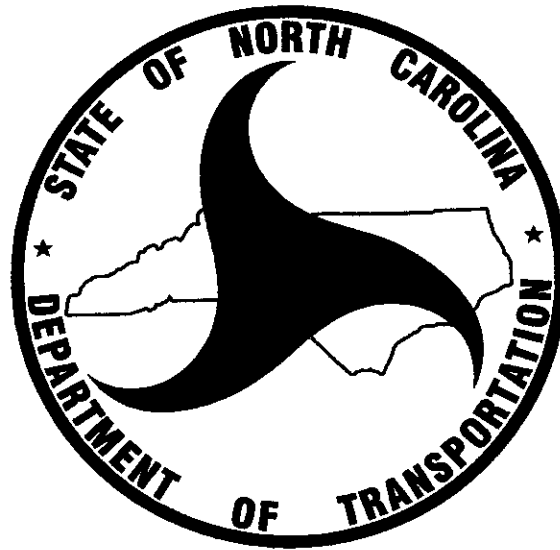


**POLICIES AND PROCEDURES FOR MAJOR
PROFESSIONAL OR SPECIALIZED
SERVICES CONTRACTS**

**NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**



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1. INTRODUCTION AND PURPOSE

The North Carolina Department of Transportation attempts to maintain a staff capable of performing the majority of the normal workload for most of the functions required for the planning, design, construction, inspection and repair of our transportation systems. However, it is recognized that there are peak workloads, manpower shortages, and certain specific needs which can best be met by the use of qualified professionals outside the Department.

These policies and procedures are established as a guide for the preparation, execution and administration of contracts for professional or specialized services that exceed \$30,000. These policies and procedures are also established to ensure that a qualified firm is obtained through an equitable selection process and that the prescribed work is properly accomplished in a timely manner and at a reasonable cost.

Due to the diversity of contract types, some portions of these policies and procedures may not be fully applicable to all situations. The Professional Services Management Unit shall be responsible for determining when deviations from these procedures are justified. The Professional Services Management Unit shall also be responsible for documenting, in writing, any deviation from these policies and procedures and obtaining FHWA approval if needed.

These policies and procedures were developed in response to, and in accordance with, the following legal requirements.

- (a) General Statute Section 136-28.1(f),
- (b) General Statute Sections 143-64.31, 143-64.32 and 143-64.33,
- (c) 23 Code of Federal Regulations Part 172 entitled "Administration of Engineering and Design Related Service Contracts",
- (d) General Statute Chapter 55-B, and
- (e) General Statute Chapter 89-C.
- (f) T19A102E.0700.

These policies and procedures were specifically developed to provide detailed guidance for the implementation of Article T19A102E.0700, professional or specialized services, as found in the North Carolina Administrative Code.

All Department personnel involved with contracts for professional or specialized services shall comply with General Statute 133-32; the North Carolina Department of Transportation Personnel Manual, Section VI, entitled "Employee Relations"; and the

Policy on Ethical Conduct as adopted by the Board of Transportation on December 3, 1993, modified on September 8, 2000 and any subsequent policy approved by the Department.

2. DEFINITIONS

The following definitions are for the purpose of clarifying and describing words and terms used herein.

Professional Services Management Unit Contract Administrator - The individual(s) responsible for administering a contract for professional or specialized services.

Contract Amendment - A formal amendment which modifies the terms of the original contract, or any subsequent supplemental agreement(s).

Contract Initiator - The individual(s) responsible for requesting approval from the Division Engineer/Branch Manager to solicit proposals for professional or specialized services. The Contract Initiator will be a Unit Head or equivalent level of management.

Cost Per Unit of Work - A method of compensation based on an agreed cost per unit of work which may include labor, overhead, fixed fee and other non-salary direct costs. The fee is calculated per project assignment and is fixed.

Cost Plus Fixed Fee - A method of compensation based on the actual allowable and documented cost for labor, overhead, and other non-salary direct cost incurred by the firm performing the work plus a pre-established fixed fee.

Cost Proposal - A detailed submittal specifying the number of workdays required and the compensation requested for the performance of the specific scope of services as defined by the Department.

Firm - A private agency, corporation, organization, business or individual offering qualified professional or specialized services.

