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U.S Department  
of Transportation  
Federal Aviation  
Administration

# Memorandum

Western-Pacific Region  
Airports Division  
P.O. Box 92007, WPC  
Los Angeles, CA 90009

Subject Western-Pacific Regional Policy Guidance  
No. 3 - Contract Approval

Date: **DEC 14 1999**

From Manager, Airports Division, AWP-600

Reply  
to  
Attn.  
of:

To: All Division Employees

Attached is Western-Pacific Regional Policy Guidance No. 3 - Contract Approval. This guidance supercedes those portions of WP AS Order 5100.4B which address Change Orders, and Supplemental Agreements. The guidance should be used as a reference tool and does not take the place of sound judgement and efficient project management.

Please direct any questions or comments to Kevin Flynn via cc:mail or at (310) 725-3632.

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Herman C. Bliss

Attachment

WESTERN-PACIFIC REGION POLICY GUIDANCE NO. 3  
CONTRACT APPROVAL

Dated: DEC 14 1999

1. **PURPOSE:** This directive provides guidance to assist ADO/AWP-621 staff in reviewing and approving contracts to be reimbursed under the Airport Improvement Program (AIP).

The information in this order shall be used as a reference tool and does not supercede sound judgement and efficient project management

2. **DISTRIBUTION:** This order is distributed to the branch level in Airports Division and one copy to each employee in the Airports District Offices in Western-Pacific Region

3. **CANCELLATION:** This Policy Guidance supersedes portions of WP AS Order 5100.413, Approval of Plans, Specifications, Change Orders, and Supplemental Agreements.

4. **ACTION:** The Manager, Airports District Office (ADO)/ Supervisor, Standards Section (AWP-621), is responsible for insuring appropriate action under this order.

Additional guidance pertaining to this subject can be found in the following documents:

Order 5100.38A, Airport Improvement Program (AIP) Handbook

49 CFR Part 18 Section 18.36, Procurement

Program Guidance Letter 91-1.1, Sponsor Certification

Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

Advisory Circular 150/5100-14C, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects).

5. **PROFESSIONAL SERVICES CONTRACTS:** In certain circumstances, based on the Airports Division program engineer and/or planner's experience with a sponsor or consultant, a preliminary copy of the proposed contract shall be requested from the sponsor for review and comment.

For all AIP funded projects, the sponsor should submit a copy of the executed contract, a completed "Sponsor Certification For Selection of Consultants" (Attachment 1), and an overview of the consultant selection process. Time and resources permitting, the Airports Division program engineer and/or planner will review these documents for compliance with the regulations and guidance noted above.

The Airports Division program engineer and/or planner shall review the contract for scope of services with respect to the grant description, reasonableness of costs, and for inclusion of the required clauses and statements identified in Advisory Circular 150/5100-14C.

The Airports Division program engineer and/or planner will respond in writing to the sponsor regarding the disposition of the subject contract. Approvals, when applicable, shall be based on the sponsor certification and subject to the availability of federal funds and limitations of the grant agreement. The letter shall also identify any unusual pro-rata share of federal funding pertaining to any portion of the project.

6. CONSTRUCTION CONTRACTS: The sponsor shall submit a copy of the executed contract and bonds as well as a completed "Sponsor Certification for Equipment/Construction Contracts" (Attachment 2). The Airports Division program engineer will review these documents for completeness and compliance with minimum bonding requirements.

The Airports Division program engineer will respond in writing to the sponsor regarding the disposition of the subject contract. Approvals, when applicable, shall be based on sponsor certification and subject to the availability of federal funds and limitations of the grant agreement. The letter shall also identify any unusual pro-rata share of federal funding pertaining to any portion of the project.

7. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS: The sponsor shall submit a copy of the executed change order or supplemental agreement for the FAA project files. The Airports Division program engineer and/or planner will review the change for eligibility and reasonableness and respond in writing to the sponsor regarding the disposition of the subject change order or supplemental agreement. Approvals, when applicable, shall be subject to the availability of federal funds and limitations of the grant agreement. The letter shall also identify any unusual pro-rata share of federal funding pertaining to any portion of the project.

It is recommended that the sponsor coordinate change orders and supplemental agreements with the Airports Division program engineer and/or planner prior to execution so that the eligibility can be established before the sponsor commits to the agreement. Under these circumstances, it is allowable to provide verbal approval of the proposed change order or supplemental agreement based on a draft copy of the document. The Airports Division program engineer and/or planner shall emphasize that any approval of a draft document is contingent upon there being no substantial changes and the final executed document being submitted for our files.

erman C. Bliss  
Manager, Airports Division

Attachments

**Sponsor Certification for Selection of Consultants**

Sponsor's Name

Airport

Project Number

**Project Description**

Section 509(d) of the Airport and Airway Improvement Act of 1982, as amended (herein called the Act), authorizes the Secretary to require certification from sponsors that they will comply with statutory and administrative requirements. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. Every certified item must be marked. Each certified item with a "no" response must be fully explained in an attachment to this certification. If the item is not applicable to this project, mark the item "N/A". General procurement standards for consultant services within Federal grant programs are described in 49 CFR 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and Advisory Circular 150/5100-14.

