

MEMORANDUM

TO: UPWP Project Sponsors
FROM: James Stack, Executive Director JS
DATE: March 18, 2019
SUBJECT: Guidelines for Using UPWP Funds

This memorandum is intended to provide guidance to agencies (project sponsors) utilizing federal transportation planning funds provided by the Genesee Transportation Council (GTC) through the Unified Planning Work Program (UPWP). Please read the following information carefully and discuss with GTC if you have any questions, need further information, or require assistance in meeting these guidelines.

Failure to follow these guidelines could result in GTC being unable to reimburse project sponsors with federal transportation planning funds.

Background

The GTC UPWP presents the program of transportation planning projects to be undertaken in the nine-county Genesee-Finger Lakes Region between April 1 and March 31 using Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) planning funds.

FHWA and FTA place requirements on the use of these planning funds consistent with federal and state regulations including, but not limited to, Titles 23 and 49 of the Code of Federal Regulations, Title VI of the Civil Rights Act of 1964, and Executive Order 12898 regarding Environmental Justice. In addition, GTC has additional requirements to further ensure a fair, equitable, and cooperative transportation planning process in the region.

Regarding contracting procedures, starting with proposals funded through the *FY 2018-2019 UPWP* GTC will hold and administer the contract on behalf of UPWP Project Sponsors that are not member agencies. UPWP Project Sponsors that are member agencies may elect for GTC to hold the contract or carryout contracting procedures through their agency. If a member agency UPWP Project Sponsor wishes to hold the contract we will continue to work with you to ensure all state and federal requirements are met. Your GTC project liaison will provide you with guidelines that further explain the contracting processes.

Project Reimbursement

For contracts held by project sponsors, federal transportation planning funds are provided on a reimbursement basis. Accordingly, project sponsors must incur expenses before invoicing GTC for reimbursement and provide documentation of all expenses for which reimbursement is sought. Invoices may not be submitted more frequently than once per month. Invoices should include a breakdown of costs by project task, a narrative of work completed, and copies of itemized receipts and/or mileage breakdowns for any direct expenses. Costs related to alcoholic beverages, insurance, valet services, or personal expenses are not reimbursable. No project expenses may be incurred prior to the commencement of the UPWP on April 1. In addition,

project sponsors are responsible for ensuring that their projects are completed within the budget (federal and local funds) included in the UPWP.

Cash Match Procedures

- *GTC holds the contract and the cash match is \$10,000 or less:* the project sponsor will pay that amount in full, up front, after GTC invoices the project sponsor and prior to the work beginning.
- *GTC holds the contract and the cash match is more than \$10,000:* the project sponsor can pay that amount in full, up front, after GTC invoices the project sponsor and prior to the work beginning OR they can choose to pay 50% at the beginning of the project and the remaining 50% at the mid-point of the project, after GTC invoices the project sponsor.
- *The member agency holds the contract:* cash match amount is to be applied to the invoices until it is fully met, then GTC will reimburse for the remaining invoices. Generally speaking, this will *not* be applied proportionately but in full, until met. For projects with a large cash match, GTC will consider alternatives which must be agreed upon prior to the work beginning.

Project Classification and Public Participation Requirements

In accordance with the GTC Public Participation Plan, the GTC Planning Committee has designated a classification of Administrative, Technical/Data Collection, or Planning/Policy for each new project in the UPWP. This classification will determine the public participation requirements for each project. UPWP projects that are classified as Administrative or Technical/Data Collection do not require public input as part of project advancement. However, stakeholder engagement is strongly encouraged whenever possible, including in Technical/Data Collection projects.

UPWP tasks that are classified as Planning/Policy require a public input component. Typically, the public input component includes the formation of a steering committee and at least two public meetings that are advertised in compliance with the New York State Open Meetings Law. Project sponsors are required to include GTC staff on project steering/advisory committees to allow for the monitoring of the progress of the project.

Project sponsors should work with GTC staff regarding the classification of their project(s) and the applicable public participation requirements prior to submitting a draft scope of work for GTC staff review.

Scope of Work Approval

The GTC Planning Committee must approve a scope of work for each new project prior to initiating the project. GTC staff will provide a scope of work template in electronic format to project sponsors. As stated above, a draft scope of work must be submitted for GTC staff review. Once reviewed by GTC staff and upon any needed edits being made, GTC staff will forward the scope of work to the GTC Planning Committee. Project sponsors are expected to attend and present their scope of work to the GTC Planning Committee at the meeting at which it is considered for approval.

In the interest of eliminating conflicts of interest, if a consultant assists the project sponsor in preparing the scope of work for GTC Planning Committee consideration, that consultant is not eligible to submit a proposal/statement of qualifications for that project. This does not preclude a consultant from assisting the project sponsor in preparing the initial UPWP project application, as that document is of a general nature related to justifying the need for the project and does not detail specific tasks that can be tailored to meet a particular consultant's professional strengths.

Request for Proposals/Request for Qualifications Advertisement

Unless GTC holds the contract, project sponsors are responsible for advertising for and retaining professional services via a consultant certified to do business in New York State and in accordance with all applicable state and federal regulations. If GTC holds the contract, GTC will advertise for and retain professional services, with input from the project sponsor.

Project sponsors are required to work with GTC staff and key stakeholders to develop a draft of the request for proposals/request for qualifications (RFP/RFQ) and allow GTC staff to offer comments to ensure that the services requested in the RFP/RFQ are consistent with the scope of work approved by the GTC Planning Committee and the budget included in the UPWP. GTC staff will provide required forms in electronic format to project sponsors, which must be included in the RFP/RFQ. The issuer of the RFP/RFQ should keep accurate records of firms requesting the RFP/RFQ and those submitting proposals.

