

# MPO/RPO procurement walk through.

2/15/2021

This information (and [TPD's training](#)) is based upon [TPD's published procedure](#) , [NCDOT procurement policy](#), and Federal regulations and guidelines including 2 CFR 200 and 23 CFR 172. Notes in green relate the steps in this document to the steps noted in TPD's procedure. This does not take the place of TPD's procedure and is only intended to provide more clarity.

Whether the LPA or non-LPA jurisdiction procures the work, this document will refer to the contracting agency as the Project Manager (PM).

(assume 80%/20% split for this example)

1. **TPD Engineer** to make sure project is programmed in UPWP. Should be a line item in the table, and short description of the proposed study. If not, amend UPWP. (Procedure Step 1)
2. Is the LPA doing the work? (Procedure Step 2)
  - a. Yes – skip to next step.
  - b. No – work will be 100% paid by TCC-member jurisdiction (not LPA).
    - i. **TPD Engineer** to verify there is an interlocal agreement between the LPA and the jurisdiction (PM) doing the work. This will allow the LPA to reimburse the jurisdiction the 80% of the work.
      1. If there is no project-specific interlocal agreement, receive some verification (via email) that through some other agreement, payments between the LPA and the PM/local jurisdiction are possible/allowed between the two entities. This will show they understand the PM pays the 100% cost, and that the LPA reimburses the PM 80%.
    - ii. **TPD Engineer** to make sure both the LPA and jurisdiction/PM (Project Manager) are aware to have funds budgeted and are aware of the following fund flow:
      1. PM pays 100% of project (Consultant provides statement of work, consultant invoice, etc.)
      2. PM invoices LPA 80% (PM send their own invoice and includes proof of payment to consultant, and all materials submitted by consultant)
      3. LPA pays the 80% to PM (per interlocal agreement)
      4. LPA invoices NCDOT for that 80% -- being careful LPA does not further reduce that amount by taking 80% of the 80%.
        - a. LPA provides their proof of payment along with all the other material the PM submitted to the LPA.
3. **TPD Engineer to review draft scope.** (Procedure Step 3)
  - a. Check to make sure project scope is eligible for the type of funds: [eligible for use of PL funds](#) (metropolitan planning – page 102 of the PDF).
4. **TPD Engineer to provide [draft RFLOI template](#).**(to PM or LPA). (Procedure Step 3-4) If PM does not use RFLOI, make sure all paragraphs from the RFLOI and requests for NCDOT forms are included.  
Review RFLOI:
  - a. Make sure RFLOI lists [discipline codes](#) (appropriate for transportation planning).
  - b. In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase.
  - c. OK to mention project budget (would be the estimated cost in the PWP). **CANNOT REQUEST FIRMS TO SUBMIT COST or COST PROPOSAL or any kind of cost information.**
  - d. **Contract payment should be “Lump Sum”. (not cost-plus)**
  - e. Make sure review criteria is clear and logical. Make sure total adds to 100%. Does not need to be 5 criteria. (can be 3 or 4).

