

Agenda Item: 10.

Memo to the Programs Projects and Operations Subcommittee

Subject: Mopac Trail (Hwy. 50 to Lied Bridge) Project

Date: July 8, 2011

By: Gerry Bowen

The Mopac Trail (Hwy 50 to Lied Bridge) is another project where construction has been delayed due to procedural issues to make the project plans acceptable to NDOR and FHWA. The plans are being revised for the final time (we hope) and understand that NDOR will bid the project this fall, probably in October. NDOR requires that the District have a construction engineering (CE) consultant hired prior to bidding of the project.

Although we have not received "official" word from NDOR, all indications are that the project will receive a full 80% cost share. The current cost estimate is \$2.7 million. The cost share amount would be \$2.16 million, plus a proportionate share of the CE costs. The current cost share ceiling on the project is \$500,000, with no CE services eligible.

As you may remember, NDOR and FHWA have prohibited use of the design consultant (in this case, Ehrhart Griffin & Associates) for CE services on the project unless a new request for proposals (RFP) is used and the design firm is the successful candidate. The NDOR requires that a structured selection process be followed in making this selection. A qualifications-based selection (QBS) process must be used. The District's current policy is a QBS process.

In the selection process, NDOR requires the following steps:

1. Prepare a draft RFP that meets NDOR guidelines, and approved by NDOR before advertising.
2. Advertise for proposals for at least three weeks in a newspaper of general circulation, such that all potential consultants on NDOR's approved list have an opportunity to submit. A mailing to prospective consultants is acceptable, in addition to advertising.
3. District then reviews the proposals (using evaluation forms approved by NDOR) and prepares a "short-list" of candidates for interviews. The short list and evaluation forms must be sent to NDOR for approval prior to notifying the short-listed candidates. NDOR requires that at least a three-person panel conduct the evaluation.
4. Interviews must be conducted in person, or by telephone, and evaluation forms (previously approved by NDOR) completed documenting the final selection. The final selection is sent to NDOR for approval.
5. At this point, the District and consultant jointly prepare a detailed scope of services and work matrix. NDOR approval is needed before proceeding with negotiations.
6. The District must prepare an independent cost estimate (ICE) and submit to NDOR for approval. NDOR may assist with the development of the estimate.

7. The consultant prepares a cost proposal and submits to the District. This is then compared to the ICE and forms the basis for negotiated the final estimate. A pre-negotiation memo must be prepared and approved by NDOR before actual negotiations can proceed.
8. District and consultant negotiate the final scope of services and cost estimate, and document the negotiations. A post negotiation memo is prepared and must be approved by NDOR.
9. NDOR then requests an obligation from FHWA, prepares the consultant agreement, and submits entire package to FHWA for approval.

NDOR has attempted to streamline the above process by pre-selecting consultants for CE, basically accomplishing Steps 1-4 above. The upside is a shorter time frame in selecting the CE firm. However, our consultant (EGA) is not one of the pre-selected firms. Therefore, a different consultant would have to be used for CE on the project if we followed this abbreviated procedure.

Management believes that a cost savings may be realized by utilizing EGA for CE services. Therefore, it is worth the effort to follow the RFP procedures in the Local Projects Manual as outlined above. EGA is on NDOR's approved consultant list for federal transportation projects and eligible to be considered for CE on these projects.

Current District "Policy #15.2 Purchasing – Professional Services" calls for an ad hoc subcommittee of the Board, plus appropriate staff, to select a consultant. The process normally takes 3-4 months. When adding the additional reviews and approvals from NDOR, the process may take 4-5 months to accomplish, especially since a subcommittee meeting may be necessary between each step. It is believed that the selection process can be shortened significantly if staff is allowed to perform steps 1-8 above with final concurrence by the Board. It is proposed that the General Manager, the Assistant General Manager, and the writer review the proposals, select the firms for interviews, conduct the interviews, and select the final candidate.

By allowing staff to "select" the consultant, it believed that a CE consultant would be hired to meet the bidding schedule of NDOR.

- **It is recommended that the Subcommittee recommend to the Board that Management be authorized to select a consultant for construction engineering services on the Mopac Trail (Highway 50 to Lied Bridge) Project, negotiate a scope of services and fee proposal, and bring to the Board for approval.**