Fixed Fee - A dollar amount established for operating margin. The establishment of a fixed fee shall be project specific and shall take into account the size, complexity, duration and degree of risk involved in the work. If a fee higher than the standard fee is to be utilized, it must be justified by the firm and approved in writing by the Professional Services Management Unit prior to the cost proposal submittal.

Letter of Interest (L.O.I.) - An expression of interest by a firm for performing specific services as advertised by the Department.

Limited Services Agreements - An "as-needed basis" contract established for a maximum dollar amount for professional or specialized services to be performed during a specified contract period, generally not to exceed three years. As needed during the

contract period, a scope of services, a schedule and total compensation are negotiated with the firm for the performance of an individual assignment of professional or specialized service, as defined by the Agreement. The scope of services, schedule and compensation for each individual assignment are documented in a Notice to Proceed. The Department may elect to utilize the maximum amount of the agreement during the contract period, or may elect not to negotiate with the firm for any services during the contract period.

Lump Sum - A fixed price including labor, overhead, non-salary direct costs and fixed fee for the performance of specific services.

Non-Salary Direct Costs - Charges, except for labor, which are customarily job or project related including, but not limited to, travel, document reproduction, telephone, etc. Computer usage costs are not allowed to be billed directly.

North Carolina Firm - A firm which maintains an office in North Carolina which is staffed with an adequate number of employees judged by the Department to be capable of performing the majority of the professional or specialized service required.

Overhead - A firm's indirect costs, stated as a percentage of direct labor, including general administrative expenses plus employee fringe benefits. Fringe benefits may include employer's portion of F.I.C.A., comprehensive health insurance, group life insurance, unemployment contributions to the state, vacation, sick leave, holidays, workers' compensation and other such benefits.

Professional or Specialized Services - Services such as, but not limited to, project management, construction engineering and inspection, feasibility studies, planning and environmental (human and natural) studies, preliminary engineering, design engineering, design, redesign, engineering, surveying, mapping, geotechnical investigations, architectural related services, visualization, simulation studies, technical assistance and transportation services studies.

Professional Services Management Unit - The Unit responsible for the advertisement, selection, contract preparation, and execution of professional services contracts between the Department and Professional or Specialized Services Firms.

Project Manager – The individual responsible for oversight of the project work after the contract is executed.

Scope of Services - All services, actions, and physical work required by the Department to achieve the purpose and objectives defined in the contract. Such services may include the furnishing of all required labor, equipment, supplies and materials except as specifically stated.

Small Professional Services Firm (SPSF) – A firm that meets size standards defined by the Small Business Administration regulations, 13 CFR Part 121 under the North American Industrial Classification System.

Specific Rate(s) of Compensation - A method of compensation based on an agreed cost per hour of work including labor, overhead and fixed fee. Non-salary direct costs are charged and reimbursed separately.

Subgrantee - A local government, public authority, profit or non-profit legal entity which receives Federal-Aid funds through the North Carolina Department of Transportation.

Supportive Services for DBE program - Those services provided in connection with approved on-the-job training (OJT) and disadvantaged business enterprise (DBE) programs for highway construction workers and highway contractors. These services are designed to increase the overall effectiveness of OJT and DBE programs through the performance of functions determined to be necessary in connection with such programs. Supportive services contracts are to follow these policies and procedures. Proposals shall be solicited from such qualified sources as will assure the competitive nature of the procurement with a conscientious effort to utilize the services of qualified minority or women's enterprises.

Termination Clause - A contract clause which allows the Department to terminate, at its discretion, the performance of work, in whole or in part, and to make final payment in accordance with the terms of the contract.

3. APPLICATION

These policies and procedures shall apply to all contracts for professional or specialized services which exceed \$30,000 and are obtained by the Department of Transportation pursuant to G.S. 136-28.1(f). Subgrantees shall also follow these policies and procedures when utilizing professional or specialized services.

When subgrantees administer Federal-aid funds (as with Bridge Replacement projects), the subgrantees shall obtain NCDOT approval, in writing, prior to contracting with a firm.

4. DIRECTORY OF TRANSPORTATION FIRMS

The Contractual Services Unit will be responsible for maintaining a List of Prequalified Private Consulting Firms who have been approved to perform professional or specialized services for the Department. Private Consulting Firms must be prequalified to perform work or services for the Department.

