to provide construction services on a particular project by submitting a Cost Effectiveness Finding (CEF) as outlined in FDM 3-20-12.

LFA projects scheduled for construction in calendar year 2008 are exempt from this prequalification requirement.

New LFA projects for construction in calendar year 2009 and beyond must meet the following requirements:

- The local unit must fill out and submit the Prequalification Form for Local Force Account Projects (DT2300), with appropriate attachments. (The form is available from Bureau of Project Development (BPD) Local Project staff or on the Internet at <http://www.dot.wisconsin.gov/forms/docs/dt2300.doc>).
- The submitted form may include requests for more than one work type.
- BPD Local Project staff (with assistance from the WisDOT Region Operations Section and possibly other WisDOT staff) will review the Prequalification Form and either approve the form or request additional information.
- The department review of the Prequalification Form is expected to take less than 45 days.
- The Local Project Delivery Section will notify the local unit after final prequalification approval.
- Prequalification approval is good for three years from the date of approval.

- If conditions change that would eliminate or reduce the prequalification status, the local unit shall immediately notify WisDOT so that the prequalification can be re-evaluated.
- A local unit must be prequalified for a particular work type prior to submitting a Letter of Interest or a Cost Effectiveness Finding to WisDOT.
- Requests for approval of additional work types or modification of already approved work types may be submitted at any time.

Local units of government performing design engineering and construction inspection for an LFA will be evaluated similar to consultant engineering staff as detailed in FDM 8-25-5. Local units performing construction activities under an LFA will be evaluated similar to private contractors as detailed in CMM 2-25-60.

B. Eligibility for Federal Aid

In 2007, WisDOT reviewed all future LFA projects to ensure they were eligible for Federal-aid funding under the following dual criteria of: (1) being on the Federal-aid system and (2) following state law and program policies. Future LFA projects will only include improvements that meet both criteria. The only exceptions to using federal funds off the Federal-aid system are for bridge or safety (hazard elimination) projects.

For Additional Information

Questions about these policy and procedure changes may be directed to Brian Bliesner at 608.264.8701 or to Brian Edwards at 920.492.0149. Questions may also be directed to a shared mailbox – the Email address is DOTFHWA@dot.state.wi.us. You are also encouraged to contact your local unit organization representative (listed below) with questions.

Sincerely,



Brian Bliesner, P.E.
Chief, Local Project Delivery Section
Bureau of Project Development, Division of Transportation System Development

cc: WisDOT Senior Managers
Dan Fedderly, WCHA
Ed Huck, WAC
Dan Thompson, LWM
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