

TDOT AERONAUTICS ENGINEERING UPDATE

In our August 3, 2020 Engineering Update, we mentioned a NEW REQUIRED FORM FOR PRIME CONTRACTORS on Federal aid projects. This form will enable prime contractors to report commitments/awards and payments made to subcontractors, suppliers, and manufacturers with each pay estimate; making it possible to maintain a running tally of actual DBE attainments in accordance with 49 CFR 26.37.

CONTRACT COMMITMENTS-AWARDS AND PAYMENTS REPORT

The CONTRACT COMMITMENTS-AWARDS AND PAYMENTS REPORT will be required with each prime Contractor's pay estimate/application that is generated on or after October 1, 2020 for all Federal-aid projects/grants awarded by the Aeronautics Division. If this report isn't provided, invoices will not be paid until it is received.

The month of September will be used as a transition period prior to the new Federal fiscal year starting in October. We highly encourage the gathering of information and initial report to be submitted with the September work period and pay estimate/application. Comments and feedback are encouraged during the transition period and may assist in making updates to the report form and procedures.

- **Who completes this form?** It is the prime contractor's responsibility to complete and submit this report to the airport (or consultant). The airport must submit the form in BlackCat with the associated invoice.
- **What is reported?** Entries must include all types of subcontracts awarded or committed, including:
 - professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. DBEs must be clearly identified.
 - *Note: Report the full amount committed and paid to suppliers.*
 - The period for each report should typically correspond with the work period. For the initial report on a project, the *Amounts Paid this Period* will match the *Amount Paid to Date*.
- **When is it not required?** This report is not required on projects funded with State and local funding only. Federal aid must be involved. *Review the Grant Contract if unsure about the use of Federal funding.*
- **Where can the report form be found?** The report can be found on our [Engineering](#) webpage under Construction.

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Please begin coordinating this with your applicable contractors, and direct any questions to your TDOT Project Manager for the airport. We greatly appreciate everyone's assistance in ensuring that the Airport Improvement Program (AIP) complies with 49 CFR Part 26.

Thank you,



John-Paul Saalwaechter [sawl véktər], P.E. | CE Manager 2

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BACKGROUND

Recent desk monitoring reviews conducted by the Tennessee Department of Transportation (TDOT), Division of Finance, Fiscal Monitoring Group identified findings of noncompliance on numerous subcontracts under Aeronautics Division Grant Contracts. In each case, the findings indicated that subcontracts between the Sponsor and Contractor, or Sponsor and Consultant, did not contain all of the required State contract provisions. A necessary checkpoint is required to ensure that such provisions are included in all future contracts.

REQUIRED STATE CONTRACT PROVISIONS

Section D.5 Subcontracting of the Grant Contract states that each shall contain, at a minimum, sections (as identified by the section headings) of the Aeronautics Grant Contract pertaining to:

- "Conflicts of Interest,"
- "Lobbying,"
- "Nondiscrimination,"
- "Public Accountability,"
- "Public Notice," and
- "Records".

A new document titled REQUIRED STATE CONTRACT PROVISIONS has been added to our [Engineering website](#), under *Design*. This document provides template contract clauses with highlighted sections that can be edited accordingly to fit different types of contracts. We have also added a link to the FAA's Required Federal Contract Provisions.

Important: It is not necessary to amend ongoing contracts however; we must make sure that these provisions are included in the future. While some provisions may not be applicable to specific contracts, all State provisions are still required to be incorporated in all subcontracts as a condition of the Grant Contract.

SUBCONTRACT APPROVAL BY THE STATE

The grant contract states that Grantees shall not assign an Aeronautics Grant Contract or enter into a subcontract for any of the services performed under an Aeronautics Grant Contract without obtaining the **prior written approval of the State**. All contracts or agreements shall be sent to the TDOT Project Manager for review and approval regarding the inclusion of the required State contract provisions prior to execution. The TDOT Project Manager will either respond with a letter of approval, or request revisions and resubmittal of the subcontract in question.

Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.

Please direct any questions you may have to your respective TDOT Project Manager.

Thank you,