A firm may be considered for the List of Prequalified Private Consulting Firms by furnishing the Contractual Services Unit of the Technical Services Division with information describing the firm's area(s) of expertise, experience, present activities, and

financial qualifications. This may be accomplished by furnishing a copy of the Private Engineering Firm Qualifications Package and Questionnaire (PEFQUAL 1), proof of registration with the Secretary of State's Office, the North Carolina Board of Registration for Professional Engineers and Land Surveyors, if applicable, and any other additional information as requested. Applications can also be completed on line at www.ncdot.org/business/ocs. After the above information is reviewed, and it is determined that the firm has the required expertise, resources and staff to effectively perform the services for the Department, the firm will be added to the List of Prequalified Consulting Firms.

A firm which is not on the List of Prequalified Consulting Firms may submit the required information prior to their Letter of Interest for any advertised project.

In order for a firm to remain on the register, they will be required to renew their application and provide any other information as requested by the Department prior to the firm's renewal date of each year.

Firms that do not provide this updated information annually, as requested, will be removed from the List of Prequalified Private Consulting Firms.

5. REQUEST FOR APPROVAL TO SOLICIT LETTERS OF INTEREST

The Contract Initiator is responsible for determining when professional or specialized services are needed. If the Director or Branch Manager agrees that justification exists, they will approve the use of a professional or specialized services firm. Upon determining that a need exists, the Contract Initiator shall request approval from the Professional Services Management Unit to solicit Letters of Interest. The request shall be in writing and shall include the type of services and specific justification for the services to be performed by a professional or specialized firm such as (1) lack of manpower, (2) lack of expertise, or (3) other reasons. A copy of the request shall be maintained by the Contract Initiator's Director, Branch Manager or their designee.

6. SELECTION COMMITTEE

The Selection Committee will consist of the chairperson and at least two other members with experience in the type of services to be contracted. The Chairperson will be the Professional Services Management Unit Manager or their designee. While the chairperson is immutable, the other members evaluating the proposal will be chosen from a pool of designated members and shall not serve on consecutive Selection Committees unless no other designated members with expertise in types of services to be contracted are available. When Federal funds will be used as compensation for solicited services, a representative of the Federal Highway Administration will be invited to sit with the committee. A representative of the External Audit Branch of the Office of Inspector General and the OCR/Business Development Specialist will also be invited to sit with the Selection Committee. Based on input from the Selection Committee the Chairperson will

be responsible for the final decision on the approval of a professional or specialized services firm.

7. SOLICITATION OF LETTERS OF INTEREST

Letters of Interest (L.O.I.) will be solicited to determine the firms which are interested in and capable of performing professional or specialized services within the desired time period. Solicitation shall be by published advertisement in the North Carolina Purchase Directory. This is maintained by the Department of Administration (http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/pd/current.html). Solicitation for interest may also be by direct mail to selected firms from the List of Prequalified Private Consulting Firms found in the Directory of Transportation Firms. When the Chairman elects to send the request for L.O.I. the request will be mailed the day before the scheduled advertisement.

The Professional Services Management Unit, or their representative, shall be responsible for preparing the request for L.O.I. The request shall contain information describing the location of the project(s) (if applicable); the types and scopes of services that reflect a clear, accurate, and detailed description of the technical requirements for the services to be rendered; and shall specify the method(s) of payment. The evaluation criteria to be used in the selection process shall be specifically stated along with the respective weights of each evaluation factor.

The L.O.I. shall be submitted to the Professional Services Management Unit by the date designated in the advertisement, usually two weeks following the date of the advertisement. Any deviation as to number of pages or copies, place, date or time of delivery of these L.O.I. will result in automatic disqualification of the firm for the advertised work.

A copy of the advertisement and the L.O.I. submitted by the firm, which is ultimately selected, as well as first and second alternate, shall be maintained by the Professional Services Management Unit.

8. SELECTION OF FIRM

Evaluation of the qualified firms expressing interest will be based on the evaluation factors and their respective weights as specifically stated in the solicitation, and any other data pertinent to the contract under consideration such as past performance, applicable work experience, present workload, project team, staffing capabilities, use, etc.

