



Division of Transportation System Development
PO Box 7965
Madison, WI 53707-7965

Jim Doyle, Governor
Frank J. Busalacchi, Secretary
Internet: www.dot.wisconsin.gov

Telephone: 608-267-7943
Facsimile (FAX): 608-267-1862
E-mail: jay.neider@dot.state.wi.us

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TO: LOCAL UNITS OF GOVERNMENT

Dear Sir or Madam:

Re: Subcontracting on Local Force Account Contracts

Recently the Federal Highway Administration conducted a national program review of the administration of federal-aid projects by local public agencies. The conclusions as a result of that review will impact the way the department administers local force account contracts (LFAs). A number of changes will be coming in the future but the most immediate is a change in policy regarding subcontracting as part of LFAs.

The Wisconsin Division Office of the Federal Highway Administration has stated the following position on subcontracting as part of LFAs:

"Federal regulations require that local public agencies who wish to perform work with their own forces on their own system, be "adequately staffed and suitably equipped" to undertake and satisfactorily complete the work. "Adequately staffed" means that all work must be completed by the local public agency, itself (unless let via a competitive contract). If the local requires assistance from a subcontractor, then by definition, they do not have adequate forces to complete the work.

In addition, when the locals "subcontract" under LFA, the contract is not developed as a Federal-aid contract and hence does not comply with Federal requirements. Contracts on Federal-aid projects must include all required Federal contract provisions and must be competitively let. The contracts cannot be hidden under an LFA and charged as a material cost. In addition, the locals cannot charge an administrative fee (based on administering LFA work) for administering the contract.

WisDOT should take immediate action to ensure there are no Federally-funded "subcontracts" as part of the LFA projects. It is permissible to use 100% local funds for these types of "subcontracts" and it is also permissible to allow the work to be done by contract if it is competitively let and includes the required contract provisions. The LFA work must only be that work which the local is capable of doing themselves."

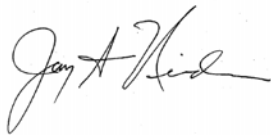
The department recognizes that a change in WisDOT policy regarding subcontracting to conform to Federal regulations is appropriate. As a result, effective with the August 2007 quarterly PS&E transmittals (for projects in the November 2007, December 2007 and January 2008 schedule), LFA contracts may no longer include any subcontracted work unless (1) the subcontracted work is 100% locally funded or (2) the subcontracted work is awarded as part of a competitively let project.

The Facilities Development Manual will be revised in accordance with FHWA local force account limitations. This memo is an early alert until the manual is updated.

The department intends to mitigate the impacts of this new policy by programming and scheduling a State Let contract coupled with the Non-Let LFA contract for any approved projects in Local Bridge, Urban, and/or Rural programs. It is strongly recommended that any materials necessary for local program projects not supplied by the lead agency for the project be state let to assure that all necessary Federal requirements are met. The minimum contract for state lets will be \$100,000. If one local project cannot meet the \$100,000 minimum, the department suggests that local units work with other local units to "group" their needs from several projects together.

Questions about this policy may be emailed to: DOTFWALFA@dot.state.wi.us. Your questions will be answered as soon as possible. For those governmental units who may not have email access please call Ron Nohr at (608) 266-1496, Brian Edwards at (920) 492-0149 or Jay Neider at (608) 267-7943.

Sincerely,



Jay Neider, P.E.
Chief, Local Program Management and Consultant Section
Bureau of Project Development, Division of Transportation System Development

CC: Kevin Chesnik, WisDOT, DTSD
Paul Trombino, WisDOT, DTSD
Rory Rhinesmith, WisDOT, DTSD
DOT, DTSD Region Directors
Mark Wolfgram, WisDOT, DTIM
Rod Clark, WisDOT, DTIM
Mary Forlenza, WisDOT, DTIM
Julie Seston, WisDOT, DTIM
Dan Fedderly, Executive Director, WCHA
Dan Thompson, Executive Director, LWM
Ed Huck, Executive Director, WAC
Richard Stadelman, Executive Director, WTA