



1.7 CONTRACTING FOR REAL ESTATE SERVICES

1.7.0 General Overview

All organizations, firms, or private individuals hired as consultants through written agreement must comply with WisDOT policies and practices. As a general statement, we have available and follow all state procurement rules with two separate areas of authority that we follow, unless those rules conflict with other specific laws and regulations. WisDOT's two separate areas of purchasing authority over procurement management activities that we follow as an agency and that are applicable to the Bureau of Technical Services/Real Estate (BTS-RE) are as such:

- State purchasing is authorized in [Wisconsin Statutes 16.70 – 16.849](#) and further spelled out in the [State Procurement Manual](#).
- WisDOT procurement of engineering and other services is authorized in [Wisconsin Statutes 84.01\(13\)](#) and further spelled out in [FDM/Chapter 8](#).

Procurement of Real Estate services falls into a gray area that has caused our own procurement needs to bounce back forth between state purchasing and WisDOT engineering procurement. In addition, local public agencies (LPAs) receiving federal funds from WisDOT should be following WisDOT procurement standards when spending those funds. Our agency does not, however, offer much written guidance regarding how LPAs should interpret our procurement guidelines within a local context. For assistance, LPAs can work with their regional Management Consultant (MC), who may in turn work with a WisDOT Real Estate LPA coordinator. All parties can request assistance as well from WisDOT Consultant Services staff on interpretation of program and services relating to procurement management activities.

Broadly defined, "procurement management" includes the processes necessary to purchase or acquire products, goods or services needed from outside the project team. For WisDOT, one area of authority we have is specifically for procuring engineering and related services, and anything Real Estate related is considered a "related service." Real Estate services also fall under the term of "specialty services." Engineering and related procurement services are unique to WisDOT and addressed under Chapter 84 of the Wisconsin Statutes. The second area of authority for procuring for products, goods or other services (commonly called "purchasing") is allowed under Chapter 16 of the Wisconsin Statutes. These procurement activities are not unique to WisDOT. Each purchasing authority area then has a variety of actual procurement methods (or tools) available to which we may need to choose the best method each time we need to purchase or acquire products, goods or services. Steps needing to be followed, forms required, and actual processes and/or processing activities will be dictated by the rules specific to whichever procurement method (or tool) is actually chosen, and again, there are many different procurement methods that could be chosen that can result in contracts for WisDOT project work or related LPA activities (some tools may be better than others; some may be required; and, others may be optional). We also need to keep up with changes in policy and processing. Regular changes continue to develop, especially for technology in recording, reporting, and general management activities.

Contracting for Real Estate services can be complex because of the varying options, which come with varying rules depending on whichever procurement method is used. In this section, we use the terms “contracts” and/or “contracting” interchangeably whether discussing purchasing contracts, used for procuring products, goods and/or services, or consultant services contracts. WisDOT’s Facilities Development Manual ([FDM/Chapter 8-Consultant Services](#)) is a key resource for our procurement management activities. That FDM chapter was written specifically to provide detail pertinent to the contract types available to WisDOT and specific to engineering and related services under Wis Statutes, Chapter 84, but for the most part, the FDM ignores Chapter 16 purchasing options. Chapter 84, in summary, spells out our abilities and responsibilities for all matters pertaining to the expenditure of state and federal aid for the improvement of highways, bridges, connecting highways, etc. and in 84.01(13) it references our ability to engage in engineering or other specialty consultant services. Chapter 16/Subchapter IV-Purchasing, in summary, spells out our abilities and responsibilities for a procurement system, to include bidding and contractual services, all of which is to be conducted in a uniform manner and according to established statewide standards. WisDOT purchasing information and guides can be found on our internal dotnet at: <http://dotnet/purchasing/index.htm>.

Many parties are involved in oversight, authority for, and in helping to coordinate contracting processes for WisDOT/Real Estate (RE) services. This section provides an overview, some basic guidance for acquiring outside RE services as needed to supplement staffing levels, and how to procure and/or obtain special services as needed in the delivery of projects. Goods and services discussed in this section are specific to real property issues within the right of way, relate directly to acquisition processes on behalf of the Division of Transportation Systems Development/Bureau of Technical Services-Real Estate (DTSD/BTS-RE), and may be applicable to LPAs.

Consultants interested in doing business with WisDOT should see solicitation information at <http://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rqistr/default.aspx> with more details at <http://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/default.aspx>. WisDOT holds regularly scheduled bimonthly solicitations to ask for consultant interest in its state highway and structure design projects. Interested firms respond to the solicitation ads by submitting a Notice of Interest (NOI) explaining their qualifications specific to each project as advertised and in which they have interest. A schedule of these advertisements is available. Bimonthly solicitations may also include local government projects. WisDOT provides this service to municipalities wishing to find qualified firms for local transportation engineering projects. Occasionally, a special solicitation will be published to advertise a project not included in a bimonthly advertisement. Consultants on the roster and/or the web notification list will be made aware of these solicitations via email. General questions about doing business as a WisDOT consultant should be directed to [WisDOT Contract Administration Unit \(WisDOT CAU\)](#); email: consultant.services@dot.wi.gov.