Again, in the interest of eliminating conflicts of interest, if a consultant assists the project sponsor in preparing the RFP/RFQ, that consultant is not eligible to submit a proposal/statement of qualifications for that project. This does not preclude a consultant from assisting the project sponsor in preparing the initial UPWP project application, as that document is of a general nature related to justifying the need for the project and does not detail specific tasks that can be tailored to meet a particular consultant's professional strengths.

New York State Contract Reporter Advertisement

Any RFP/RFQ that will result in a contract for professional services in an amount equal to or greater than \$15,000 must be advertised in the *New York State Contract Reporter (NYSCR)* for a minimum of 21 calendar days (excluding official holidays). Please note that the *NYSCR* should be used to advertise the availability of an RFP/RFQ rather than to post an RFP/RFQ in its entirety. Posting an entire RFP/RFQ on *NYSCR* does not allow project sponsors to adequately track requests for the RFP/RFQ.

Advertisement in the *NYSCR* is free and is done on-line. Keep in mind that initial registration may take up to one week. GTC staff is available to assist project sponsors with meeting the *NYSCR* requirement.

Any RFP/RFQ that will result in a contract for professional services in an amount less than \$15,000 must receive responses from at least three consultants certified to do business in New York State. GTC staff can provide contact information for consultants who have submitted proposals/statements of qualifications to GTC in the past two years.

Consultant Selection

Project sponsors that hold contracts are required to provide GTC staff with copies of the proposals/statements of qualifications (responses) received and allow GTC staff to review the responses prior to selection of a preferred consultant. This review will ensure that GTC staff can assure FHWA and FTA that the selection of a preferred consultant was open, fair, and in accordance with their requirements. Additionally, GTC staff must be offered an opportunity to be involved in the consultant selection process (i.e., scoring and ranking of responses).

Project sponsors should fully document the consultant evaluation process with the consultant evaluation matrices and summaries, price proposal forms, and letters of rejection and acceptance. GTC staff will provide templates of consultant evaluation documents in electronic format to project sponsors.

GTC staff does not and will not endorse any consultant(s) to any project sponsor under any circumstances.

Consultants that are currently under contract to a project sponsor in an ongoing or on-call capacity must not serve as the prime consultant on a UPWP-funded project. They may however serve as a sub-consultant on a UPWP-funded project, provided that their financial interest is not the largest of the firms comprising the proposed project team and is less than 50 percent of the total project cost. This is to ensure that an appropriate balance is struck between gaining new perspectives and taking advantage of institutional knowledge without incurring a conflict of interest (i.e., prior or current work cannot be a direct criterion in the consultant evaluation process).

Contract Execution

GTC staff will provide standard clauses for insertion into the project sponsor's contract with the preferred consultant to ensure that federal and state regulations are met. If a project sponsor plans to have the preferred consultant begin work on a project prior to a fully executed contract, a notice to proceed at own risk should be developed between the project sponsor and consultant.

A draft of the contract must be submitted for GTC staff review. Once reviewed by GTC staff and upon any needed edits being made, GTC staff will provide written approval for the project sponsor to provide the contract to the consultant for execution.

Project Reporting

Project sponsors that hold contracts are responsible for providing quarterly reports to GTC staff that document the amounts of funds expended and in-kind services provided, even if the amount is zero for the quarter. GTC staff will provide reporting form templates in electronic format to project sponsors and notify them of the deadlines for submitting the completed forms. These reports are critical to the GTC financial processes. Project sponsors that fail to provide quarterly reports in a timely manner may have their reimbursements delayed until said reports are provided. Project sponsors must invoice GTC for reimbursement at least quarterly.

Project Progression and Completion

Project sponsors are expected to progress their project(s) in a timely manner. Projects must be completed within two years of the contract date. Significant delays in advancing and completing a project can result in the rescission of federal transportation planning funds. If reasonable progress to retain professional services has not been made in the first six months after funding is made available on April 1, GTC retains the right to rescind project funding. Additionally, GTC may recapture funds if satisfactory progress is not made according to the scope of work.

Project sponsors are responsible for ensuring that all work products are consistent with those included in the scope of work approved by the GTC Planning Committee. Draft project materials (e.g., technical memoranda, reports, plans, studies, etc.) must be provided to GTC staff for review and comment prior to finalization.

An executive summary or comparable document is a required product for all UPWP-funded projects. This product will be provided by GTC staff to the GTC Planning Committee for review and recommendation of the final report, plan, or study to the GTC Board. The same product will be provided to the GTC Board for their review and acceptance of the final report, plan, or study as evidence of completion of the respective UPWP task.

All GTC work products, including those produced by agencies receiving funds through the UPWP, must include the following statements:

Financial assistance for the preparation of this report was provided by the Federal Highway Administration and Federal Transit Administration through the Genesee Transportation Council. The project sponsor is solely responsible for its content and the views and opinions expressed herein do not necessarily reflect the official views or policy of the U.S. Department of Transportation.

GTC's Commitment to the Public

The Genesee Transportation Council assures that no person shall, on the grounds of race, color, national origin, disability, age, gender, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. GTC further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

En Español

El Consejo Genesee del Transporte asegura completa implementación del Título VI de la Ley de Derechos Civiles de 1964, que prohíbe la discriminación por motivo de raza, color de piel, origen nacional edad, género, discapacidad, o estado de ingresos, en la provisión de beneficios y servicios que sean resultado de programas y actividades que reciban asistencia financiera federal.

If you have any questions or require further information regarding these guidelines, please feel free to contact me at your convenience. I may be reached by telephone at (585) 232-6240 or via e-mail at jstack@gtcmpo.org.