All qualified firms will be given consideration. After reviewing qualifications, if firms are equal on the evaluation review, then those qualified firms with proposed SPSF (Small Professional Services Firms) participation will be given priority consideration.

Small Professional Services Firms (SPSF) shall be given consideration in the procurement of planning, engineering, design, and construction related service contracts.

The Department will have aspirational goals for DBEs on federally funded projects and aspirational goals for Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) for state funded projects. These aspirational goals vary from year to year. The firm, subconsultant, and subfirm shall not discriminate on the basis of race, religion, color, creed, national origin, age, disability/handicap or sex in the performance of a contract.

The Selection Committee shall evaluate each firm responding to the request for L.O.I. The Selection Committee may select three (3) firms deemed most qualified from those indicating interest (except where fewer than three (3) are available).

These firms shall be listed in descending order of preference based on the Selection Committee's review and analysis of the L.O.I. The Committee may elect to interview all or some of these firms prior to establishing the order of preference. A copy of the evaluation of the firms shall be maintained by the Professional Services Management Unit.

When several projects are under consideration at the same time, a firm shall be selected for each project and two (2) alternates may be selected for the entire group at the discretion of the Selection Committee.

When selecting firms for Limited Services Agreements, alternates need not be selected.

The results of the Selection Committee meeting shall be maintained by the Professional Services Management Unit.

The Professional Services Management Unit Contract Administrator shall notify the firm chosen by the Selection Committee and request a meeting to review the scope of services.

9. NEGOTIATION OF CONTRACT

(A) GENERAL

A meeting with the selected firm shall be scheduled to discuss the scope of the proposed services. The discussions will vary depending upon the firm's familiarity with the Department's methods, policies, standards, etc. For firms unfamiliar with the Department's requirements, the meeting should include review and discussion of the following:

- (a) Copies of examples of similar work;
- (b) Standards, specifications, manuals, etc. to be used;
- (c) Policies used by the Department for the type of work involved;
- (d) A contract in draft form;

- (e) Methods of payment;
- (f) Procedures for invoicing;
- (g) Standard forms to be used;
- (h) Fiscal requirements; and
- (i) Items and/or services to be provided by the Department.

A representative of the firm shall keep minutes of the scoping meeting and will submit a copy to the Professional Services Management Unit Contract Administrator. The minutes shall be reviewed for completeness, accuracy, and confirmation of mutual understanding of the scope of services. The minutes shall be approved by signature of the Professional Services Management Unit Contract Administrator and an approved copy will be returned to the firm.

Once the details of the scope of services are resolved, the Professional Services Management Unit Contract Administrator, or their representative, shall prepare an estimate of the cost of performing the work.

The in-house estimate will be used in evaluating the acceptability of the selected firm's cost proposal for performing the services. The in-house estimate must be completed prior to opening the cost proposal from the selected firm.

The format used for preparing the in-house estimate will vary from project to project, and work area to work area, depending on the type and scope of services required. Typically, the format will include an estimate of the workdays required, by classification, the direct labor cost, the overhead cost, the fixed fee (i.e. operating margin) and the necessary direct expenses.

The firm will prepare a cost proposal for performing the required services. The firm's cost proposal shall be supported by a breakdown of the workdays required to perform each of the services contained in the contract and the salary range for each of the classifications of personnel to be utilized. The firm's cost proposal must include supporting documentation for payroll additives, direct costs, indirect costs, fixed fee, and overhead.

Upon receipt of the firm's cost proposal, the Professional Services Management Unit Contract Administrator or their designee shall review the submitted material, compare the in-house estimate with the cost proposal, and determine both the reasonableness of the proposal and the areas of substantial difference which may require further discussion and negotiation.

A prenegotiation audit shall be prepared by the External Audit Branch of the Office of Inspector General to provide the necessary data to assure the firm has an acceptable accounting system, adequate and proper justification for the various rates charged to perform the work, and is aware of the Department's cost eligibility and documentation requirements. A prenegotiation audit and the resultant audit report are required for all contracts, including Limited Service Agreements, expected to exceed \$250,000 (\$30,000 if the procurement is by a subgrantee). For contracts less than \$250,000, a prenegotiation audit may be required where there is either insufficient knowledge of the firm's accounting system, previous unfavorable experience regarding the reliability of the firm's accounting system, procurement of new equipment or supplies for which cost experience is lacking, or as required by the Professional Services Management Unit Contract Administrator. Subgrantees that do not have resources or expertise for performing a prenegotiation audit may contact the Department's Consultant, Railroad, Turnpike, and Utility Audit Unit of the External Audit Branch for assistance.