- |   |     |    |     |
|---|-----|----|-----|
| 1. Advertisements (were) (will be) placed to ensure fair and open competition from a wide area of interest.   | Yes | No | N/A |
| 2. For contracts over \$25,000, consultants (were) (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged business enterprise requirements with the fee determined through negotiation. | Yes | No | N/A |
| 3. An independent cost analysis (was) (will be) performed, and a record of negotiations (has been) (will be) prepared reflecting the considerations involved in the establishment of fees.  | Yes | No | N/A |
| 4. If engineering or other services are to be performed by sponsor force account personal, prior approval (was) (will be) obtained from FAA.  | Yes | No | N/A |
| 5. The consultant services contracts clearly (establish) (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.                         | Yes | No | N/A |
| 6. Costs associated with work ineligible for AIP funding (are) (will be) clearly identified and separated from eligible items.  | Yes | No | N/A |
| 7. All mandatory contract provisions for grant -assisted contracts (have been) (will be) included in all consultant services contracts.   | Yes | No | N/A |

8. If the contract is awarded without competition, pre-award review and approval (was) (will be) obtained from FAA. Yes      o      N/A
9. Cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards (were not) (will not be) used. Yes      No      N/A
10. If the services being procured cover more than the single grant project referenced in this certification, the scope of work (was) (will be) specifically described in the advertisement, and future work will not be initiated beyond three years. Yes      No      N/A

I certify that, for the project identified herein, the responses to the forgoing items are correct as marked, and that the attachments, if any, are correct and complete.

Signed:

Dated:

Sponsor's Authorized Representative

Typed Name and Title of Sponsor's Representative

Modifications to the text or format of this attachment are not permitted.

**Sponsor Certification for Equipment/Construction Contracts**

Sponsor's Name

Airport

Project Number

**Project Description**

Section 509(d) of the Airport and Airway Improvement Act of 1982, as amended (herein called the Act), authorizes the Secretary to require certification from sponsors that they will comply with statutory and administrative requirements. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. Every certified item must be marked. Each certified item with a "no" response must be fully explained in an attachment to this certification. If the item is not applicable to this project, mark the item "N/A". Standards for advertising and awarding equipment and construction contracts within Federal grant programs are described in 49 CFR 18.36. Sponsors may use their procurement procedures reflecting State and local laws or regulations provided procurements conform to specific standards in 49 CFR 18 and Advisory Circulars 150/5100-6, 150/5100-15, and 150/5100-16.

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|--|-----|----|-------|
| 1. A code or standard of conduct (is) (will be) in affect governing the performance of the sponsor's officers, employees, or agents in soliciting and awarding procurement contracts.  | Yes | No | N/A   |
| 2. Qualified personnel (are) (will be) engaged to perform contract administration, engineering supervision, and construction inspection and testing.   | Yes | No | N/A   |
| 3. The procurement (was) (will be) publicly advertised using the competitive sealed bid method of procurement.   | Yes | No | N/A   |
| 4. The request for bids clearly and accurately (describes) (will describe) all administrative and other requirements of the equipment and/or services to be provided.  | Yes | No | N/A   |
| 5. Concurrence (was) (will be) obtained from FAA prior to contract award under any of the following circumstances:<br>Only one qualified person/firrn submits a responsive bid.<br>The contract is to be awarded to other than the lowest responsive and responsible bidder<br>Life cycle costing is a factor in selecting the lowest responsive bidder, and<br>Proposed contract prices are more than 10% over the sponsor's cost estimate. | Yes | No | N/A   |
| 6. All contracts exceeding \$100,000, (require) (will require) a bid guarantee of 5%, a performance bond of 100%, and a payment bond of 100%.  | Yes | No | N/A — |

7. Contracts exceeding \$100,000 (contain) (will contain) provisions or conditions specifying administrative, contractual, and legal remedies, including contract termination, for those instances in which contractors violate or breach contract terms. They also (contain) (will contain) provisions requiring compliance with applicable standards and requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and environmental protection regulations (40 CFR Part 15).  
Yes No N/A
8. All construction contracts involving-labor (contain) (will contain) provisions insuring that in the employment of labor honorably discharged Vietnam era veterans and disabled veterans will be given preference.  
Yes No N/A
9. All construction contracts exceeding \$2,000 (contain) (will contain) provisions requiring compliance with the Davis-Bacon Act and bid solicitations (contain) (will contain) a copy of the current Federal wage rate determination. Provisions requiring compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) and the Copeland "Anti-Kick Back" Act (are) (will be) included.  
Yes No N/A
10. All construction contracts exceeding \$10,000 contain (will contain) appropriate clauses from 41 CFR Part 60 for compliance with Equal Employment Opportunity Executive Order 11246.  
Yes No N/A
11. All contracts and subcontracts (contain) (will contain) clauses required from Title VI Civil Rights Assurances and 49 CFR 23 for Disadvantaged Business Enterprises. Yes No N/A
12. Appropriate checks (have been) (will be) made to assure that contracts or subcontracts are not awarded to those individuals or firms suspended, debarred, or voluntarily excluded from doing business with any DOT element and appearing on the DOT Unified List.  
Yes No N/A

I certify that, for the project identified herein, the responses to the forgoing items are correct as marked, and that the attachments, if any, are correct and complete.

Signed:

Dated:

Sponsor's Authorized Representative

Typed Name and Title of Sponsor's Representative

**Modifications to the text or format of this attachment are not permitted.**