

**Lump Sum Contracting Provides Advantages to DOTs and A/E Firms**

ACEC encourages more State Departments of Transportation (DOTs) to utilize lump sum contracts in the delivery of engineering and design-related services to facilitate innovation, efficiency, and cost savings. The DOTs and the engineering industry face significant workforce constraints, posing a threat to successful implementation of the bipartisan infrastructure law. Using more lump sum contracts can stretch federal funds and enable firms to manage their costs while still delivering value to public agencies.

Federal agencies that do an extensive amount of contracting for engineering services, such as the Army Corps of Engineers, have effectively utilized lump sum as the predominant contract payment method for several years.

Lump sum is an authorized payment method on federal-aid highway projects (see 23 C.F.R. § 172.9(b)). It provides for a price which is not subject to any adjustment because of cost changes the consultant might encounter in the performance of the work. The cost estimation and negotiation of deliverables proceeds as with a more traditional cost-plus-fixed-fee contract negotiation. Once both parties have agreed to the terms of the contract and a total amount that is fair and reasonable using established guidelines, a change in the price would only be made if the scope of work changes materially.

The types of projects best suited for the lump sum payment method are those with a clearly defined scope of work and level of effort, where the duration and alternatives are reasonably well-known and complexities are easier to manage. This allows for the negotiation of fair and reasonable compensation, including a fixed fee, at the beginning of the contracting process. It puts maximum cost risk on the firm and imposes minimum administrative burden for all involved.

Advantages for DOTs

* Cost inflation risk is placed on firms.
* Gives firms incentive to be efficient and innovative at no extra cost to the agency.
* Fewer administrative resources needed to manage, especially invoicing and auditing, once the contract is negotiated and final price agreed upon.
* Frees DOT staff to focus on technical aspects and project schedule.
* Allows for certain tasks to be broken out separately and managed under a cost-plus approach.

Advantages for Firms

* Increased flexibility (relative to a cost-reimbursement based contract) to manage the project, including the assignment of staff and utilization of advanced technologies.
* Incentive to be innovative and creative and find efficiencies in project delivery.
* Less burdensome constraints on employee salaries.
* Ease of invoicing as a function of project completion.

In the words of one State DOT chief engineer where lump sum is successfully used on 95% of design contracts, it “allows a project manager to effectively manage the project, rather than micromanage the consultant.”