



## **Oversight Procedure 53 - Readiness to Procure Construction Work**

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### **1.0 PURPOSE**

The purpose of this Oversight Procedure (OP) is to describe the review, analysis, recommended procedures and reporting requirements that the Federal Transit Administration (FTA) expects from the Project Management Oversight Contractor (PMOC) with respect to the project sponsor's readiness to procure the major construction and equipment contracts on a project.

### **2.0 BACKGROUND**

Issuance of design documents for bid or request for proposals marks an important milestone in project implementation, and is a final step before the project sponsor enters into construction contracts that are binding on the project sponsor as well as the construction contractor. The PMOC's review should be conducted after the project sponsor's contract package is sufficiently developed to permit an accurate assessment; typically around the ninety percent (90%) design level for traditional design-bid-build contracts. If the project sponsor plans to use an alternate delivery method such as design-build (D/B) or construction manager/general contractor (CM/GC) (also known as construction manager-at-risk (CMR)), the timing of the review should be advanced accordingly.

### **3.0 OBJECTIVES**

FTA review of the project sponsor's readiness to procure construction work helps to ensure:

- the project sponsor has developed the design documents to an appropriate level of completion given the selected delivery method;
- the procurement packages and supporting documents are complete, accurate, and consistent with the project scope, as established in the Project Development phase;
- the procurement package is consistent with appropriate Federal requirements, including Buy America requirements;
- the project sponsor's cost estimates accurately reflect contractual requirements;
- the project sponsor has addressed the project risks identified by implementing mitigation measures to the greatest extent possible;
- the project sponsor has established a plan for qualification, bid and award that follows accepted best industry practices;
- the project sponsor has established procedures in place to deal with unexpected procurement issues (e.g., no bids, single bid, unacceptably high bids and protests); and
- the project sponsor's organization is prepared to successfully manage the contract package through procurement, construction and start-up, or in the case of a D/B or CM/GC contract, through the design construction and start-up phase.

## 4.0 REFERENCES

The following are the principal, but by no means the only, references to Federal legislation, codification, regulation and guidance with which the PMOC should review and develop a solid understanding as related to the project sponsor's project work being reviewed under this OP:

### 4.1 Regulations and FTA Circulars

- Federal Acquisition Regulations
- C4220.1F, Third Party Contracting Guidance

### 4.2 Guidance

- Best Practices Procurement Manual,  
[http://www.fta.dot.gov/funding/thirdpartyprocurement/grants\\_financing\\_6037.html](http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6037.html)
- Pricing Guide for FTA project sponsors,  
[http://www.fta.dot.gov/documents/Helpline\\_Price\\_Guide.doc](http://www.fta.dot.gov/documents/Helpline_Price_Guide.doc)
- Procurement System Self Assessment Guide,  
[http://www.fta.dot.gov/funding/thirdpartyprocurement/grants\\_financing\\_6326.html](http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6326.html)
- Project and Construction Management Guidelines, 2011 Update

## 5.0 PROJECT SPONSOR'S SUBMITTALS

In advance of performing the review, typically three (3) to six (6) months prior to advertising major construction and equipment bid packages, the PMOC should obtain and study the following project documents. The PMOC should notify FTA of important discrepancies in the project information, including incomplete or unavailable information that would hinder the review. An example would be a mismatch between drawings and cost estimate in which the drawings are current and the cost estimate is two years old.

- Scope / Project Definition / Procurement
  - Final environmental documents and NEPA determination
  - Construction Documents (Plans and Specifications including Division 1 Provisions)
  - Geotechnical Baseline Report
  - Value Engineering Reports
  - Constructability Reviews
  - General and Supplementary Conditions of the Construction Contract
  - Request for Bid or Instructions to Proposers
  - Vehicle design documentation
- Project Management Plan (PMP) and sub-plans completed, including but not limited to:
  - Signed Agreements with Railroads, Utilities, other Third Parties
  - Risk Assessment, Risk and Contingency Management Plan
  - Safety and Security Management Plan (for application to construction)
  - Project Delivery Plan, Contract Packaging Plan, Procurement Policies and Procedures
  - Project sponsor Management Capacity and Capability
  - Quality Assurance / Quality Control Plan and Records
  - If an OP 32D and/or OP 52 review has been completed, applicable findings and conclusions should be examined for consistency with elements of this review.