The use of an independent audit, an audit performed by another State/Federal agency, or an audit performed by another local governmental agency is acceptable.

Prenegotiation audits may be waived when sufficient data is available to permit reasonable comparisons with the cost proposal.

A firm's cost proposal will not be considered acceptable until the prenegotiation audit has been performed, if required, by the External Audit Branch of the Office of Inspector General. When the prenegotiation audit has been completed, negotiations with the consultant may begin. The negotiations shall satisfactorily conclude all points of difference and shall address and resolve any comments submitted by the External Audit Branch.

The Professional Services Management Unit Contract Administrator shall use all resources available to conduct effective negotiations including, but not limited to the refined scope of services, the evaluation factors and their relative importance, the in-house cost estimate, and the prenegotiation audit and audit report.

Negotiations shall be conducted separately for mandays and for any of the dollar amounts for elements of cost, fixed fee, and overhead except for contracts involving cost per unit of work and specific rates of compensation.

When a joint venture of firms desires to enter into a contract with the Department, the joint venture will designate a representative to act as the sole authority for the purpose of negotiation.

If the firm's original cost proposal is greater than 50% above the in-house estimate and it is determined the firm understands the scope of work, the Professional Services Unit may choose to terminate the negotiations process with the selected firm. The selected firm will be provided written notice of the department's intent to cease the negotiations process. The Technical Services Director's approval will be obtained before negotiations

are terminated. The Professional Services Management Unit Contract Administrator will then begin procedures for scoping and negotiations with the firm chosen as first alternate.

The Professional Services Management Unit Contract Administrator shall maintain records of negotiation to document negotiation activities and to set forth the resources considered. This record shall include the minutes of the scoping meeting, a record of the original in-house estimate and any revisions to the in-house estimate, the final in-house estimate, a record of the firm's original cost proposal and each subsequent submittal, the final cost proposal, the request for a prenegotiation audit, the audit report, and the response to the prenegotiation audit.

(B) LIMITED SERVICES AGREEMENTS

Limited Services Agreement contracts will generally be negotiated as described in paragraph 9 (A). The negotiations will primarily deal with allowable costs for the personnel to be utilized with supporting documentation for payroll additives, direct costs, indirect costs, fixed fee and overhead.

A maximum dollar amount, which may be expended by the firm during the contract period, will be determined by the Department for each selected firm.

Negotiations under Limited Service Agreements shall also be conducted for each individual assignment at the time the Unit Head determines that the use of the professional or specialized services of the contracting firm is needed.

The Professional Services Management Unit Contract Administrator will notify the firm and schedule a meeting to discuss the scope of proposed services for the individual assignment. A representative of the firm shall keep minutes of the meeting which shall be submitted to the Professional Services Management Unit Contract Administrator for approval by signature. A copy of the approved minutes will be returned to the firm.

The Professional Services Management Unit Contract Administrator, or their representative shall prepare an in-house estimate of the cost of performing the services as described in Paragraph 9 (A). The estimate will be used in evaluating the acceptability of the firm's cost proposal. The in-house estimate must be completed prior to receiving the cost proposal from the firm.

The firm will prepare a cost proposal as described in Paragraph 9 (A) for performing the required services. Upon receipt of the firm's cost proposal, the Professional Services Management Unit Contract Administrator, or their designee, shall review the submitted material, compare the in-house estimate with the cost proposal, and determine both the reasonableness of the proposal and the areas of substantial difference which may require further discussion or negotiation. The negotiations shall satisfactorily conclude all points of difference. The Professional Services Management Unit Contract Administrator will review the audit report and respond in writing to the auditor. Any revisions resulting

from the prenegotiation audit will be incorporated into the final cost and the firm will be given a written notice to proceed.

If the negotiations cannot be successfully concluded, negotiations will be terminated, the firm so notified in writing, and another firm under a Limited Services Agreement will be contacted.

