



Question 2

Contact information?

Question 3

Which of the following activities do you utilize the services of consultants? Please check all that apply: Road Design; Bridge Design; ROW Engineering; ROW Acquisition; ROW Appraisals; Bridge Inspection; Traffic Engineering; Geotechnical Surveys; Materials Investigations; Program Management; Wetlands Studies; Archaeological/Biological; Landscape Design; Environmental Clearance; Corridor Studies; Photogrammetry; Feasibility Studies; Field Surveys; Project Management; Construction Engineer/Inspection; Other.

Summary of Responses

All the responding states utilize consultants for road design, traffic engineering, and field surveys. More than 90 percent utilize consultants for traditional pre-contract engineering activities, and more than 60 percent for more specialized technical services. Less than half utilize consultants for project management, and only about one quarter for program management activities.

Question 4

If you selected “Other” to the preceding question, please explain in the text area below.

Summary of Responses

Seventeen states use consultants for “Other” services which can be characterized as requiring specialized expertise not likely to be found in most State Departments of Transportation.

Question 5

Why does your Department utilize consultant services? Please check all that apply: Due to Statutory Mandate; Due to Staff Limitations Imposed by Management or Legislation; To Perform Emergency Design Work; To Manage/Balance Peak Workload; To Address Controversial Projects; To Deliver Design Work on Accelerated Schedules; To Achieve Cost Savings.

Summary of Responses

Over 80 percent of the responding states utilize consulting services “To Manage/Balance Peak Workload”, “To Deliver Design Work on Accelerated Schedules” and “Due to Staff Limitations Imposed by Management or Legislation”. Approximately half use consultants

“To Perform Emergency Design Work” and “To Address Controversial Projects”. Less than 10 percent use consultants “To Achieve Cost Savings” or “Due to Statutory Mandate”.

Question 6

How many capital projects were awarded in the previous fiscal year?

Summary of Responses

Only 29 states responded to this question. All awarded more than 100 capital projects in the previous year, and nine states awarded more than 500 capital projects. These nine states were a mix of small, medium and large states, suggesting that the average or “typical” value of capital projects varies widely with jurisdiction.

Question 7

What was the value of the capital projects that were awarded in the previous fiscal year?

Summary of Responses

There were 28 responses. All awarded capital projects greater than \$250 million, and a quarter exceeded \$1 billion. The average value of a capital project in states reporting fewer than 500 capital projects to Question 6, and less than \$1 billion in program value to Question 7, was approximately \$2.5 Million, indicating that there were a large number of small capital projects in many states.

Question 8

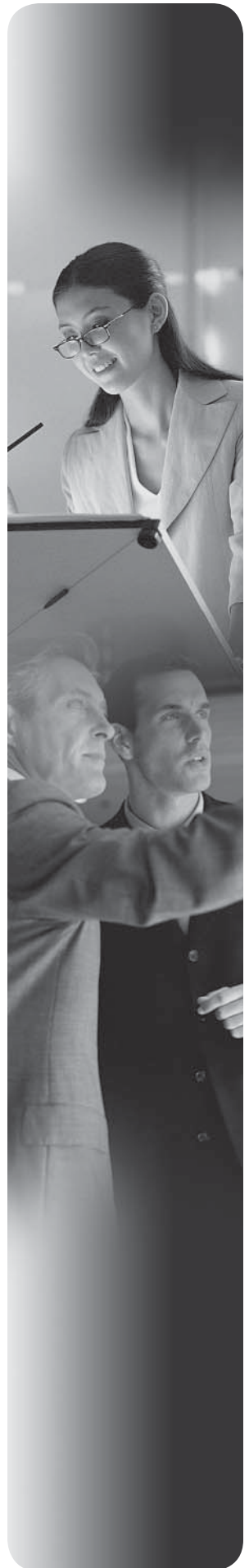
With reference to dollar value, estimate what percentage of your capital projects that were awarded in the previous fiscal year were developed by consultants?

Summary of Responses

Forty two responses were received. The use of consultants ranged from less than 10 percent of program value in three states (AR, CA, and VA) to more than 90 percent in Indiana. Sixty-four percent of the respondents used consultants to design between 30 and 70 percent of their program value, and 81 percent of the respondents used consultants to design between 20 and 80 percent of their program value.

Question 9

How many engineering and design related service contracts were awarded in the previous fiscal year?





Summary of Responses

Forty-two responses were received. The number of design-related service contracts varied widely, ranging from less than 10 in five states to more than 70 in 19 states (almost half of the respondents).

Question 10

What was the value of the engineering and design services contracts that were awarded in the previous fiscal year?

Summary of Responses

There were 36 respondents to this question. The distribution of the value of engineering and design services contracts varied widely, in some cases exceeding \$250 million. Limitations in the data prevented an accurate calculation of the average cost of individual engineering and design contracts, though it was clear that many of the contracts had a value of less than \$500,000.

Question 11

If your annual construction budget increases, would you hire more consultants, more in-house staff or both?

Summary of Responses

Of the 42 responses, 57 percent would hire more consultants, and 43 percent would hire both consultants and in-house staff.

