



Purpose

The combination of increasing delivery demand and significant turnover at the Project Engineer (PE) position are forcing Regions to consider the temporary use of consultants to fill PE vacancies. In order to maintain Federal participation on WSDOT projects WSDOT must define what work can or cannot be completed by Consultant Project Engineers (CPE).

Guidance

In accordance with 23 CFR 635.105, WSDOT must have a full-time employee to be in responsible charge of each project. Accordingly, the Construction Manual outlines delegation and assignment of duties to specific agency positions, with the Project Engineer acting as WSDOT's person in responsible charge.

The duties and functions as defined by FHWA of responsible charge are as follows:

- Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintains familiarity of day-to-day project operations, including project safety issues;
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project;
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and
- Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.
- Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The Region Construction Manager, or those delegated Region Construction Manager authority, may assign a qualified CPE, with limited authority to act on behalf of WSDOT. The State Construction Office's interpretation of the Code of Federal Regulations (CFR) has led to a determination that duties listed under the WSDOT heading of the attached Responsible Charge Table cannot be completed by CPE's. The Table indicates that some project engineering duties can be supported by consultant PEs, but ultimate signature authority must remain with the person in responsible charge and cannot be delegated.



When a Region intends to use a consultant as a consultant PE the Region Construction Manager must send a Consultant Project Engineer Assignment Memo to the State Construction Engineer. This memo is required for each project that is supported by consultant PE's to identify the general scope of the consultant's duties in the PE office and the WSDOT employee who will act as the person in responsible charge. The WSDOT employee identified in the memo will perform the duties that cannot be performed by a consultant. Along with the memo, the Responsible Charge Table will be used to identify the line items that will be performed by the consultant and the responsible charge. This memo will remain in the project files.

Background

In recent years, WSDOT began hiring consultants to perform a variety of duties on WSDOT construction projects. As consultants have been hired to fill project engineer positions, questions arose from what activities they had authority to perform.

The Responsible Charge Table was created using Chapter 1 of the Construction Manual to breakdown relevant WSDOT PE duties to ensure that the requirements of the CFR are met to maintain federal funding on our projects. This breakdown of duties is based on definitions found in 23 CFR 635.105 *Supervising Agency* and the August 04, 2011, FHWA memorandum defining "Responsible Charge".

Resources

Responsible Charge Spreadsheet

[23 CFR 635.105 Supervising Agency](#)

[2011 FHWA Responsible Charge Memorandum](#)

Implementation Plan

The guidance in the Construction Bulletin takes effect immediately.

Contact Information

Chris Tams

tams@wsdot.wa.gov

Heidi Jensen

jensenh@wsdot.wa.gov



**Washington State
Department of Transportation**

CONSTRUCTION BULLETIN

State Construction Office
Multimodal Development & Delivery

**Bulletin Title Consultant Project
Engineer Policy**

Bulletin #2023-02, Page 3 of 3

Date: 8/15/2023

Attachment

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
Chapter 1: Administration				
1-00	Agency Organization and Relations with Other Organizations			
GEN 1-00.3(1)	State Construction Engineer	X		These positions administer inherently governmental activities related to policy, procurement, and administration.
GEN 1-00.3(1)A	Deputy State Construction Engineer	X		
GEN 1-00.3(1)B	Lead Construction Engineer, Projects	X		
GEN 1-00.3(1)C	Lead Construction Engineer, Administration	X		
GEN 1-00.3(1)D	Assistant State Construction Engineers	X		
GEN 1-00.3(2)	State Materials Laboratory	X		
GEN 1-00.3(2)B	State Pavements Engineer	X		
GEN 1-00.3(2)C	State Geotechnical Engineer	X		
GEN 1-00.4(1)	Regional Administrator	X		
GEN 1-00.4(2)	Regional Construction Manager	X		
GEN 1-00.4(3)	Regional Administration of the Inspector Certification Program		X	Matters related to WSDOT employee performance management must be administered in accordance with applicable policy.
GEN 1-00.4(5)	Regional Administration of the Quality Assurance Program		X	Matters related to WSDOT employee performance management must be administered in accordance with applicable policy.
GEN 1-00.5	Relationship with Other Agencies	X		Inherently governmental activity.
GEN 1-00.6	Relating to the Public		X	
GEN 1-00.7	Application of Contract Provisions, Plans, and Specifications		X	
GEN 1-00.7(1)	Construction Contracts Information System (CCIS)		X	
GEN 1-00.7(2)	Order Lists		X	