The Professional Services Management Unit Contract Administrator will maintain records of the negotiations as described in paragraph 9 (A). These records shall be kept on file for three years after completion of the contract. For design contracts, the records shall be kept for the previously mentioned period or until the project is completed, whichever occurs last.

10. EXECUTION OF CONTRACT

Upon completion of final negotiations, the firm shall execute a minimum of two (2) contract originals

Prior to execution by the Department, the contracts should be submitted to the Attorney General's office for review and certification as to form and execution.

The Technical Services Director will project and include the Department's usage of major professional or specialized services contracts in the Department's Annual Work Program. Approval by the Board of Transportation of the Annual Work Program constitutes approval of the Department's use of major professional or specialized services contracts under oversight of the Professional Services Management Unit. The Technical Services Director will award and approve overruns for individual professional or specialized services contracts in accordance with the parameters set in the Approved Work Program.

Upon approval by the Technical Services Director, the Professional Services Management Unit will execute the contract. The Contract Administrator will transmit one original contract to the firm with a written notice to proceed and shall retain one original contract in the project file. A copy of the contract will be provided to the Federal Highway Administration when Federal funds are involved.

11. SUBCONTRACTING

A Contracting Firm may subcontract portions of the work proposed in a contract only upon approval of the Professional Services Management Unit Contract Administrator.

The responsibility for procuring a subconsultant and assuring the acceptable performance of the work lies with the contracting firm. It shall be the responsibility of the Department to schedule any meeting or make requests for substantive contact with a subconsultant through the contracting firm. The contracting firm should be a part of any such meeting or contact. The contracting firm will be informed of any instruction, directive, or review of the subconsultant(s) work made by the Department. Also, the contracting firm will be

responsible for submitting the proper supporting data to the Professional Services Management Unit Contract Administrator for all work that is proposed to be subcontracted.

12. TYPES OF CONTRACTS

The following is a description of most often used contracts:

Lump Sum - This type of contract is suitable when the amount and character of required services can be reasonably defined and clearly understood by both the Department and the contracting firm. This can be a single lump sum fee negotiated initially or a lump sum contract consisting of task orders as the scope evolves by task assignments.

Cost Plus Fixed Fee - This type of contract is suitable where the general magnitude of services is known but the scope of services or period of performance cannot be defined clearly and the Department needs more flexibility in expediting the work without excessive amendments to the contract.

Cost Per Unit of Work - This type of contract is suitable where the magnitude of services is uncertain but the character of services is known and the cost per unit can be determined accurately.

Limited Services - This type of contract is suitable where a specialized service is needed on a substantial number of projects over a specified period of time. The character of the specialized service can be reasonably defined and understood by the Department and the contracting firm, but the number of individual projects make the selection of firms and the negotiation and execution of contracts for the service on each individual project time prohibitive.

Specific Rate(s) of Compensation - This type of contract is suitable where the magnitude of services is uncertain but the character of services is known and a cost per hour can be determined

13. ADMINISTRATION OF CONTRACT

The administration of the contract shall be the responsibility of the Division or Unit where the work is being performed. These duties include the review of invoices and recommendation for audit and/or payment to the External Audit Branch of the Office of Inspector General.

The Project Manager shall be responsible for assuring that the private firm performs such additional work as may be necessary to correct errors, omissions or negligence in the work required under the contract without undue delays and without additional cost to the Department in accordance with the contract.

14. CONTRACT AMENDMENTS

Each contract shall contain procedures for contract modifications and will define what changes are permitted by mutual agreement of the parties involved and the changes that can only be made by means of a contract amendment.

Contract amendments are required for any modification in the terms of the original contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the services; or significantly change the conditions under which the services are required to be performed.

The contract amendment shall clearly outline the changes made and determine a method of compensation. Overruns in the cost of work shall not warrant an increase in the fixed fee portion of a cost plus fixed fee contract. Significant changes to the scope of services may require adjustment of the fixed fee portion of a cost plus fixed fee contract or in the fixed fee portion of a lump sum contract.

The Professional Services Management Unit Contract Administrator may, without a contract amendment, authorize changes involving details of clarifications, changes in time schedules, and other changes of a minor nature which do not cause a significant change in the scope of services or a change in the amount of compensation.

