



Use of Local Force Accounts

On Federally Funded Safety Projects

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Methods of Construction

- **Decision on how construction will be accomplished is needed during the design process or earlier and must occur prior to requesting federal authorization**
- Competitive Bidding is the norm
 - Can be waived for cost effective reasons
- Negotiated Contracts (very rare)
 - In emergencies/natural disasters
- **Local Agency Force Account**



Federal Aid Contracting Basics

Competitive Bidding

- Rooted in Code of Federal Regulations (CFR)
 - Title 23, 635.104, Method of Construction – requires federally funded projects to be competitively bid unless some other construction method is more cost effective or an emergency situation exists
 - Project must be advertised a minimum of 21 days. Award must be to the low responsive, responsible bidder
 - Alternate methods (negotiated contracts, local force accounts) require oversight agency approval



Federal Aid Contracting Basics

Negotiated Contracts

- Negotiated contracts
- Use is very rare and under dire circumstances
- Emergency Projects/Natural Disasters
 - Emergency Declaration
 - Emergency Project vs. Permanent Repairs

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Federal Aid Contracting Basics Delegation of Authority (LAP)

- Delegation of Authority Requirements
 - FDOT responsible for **all** federal aid projects but it may delegate to a qualified local agency (LAP) when the local agency has legal jurisdiction over a facility or when special conditions warrant
 - FDOT is not relieved of responsibility through delegation and the local agency must have a “Responsible Charge” for the project
 - If construction contract is to be utilized, **all** Federal contracting requirements shall be met
 - The local agency must be adequately staffed and suitably equipped to undertake and satisfactorily complete the work



Federal Aid Contracting Basics

Local Agency Force Account

- Local Agency Force Account
 - Defined as federally funded work accomplished by a local public agency without the use of a private contractor
 - Authorized under CFR Title 23, 635.105
 - Use of Force Account must be cost effective.
 - Cost effectiveness defined as efficient use of labor, equipment, materials and supplies to assure the lowest overall cost.



Federal Aid Contracting Basics

Local Agency Force Account

- Force Account Requirements
 - Full compliance with “responsible charge” language
 - The local agency must be adequately staffed and suitably equipped to undertake and satisfactorily complete the work
 - Local Agency required to submit a Finding of Cost Effectiveness (FOCE) to the oversight agency
 - District to review and approve requests for compliance with CFR



Reasons for Using Force Accounts

- Typically low cost, less complex projects
- Lack of competition resulting in unacceptable/high bids
- Project implementation is typically more timely – avoids the bidding process and local governing body approval
- Provides work for local staff – staff work time is reimbursable
- Davis-Bacon Wage Rates, EEO Requirements not applicable
- Local Agency labor and equipment indirect costs/overhead reimbursable



Reasons for Not Using Force Accounts

- Local Agency does not have sufficient staff quantity, quality, availability, and capability
- Local Agency cannot meet required standards of quality and workmanship
- Local Agency lacks equipment and resources
- Local Agency would rather manage construction contract
- Cannot justify cost effectiveness requirement



D7 LAP/Force Account History

- Sheehy Elementary School Sidewalk Project – City of Tampa (SR2S)
- Alexander Street Sidewalk Project – Hillsborough County (SR2S)
- Walter Fuller Park Trail Project – City of St. Petersburg – (TA)
- 112th Avenue North Median Modification – City of St. Petersburg – (HSP)

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The Force Account Process

- Local Agency decides to pursue project using Force Account **EARLY** in the production process
- Local Agency requests District permission – approval must be sought early – do not delay until construction is eminent
- District coordinates and discusses requirements with local agency



The Force Account Process (Continued)

- Local Agency provides Finding of Cost Effectiveness (FOCE)
- District reviews and comments on FOCE
- Local Agency responds to District comments – revises FOCE accordingly
- District approves revised FOCE or provides further comments



Force Account Process Details

- Local Agency decision to request Force Account use
 - Project specific decision and approval, not blanket
 - **Request should occur early in the design process – must occur well prior to authorization for construction**
 - Must be capable of constructing project
 - Adequate staff quantity and quality a must
 - Local agency justification for contracting outside of low bid methodology (FOCE)
 - Local Agency requests district permission for use of Force Account



Force Account Process Details

- District reviews local agency staff quality and quantity
- District reviews local agency track record and performance on Force Account and LAP Projects in general
- District discussion with local agency regarding need/reason for use of force accounts
- District requests FOCE



Force Account Process Details (Continued)

- Local Agency provides Finding of Cost Effectiveness (FOCE)
 - Must be detailed and show how cost savings will occur
 - Savings should be monetary and can include time (which equates to money)
 - Can utilize local labor, materials, equipment, and supplies
 - Must be without the use of a contractor
 - Must provide supporting documentation
 - Must include a written local agency management commitment of support



Force Account Process Details (Continued)

- District reviews and comments on FOCE
 - District review to mirror CFR and contracting requirements
 - Must be able to confirm savings and cost effectiveness
 - Can approve or request additional supporting documentation
 - District notifies local agency of approval/denial



A Sample FOCE

- A Recent FOCE – City of St. Petersburg – 112th Avenue @ 4th Street North Intersection Modification
- Detailed introduction and accurate project description
- City reasons for Force Account utilization
- Cost effectiveness/savings theories
- Cost Comparisons – total cost to local agency versus cost of competitive bidding



A Sample FOCE (Continued)

- Cost Savings
 - Reduced local mobilization costs
 - Reduced Maintenance of Traffic (MOT must be included in plans)
 - Ease of local crew interaction/integration; familiarity with local roadways and conditions
 - No contractor mark-up/multipliers
 - City crew salary versus contractor rates (Davis-Bacon not applicable)
 - Substantially less paperwork – EEO requirements and federal contracting requirements not applicable
 - Opportunity for In-house CEI



The Approved LAP/Force Account Project

- Local Agency submits PS&E Package
- Plans must still be approved in ERC
- Spec Package must still be approved
- Updated estimate must still be submitted and approved



The Approved LAP/Force Account Project (Continued)

- ROW Certification must still be submitted and cleared by the Department
- LAP Construction Checklist must still be approved
- District will still issue Notice to Proceed (NTP)
 - Not needed for advertisement
 - NTP to begin work



The Approved LAP/Force Account Project (Continued)

- Construction Engineering Inspection
 - Local Agency performance allowed
 - Consultant utilization (typical)
- Materials Testing
 - Very few local agencies have testing facilities
 - Testing can be done by the local agency provided they have capability
 - Independent test labs can be and are typically engaged/encouraged
- **BOTTOM LINE: FEDERAL CONTRACTING REQUIREMENTS ARE NOT APPLICABLE – ALL OTHER REQUIREMENTS REMAIN IN FULL EFFECT**

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In Summary...

- All federally funded projects must be competitively bid per CFR unless a more cost efficient method is available
- Force Account is allowable and can be successfully used with proper coordination and communication between the Department and the local agency
- Decision to utilize Force Accounts should be made early in the production process – not when construction is eminent
- Force Account work should not be co-mingled with a construction contract



In Summary...

- A Finding of Cost Effectiveness (FOCE) is definitely required and a successful FOCE will:
 - Breakdown ALL pay items with unit costs from recent bid tabs
 - Compare bid tabs to the cost of the local agency performing the work
 - Show how local costs were derived – simply inserting numbers is not sufficient
 - Include Mobilization and MOT costs



Questions???

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