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
GEN 1-00.8	Emergency Work Performed Under the Contract	X	X	Consultant serve as project managers during the emergency, but WSDOT must maintain the responsible charge delegation during the emergency.
GEN 1-00.9	Prime Contractors Performance Report	X		Inherently governmental activity.
GEN 1-00.10	Stewardship	X		Inherently governmental activity.
GEN 1-00.11	Bridge and Structures Office Support on Design-Bid-Build Projects During Construction		X	Consultants may provide the technical support and provide preliminary review for contract compliance before submitting documents to the WSDOT Bridge Office.
GEN 1-00.11(1)	Submittal Review and Processing		X	Consultants may provide the technical support and provide preliminary review for contract compliance before submitting documents to the WSDOT Bridge Office.
GEN 1-00.11(2)	Technical Support		X	Consultants may provide the technical support and provide preliminary review for contract compliance before submitting documents to the WSDOT Bridge Office.
1-02	Bid Procedures and Conditions	X		Inherently governmental activity.
1-03	Award and Execution of Contract	X		Inherently governmental activity.
1-04	Scope of the Work			
SS 1-04.3	Reference Information		X	
SS 1-04.4	Changes	X	X	Approval and execution of change orders must be performed by WSDOT employee. Consultants may perform other change order duties.

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
SS 1-04.4(1)	Minor Changes	X	X	Approval and execution of change orders must be performed by WSDOT employee. Consultants may perform other change order duties.
SS 1-04.4(2)	Value Engineering Change Proposal (VECP)	X	X	Approval and execution of change orders must be performed by WSDOT employee. Consultants may perform other change order duties.
SS 1-04.4(2)C	VECP Approval	X	X	Approval and execution of change orders must be performed by WSDOT employee. Consultants may perform other change order duties.
SS 1-04.5	Procedure, Protest and Dispute by the Contractor	X		Interpretation or determination that affects WSDOT responsibility for cost or time.
SS 1-04.5(1)	Disputes	X		Interpretation or determination that affects WSDOT responsibility for cost or time.
SS 1-04.6	Variation in Estimated Quantities		X	
SS 1-04.7	Differing Site Conditions (Changed Conditions)	X		Interpretation or determination that affects WSDOT responsibility for cost or time.
1-05	Control of Work			
SS 1-05.1	Authority of the Engineer	X		
SS 1-05.1(1)	Oral Orders	X		Contract interpretation or determination that affects WSDOT responsibility for cost or time.
	Project Engineer's Relationship and Responsibilities	X		Inherently governmental activity.
	Relationship with the Contractor		X	
	Relationship with Other Government Agencies	X		Inherently governmental activity.
	Preconstruction Meetings, Discussions	X	X	Consultant may conduct preconstruction meetings only if WSDOT Construction Manager is present.

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
SS 1-05.1(2)	Requests for Information (RFI)		X	RFI responses that could obligate WSDOT to additional cost or contract time must be approved by WSDOT employee.
SS 1-05.3	Plans and Working Drawings		X	WSDOT employee must provide final approval or concurrence of Working Drawings.
SS 1-05.4	Conformity with and Deviations from Plans and Stakes		X	
SS 1-05.7	Removal of Defective and Unauthorized Work	X		I don't see anything that affects cost or time unless a CO is needed.
SS 1-05.9	Equipment		X	
SS 1-05.10	Guarantees		X	
SS 1-05.14	Cooperation with Other Contractors		X	
1-06	Control of Material			
SS 1-06.3	Manufacturer's Certificate of Compliance		X	
SS 1-06.6	Recycled Materials		X	
1-07	Legal Relations and Responsibilities to the Public			
SS 1-07.1	Laws to be Observed	X	X	Consultants may manage Enforcement of Safety and Health Requirements. WSDOT employee safety shall remain the responsibility of a WSDOT employee.
SS 1-07.3	Fire Prevention and Merchantable Timber Requirements		X	
SS 1-07.4	Sanitation		X	
SS 1-07.5	Environmental Regulations	X		Inherently Governmental Activity
SS 1-07.5(3)	Working in Water		X	
SS 1-07.5(6)	U.S. Fish and Wildlife Service and National Marine Fisheries Service		X	
SS 1-07.9(1)	General	X		Inherently Governmental Activity
SS 1-07.9(2)	Posting Notices		X	