No work is to be performed by the contracted firm on additional or disputed items of work until the contract amendment is executed and/or the dispute is resolved.

Contract amendments shall be processed using the same procedures as described under Items 9 and 10; however, those contract amendments which are cumulatively less than 10 percent of the original contract fee may be approved by the Technical Services Director. In addition, FHWA will not be required to formally approve contract amendments; however, they shall be provided a copy of the executed agreement when National Highway System funds are involved. Any controversial contractual or administrative issues should be coordinated with FHWA prior to settlement.

15. MONITORING AND EVALUATION OF WORK

The Project Manager's responsibilities shall include ensuring that the work being pursued is complete, accurate, and consistent with the terms of the contract; scheduling and attending progress meetings with the firm where necessary; being involved in decisions leading to contract modifications; being familiar with the qualifications and responsibilities of the firm's staff; visiting the project and/or firm's offices on a frequency that is commensurate with the magnitude, complexity and type of work; and assuring that costs billed are consistent with the acceptability and progress of the firm's work.

The Project Manager shall prepare written interim and/or final performance evaluation reports for all contracts except those awarded contracts of \$30,000 or less. This report

should include, but not be limited to, an evaluation of such items as the quality of work, timely completion of the work, and conformance with established policy.

Copies of the interim and/or final performance evaluations shall be sent to the firm for its review and/or comments immediately following the appropriate milestone or completion of the contract. The Professional Services Management Unit shall receive copies of all interim and/or final evaluations. Any written comments by the firm shall be attached to the final evaluation report submitted to the Project Manager.

16. INVOICE PROCEDURES

The firm will be required to provide a written progress report with its invoice for each calendar month or other contract period as designated in the contract during which work is in progress. The progress report shall describe the work performed during the period covered by the invoice. The prime firm will also report subconsultant payments with each invoice using form DBE-IS.

The Department has the right to retain a percentage of the contract fee for all partial payments earned until all work in the contract is completed. However, at the discretion of the Division Engineer/Branch Manager or their designee, the retainage may be eliminated, reduced or released on any work that has been completed and accepted by the State prior to final audit.

17. FINAL PAYMENT

When it is determined that the work is complete, the final invoice shall be reviewed by the Division Engineer/Branch Manager or his designee and forwarded to the Financial Management Division with a recommendation for payment. When a contract is terminated by the Department, the final payment shall be for that portion of work satisfactorily performed in accordance with the contract.

18. TERMINATION OF CONTRACTS

Termination of a contract may become necessary for various reasons. Some of these reasons could include unavailability of federal and/or state funding, major delays in completing the necessary environmental documentation, removal or adjustment of the project from the Transportation Improvement Program, change in the firm's project team, and poor or unacceptable performance of the firm.

All contracts shall include a provision for the termination of the contract by the Department with proper written notice to the contracted firm.

19. SPECIAL CIRCUMSTANCES

(A) EMERGENCY CONDITIONS

When an emergency occurs, these procedures, or portions thereof, may be waived by the Secretary of Transportation or his designee pursuant to G.S. 136-28.1(e). A professional/specialized firm may be selected, negotiations conducted, and a contract executed at the direction of the Director of Technical Services as required to address the emergency conditions.

When Federal-aid highway funds are used in the contract, the Director of Technical Services or designee shall submit justification for emergency selection and receive approval from FHWA before proceeding.

(B) SOLE SOURCE

These procedures, or portions thereof, may be waived by the Professional Services Management Unit for the sole source selection of a firm under either of the following two conditions.

1. Sole source selection may be used for work on subsequent phases of a project when the firm has satisfactorily performed work on an earlier phase.
2. Sole source selection may be used when no more than two firms known to the Department have the required expertise for a unique area.
3. Sole source selection may be used when it has been determined that there is an emergency which does not permit time to conduct contract negotiations.

Sole source selection may only be used when it is in the public interest and economically advantageous to the Department. Selection of a sole source firm will be contingent upon satisfactory negotiation for the service.

When Federal-aid highway funds are involved, the Professional Services Management Unit Contract Administrator shall submit justification for sole source selection and receive approval from FHWA prior to proceeding.