- Schedule
  - Project schedule in original and SCC format; schedule narrative describing critical path, expected durations, and logic
- Cost
  - Capital cost estimate in original and SCC format, including Basis of the Estimate
  - Full Funding Grant Agreement and Attachments (if applicable)

## 6.0 SCOPE OF WORK

### PMO Reviewers:

The quality and usefulness of the review relies in large part on the perception and judgment of the reviewers. Ideally, they should be senior technical managers qualified to actually perform the work being reviewed. Because transit projects are complex and interdisciplinary in nature, the reviewers should have a broad range of knowledge, experience and capabilities. Structural plans should be reviewed by structural engineers; signaling plans should be reviewed by signaling engineers, etc.

### Tasks:

This review is divided into three sub-reviews described in tables below. Review items may be modified somewhat to accommodate the particular circumstances associated with a project.

- 1) Confirmation of the readiness for procurement of a complete bid package, including plans, specifications, and contract provisions, and that federal procurement requirements are addressed;
- 2) Confirmation that the procurement package is consistent with the scope, schedule, and budget established during the Project Development Phase; Confirmation of the readiness of the project sponsor's organization with respect to having in place the necessary qualified project staff; consistent project management plans, procurement and construction management procedures, including project controls procedures; needed interagency, third party, and real estate agreements; and required financial resources. Additionally, that the project sponsor has sufficiently addressed the project risks identified during the Risk Assessment and mitigated them to the extent possible;

Confirmation of the readiness for bidding of the construction procurement package is accomplished by the following specific reviews:

Review Item	Review Objective	Review Method
Construction Plans and Specifications	<p>To confirm that the plans and specifications completely and clearly define the required work and that there are no major/significant omissions.</p> <p>To confirm that construction documents reflect results of constructability reviews.</p>	Review by qualified engineer(s) with expertise in the area(s) of design.

Review Item	Review Objective	Review Method
	<p>To confirm that any project sponsor accepted Value Engineering alternatives have been incorporated into the construction documents.</p> <p>To confirm consistency with any project sponsor plans for owner furnished equipment.</p>	
Construction Plans and Specifications for Design-Build Delivery or other alternate delivery method	<p>To confirm that the construction plans, specifications, bridging documents and/or performance requirements for design and construction are at the appropriate level of completion to adequately define the scope of work. A separate review of the project sponsor's D/B procurement documents may be required to confirm that the process is sound and conforms to FTA C-4220.1F.</p>	Review by qualified engineer(s) and construction manager(s)
Construction Contract Terms and Conditions	<p>To confirm that the construction contract completely and clearly defines the terms and conditions under which the Work will be performed.</p> <p>To confirm that federal procurement requirements are addressed, including Buy America requirements.</p>	Review by a person or contract administrator with experience in managing construction contracts of similar scope and complexity
Construction Contract Document Terms and Conditions for Design-Build Delivery and other alternate delivery methods	<p>To ensure consistency between the bid package and the contract packaging plan.</p> <p>For D/B Contracts, to confirm that the contract clearly defines both design and construction requirements.</p> <p>For CM/GC contracts, to confirm that both design phase and construction phase services are adequately defined and calculation of the contractor's fee has been precisely defined.</p> <p>For CM/GC delivery, a review of the project sponsor's design</p>	Review by a person or contract administrator with experience in managing a design-build contract of similar scope and complexity.