1.7.0.1 Roles, Authority and Contract Types

Administration and authority for contracting activities is dictated by statute, rule, policy, and through delegation. Authority for acquiring outside services through state purchasing contracts is as described in [Chapter 16/Sub-chapter IV-Purchasing](#). WisDOT’s Division of Business Management (DBM)/Business Services-Purchasing Section is our resource for coordinating purchasing contracts (Chapter 16 purchasing). Consultant services, including master contracts, fall under [Chapter 84](#) of the Wisconsin Statutes. WisDOT’s Division of Transportation Investment Management/Audit & Contract Admin (DTIM-CAU) has primary responsibility for coordinating consultant services contracts (Chapter 84 - Highway Projects)

and is our primary resource for securing master contract services. DTIM-CAU is also the originator of the Facilities Development Manual (FDM)/[Chapter 8 Consultant Services](#). FDM/Chapter 8 provides detailed guidance and is a key point of reference to be used for establishing uniform procedures and guidelines in the procurement and administration of consulting services to which the department is a party. The intent of FDM/Chapter 8 is to interpret and clarify established policies, procedures and practices specific to WisDOT.

It is important to note that contracting for all WisDOT activities required in support of state right of way programs through use of private consultants and other services shall also conform to Code of Federal Regulation, [49 CFR 18.36 - Procurement](#), which has recently been replaced [2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#). Guidance specific to procurement standards are covered in [2 CFR 200.317 – 326](#). In summary, the CFR - Procurement Standards say states should follow their own procurement rules unless those rules conflict with other specific laws and regulations. It then prescribes more specific guidelines for subrecipients other than states (local public agencies) to follow. However, USDOT created an exception to this government-wide rule in [2 CFR 200.1201.317](#) that states: “*Notwithstanding 2 CFR 200.317, subrecipients of States shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award.*” This means that Local Public Agencies (LPAs) receiving USDOT funds from us should be following our procurement standards when spending those funds. Because most procurement related to LPA projects is administered directly by WisDOT, our agency has not developed much written guidance regarding how LPAs should interpret our procurement guidelines within a local context. Procurement of RE services can fall under either state purchasing and/or WisDOT engineering procurement. Once again, state purchasing is authorized in [Wisconsin Statutes 16.70 – 16.849](#) and further spelled out in the [State Procurement Manual](#). WisDOT procurement of engineering and other services is authorized in [Wisconsin Statutes 84.01\(13\)](#) and further spelled out in [FDM/Chapter 8](#).

Per Federal Highway Administration, FHWA Contract Requirements and their online Project Development Guide, “*The regulations contained in 49 CFR 18.36(a) and 18.37(a) are primary, and govern how state Departments of Transportation (DOTs) and local public agencies (LPAs) are to procure right-of-way (ROW) contractual services. Regulations contained in 23 CFR Part 200 cover Title VI, Civil Rights requirements. Conflict of interest is covered in 23 CFR 1.33. Each state DOT has its own contracting requirements, which it must follow. LPAs should obtain and use the state DOT procurement procedures, requirements, and guidelines appropriate for their work. State DOTs and LPAs need to maintain records sufficient to detail the significant history of a procurement. The Federal Highway Administration (FHWA) allows state DOTs to use the same procurement procedures on federally funded ROW service contracts that they use on non-federally funded projects. Contracting requirements for LPAs, as sub-grantees, must follow the state DOT procedures, unless the state has approved the sub-grantee to use its own procedures.*”

- State DOT: The procurement procedures followed by a state DOT when executing R/W service contracts on federal-aid projects are the same policies and procedures used for procurement with non-federal funds. However, the state DOT must ensure that every purchase order and contract includes clauses required by Federal statutes and implementing regulations, as well as state requirements. State contracting officials will be able to assist in delineating the appropriate clauses that each contract must contain.

- LPA: 49 CFR 18.37(a) requires the state to administer sub-grants to local governments in accordance with the state's own procedures. Therefore, local government sub-grantees (i.e., LPAs are to follow the procurement procedures specified by the state, unless the state approves the sub-grantee's use of its own procurement procedures).

For a full review of the guide, see: FHWA/Right of Way – Project Development Guide at: http://www.fhwa.dot.gov/real_estate/right-of-way/corridor_management/pdg/pdg04.cfm.

Additional and further authority for program oversight is described by 23 CFR Part 710 Right of Way and Real Estate; Subpart B – Program Administration and [§710.201 State responsibilities](#) (Note: STD means, state transportation department):

- (g) *Procurement - “Contracting for all activities required in support of State right-of-way programs through use of private consultants and other services shall conform to 49 CFR 18.36.*
- (h) *Use of other public land acquisition organizations or private consultants. The STD may enter into written agreements with other State, county, municipal, or local public land acquisition organizations or with private consultants to carry out its authorities under paragraph (b) of this section. Such organizations, firms, or individuals must comply with the policies and practices of the STD. The STD shall monitor any such real property acquisition activities to assure compliance with State and Federal law and requirements and is responsible for informing such organizations of all such requirements and for imposing sanctions in cases of material non-compliance.”*

1.7.0.2 Processes Specific to WisDOT Real Estate

Procurement of Real Estate services tends to be rather complicated simply because we have so many options available. We also have a few tools that are unique only to us, such as with our appraisal/appraisal review services, where we have established a procurement method that uses state purchasing combined with WisDOT engineering procurement processes to build a quality based/low bid contract. We have also evolved from having dedicated regional RE contract specialists to relying more broadly on general regional contracting support staff (non-RE specific specialists) to assist in coordinating all contracts/contracting services needed. The project manager (PM) or the regional RE specialist typically initiates a contract service request and will remain as a main point of contact for oversight and management of the contracted service throughout the course of an active contract. When a PM requests services, they will need to describe the needs, draft a detailed scope of services, monitor for compliance and progress as work ensues, authorize payment, and evaluate performance of the vendor upon completion of a contracted service. The local (regional) DTSD/Administrative purchasing staff handles Chapter 16 purchasing activities (see more below in 1.7.1.1 Purchase Contracts for Real Estate); and, the regional DTIM-CAU staff takes the lead in coordinating Chapter 84 consultant contracts/master contracting activities (see more below in 1.7.2.1 Master Contracts for Real Estate). Project managers (PMs) should work directly with their regional business services personnel for assistance in purchasing and with master contracting processes. They can advise on the best method to use and then help you through the process and with processing. We have the option of using a variety of traditional contracting methods for all of our contracting needs, and we now have a ‘hybrid’ process unique only to right of way appraisal/appraisal review services (see more below in 1.7.2.2 Appraisal/Appraisal Review Services). General regional contracting personnel should be fully trained and familiar with RE specific needs and special processes, including our “hybrid” Chapter 84 qualification based/low-bid process

