

July 13, 2022

TO: WSDOT Project Development Engineers
WSDOT Region Construction Engineers

FROM: Chris Christopher, Construction Division Director *CC*
Mark Gaines, Development Division Director *MG*

SUBJECT: Project Delivery Memo #22-05 – Interim At-Risk Advertisement Procedure

With the passage of the 2022 Supplemental Budget, WSDOT is expected to deliver significantly more preservation and improvement projects in addition to the Fish Passage Program. To meet this increased delivery demand, it may be desirable from a delivery perspective to open bids, award a contract, or execute a contract prior to resolution of outstanding items like right of way, permits, and agreements. While this risk management approach is not allowed under prior policy, the State Construction Office, in coordination with the Development Division, is adopting this Interim At-Risk Advertisement Procedure. *This interim procedure only applies to state fund (all phases), design bid build projects. We will pursue authorization to implement on federally funded projects soon.*

Staff should continue to follow the procedures outlined in the WSDOT Advertisement and Award Manual M27-02. If the Project Engineer, in consultation with the Project Development Engineer, proposes to advertise a project that is *unlikely to complete right of way, permits, and agreements prior to opening bids, contract award, or contract execution*, the following procedure shall be followed.

1. The region will submit a “Modified Level 3 Approval” letter in place of the Level 3 Approval letter outlined in Appendix 1 of the Advertisement and Award Manual. In addition to the requirements in Appendix A, the Modified Level 3 Approval must describe the items that will not be complete and the anticipated completion dates. The letter must also describe the risks associated with proceeding, the risk management plan, and the consequences associated with a risk being realized. The risk management plan must demonstrate a reasonable approach to resolving the risk before it could cause a delay to Work under the contract. Finally, the memorandum must describe why the proposed approach is in the public interest.
2. The Modified Level 3 Approval must be reviewed and endorsed by the Assistant Regional Administrator for Construction. This can be accomplished by their initial on the Modified Level 3 Approval letter or as a separate email.
3. The Assistant State Construction Engineer will review the Modified Level 3 Approval letter and coordinate with the region to resolve comments.

4. If the Assistant State Construction Engineer and region are unable to resolve comments on the Modified Level 3 Approval letter, the Lead Construction Engineer will review and provide a recommendation to the Deputy State Construction Engineer for a final determination. If the Deputy State Construction Engineer determines that the proposed risk is unacceptable, notice will be sent to the Project Development Engineer and the Region Construction Engineer.

This interim procedure will remain in effect until further notice from the State Construction Engineer.

RC/MG:jd

Cc:

Mike Fleming, Deputy State Construction Engineer
Assistant State Design Engineers
Jon Keeth, Lead Construction Engineer
Chris Tams, Lead Construction Engineer
Jenna Ball, Advertisement and Award Manager
Assistant State Construction Engineers