Arizona Department of Transportation

Intermodal Transportation Division

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May 1, 2002

INFORMATION BULLETIN NO. 02-06

TO: ADOT Project Managers/Monitors, Resident Engineers And Consultant Engineering Firms

FROM: Engineering Consultants Section

SUBJECT: CONSULTANT PARTICIPATION IN ADOT CONTRACTS POLICY

Please find attached ITD Policy No. MGT 02-3 on Consultant Participation in ADOT Contracts.

This policy addresses the involvement and participation of consultant or sub-consultant engineering firms in ADOT contracts. It combines ITD policies 89-01"Conflict of Interest Between Mutually-Owned Design and Construction Firms", and 80-02 "The Use of Design Sub-consultants During the Construction Phase", and the division memo regarding "Consultant Engineer Participation in Design/Build Contracts" dated March 11, 1999.

If you have questions regarding this bulletin, please call the undersigned at (602) 712-8998.

Catherine J. Hegel
Contract Administrator

Arizona Governor's Award for Quality
2001 Award Recipient

Intermodal Transportation Division Policy

March 21, 2002
Effective Date

March 21, 2007
Review Date

89-01 (5-1-92)
and
89-02 (5-1-92)
Supersedes

Dick Wright,
State Engineer

MGT 02-3 CONSULTANT PARTICIPATION IN ADOT CONTRACTS

Purpose

To clarify the involvement and participation of consultant or sub-consultant engineering firms in ADOT contracts.

Background

This policy is a combination of ITD policies 89-01 *"Conflict of Interest Between Mutually-Owned Design and Construction Firms"*, and 80-02 *"The Use of Design Sub-consultants During the Construction Phase"*, and the division memo regarding *"Consultant Engineer Participation in Design/Build Contracts"* dated 3-11-99.

Policy

It is ITDs policy to:

1. Avoid potential or perceived conflicts of interest and not compromise the integrity of the consultant or construction programs.

2. Allow a firm who has performed sub-consultant design-related services to perform construction-oriented services, providing the services are functionally different as determined by the State Engineer in conjunction with the Project Manager.

3. Disallow and not accept bids from contractors who have provided or participated in major design component(s) of the program. Major components are defined as those which represent, in aggregate, ten percent or more of the project construction cost estimate. This policy applies to any design and construction firms which are owned by the same corporation, parent company, or partnership.

4. It is ITD's policy that the consultant or sub-consultant not negotiate, contract, or make any agreement with the contractor, subcontractor, or any supplier, with regard to any of the work included in the project, or any service, equipment, or facilities to be used on the project.

5. Consultant engineering firms and sub-consultants working for ADOT on design and development activities of a project in total or in specific engineering disciplines cannot work for a contractor during construction of the project in the same discipline.

6. A consultant engineering firm and a contracting firm under the same corporate ownership cannot perform both design and construction work on the same project.

7. No contract or sub contract for the construction of any part of a project shall be awarded to a firm that designed more than 10 percent of the project (except with the written approval of the department) as prescribed in 3 above. This policy applies to firms, subsidiaries, affiliates, the parent company and sub consultants. Similar work performed in the following engineering disciplines and areas shall not occur in both the design development phase and construction phase of the contract. This applies to:

   a. Surveying
   b. Mapping
   c. Environmental surveys and studies
   d. Geotechnical and materials design
   e. Roadway design
   f. Bridge design
   g. Drainage reports and studies
   h. Utilities locators
   i. Caisson investigation (Geotech firm)

Policies Specific to Design/Build Projects

1. When a project will be built with the Design/Build Process, and the decision to use the Design/Build Process was made after the Design Concept Report(s) and Environmental Documents were underway, the following applies:

   a. Consultant and sub-consultant engineering firms working on Design Concept Report(s) and/or Environmental Documents may compete for general consultant contracts while working for ADOT.

   b. Consultant and sub-consultant engineering firms working on Design Concept Report(s) and/or Environmental Documents may be part of the Design/Build Construction Team.

   c. Consultant and sub-consultant engineering firms working as a general consultant on the Design/Build project to ADOT, may not be part of the Design/Build Construction Team.

2. When the project will be built with Design/Build Process, and the decision was made before the Design Concept Report and Environmental Documents were underway, the following applies:

   a. Consultant and sub-consultant engineering firms working on Design Concept Report(s) and/or Environmental Documents or as a general consultant for ADOT, may not be part of the Design/Build Construction Team.

Responsibilities

Engineering Consultant Section will include the following as part of the contract:

1. A request that consultants, at the time of submitting stage IV design to Contracts and Specifications Section, include a certification letter stating they have or have not any known construction affiliates or that their sub-consultants have or have not any known construction affiliates. If a potential conflict of interest exists, resolution will be determined by the State Engineer or designee.

2. If a waiver is requested, the consultant or sub-consultant will include a statement describing the nature of their design involvement so it can be determined if a conflict of interest exists. The consultant or sub-consultant sends the request for waiver to Engineering Consultants Section, who will forward a copy to Contracts and Specifications and Field Reports Section.

3. Field Reports Section will seek prior approval of the State Engineer or designee, before approving a subcontractor identified as an organizational affiliate.

4. Field Reports Section will review each contractor's request for a waiver to use a sub-contractor who participated in the design process. When a conflict of interest is determined, the contractor will be requested to substitute another sub-contractor.