appraisal services. BTS-RE (Madison statewide bureau) continues to serve as a liaison to special statewide RE contracting initiatives and policy.

1.7.1 Purchase Contracts (Chapter 16) Overview

WisDOT's authority to purchase goods and services under [Wisconsin Statutes Chapter 16 Subchapter IV Purchasing](#) is by delegation agreement with the Department of Administration/Bureau of Procurement. WisDOT in turn delegates certain processes to divisions and regional offices. Chapter 16 covers what is commonly referred to as "low bid" purchasing. Our WisDOT Transportation Administrative Manual ([TAM](#)), available to internal staff only, contains several detailed sections specific to WisDOT's Chapter 16 purchasing activities. For statewide guidance, we reference the State Procurement Manual at <http://vendornet.state.wi.us/vendornet/procman/index.asp>. Purchase contract bid procedures are set according to the estimated dollar amount of the purchase. Current guidelines and other details can be viewed on our internal dotnet from the DBM/[Purchasing Section](#). Anticipate a minimum of six weeks to complete complex purchasing processes. If something changes after a purchasing contract has been executed, such as if a company declines to participate at any stage, document the situation, with dates, company name, contact person, phone number and reason for non-availability.

1.7.1.1 Purchase Contracts for Real Estate

All Chapter 16 purchasing activities are initiated by the region and processed through the regional purchasing office. Each regional office has general business services staff who serve as our purchasing resource and point of contact. To get started with a Chapter 16 purchase contract for goods or services, PMs, contract administrators or the regional RE specialist will need to provide an authorized project ID, an estimate of costs, account code (8700229 in most cases), and some other basic details. Approved/current purchasing forms and related documents must be used in all cases to document and protect the state's interest. Your regional purchasing staff can help you obtain and complete the proper forms. Goods and services used by RE that can be obtained using Chapter 16 purchase contracts include, but are not limited to: asbestos/hazardous material inspections (see REPM/Chapter 9); fixture and equipment appraisal reports; historical building relocation/site restoration; home inspection fees for those being displaced; incidentals; lawn services and/or snow removal; miscellaneous estimates; miscellaneous/specialty services*; multiple listing services; plumbing winterization; professional realtor; property management activities (see more in REPM/Chapter 6); register of deeds filing/recording fees; site clearance (see more in REPM/Chapter 6 - Section 6.1); timber cruises; title services (details below); and, well/septic abandonment.

* Miscellaneous/specialty services can also be obtained using a master contract. See Section 1.7.2 Master Contracts (Chapter 84).

1.7.1.2 Purchasing Real Estate (RE) Title Services

WisDOT's Bureau of Technical Services - Real Estate holds solicitations for and then maintains a list of title service companies under contract to perform real property title search activities for highway right of way. These contracts are for all WisDOT staff, consultants doing business for WisDOT, and local public agency staff use only. We strongly encourage all WisDOT staff (including plat developers, utility coordinators, access coordinators, environmental coordinators, airports staff, railway staff, etc.) and local public agencies

(LPAs) to use the BTS-RE list of contracted title service companies when securing services during the design phase of engineering and for all other acquisition related activities. Use of the BTS-RE title services contract list is required for all WisDOT eminent domain real estate acquisition activities. See: <http://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/re/title-searches.aspx>. The current posted list and contract agreement will remain in place until superseded. Each RE title services contract typically remains in place for two years, with an additional one-year renewal option, or until a new contract can be executed. Title service contracts are developed and administered by DBM/Purchasing using the Chapter 16 (low bid) process. The current statewide title services contract was established using the lowest “total” unit cost or unit price by combining these common services, each of which may/may not actually be provided in an individual service order: ownership reports; preliminary ownership reports for hearings; property layout map (limited counties); title search commitment; and, updated title reports.

To obtain title services under the terms of the current contract, see [approved title search companies](#). Look for the county where the work is needed, then contact the company listed as #1 to inquire if they can perform the work as needed. If the #1 listed lowest bid title service provider cannot perform the work within the time needed or for other reasons, those facts must be documented; then, the #2 contractor may be contacted (next, #3, and so on). If no title service provider is available in the county needed, regular purchasing processes are followed. RE staff should work with their regional purchasing staff to coordinate activities. A variety of electronic title service processes and processing activities are being used in regions, often depending on the capability of that local register of deeds office and/or the title service company itself.

