

PEPS Fireside Chat Question & Answer Summary

Ethics in Engineering Procurement - September 2021

- Q1: If there are preclusions, are firms automatically made aware they are precluded or do they have to ask for a decision?
- A1: Once a preclusion determination has been made for a procurement, we put information in the solicitation to notify the firms that will be precluded from competing.
- Q2: Sometimes we have a project with a tight schedule and we are asked to begin work before final contract execution to meet the schedule. If the project is lump sum payment structure, is that acceptable? Knowing that if the project were cancelled, the work is performed at-risk.
- A2: You may not work outside of the contract period, which begins when the contract is executed. As mentioned, you are performing services at your own risk. [Article 2 of the standard engineering contract states: "Engineer shall not invoice State and State will not reimburse Engineer for any work performed or cost incurred before or after the contract period."]
- Q3: Are GECs allowed to review other consultant' work?
- A3: Yes, the purpose for the General Engineering Consultant (GEC) is to assist TxDOT in the management of a project, which can include the review of and recommendations for the work of other consultants.
- Q4: This is not applicable to this fireside chat, but can you share the timeline for the rollout of the new work categories?
- A4: We are currently working to program the CCIS system. This may take a while. We are in the process of procuring programmers. We hope to start precertifying for the new work categories in January 2022.
- Q5: Regarding Continual Prohibition, how does this apply if a person who was responsible for an Area Office now works for a consulting firm? Are they restricted from working on any project his area office was responsible for?
- A5: It is not about the location a person worked in, it is about the projects that they worked on. A person is prohibited from working on a particular 'matter' that they worked on while they were a Department employee. If they worked on a particular project as an employee, then they are prohibited from working on that same project after they leave the Department. For more information, refer to the Ethics Commission Revolving Door provisions.
- Q6: Can a former TxDOT employee that has been away from TxDOT for more than two years now do work on the GEC program for a project he was involved in while at TxDOT? If so, what limitations are there?
- A6: Refer to the answer to question #5.

Q7: Is there anything a consultant can or cannot do for construction phase services?

A7: The scope of work in the agreement defines the work that a consultant is to perform. The consultants may not perform work that is outside of the work that is defined in the contract and the work authorization scopes.