

# GUIDE FOR **CONSULTANT CONTRACTING**



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**AMERICAN ASSOCIATION OF STATE  
HIGHWAY AND TRANSPORTATION OFFICIALS**

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# Executive Summary

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The use of engineering consultants by state transportation agencies continues to be important in providing the appropriate solutions to transportation needs. This publication replaces the *Guide for Contracting, Selecting and Managing Consultants in Preconstruction Engineering*, published by AASHTO in 1996.

In order to assess current practices, questionnaires were developed for both state and consultant practitioners. The responses showed significant growth in the volume of work done by consultants and in the range of services provided by consultants. The results of these surveys, along with the collective experience and expertise of the technical committee membership, were used to restructure much of the guide and to update and expand the discussion of current practices for the effective use of consultants.

Transportation agencies are challenged to adjust to dynamic programs and large fluctuation in workload. They face more complex projects that carry increasing traffic volumes, through environmentally sensitive, restricted, or highly developed corridors. As such there is an increased focus on context sensitivity to provide solutions that least disrupts the public or natural environment. In addition, agencies are facing significant technological changes in how business is conducted. Staffing limitations, hiring freezes, and other constraints are adding pressures to the expectations of delivering high quality projects on time and within budget. Engineering consultants are a key resource that can supplement the agency's own professional staff to work through these dynamics and deliver transportation improvement programs.

All transportation agencies use consultants to some degree. Each agency has developed processes, procedures, and policies to address the selection, contracting issues, and management of consultants. These processes and practices may be mandated by state law or influenced by federal requirements. Whether the transportation agency is centralized or decentralized, organized to manage projects within the functional units or as a separate responsibility, the expected results are the same. Agency leaders expect that project development will be seamless regardless of whether it is accomplished by in-house staff or by use of consultant resources.

Transportation agency leaders generally do not consider the use of consultant services to be a cost saving measure but rather a necessary response to having limited in-house staff available to deliver the transportation program. Much attention should be given to the contracting issues to ensure that a quality product is delivered in a cost effective manner. Therefore, considerable attention is given to the processes for selecting a consultant, developing and agreeing on a contract, and then managing that contract and the associated project work activities.

This guide is a reference for agencies to use in further developing their consultant program, organizing and training their staff, selecting consultants, developing consultant contracts, and managing their consultant program. An underlying principle of this guide is that every step of the consultant contracting, selection, and management process is directed toward producing a quality project. While principally focused on the project development process, the wide range of issues involved in selecting and managing consultants have application to many areas in transportation.

The design-build concept is being used by some state departments of transportation as an alternate delivery method. Due to the growing use of the design-build approach, the "AASHTO Joint Technical Committee on Design Build" has been directed to focus on design-build and the many issues associated with this project delivery process. As a result, this document does not address procurement of consultants for design-build projects. This document focuses on the use of consultants in the conventional design-bid-build approach where the Department contracts directly with the consultant.

As this guide was updated, the common thread which was most often mentioned as being important in all aspects of the transportation agency-consultant relationships was that of having skilled and knowledgeable professionals in both the public and private sector. Inexperience on either side of the relationship is often a factor that contributes to problems with the services provided and problems with the contract for services. While training can be a surrogate for practical experience, it is preferred that it be a supplement. Practical experience, in developing designs, in understanding the project development process, in managing a project, in understanding the agency policies and practices, in developing a contract, in meeting project schedules, and in coordinating all the other activities related to the contract, is of high importance.

A major consideration for any agency in developing or revamping a consultant usage program is the staff needed to execute and manage the program. This guide was developed in recognition of the fact that variations in the size and organizational structure will continue to exist across the nation. It provides a discussion about important considerations along with examples of effective organizational configurations.

It is important that the agency have clearly defined policies and procedures which provide a fair and equitable selection process open for all. This guide outlines some processes that are in predominant use throughout the country. One element of the selection process can be the use of a prequalification process. When developed to provide for the fair consideration of a broad cross section of the available consultant resources, these processes have been well received by the consultant community. Prequalification can eliminate unnecessary duplication and result in a savings in time as well as cost to the consultant.

Consultant contracts should clearly outline the terms and conditions under which the consultant is expected to function, the services and products to be delivered, the responsibilities of the parties to the contract, and the time frame in which to perform. In return, the consultant is entitled to fair compensation. Reaching agreement on the contract should involve those who technically and professionally understand the work effort needed and

those who understand the negotiation process. While agencies may have the technical and professional expertise to evaluate the work effort, many report that they do not provide formal training for those involved in the negotiation process.

A single point of contact within an agency is a generally considered beneficial. Some transportation agencies successfully manage projects by having engineering professionals within the agency functional units oversee the work. Others have set persons aside in their organization to oversee the contract details and payment, and help with coordination of the overall process. Yet others have utilized the engineering professional as the project leader or manager with a smaller support staff to prepare and support the resolution of contract management issues. Regardless of what overall strategy is utilized, the common concern expressed by both transportation agency staff and the consultants is that those within the agency identified as the project leader or manager should be skilled and experienced practitioners.

Finally, accountability in terms of dealing with errors and omissions is of considerable interest to the transportation agency officials. While agencies generally have a plan of action for dealing with errors and omissions made by consultants, many are addressed on a case by case basis. A document outlining best practices in dealing with errors and omissions may be the focus of a future assignment for the Preconstruction Engineering Management Technical Committee.

Most transportation agencies foresee an increase in the utilization of consultant services to supplement the project development capabilities of their staff. Improvement in the processes to effectively manage these contracts will be of increasing importance.