1.7.2 Master Contracts (Chapter 84) Overview

Open solicitations (advertisements) for new master contract agreements are published on the Internet, under Doing business/Engineers and consultants - [Solicitations](#). WisDOT's DTIM/Contract Administration, with DTSD/Consultant Services, has administrative responsibility for master contracting. Authority for acquiring master contract services comes from [Wis. Stats. Chapter 84/Sec 84.01\(13\) – State Trunk Highways; Federal Aid, Engineering Services](#). Per statute language, *“Any engagement involving an expenditure of \$3,000 or more shall be by formal contract approved by the governor. The department shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g), of each proposed engagement under this subsection that involves an estimated expenditure of more than \$300,000 in accordance with standards prescribed by rule of the department. The department shall review periodically, and before any renewal, the continued appropriateness of contracting pursuant to each engagement under this subsection that involves an estimated expenditure of more than \$300,000.”* Under the master contracting process, a completed and properly signed and executed work order issued to the consultant by the department shall constitute authorization to commence work. No other formal authorization to proceed letter is necessary. The Facilities Development Manual ([FDM/Chapter 8: Consultant Services](#)) provides detailed guidance on master contracting processes.

Consultants should be advised to bookmark the [bimonthly solicitation schedule](#), watch for opportunities to be announced of interest, and then apply for those opportunities when announced. Interested consultants must respond to solicitations by submitting a Notice of Interest (NOI) according to the instructions and deadline as announced. The NOI provides a uniform format for all potential consultants to use in submitting an overview of their qualifications to advertised projects in which they may be interest. All NOIs must be submitted electronically

through WisDOT's [ESubmit](#). Consultant applicants go through a qualification review process and may/may not be approved for an open master contract to which work order agreements may/may not follow depending on WisDOT project needs. Master contracts are typically solicited, approved and held for two years, with actual work orders initiated in and managed by the regions as work develops on projects on an as-needed basis. WisDOT may hire consultants holding a current master contract under a Work Order Agreement for a variety of RE related services. To help spread master contract work evenly, the updated rule is now 80% total usage per contract. We must solicit for contracts \$150,000 or more. If they are even close to that (\$120,000+), we should consider soliciting.

WisDOT/DTIM-Contract Administration Unit (DTIM-CAU) administers contracting services for the department with individual staff in each region serving as points of contact for securing and managing consultant services activities. DTIM-CAU provides technical support for consultant selection, monitors contracts through the approval process, and develops the policies and procedures for consulting services. The DTIM-CAU manager has authority to execute consultant services contracts on behalf of the department. DTIM/Audit Unit is responsible for auditing costs of contracts to ensure contract compliance and provides cost information for WisDOT staff to use during contract negotiations and as part of the approval process. DTIM/Audit is also responsible for managing [Consultant Financial Reports](#) (CFRs). Except for our hybrid appraisal master contract grouping, all consultants with a master contract agreement must have and must maintain a current approved CFR to be eligible for actual work orders. Firms are required to receive approval of their CFRs by DTIM/Audit before they can conduct any work on behalf of WisDOT. An approved CFR is required at the beginning of a master contract with updates required thereafter annually. The updates are due within five months after the end of the consulting firm's fiscal year end. No reminders are sent.

WisDOT's Executive Office approves funding for contracts via Recommendation – Governor for Contract & Bond Approval ([DT25](#)). WisDOT's Executive Office may be involved in major contract issues on an as-needed basis. Regional staff establish budgets and monitors status. DTSD and DTIM-CAU will assist in developing and monitoring the budgets to help determine how much work can be completed during each period. Each regional office has contract services staff to coordinate, support and help to process day-to-day contracting activities. DTIM-CAU regional staff serves as point of contact and resource to RE contracting activities. PMs, under the guidance of Consultant Services regional staff, will typically initiate a contract, then it is the PMs who are responsible to monitor, manage and evaluate consultants to make sure they are complying with contract requirements and are upholding best practices in their work for WisDOT. All contracting activities are managed through the online CARS (Contract Administrative Reporting System) program. DTSD/Central Files also maintains a copy of all contracts as part of our official records retention program, and regional offices will maintain copies of active contracts.

Contract Terms and Conditions

All terms and conditions of a contract, including the original boilerplate language, special provisions, scope of services, work orders, amendments, etc. are mandatory as written and/or as otherwise implied unless modified through formal agreement or amendment. It is essential to keep terms and conditions as consistent as possible within regions and between regions. This helps avoid confusion for consultants and helps regions to avoid situations where it could become more advantageous for a consultant to complete one project at the expense of another. A consultant under contract with WisDOT must identify an individual in their original Notice of Interest (NOI) to serve as the primary point of contact for that contract period.

- Internal staff typically start here (on the dotnet) when looking for basic information and documents specific to master contracting: <http://dotnet/dtsd/projdev/consultant/index.htm>.
- Consultants typically start here (on the Internet) for basic contracting information and documents: <http://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/default.aspx>.

Building a Contract and Negotiations

For contracts where costs negotiations are permissible, if it appears that negotiations are not going to reach a satisfactory conclusion, the region can stop negotiations with that consultant and start the work order development with a new consultant from the eligible and approved master contract list. At no time, however, can the region go back and begin negotiations again with original consultant for the same project if the process has already been stopped. Once all scope of work activities have been discussed and documented, with costs agreed upon, the consultant completes all paperwork and submits a completed work order package to the region for approval. After a work order agreement is in place, a consultant or vice versus, the region, must draw up a new plan if changes occur or information is discovered that may change the scope of a project in any way; most changes will require a formal amendment. Consultants and WisDOT staff need to be familiar with the amendment process (more about amendments below). For more information about the start of a work order and the negotiation process, see '[Building a consultant contract](#)' from WisDOT's Doing Business/Engineers and consultants/Structure and roadway resources webpage; also see Facilities Development Manual ([FDM Chapter 8/Sec. 10 - Contract Negotiations](#)).

