



COLORADO

Department of Transportation

Office of the Chief Engineer

4201 East Arkansas Ave, Suite 262
Denver, CO 80222

TO: Region Staff and Specialty Units
FROM: SCOTT MCDANIEL *mg*
DIRECTOR, DIVISION OF PROJECT SUPPORT

April 1, 2016

SUBJECT: DIVISION OF PROJECT SUPPORT MEMO 2016-02 / CONTRACTING AND FINANCIAL ACCOUNTABILITY

With the implementation of incremental encumbrances over the past year and the risk of unauthorized purchases, we felt it would be beneficial to provide clarification on the financial responsibilities assigned to engineering project management personnel. This memo is also being provided to ensure tools and personnel resources are provided to help you fulfill your contract and project management obligations.

Basics of Contracting

C.R.S. 24-30-202, State Controller Fiscal Rule 2.2 and CDOT Policy Directive 3.0 and Procedural Directive 3.1 serve as primary references on procurement and contracting. The referenced C.R.S. and Fiscal Rule apply to all state agencies (*CDOT is not being singled out*). All of these documents are embedded at the end of this memo for your quick reference.

Notably:

- CDOT shall not authorize work or disburse funds unless supported by a commitment voucher - state purchase order or contract. Funds shall be encumbered prior to recording expenditures and disbursing payment.
- Statutory violations occur when financial liabilities are incurred or payments are made on the State's behalf without prior approval through a State purchase order or contract.
 - a. CDOT cannot make payments to a vendor when a statutory violation has occurred, unless/until the violation has been ratified by the State Controller.
 - b. Ratification only allowed by State Controller and if certain conditions are met, including but not limited to: prices are fair and reasonable, expenditure is within the unencumbered balance, agency provides a written explanation of the corrective action planned and responsible party did not act in bad faith or in fraudulent manner.
 - c. Implications may include personal financial liability.

What does this mean for CDOT personnel responsible for administering construction, personal services and professional services contracts?:

- Contracts/Task Order (TO) administrators are responsible for monitoring the funding levels, as well as contract start/end dates. Additional money needs and/or time extension should be planned for in



advance, where practical, and effectively communicated with the respective contracting resources to avoid encroaching on contract/TO limits.

- Contract/TO administrators are responsible for ensuring the accuracy of billing invoices before authorizing processing of payment.
- Work/services performed must be within the contracted timelines and scope of work for which funds are encumbered.
- Any required work/services outside of the contracted timelines and scope of work must await a properly authorized and executed contract amendment/change order before commencing.

Every effort should be made to avoid an unauthorized purchase or statutory violation. Ratification of an unauthorized purchase requires burdensome paperwork and prevents timely payment to the vendors. If you are concerned about specific purchasing situation, please begin by contacting your respective Business Manager. Additional resources are listed further down in this memo.

How Does This Apply?

- Personal Service Contracts (goods and personal services)
 - o Unless allowed under emergency or other exemptions (very rare cases), expenditures for goods or personal services shall not commence without a CDOT Controller approved fund encumbered contract or task order.
 - o Billing invoices shall be reviewed for accuracy prior to authorizing payment.
 - Responsible parties: Personal services contract administrators (i.e. Program Engineers, Resident Engineers, Design/Construction Project Engineers)
 - Assistance resources: Center for Procurement staff (Bob Corman, Director) and respective Region Business Office staff
- Professional Services Contracts (engineering consultants)
 - o Unless allowed under emergency or other exemptions (very rare cases), consultants shall not commence any engineering services without a CDOT Controller approved fund encumbered contract or task order.
 - o Billing invoices shall be reviewed for accuracy prior to authorizing payment.
 - Responsible parties: Professional services contract administrators (Program Engineers, Resident Engineers, Design/Construction Project Engineers)
 - Assistance resources: Engineering Contracts staff (Kyle Dilbert, Manager) and respective Region Business Office staff
- Construction Contracts (full encumbrance)
 - o Construction activities shall not commence without a fully executed contract between CDOT and the contractor.
 - o Work related to change orders shall not commence without a fully executed funding letter signed by the CDOT Controller.
 - o Pay estimates shall be processed and approved only for authorized and accepted portions of contracted, per plans and specifications
 - Responsible parties: Contractor, Resident Engineers and Project Engineers
 - Assistance Resources: Construction Awards Officer (Marci Gray)



- Construction Contracts (incrementally encumbered)
 - o Construction activities shall not commence without a fully executed contract between CDOT and the contractor.
 - This requires the contractor to provide an authorized drawdown schedule in advance of contract or option letter execution.
 - o Construction activities shall be limited to the scope of work associated with the respective time period and incremental encumbrance amount.
 - o Construction activities for a following incremental period shall not commence until an Option Letter has been fully executed by the CDOT Controller.
 - o Pay estimates shall be processed and approved only for authorized and accepted portions of the incrementally contracted work.
 - Responsible parties: Contractor, Resident Engineers and Project Engineers
 - Assistance resources: Construction Awards Officer (Marci Gray).

*** NOTE:** Incrementally encumbered projects are relatively new to CDOT and are at higher risk of statutory violations. We are continuing to update guidance manuals to ensure all process details are made available for your reference. If there are questions regarding timelines, requirements, etc., please contact the CDOT Awards Officer (Marci Gray).

While we recognize these processes may add delays to the commencement of critical project work, CDOT and all State agencies are obligated to comply with applicable statutes, Fiscal Rules and Policies. There are many resources available to help you. Please reach out to any of them if you have any questions.

Resources

Available for Assistance:

- 1) CDOT Controller (Liliya Gershman)
- 2) Region Business Offices (various)
- 3) Engineering Contracts (Kyle Dilbert, Manager)
- 4) Center for Procurement (Bob Corman, Director)
- 5) Division of Accounting and Finance (Maria Sobota, CFO)

Resource Documents:



Colorado Revised Statutes_24-30-202_



Fiscal Rules Chapter 2 Disburser

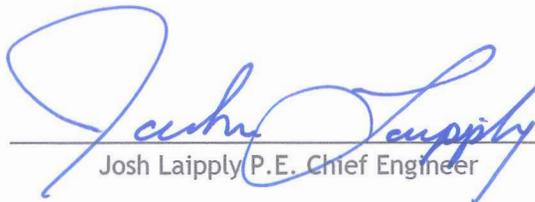


003.0 PO Procurement Policy.1



003.1 PD Procurement Violati

I concur


 Josh Laipply P.E. Chief Engineer

4/18/2016
 Date