1. Examples of unacceptable or unallowed review criteria (do not use):
  - a. Letter of transmittal (every submittal with letter gets points)
  - b. List of references (every submittal with list gets points)
  - c. Local preference (not allowed)
  - d. Cost (not allowed)
2. Examples of good / logical review criteria
  - a. Past performance / firm experience
  - b. Team experience and qualifications
  - c. Technical approach (ex: project understanding, innovative concepts, quality control procedures)
  - d. Specialized expertise
  - e. Professional licensure
  - f. Workload capacity
5. TPD Engineer approves scope/RFLOI. (Procedure Step 5)
6. PM advertises. (Between Procedure Step 5 and Step 6)
7. PM receives proposals and distributes to selection committee. (Procedure Step 6)
8. PM and TPD Engineer to verify that all firms (and subcontractors) are properly licensed in the State and are registered vendors in NCDOT's fiscal system. (Procedure Step 7)
  - a. TPD Engineer can check if firm(s) are prequalified to perform work in the discipline codes identified in the RFLOI.
9. TPD Engineer must participate in consultant selection / review of proposal received.
  - a. Make sure firms do not specify/state how much their proposal (proposed work) will cost.
  - b. TPD is on the selection committee, so TPD engineers will need to review and score the proposals that were submitted. Failure to include TPD in the procurement process will result in NCDOT not reimbursing for the project or re-starting the procurement process.
10. If desired, PM may conduct interviews with shortlisted (top-ranked) firms. (Procedure Step 8)
11. Selection of Firm is made. (Procedure Step 9)
12. Time for PM to perform Independent cost estimate ([23 CFR 172.7](#)) (**PRIOR TO RECEIVING/REVIEW OF FIRM'S COST PROPOSAL**) (More details in [NCDOT procurement policy](#)) (Between Procedure Step 9 and Step 10)
  - a. PM could ask selected firm to provide worksheet ([NCDOT's Scope and Manday estimate form is linked here](#)) **but only provide** the names and hourly rates of assigned staff. (Firm will submit their completed cost proposal to PM in a later step)
  - b. PM is to then (independently) estimate how many hours it would take each staff person to complete each task in the study.
    - i. PM to also estimate other (non-salary) direct costs.
  - c. PM thus develops an independent cost estimate. This independent estimate shall serve as a basis for negotiation.
  - d. PM asks selected firm for their cost proposal. PM negotiates with firm.
  - e. This and all other project-related documentation must be kept by PM to provide evidence of conforming to regulations in event of future audit.
13. TPD engineer to Submit agreed upon (draft) cost proposal to OIG for their review. (Procedure Step 10, before TPD written approval)
  - a. TPD can no longer perform these reviews. Must submit to OIG.
  - b. On-call agreements are not submitted to OIG, since they do not have a cost element.
14. Does OIG's letter question any charges? (Procedure Step 10, before TPD written approval)
  - a. No – go to next step.
  - b. Yes – submit letter to PM/LPA, and request modifications to cost proposal to address comments.

- i. When TPD receives updated/revised cost proposal – TPD engineer is to review the updated version to determine if the items questioned have been addressed. OIG may request that the TPD engineer resubmit a revised cost proposal if the original version did not have sufficient information for them to conduct the review. Unless requested by OIG, there is no need to send a revised cost proposal to OIG. In many cases, TPD’s engineer can review the revised cost proposal to determine if the items noted have been addressed.
    - 1. If resubmitting to OIG, go back to beginning of previous step.
15. While awaiting OIG response, TPD engineer to search contract pdf for “Title VI” provision. Is it in the contract? (Procedure Step 10, before TPD written approval)
- a. Yes – hopefully, the contracting entity will have the other federally-required provisions.
  - b. No – remind the PM that this study will use federal funds and is required to contain the necessary federal provisions.
    - i. [Contract Provisions](#). This is not a complete list and the entirety of this list does not apply in all cases. There is also a listing (for NCDOT contracts) in the [NCDOT procurement policy](#). TPD engineer is not to Review or approve the contract language. The contracting governmental entity is legally responsible for ensuring the contract provisions are correct. The legal liability rests upon the end user/recipient of Federal funds. If a future audit discovers an inappropriate use of Federal funds (ex: not having the proper federal provisions in the contract), then the LPA must return those funds. (An interlocal agreement passes this liability onward to the non-LPA jurisdiction)
16. TPD engineer to transmit email indicating concurrence/approval of consultant procurement. (Last bullet point of Procedure Step 10)
17. PM/Local Governmental entity to execute contract. (Procedure Step 11)
18. PM/Local Governmental entity to keep all above records in accordance with Federal record retention requirements.

**Reminder: If you are not sure of something, please ask.**

**Disclaimer: When in doubt or in conflict with this document, State and Federal regulations and policies shall prevail.**