Sub-consultants

All sub-consultants (subs) must be approved by WisDOT before a contract or work order is executed. Subs are any person, organization, or entity not classified as an employee of prime consultant on its official payroll who the prime contracts with to perform some work. The prime consultant is responsible for the sub and must still perform at least 50% of work, unless WisDOT specifically agrees to less. All consultant personnel are expected to bring an appropriate set of skills to the project and complete the project by the due date. More about use of subs in [FDM](#).

Project Timelines

The regional office is responsible for establishing project start and end dates. End dates for every contract are a required item. In some cases, a project end date may extend past the work order end date. The consultant may continue to provide services on that project until that project is complete or terminated. The terms and conditions of the work order will remain in force throughout the project. Any delays caused by WisDOT will extend the project completion date.

Work Order Development – Scoping Services

First, a current approved master contract agreement must be in place. Then, Work Order Requests are started in the regions when/if project needs arise where services from a consultant may be needed. The PM in the region is most typically the person to initiate contact with a consultant(s) holding an active approved master contract agreement and listed as eligible to be issued work orders. The PM in the region will typically contact who they feel would be best qualified to perform the work to see if they are interested and available. The region will usually contact their top three to see if they are interested and available. In that initial contact (via email; phone or letter), the region will provide a basic overview of the project, and then selects a

consultant who they feel are best for the job from those who responded as being interested and available. Next, the region begins a discussion with the consultant selected specific to the scope of services required. At this stage, we also typically get into a negotiation of costs (except for the appraisal master contract grouping, which is simply lowest bid). The PM will typically take the lead in discussing the scope of services and negotiating cost for work orders. The PM and/or contracting specialist work together to communicate and complete all contract paperwork, including a detailed list of tasks specific and unique to each project and entered onto the worksheets for all work orders. Good communications with the consultant and clearly written details are imperative to ensure that we arrive at an executable work order agreement. The regions use our statewide special provisions language in conjunction with their detailed scope of services specific to each individual project to establish a baseline for the work needed. More than one consultant may be hired to help complete projects needing a short turnaround time. PMs and/or regional contracting specialist staff need to check RE's [all-inclusive master contracts list](#) (accessible to internal staff only). Current NOIs are linked under each vendor's name. Contracts are grouped by effective date and by type (e.g., appraisal, eminent domain [full service], etc.). List is updated as appropriate. For any crossed-out names, "no" work orders may be issued until further notice. For master contracts, reference the most current Work Order Request form as posted online for the current approved fixed fee percentage. Most are at 7.75%. Check with Consultant Services prior to any bid process for updated fixed fee percentages. Be sure to work with the regional Consultant Services staff to confirm any other usual and customary or current fees.

Amendments

Contract amendments may be required for any modifications to terms of the original contract that change the cost of contract, change sub-consultants, significantly change scope, complexity, duration of work, or significantly change conditions under which work is required to be performed. Amendments may be initiated by either WisDOT or the consultant and are developed or negotiated in the same manner as the original work order. Any amendment must be fully executed (signed) prior to any new work being started. See [FDM 8-25-15](#) and the work order Amendment Submittal Checklist ([DT1521](#)). At minimum, each contract amendment must contain a cover/signature page; special provisions detailing purpose/scope of amendment, amendment amount, and revised contract amount; cost worksheets; and, if a sub-consultant is involved, amendments must include cost worksheets as appropriate as well as a work proposal/letter from sub to prime, where appropriate.

Performance Reviews

All evaluations are now done electronically through [CARS](#) (Contract Administrative Reporting System). Statutes say we must do evaluations at the conclusion of every project. However, as a best practice in RE, because our needs are so specialized, we want to conduct an evaluation at the close of every contracted service. Project managers should work with their regional consultant services staff to be sure we are entering and completing evaluations at the close of every contract service for RE. Copies of all completed evaluations go to the consultant. Conferences to discuss performance can and should be arranged as needed. Regional offices may request removal of a consultant for performance problems. While the regional RE offices have discretion in recommending termination of a contract, it is necessary they coordinate with BTS-RE and Consultant Services. If a consultant termination occurs, the agency will submit an explanation of termination to the consultant, with copies to DTIM-CAU and BTS-RE.

Invoicing

All invoices are now processed through [CARS](#). All consultants are required to have a WAMS ID for CARS. The PM will review and authorize invoices from the consultant for payment. Regional Consultant Services staff in cooperation with the PMs will enter work order invoicing information into CARS upon receipt of the authorized approval for payment. Tip: Staff and consultants can reference the invoicing training videos for help from CARS webpage. Invoices shall be submitted no more than once a month. Once the region reviews and approves an invoice for payment, the request is electronically forwarded to Bureau of Financial Services. Invoices will be paid within 30 days, in accordance with the state's Prompt Payment Policy. It is not necessary to provide copies of timesheets or receipts unless requested by WisDOT.

The methods of payment could be:

- Actual Cost Plus Fixed Fee - Consultant is reimbursed for all allowable costs incurred up to a maximum upper limit, plus a fixed fee.
 - Actual cost invoices must include a summary of direct labor for period of invoice, including number of hours by employee classification, and must include an itemization of direct costs. It is not necessary to provide copies of timesheets or receipts unless requested by WisDOT.
 - All actual cost contracts must have cost-based estimates.
 - Fixed fee is defined as a specific dollar amount, not subject to change except by an amendment when a change in scope of services is required.
 - The full fixed fee is paid regardless of actual work completed.
- Cost Per Unit (Unit Cost) - A particular task is identified and a cost per unit cost (unit costs) for completing that task is determined.
 - Unit cost must still be cost-based.
 - Used for our "hybrid" low bid process for appraisal/appraisal review master contracts.
- Lump Sum - A specific total dollar amount will be paid for all work required by contract, regardless of actual costs incurred.
 - Contract amendments will not be approved to increase lump sum due to a change in consultants' indirect cost rate or other cost overruns. Will only be considered when either an increase or decrease in scope of work is required.
 - Lump sum contracts need to have cost-based estimates.
 - Lump sum invoices must also include progress reports.
- Specific Rate of Compensation - A specified hourly or daily rate is paid for each class of employee or type of equipment engaged in providing required services.
 - May be used for relatively minor or straightforward items of work of indeterminable extent of effort over which WisDOT can monitor time and class of employee and/or equipment utilized.
 - Must have cost-based estimates.

