



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

January 24, 2018

MEMORANDUM TO: Division Engineers
Business Unit Heads

FROM: Christopher M. Werner, PE
Director of Technical Services Division

SUBJECT: Professional Service Contract Negotiations, Fees, and Limited Notice to Proceed

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Christopher M. Werner
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This memo serves to establish updated procedures for task order negotiations, determination of task order fees and authority to issue a Limited Notice to Proceed.

Justification for increasing standard fee

NCDOT's standard fee (profit margin) is 9%, with a maximum of 15%. Based upon Department Policy and Procedures, the establishment of a fee shall be project-specific and shall take into account the size, complexity, duration, degree of risk involved in the work and schedule. When a fee higher than the standard fee is utilized, it must be justified by the firm and approved in writing by the Professional Services Management Unit (PSMU) Unit Head, the NCDOT Business Unit Head or Division Engineer. This must occur prior to the cost proposal submittal using the attached Fee Negotiation template.

Limited Notice to Proceed

NCDOT uses various types of contracts with assignments issued on a task order basis. However, with the interest of expediting project delivery, firms often begin work once the details of the scope of services for the task order are determined, but are awaiting the completion of the negotiation process and formal Notice to Proceed (NTP). While it is anticipated the process from scoping to NTP will occur within 30 days, exceptions may occur and justifying the need for a Limited NTP. The NCDOT Business Unit, Division Engineer, or delegate may issue a Limited NTP using the language below with a maximum value of \$50,000. If you have questions about this process, please contact PSMU.

This email will serve as your limited Notice to Proceed (not to exceed \$50,000) to begin work on the above-mentioned project with the understanding that we will work through the authorization of the Purchase Order and all other project setup documentation. This amount is considered a portion of the final NTP amount and not additive to the final NTP amount. We anticipate having a formal Notice to Proceed sometime in the near future.

Please note the Department will not be able to process any invoices until such time the project has been setup in our financial system and has completed the final approval process.

Manday estimates and negotiations will no longer use NCDOT in-house rates

NCDOT is in the process of preparing an updated assessment of reasonableness for wage rates (or establishment of wage rate benchmarks). Until this has been completed, NCDOT will, in accordance with Federal Law and Department Policy and Procedures, use the respective firm's actual salary rates during the negotiations of task orders. Once details of the scope of services are determined, the NCDOT Business Unit/Division, or its representative, shall prepare a cost estimate for the work which includes the level of effort for each classification of staffing required. Level of effort for each classification will then be negotiated. The cost of the scope of work will then be a result of the negotiated effort, the firm's actual salary rates, the firm's approved overhead rate, and the fee. Please note, the NCDOT Business Unit/Division **must prepare an in-house cost estimate for all work required**, and in the appropriate level of detail which will allow for negotiations of level of effort for each major task. Given these changes, detailed below are revised requirements to issue a NTP for the various types of contracts with assignments issued on a task order basis:

PSMU will continue to serve as the Department's contracting arm for professional services, managing all solicitations, selections, award and execution of all professional services contracts. Once a contract is executed, the activities required to assign, scope, estimate, and issue NTP for task orders shall be performed by the business units and shall adhere to the procedure, as follows:

1. Identify project needs, select and notify a firm from the list of the respective LSCs to address that need.
2. Scope the task order with the firm
3. Complete an independent manday and classification estimate for the task order and concurrently solicit a manday and cost estimate from the firm. The "NCDOT Scope and Manday Estimate Form" spreadsheet should be used to limit errors and to provide uniformity across projects and Business Units.
4. Create NCDOT manday and cost estimates, with a breakout of the various disciplines based upon the respective firm's salary rates, firm overhead and cost of capital rate.
5. Ensure that the firm manday and cost estimates used are based upon the parent-LSC "Pre-Award Audited" salary rates, overhead, and cost of capital, or the latest rates approved and on-file with NCDOT's Office of Inspector General (if the parent-LSC is older than one year). Use of the "NCDOT Scope and Manday Estimate Form" spreadsheet is very useful for detecting calculation errors.
6. Check the firm's estimate for usage of the appropriate subconsultants using the information attached to the appropriate parent-LSC or project specific contract in SAP.
7. Negotiate the mandays and classifications with the firm. The firm manday estimate must be within 5% of the NCDOT manday estimate by discipline. The Business Unit representative may use sound judgement to exceed these limits up to 10% of mandays, provided that the Business Unit Head or Division Engineer co-signs the certification memo required herein. Any firm estimate that exceeds the NCDOT manday estimate by more than 10% will require approval by the Director of Technical Services.
8. Complete a Cost Comparison sheet containing all negotiated numbers

9. Sign the Cost Comparison sheet certifying that independent estimates were completed, negotiations were fair and equitable (if negotiations were needed) and confirm the NCDOT and firm estimates are within the above prescribed tolerances for mandays.
10. Complete a brief memo certifying that the final negotiated cost proposal has been reviewed and that the Business Unit determines it is consistent with the appropriate LSC's salaries and rates reviewed/approved by NCDOT's Office of Inspector General (or the latest rates on file); as well as verify the computation of the cost proposal Grand Total.
11. Create the Purchase Order in SAP under the firm's appropriate parent-LSC or project specific contract. When the Purchase Order is created, it is important that line items be assigned for each discipline contained in the estimate with the appropriate cost center assigned to each line item.
12. Issue an official NTP letter and Subconsultant RS-2 forms to be signed by the firm.
13. Gather the fully-executed NTP letter and signed Subconsultant RS-2 forms
14. Assemble the fully-executed NTP letter, Subconsultant RS-2 forms, certification memo, Cost Comparison sheet, final NCDOT and firm estimates, and any other backup documentation, *in this order*, and attach the package to the Purchase Order in SAP.
15. Per the Office of Inspector General, PSMU will then approve the Purchase Order in the SAP workflow. This initiates the approval steps of the Purchase Order through SAP and Fiscal.

The Technical Services Division, and particularly PSMU, remain a resource to all business units throughout the contracting process. PSMU can provide various templates including cost comparison template, manday estimate, NTP, and other such documents. Furthermore, PSMU can also provide expertise and best practices for special circumstances, scopes of work, and use of different Purchase Orders types, and also serve as a conduit for any updated rates (if rates do not match a current contract's rates), current overhead rates, and cost of capital rates. Please contact PSMU with any questions.

cc: MG(R) James H. Trogdon, III, PE – Secretary
John F. Sullivan, III, PE – FHWA North Carolina Administrator
Bobby Lewis, PE – Chief Operating Officer
David L. Howard – Chief Deputy Secretary
Chuck D. Watts – General Counsel
Elizabeth L. McKay – Special Deputy Attorney General
Tim Little, PE – Chief Engineer
Beau Memory – Director, NC Turnpike Authority
David Tyeryar – Chief Financial Officer
Mary Morton – Inspector General
Shelby Scales – Office of Civil Rights Director