<b>Review Item</b>	<b>Review Objective</b>	<b>Review Method</b>
	contract should be conducted to confirm that the requirements correspond with those in the CM/GC contract.	
Quality assurance records	To confirm that quality assurance checks and reviews have been performed in accordance with the approved Quality Assurance Program Plan (QAPP)	Review QA audits and observations by a person with experience in performing quality assurance reviews or audits.
Construction Cost Estimate	<p>To confirm that the estimate as prepared is consistent with the Plans, Specifications, and Contract General and Special Conditions, and that it is based upon contemporary cost information.</p> <p>To confirm that the estimate of General Conditions' costs reflects actual contract requirements and not an industry average factor.</p>	<p>Review by a cost estimator with experience in cost estimating, including the estimation of the construction cost impacts of contract special provisions related to risk transfer and construction limitations.</p> <p>Consider interview of agency / consultant estimator to confirm that they have reviewed contract terms and conditions and made appropriate allowances.</p>

Confirmation that the bid package is consistent with project management plans with respect to delivery method, scope, schedule and budget. The following reviews and comparisons provide confirmation that the bid package is consistent with the Environmental Documents and previously accepted project management plans.

<b>Review Item</b>	<b>Review Objective</b>	<b>Review Method</b>
Plans, specifications, and special contract conditions with respect to Environmental Documents	To confirm compliance of the Work to be constructed with the Environmental Documents	Comparison, using qualified personnel, of the design and construction requirements of the Environmental Document with the designs and requirements of the bid package.
Plans, specifications, and special contract conditions with respect to the project Scope of Work.	To ensure that the documents reflect the scope of work developed during the Project Development and Engineering phases.	Compare bid package scope of work with that developed during Project Development and Engineering phases using qualified personnel.
Plans, specifications, and special contract conditions with respect to Project Master Schedule	To ensure consistency between the bid package and the Project Master Schedule. Review the schedule in context with the	Compare bid package schedule information with Project Master Schedule using qualified personnel. Identify management

Review Item	Review Objective	Review Method
	Cost Estimate(s); ensuring that cost associated with all work activities have been properly accounted for in the cost estimate and vice versa	baseline data used and modifications made through the procurement phase. Particular attention should be paid to schedule contingency for delay and re-bid, and ensuring that predecessor activities will not interfere with construction per the bid package schedule (examples: preceding contractors, utilities relocations, real estate acquisition).
Construction Cost Estimate with respect to Project Budget	<p>To confirm that the Construction Cost Estimate plus appropriate contingencies is affordable within the overall Project Budget.</p> <p>To confirm consistency of Cost (and Schedule) Package Level products and documentation with package management baselines.</p> <p>To confirm that the Project Schedule &amp; Cost Estimate are in sync, i.e. time allocated for work activities in the cost estimate agrees with time allocation is schedule</p>	Compare Construction Cost Estimate with Project Budget using qualified personnel. Identify management baseline data used and modifications made through the procurement phase. .

Confirmation that the project sponsor's organization has in place the necessary precursors to begin construction, and that the organization is ready to enter the construction phase of the project. The PMOC should verify the review items are consistent and updated in applicable project management plans.

<b>Review Item</b>	<b>Review Objective</b>	<b>Review Method</b>
Third Party Agreements	To confirm that necessary third party agreements are in place to support the construction.	Review third party agreements in the overall context of the project with qualified personnel. Particular attention should be provided to design standards; utility agreements; agreement with other railroads; inclusion of enhancements; concurrent non-project activities, and timing of reviews, permits, land transfers, and funds transfers.
Real Estate requirements in contract documents	To confirm that all necessary rights-of-way (ROW) will be available for use by the contractor at Notice to Proceed (NTP). If all ROW will not be available at NTP, confirm that the contract documents, including plans, clearly identify those parcels that are not immediately available, when each parcel will be available for use by the contractor and any associated contract conditions for further delays.	Compare the Real Estate requirements in the contract documents with the approved Real Estate Acquisition and Management Plan (RAMP).
Procurement Policies and Procedures	To ensure Procurement Policies and Procedures are in place that are in compliance with federal policies, ensure a fair bidding environment, and are able to efficiently resolve issues and disputes that may arise during the course of the Construction Contract.	Review project sponsor's policies and procedures by qualified personnel.
Project Staffing Plan	To ensure that the Project Sponsor has adequately implemented a project staffing plan that ensures the necessary qualified staff will be available at an appropriate time to manage and support the work that is being bid.	Review staffing plan to ensure it is consistent with the PMP approved for construction.