Question 12

Based on your answer to the preceding question, please explain in the text area below.

Summary of Responses

Several states cannot increase in-house staff because of legislation, frozen staffing levels, or a political climate that does not support the hiring of government workers. In such cases, any additional workload would have to be absorbed by consultants. Other states are committed to maintaining a balance of in-house and consultant designs, and to having qualified staff in an oversight role such that additional workload would be absorbed by a combination of in-house and consultant staff.

Question 13

What type of funding do you use to fund consultant preconstruction engineering services: Federal-Aid; State Funds; Both State and Federal Funds; or Other (explain below)?

Summary of Responses

Of the 43 responses, 41 states used Federal and State funds, and two (LA and AL) used only federal aid.

Question 14

What methods of payment do you use and what approximate percentage are they of the total number of engineering and design service related consultant contracts that were awarded in the previous fiscal year: Hourly Rate; Cost Plus Fixed Fee; Lump Sum; or Other (explain below)?

Summary of Responses

Most states use more than one method of payment but Cost Plus Fixed Fee is the most common, and predominates in several states. The three methods of payment identified in the question, together with minor variations, accounted for the overwhelming majority of contracts for engineering and design service-related consultant contracts.

Question 15

Does your department impose limits or guidelines on overhead costs? If yes, please identify the limitations and describe the enabling equivalent or alternative procurement provisions or procedures.

Summary of Responses

There were 43 responses: 58 percent impose limits or guidelines on overhead costs. Where overhead rates are capped, the most common limit is in the range of 150 to 160 percent.


Question 16

Does your department impose limits or guidelines on fixed fee? If yes, please identify the limitations and describe the enabling equivalent or alternative procurement provisions or procedures.

Summary of Responses

There were 41 responses: 68 percent impose limits or guidelines on fixed fee. Practices vary widely and rates often vary with factors such as contract duration, schedule, dollar





value, complexity, and risk. Where the fixed fee is capped, most are in the range of 10 to 15 percent of labor and overhead costs.

Question 17

Does your department establish caps on hourly rates for consultant personnel? If yes, please identify the limitations and describe the enabling equivalent or alternative procurement provisions or procedures.

Summary of Responses

There were 43 responses: 42 percent impose limits on hourly rates for consultant personnel. Practices vary widely, and are often based on local market conditions. Where the hourly rate is capped, most are in the range of \$45 to \$60 per hour.

Question 18

Does your department establish salary limitations and/or limitations on work categories? If yes, please explain.

Summary of Responses

There were 43 responses: one third of the states impose limits on hourly rates for consultant personnel. Although relatively few states establish salary limitations, the method of application is more widely varied than for hourly caps.

Question 19

Does your department allow the inclusion of premium overtime (direct payroll vs. direct straight time)? If necessary, explain.

Summary of Responses

There were 43 responses: 63 percent allow inclusion of premium overtime. While most states allow inclusion of premium overtime, it is usually only with prior approval. The most common reason for payment of premium overtime is when the state accelerates the completion of the contract.

Question 20

Does your department allow facilities capital cost of money? If necessary, explain.

Summary of Responses

There were 40 responses: 65 percent allow facilities capital cost of money. Few com-

ments were received, though two states noted that the fixed fee is reduced if payment is made for facilities capital cost of money.

Question 21

Are all of your consultant fees negotiated? If yes, please identify factors or criteria utilized to establish fee. If No, please describe the enabling equivalent or alternative procurement provisions or procedures.

Summary of Responses

There were 42 responses: 37 states negotiate all consultant fees, 5 (IN, LA, NH, PA, and VT) do not. The vast majority of consultant fees are negotiated based on historical data and cost estimates prepared by the state and the consultant. Estimates may include factors such as type of project, size of project, schedule, complexity, and risk.

Question 22

Does your department have a contract negotiation training program? If necessary, explain.

Summary of Responses

There were 43 responses: only one quarter have a contract negotiation training program, though several have recognized the need for such a program. Some states provide formal courses and others utilize on-the-job training. Only WI commented that the state must be represented in negotiations by an employee who has completed department-sponsored negotiation training.

Question 23

Do you plan to utilize any form of “privatization” in developing, constructing, or operating your transportation infrastructure? If yes, explain.

Summary of Responses

There were 41 responses: 32 percent plan to utilize a form of “privatization” in developing, constructing, or operating their transportation infrastructure. Although about one third responded affirmatively, the examples given indicate the question may have been misunderstood. There appeared to be confusion between privatization (where private funding is provided) and outsourcing (where state funds are used to hire private contractors to do work previously done by state employees).





Question 24

Does your department have an errors and omission policy? If yes, please explain key features or provide a link to electronic access.

Summary of Responses

There were 42 responses: 71 percent have an errors and omissions policy. Other states are in the process of developing a policy. A number of responses commented that the state will advise the design consultant as soon as it becomes aware of an error or omission. The design consultant has an opportunity to correct the error, but may be liable for any increase in construction costs. Other respondents noted that the state requires errors and omissions insurance, or that contracts contain an errors and omissions clause, but the state does not otherwise have an errors and omissions policy.