Contracting Forms and Documents

Many varying forms and documents are necessary for each contracting type and/or process. Varying records retention and records management rules will apply. Some contract related forms are only available on the dotnet (accessible only on our internal [Consultant Services](#) pages), while most materials are now available from WisDOT's Internet pages for consultants, starting from the 'Doing business' tab. If not sure where to find a form or what form to use, ask your regional contracting staff. Here are common forms, documents, key points, and paperwork that may/may not be part of a single master contracting process (depending on work needed): amendment - work orders; amendment submittal checklist; appraisal task list; consultant

financial report (CFR); cost worksheet for consultants (known as “supporting cost estimate documents”); cost-benefit analysis (DT2233); detailed scope of work information; invoice; monthly progress reports (DT1509); notice of interest (NOI); performance evaluations; special provisions; and, work orders.

1.7.2.1 Master Contracts for Real Estate

Master contracts are the current preferred method for obtaining RE consultant services when outside contracted services are necessary. RE has held statewide master contracts for access services; appraisal/appraisal review; full service; and, relocation services with pre-established special provisions available and linked from our internal dotnet for: [access](#); [acquisition/negotiation services](#); [appraisal](#); [appraisal - billboards \(signs\)](#); [appraisal review](#); [contamination investigation](#); [project Management](#); [property management/surplus property sales & disposal services](#); [Real Estate Automated Data System \(READS\) services](#); [relocation Services](#). These special provision documents should be used “as is” with any non-applicable language clearly crossed-out. Anything that needs to be added or needing more detail must be included in the detailed scope of services. Other needs may develop and other services could be solicited under the master contracting process on a statewide basis or regional basis, if needs warrant. Litigation services are through the Department of Justice. Contracting practices specific to demolition and site clearance services fall under Chapter 84 – Highway Construction with contracting management by Bureau of Project Development (BPD) and are detailed in [REPM/Section 6.1](#). BTS-RE maintains a list of all current approved master contract consultants available to internal staff only and accessible from the dotnet on our [Contracting for RE Services](#) webpage. New consultants can only be added to the statewide master contract groups during regular open solicitations initiated by BTS-RE. If new staff are hired to a consultant firm during the period of an already active and approved contract, those new staff can apply for individual approval to perform work as part of the existing master contract through our capability statement forms and review process. See [REPM/Forms](#) page to download RE capability statement forms for acquisition/negotiation, appraisal and/or relocation services.

Approved master contract groupings typically remain in place and available as active for a period of two years. During this two-year active period, if/when, services are needed, a work order request will be initiated by WisDOT to the consultant(s) of their choice. Current consultants must apply/re-apply as described each time there is new open solicitation. (See: Quick facts and basic “how to” apply info about master contract solicitations.) Once again, Except for our hybrid appraisal master contract grouping, consultants must have and maintain a current approved CFR in order to be active for work orders under a master contract agreement. An approved CFR is required at the beginning of a master contract and thereafter, firms must submit updates to their CFR annually. These updates are due within five months after the end of the consulting firm's fiscal year end. Except for our hybrid appraisal services groupings, all firms are required to submit financial paperwork to DTIM/Audit and to keep their CFR information current. No reminders are sent. Firms are required to receive approval of their CFRs by DTIM/Audit before they can conduct work on behalf of WisDOT.

Quick facts and basic “how to” apply info about master contract solicitations.

Consultants interested in renewing or pursuing new master contracts need to take personal responsibility to monitor WisDOT's open solicitation postings. From WisDOT's home page at: <http://wisconsindot.gov/Pages/home.aspx>, look for DOING BUSINESS heading; *click* to

activate popup and see dropdown list. In dropdown list, *scroll* to Engineers and consultants topic; in a second popup window with another dropdown list, finally - *click* 'Solicitations.' The [solicitations](#) webpage is what consultants interested in new master contract opportunity should bookmark and save as a favorite and will need to monitor closely, and it is this WisDOT webpage where they need to go to learn about current (active) solicitations and to start a new application through the Notice of Interest (NOI) process as described in each individual posting as announced. Consultants should also make note of the [bimonthly solicitation schedule](#). As a consultant interested in applying for work under a master contract agreement with WisDOT, so long as they set reminders for themselves to keep track of the dates in that bimonthly solicitation schedule, they should never miss an opportunity to learn about new master contract opportunities. WisDOT also post a [12 month rolling solicitation](#) list (projected solicitations), but that list is subject to change and may not be "all-inclusive" of upcoming opportunities. Interested consultants will need to review the [general instructions](#) for applying via the Notice of Interest (NOI) process and pay especially close attention to the information within each individual announcement. All NOI (Notice of Interest) application materials must be submitted electronically and most important – the NOI application must be completed according to the specific details of each individual posting; application deadlines cannot be extended for any reason(s). WisDOT will not send reminders about upcoming solicitation activities or deadlines to apply. Consultants should set ticklers for themselves of the dates in this [bimonthly solicitation schedule](#). Then, they need to check that [solicitation](#) page after noon on each of those key dates to view and apply to any current opportunities to which they feel qualified and interested in performing the work under the terms, conditions and circumstances as described.