<b>Review Item</b>	<b>Review Objective</b>	<b>Review Method</b>
Risk Register, Risk and Contingency Management Plan (RCMP)	To confirm that the project sponsor has incorporated appropriate risk mitigation measures into the contract plans and specifications. To confirm that the project sponsor has a plan to mitigate project budget and schedule risks if they come to fruition.	Review Risk Register and RCMP and compare to contract documents by qualified staff.
Financing Plan	To ensure that money will be available to pay the contractor for the work on a timely basis	To be performed by the Financial Management Oversight Contractor (FMOC). Review the funds availability in the context of all project requirements to confirm that adequate funds will be available on the schedule called out in the bid package. Confirm the current validity of any underlying assumptions associated with the Financing Plan (for example that borrowing will occur at a given time).

The PMOC readiness report shall include:

- 1) Executive summary in three pages or less that includes the following:
  - a) Summary of findings of the procurement documents related to the project's scope, schedule, and cost
  - b) Listing of any significant omissions or uncertainties and characterization of them in terms of likelihood (probable, remote, improbable) and their consequence (catastrophic, critical, serious, moderate, marginal)
  - c) Professional opinion regarding the consistency of the project scope, schedule and cost and the ability of the project sponsor to manage the project
  - d) Statement of potential range of procurement cost (bids) (lower and upper bound)
  - e) Recommendation to FTA (if PMOC considers a recommendation appropriate) of the readiness of the project (or procurement package) to proceed with bidding (or advertisement)
- 2) Review procedures and personnel (including capsule of reviewers qualifications; to the extent possible, the reviewers should be same individuals that performed the prior review of the project documents, and should be regular participants in project reviews).
- 3) Readiness of plans and specifications for the type of procurement contemplated
  - a) Design completeness
  - b) Contract terms and conditions are consistent with federal requirements, including Buy America requirements
  - c) Procurement bid and award process consistent with best industry practices
  - d) Cost Estimate accurately reflects contractual requirements



- 4) Consistency with Environmental Document and Project Plans
  - a) Consistent with Environmental Documents and Project Development Plans
  - b) Consistent with PMP, RAMP and QAPP
  - c) Consistent with Risk Assessment and RCMP
  - d) Consistent with Project Master Schedule
  - e) Consistency with Project Budget
- 5) Agency Readiness
  - a) Organization and Staffing
  - b) Third party agreements and project sponsor furnished permits
  - c) Funding availability (FMOC)
- 6) Conclusions and Recommendations (detailed)
- 7) Provide appropriate back-up information in appendices

## **7.0 REPORT, PRESENTATION, RECONCILIATION**

The PMOC shall provide FTA with a written report of its findings, analysis, recommendations, professional opinions, and a description of the review activities undertaken. The report shall identify any and all omissions, discrepancies, shortcomings or fatal flaws. After FTA approval, the PMOC should share the report with the project sponsor. In the event that differences of opinion exist between the PMOC and the project sponsor regarding the PMOC's findings, the FTA may direct the PMOC to reconcile its findings with the project sponsor and provide FTA with a report addendum covering the agreed modifications by the project sponsor and PMOC.

The report formatting requirements of OP 01 apply. When necessary, PMOC shall perform data analysis and develop data models that meet FTA requirements using Microsoft Office products such as Excel and Word and use FTA-templates when provided. The PMOC may add other software as required but documentation and report data shall be made available to FTA.