

OHIO PUBLIC WORKS COMMISSION

ADVISORY VI

DESIGN & ENGINEERING SERVICES, TOWNSHIP ROAD IMPROVEMENTS: The Commission's legal counsel has affirmed the opinion of a local County Prosecuting Attorney that a board of township trustees **SHALL** order their county engineer to prepare plans and specifications for roadway improvements. The county engineer is solely responsible for that design.

This requirement is contained in Section 5573.01 of the Ohio Revised Code, a copy of which is attached for review.

From a practical standpoint this duty of boards of township trustees to order the county engineer to, and the county engineers responsibility to, provide design services for township road improvements **prohibits townships from hiring consulting engineers** to perform design and engineering services for township road improvements.

Effective immediately the Commission will not accept a "Request to Proceed" for consulting engineering services from a township for a road improvement project and will not disburse any funds for consulting engineering services for township road improvements which were contracted for after October 15, 1996, unless the request to proceed is accompanied by a letter from the county engineer indicating that the county engineer has hired that consulting engineer to perform the work.

A county engineer ordered by a board of township trustees to perform design and engineering services for a township road improvement project may engage the services of a consulting engineer to conduct such work.

Section 164.15 of the Ohio Revised Code expressly allows a board of township trustees to enter into a contract with the county engineer under which the board agrees to pay all or any part of the cost of engineering services to be provided to or obtained for the township by the county engineer that are necessary for projects awarded under this chapter. [Funded by the Commission under the State Capital Improvements Program (Issue 2) or the Local Transportation Improvements Program (LTIP)]

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Distribution: District Committees, Liaisons, Project Managers

Ohio Township Association, County Engineers Association of Ohio

Ohio Association of Consulting Engineers

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OHIO PUBLIC WORKS COMMISSION

ADVISORY XVIII

Procurement of Engineering/Project Management Services

Recent changes to the Ohio Revised Code now require **all** public authorities to utilize a qualifications-based selection procedure in choosing engineering consultants when the estimated design fee is expected to exceed twenty-five thousand dollars. The pertinent provisions of this requirement may be found in ORC Section 153.65 to 153.71.

Additionally the Ohio Association of Consulting Engineers has prepared a guideline on How to Comply With Ohio's Design Professional Selection Law which is available upon request from the OACE or the Commission.

It is the policy of the Commission that contracts for professional services (engineering and project management) contain basic provisions so that stated objectives will be achieved in an efficient and economical manner, consistent with sound contracting principles at a fair and reasonable cost to the local government and which provide a fair and reasonable profit for the consulting firm.

The Commission has adopted the following guidelines for all projects funded in whole or in part by the Commission:

- 1). The Commission encourages all recipients to evaluate competing professional engineers on the basis of their qualifications and experience by using a Request for Proposals (RFP), and to contract with the engineer judged most highly qualified for the project at hand, and at a fee that is fair and reasonable, based on the agreed upon scope of services.
- 2). Each subdivision must enter into a project specific contract. This contract must be signed by both parties and must delineate the type of billing and payment method. All contracts for engineering/management services must contain the following general sections:
 - a). Scope of Services - a formal part of the contract that specifies exactly what the consultant will provide for the local government. The scope of services should be complete and specific. Under no circumstances should there be an "understanding" on the part of the local government or consultant that is not explicitly reflected in the scope of services. The scope of services should include such items as: the tasks to be performed, schedule for performance, deliverables (reports, systems, drawings, etc), review procedures, and number of reports to be delivered.
 - b). Contracting Method - the methods for billing will vary depending upon the nature of the work to be performed, the preference of the local government and consultant, and/or Federal, state or local requirements. Generally, there are three basic types of contracts: Fixed Price, Time and Materials, or Cost Plus Fixed Fee. The contract must specify if one of these or some other type of contracting method was agreed to.
 - c). Contract Terms and Conditions - the contract must also include issues such as the contract period, key personnel, subcontracting provisions, penalties, change in scope, termination rights, method of payment and amendment provisions.

Townships requiring assistance for engineering and project management must, in accordance with the Ohio Revised Code, consult with their County Engineer in the evaluation and performance of these services.

The Commission will request from time to time evidence of compliance with these procedures. All local governments should be prepared to submit evidence (copy of professional contract) demonstrating compliance with these guidelines if requested by Commission staff.

Failure on the part of the local government to follow these requirements and guidelines could result in the Commission refusing to recognize or compensate for engineering costs incurred by the local subdivision on a Commission funded project.

If you need any assistance on these matters, please contact your program representative at (614) 466-0880.

Additional Resource:

HOW TO COMPLY WITH OHIO'S DESIGN PROFESSIONAL SELECTION LAW

A Guideline for Public Authorities

A Publication of: Ohio Consulting Engineers Association

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