Question 25

Does your Department have errors and omissions procedures developed to provide guidance for addressing individual 1) Construction Projects, 2) Engineering and Design-Related Services Contracts? If yes to both categories, please explain key features or provide a link to electronic access.

Summary of Responses

- 1. Construction Projects:** There were 39 responses, 51 percent have errors and omissions procedures developed to provide guidance for addressing individual construction projects.
- 2. Engineering and Design Related Services Contracts:** There were 41 responses, 71 percent have errors and omissions procedures developed to provide guidance for addressing individual engineering and design-related services contracts.

Few of the comments provided more detail or reference documents.

Question 26

Question 26 was a repeat of Question 25.

Question 27

Please describe your experience, if any, with reimbursement from consultants who have committed errors and/or omissions.

Summary of Responses

Most states have direct experience with claims against consultants who have committed errors and/or omissions. The experience has been quite varied, as has the nature of the claims. In some cases, consultants have been required to correct the design error, or provide work of equal value. Several states have been successful in recovering the costs of correcting design errors and the associated construction costs. Some consultants have recognized errors, and willingly negotiated reimbursement; other cases have proceeded to litigation.

Question 28

Does your department require professional liability coverage to be carried by the consultants you contract with? If yes, what is the Standard Level of Coverage?

Summary of Responses

There were 38 responses: 81 percent require consultants to carry professional liability coverage. Almost 60 percent of the states requiring professional liability coverage specify a standard level of coverage of more than \$1 million.

Question 29

Who in your department is responsible for the following areas: Process of Procuring of Consultant Services (advertising, document preparation, processing, etc.); Consultant Selection; Contract Negotiation; In-House Staff to Manage Consultants; Other (please identify)?

Summary of Responses

The majority of states use permanently-assigned centralized staff in the initial stages of the procurement process. This staff is often also involved in contract negotiation. District staff play a much larger role in selection and management than in procurement and contract negotiation.

Question 30

Do you utilize the same selection process for all types of engineering and design related services? If no, please describe.

Summary of Responses

There were 42 responses: 81 percent utilize the same selection process for all types of engineering and design related services. Most of the exceptions related to small contracts of low value.





Question 31

Do you have plans or strategies underway for expediting your current consultant selection process for engineering and design related services contracts? If yes, describe.

Summary of Responses

There were 42 responses: 36 percent have plans or strategies underway for expediting the current consultant selection process. A number of the comments indicated that a task force had been created to recommend process improvements.

Question 32

Does your department utilize Indefinite Delivery/Indefinite Quantity (also referred to as on-call contracts) contracts for engineering and design related services on a: Statewide; District-Wide; Multi-Agency; Regional Basis? Explain, if necessary.

Summary of Responses

Most states have IDIQ contracts at the state or district level, but not on a regional or multi-agency basis. A number of the respondents indicated that IDIQ contracts were limited by value, or to certain types of work, but few details were given.

Question 33

If your department utilizes Indefinite Delivery/Indefinite Quantity contracts (also referred to as on-call contracts) for engineering and design related services, are techniques applied to insure competition and select firms that are prequalified or to select firms to compete for future work on IDIQ contracts? If yes, please describe.

Summary of Responses

Most states have some form of prequalification process. Several award IDIQ contracts on a rotation basis, while some require an abbreviated project-specific submission. In some cases, the same process is used as for all other engineering and design-services contracts.

Question 34

If your department utilizes Indefinite Delivery/Indefinite Quantity contracts (also referred to as on-call contracts) for engineering and design related services, are policies, procedures and techniques applied to track costs and verify the work performed for each separate project or task order that may be initialized under an overall IDIQ contract? If yes, please describe.

Summary of Responses

All but three respondents set up a task or work order for each assignment and track costs charged against the task or work order.

Question 35

Does your department utilize a qualifications based consultant selection process without consideration for cost? If no, explain.

Summary of Responses

All but two (MI, VT) of the 42 responding states utilize a qualifications based consultant selection process without consideration for cost. VT commented that cost must be considered by state statute.

Question 36

During the procurement of engineering and design related services, when does your department require proof of or the submittal of a completed audit? If yes, when? Please check all that apply. (Prequalification; Submittal of Proposal; Ranking of Proposals; Prior to Fee Negotiation; Prior to Approval/Signing; Not Required).

Summary of Responses

Approximately 80 percent of the states require proof or submittal of an audit during the procurement process, though specific requirements vary widely from state to state. The time of proof of a completed audit is roughly evenly divided between three steps in the procurement process: prequalification or submission of proposal, prior to fee negotiation, and prior to approval or signing of the contract. Where submission of a completed audit is required, most states require it prior to fee negotiation or prior to approval or signing of the contract.

Question 37

Does your department pre-qualify consulting firms? If yes, describe your process.

Summary of Responses

Almost two thirds of the states pre-qualify consulting firms. Most have a process through which the consultant makes an application to supply services for specific categories of work and the state reviews the qualifications and experience of the consultant in those categories. The time period for which an approval is valid varies from state to state.