1.7.2.2 Appraisal/Appraisal Review Services (Low-Bid "Cost Per Unit")

While appraisal and appraisal review services can be hired under a variety of contracting processes, master contracts encompassing the "low-bid" process, is the current preferred method. Detailed instructions and forms associated with the RE low-bid appraisal/appraisal review services contracting process can be obtained from the dotnet (available to internal staff only) at <http://dotnet/dtsd/projdev/consultant/appraisal.htm>. Typically, the process is started by the WisDOT Real Estate regional project manager, finalized by the consultant, and then returned to WisDOT for review and approval. PMs and/or regional contracting specialist staff need to check RE's [all-inclusive master contracts list](#) (accessible to internal staff only). Current NOIs are linked under each vendor's name. Contracts are grouped by effective date and by type (e.g., appraisal, eminent domain [full service], etc.). List is updated as appropriate. For any crossed-out names, "no" work orders may be issued until further notice. Contracts for appraisal services under this "hybrid" qualification based/low-bid process may include, but not be limited to these type of services and reports: appraisal review; appraisal review surplus parcel; billboard (sign) appraisals; fixture and/or other specialty appraisals; short format summary; short format surplus parcel; standard detailed format before and after; and, standard detailed format surplus parcel. Appraisal services consultants ("fee" appraisers) must prepare all appraisal reports using established WisDOT formats. It is acceptable to supplement our current approved formats to meet the requirements of individual appraisals. For more information about appraisal, see [REPM/Chapter 2](#) and Chapter 6 for surplus land. Contracted appraisal work must be submitted through READS. Projects may be phased or divided by property types and more than one appraiser may be hired to help complete projects needing a short turnaround time.

To start an appraisal or appraisal review work order request, under the low-bid process, internal staff prepares the [Bid Tab](#) form with the appropriate [supporting docs](#). The Bid Tab and supporting materials can be downloaded only from the DTSD/Appraisal & Review/Master Contracts pages on dotnet (internal site); follow step-by-step [instructions](#). Real Estate has a [RE Projects Staffing Matrix](#) (to be used by internal staff only) for establishing our estimates. The appraiser should also consider cost savings for similar parcels on a profit. WisDOT estimates are a budgeted line item for the Consultant Service fiscal year costs. Regional staff will review the Bid Tab returned by the consultant for math and overall completeness.

Selecting the appraisal/appraisal review services consultant *

* Regional staff should follow these detailed step-by-step [instructions](#).

In short, the regional RE section identifies the need for appraisal services and scopes the project. Regions must contact at least three interested consultants to seek interest and explain the scope of the assignment. Contact can be via email, phone or letter, but must be only to those consultants who are active on an appraisal/appraisal review services master contract group. Documentation of these contacts with the consultants is required for the contract file. The PMs and/or RE section will use our statewide [Bid Tab](#) form with the appropriate [supporting docs](#) and special provisions language in conjunction with a detailed scope of services description drafted initially by the region to establish a baseline for the appraisal work needed. They determine the complexity of the assignment based on the appraisal problem, availability of comparable sales, transitional values, change of highest and best use, and improvements in the new right of way. The Appraisal Problem Analysis (APA) (RE1046) is completed prior to the appraisal plat date or traditional relocation order and is intended to assist the appraiser in determining the appropriate scope of work by highlighting areas of potential concern. The APA is also intended to aid the appraiser in estimating costs for their services. Items noted do not necessarily indicate the existence or absence of the item, only that a perception of a potential impact was observed by the client (WisDOT) and must be investigated as part of the appraisal process. The information provided is not to be considered all-inclusive or definitive and is not intended to limit the scope of the appraiser's efforts in providing a reliable value estimate considering all compensable items as allowed by law (Wisconsin Statute §32.09). The appraiser must verify all data/information upon actual receipt of an appraisal assignment.

The PM should send out an initial scope of services along with that initial inquiry and include a project plat and the APA form, setting a one to two day deadline for interested consultants to respond to the inquiry, depending on the size of the project. The PM then sends interested consultants a [Bid Tab](#) (accessible to internal staff only) with a two to four day deadline for the interested consultant to respond.

Regional staff will review the [Bid Tab](#) returned by the consultant as part of the work order development.

In the event of a tie: If a tied bid is received from two consultants, the regional RE lead or project manager, in the presence of two witnesses (at least one RE staff and another person), shall:

- Flip a coin allowing it to come to rest on floor. If "heads" is up, vendor whose company name is alphabetically first wins; if "tails" is up, other vendor wins.

- Process used to break a tied bid must be documented with witnesses signing a document as to the event and outcome; this signed documentation is filed and kept with project file information.

Once a consultant(s) has confirmed interest in the project, the PM or contract administrator/specialist completes the work order request and sends it to Consultant Services for review and approval, with the CONFIDENTIAL estimate. If the estimate of the work order is over \$300,000, a Cost Benefit Analysis must be completed and submitted along with the work order request. Work under the provisions of the work order agreement cannot begin until after approvals have been granted.

The work order process begins in earnest with the regional PM or contracts specialist assembling the basics of a work order package, to include special provisions, if appropriate, and any other materials specific to the needs of that project.

The region delivers the draft work order, including special provisions and a draft scope of services via email to the consultant selected. The consultant selected will review the information provided, fill in and complete all the details, then returns the completed work order package with the approved bid tab for final review and approval to the region by the deadline identified. We typically allow from five to ten working days, depending on the project size and complexity. It depends on the total amount of the work order who within WisDOT has final signatory authority for approval. Regional Consultant Services staff will help to coordinate the process to get proper signatures, ensure required documentation is in order, and will answer questions, provide guidance and assistance. Expect approximately two to six weeks from inquiry to work order authorization.

Once again, consultants ("fee" appraisers) must prepare all appraisal reports using established WisDOT formats. It is acceptable to supplement our current approved formats to meet the requirements of individual appraisals. For more information about appraisal, see [REPM/Chapter 2](#) and Chapter 6 for surplus land. Contracted appraisal work must be submitted through READS.

1.7.2.3 Full Service and Other Specialty Real Estate Services

Full service activities could be obtained under a purchasing contract or a consultant contract depending on the situation. RE consultant contracts, specifically master contracts, is the current preferred method for obtaining outside full service and other specialty consultant services. Special provisions to be included with full service and other specialty master contract work orders are available on the dotnet at our [Contracting for RE Services](#) site. The following types of RE activities are a sampling of what may be covered by a full service RE master contract: access services; acquisition services; appraisal reviews; appraisal services; asbestos/hazardous material inspections; fixture & equipment reports; miscellaneous*; negotiations; parcel file preparation; project conference activities; project management; property disposal; property management; READS entry of project data; realty services; recording services; relocation services (business and/or residential); REPM updates; right of way certification; specialty training; title search services; and, utility moves.

* Miscellaneous under a full service master contract could include any RE necessary activity.

1.7.3 Real Estate Contracting for Services Summary

- All such organizations, firms, or private individuals hired as consultants through written agreement must comply with WisDOT policies and practices. Authority for acquiring outside services through purchase contracts (low bid) is described in Chapter 16/Sub-chapter IV-Purchasing; Chapter 84 is the authority for master contracting and has contracting options unique to WisDOT. It is possible that you could use both types of contracting methods within a single project. Contracting for all WisDOT activities required in support of state right of way programs through use of private consultants and other services shall also conform to Code of Federal Regulation, [49 CFR 18.36 - Procurement](#). Details in 1.7.0.1 Roles, Authority and Contract Types.
- Amendments/change orders are possible, practicable and sometimes necessary. Amendment processes are typically associated with master contracting (Chapter 84) processes, while change orders are for purchasing (Chapter 16) processes and Chapter 84 demolition and site clearance. Site clearance activities are responsibility of our regional RE property managers and coordinated primarily through Division of Transportation System Development/Bureau of Project Development/Proposal Management Section-Proposal Management Unit (DTSD/BPD-PMU). See more about site clearance in REPM/Section 6.1.
- Current preference is to hire for consultant services using the master contracting process (Chapter 84 – provisions unique to WisDOT). A number of goods and services, however, could still be obtained through the purchasing process (Chapter 16 – low bid; statewide provisions). Regions sometimes have some discretion and choice over the contracting method depending on what might be quickest or more cost effective, and depending on the anticipated amount of the contract or the kinds of goods and services needed.
- Except for our hybrid appraisal master contract group, an initial consultant financial report (CFR) is required; then, annual updates are needed from the consultant for the CFR auditing process to remain active and eligible for work orders. No reminders are sent.
- In conjunction with the contracting process, CARS entries must be kept current. Consultants must maintain information for auditing purposes.
- Master contracts are typically held for two years. Solicitations for new master contracts are held at regularly scheduled times; information is available at <http://www.dot.wisconsin.gov/business/engrserv/caudesolicit.htm>. Consultants interested in a master contract must watch these postings for areas of interest, and then submit a Notice of Interest (NOI) using [ESubmit](#) (electronic) and per instructions of a solicitation notice.
- Method of contracting will be dictated by department policy and otherwise, by statute or rule. It is essential to keep terms and conditions as consistent as possible within regions and between regions, and uniform procedures and guidelines in the procurement and administration of consultant contracts to which the department is a party. As such, regions will find certain inflexibilities, limitations and a host of rules to follow. Each region has contracting specialists within the Consultant Services Section, as does the central bureau.
- Numerous and specialized WisDOT staff will be involved at varying stages, depending if you are using the master contract or purchasing process. PMs; regional RE and Consultant Services supervisors; regional RE contract administrators/specialists and/or Consultant Services specialists; central bureaus and/or Business Services staff; and, more will typically need to be involved at varying stages and will participate or play a key role in activities, such as to coordinate the process, review requests, negotiations, approval steps, etc.
- RE master contracts are coordinated statewide through the Bureau of Technical Services-RE (BTS-RE), but daily activities are administered in the regional RE offices in cooperation with WisDOT Consultant Services. Regional admin/general business services purchasing

and/or consultant services staff now serve as the main contacts for all RE project managers (PMs) and will handle day-to-day coordination of all contracting activities.

- When master contracting services are needed, the PM (sometimes the RE specialist) will typically draft the work order and will continue to work directly with their regional contract administrator/specialist to coordinate the work order process.
- WisDOT reviews master contracting NOIs to make “qualification” based selections (as opposed to lowest bid for purchasing decisions). After the qualification review process has concluded and consultants have been approved as being eligible for work under a master contract, work orders are drafted on an as needed basis.
- Work orders under the master contracting process are developed specific to each project as needed and must be approved prior to commencing any work on a project. All work orders include contact names for each party; payment method; a detailed scope of services; standard special provisions; and, must include a work completion date.