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
SS 1-07.9(3)	Apprentice Utilization	X		Inherently Governmental Activity
SS 1-07.9(5)	Required Documents (Statement of Intent, Affidavit of Wages Paid, and Certified Payroll)	X	X	Documents may be compiled by the consultant PE. Approval of the required forms shall be completed by WSDOT employee.
SS 1-07.11(1)	General Application	X		Inherently Governmental Activity
SS 1-07.11(2)	Contractual Requirements	X		Inherently Governmental Activity
SS 1-07.11(5)	Sanctions	X		Inherently Governmental Activity
SS 1-07.11(10)	Records and Reports	X		Inherently Governmental Activity
SS 1-07.12	Federal Agency Inspection		X	
SS 1-07.13	Contractor's Responsibility for Work		X	
SS 1-07.14	Responsibility for Damage		X	
SS 1-07.15	Temporary Water Pollution Prevention		X	
SS 1-07.16	Protection and Restoration of Property		X	
SS 1-07.17	Utilities and Similar Facilities		X	
SS 1-07.18	Public Liability and Property Damage Insurance		X	
SS 1-07.23	Public Convenience and Safety		X	
1-08	Prosecution and Progress			
SS 1-08.1	Subcontracting (Request to Sublet)	X		Inherently Governmental Activity
SS 1-08.1(1)	Prompt Payment, Subcontract Completion and Return of Retainage Withheld	X		Inherently Governmental Activity
SS 1-08.3	Progress Schedules	X	X	Approval of the contract schedule is a WSDOT responsibility. Technical evaluation of the schedule by a consultant is acceptable.
SS 1-08.3(1)	General Requirements	X	X	Approval of the contract schedule is a WSDOT responsibility. Technical evaluation of the schedule by a consultant is acceptable.
SS 1-08.3(2)	Progress Schedule Types	X	X	Approval of the contract schedule is a WSDOT responsibility. Technical evaluation of the schedule by a consultant is acceptable.

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
SS 1-08.3(3)	Schedule Updates	X	X	Approval of the contract schedule is a WSDOT responsibility. Technical evaluation of the schedule by a consultant is acceptable.
SS 1-08.4	Prosecution of Work (Start Contract Time)	X		Inherently Governmental Activity
SS 1-08.5	Time for Completion	X	X	WSDOT employee must sign working day statements and address related disputes.
SS 1-08.6	Suspension of Work	X		Interpretation or determination that affects WSDOT responsibility for cost or time.
SS 1-08.8	Extensions of Time	X		
SS 1-08.9	Liquidated Damages	X		
SS 1-08.10	Termination of Contract	X		
SS 1-08.10(2)	Termination for Public Convenience	X		
1-09	Measurement and Payment			
SS 1-09.4	Equitable Adjustment	X		Determination that affects WSDOT responsibility for cost or time.
SS 1-09.6	Force Account		X	Consultants may monitor and report force account. WSDOT must perform CAPS entries and and approve estimates.
SS 1-09.8	Payment for Material on Hand	X		Inherently governmental activity.
SS 1-09.9	Payments	X		
SS 1-09.9(1)	Retainage	X		
SS 1-09.10	Payment for Surplus Processed Materials	X		
SS 1-09.11(2)	Claims	X		
SS 1-09.12	Audits	X		
Chapter 2 through Chapter 8			X	

RESPONSIBLE CHARGE TABLE

Allowable delegation of duties to WSDOT or Consultant Staff. WSDOT Staff is defined as a full time employee of WSDOT.

		WSDOT Staff	Consultant Staff	Notes
Chapter 9: Materials				
9-1.1	PE Authority for Materials Approval and Acceptance		X	
9-1.3	Approval of Materials		X	
9-1.2F	Project Material Certification	X		Inherently governmental activity.
Chapter 10: Documentation				
10-3.3	Construction Project Diaries (PE Diary)		X	
10-3.17	Final DBE Utilization Plan Report	X		Inherently governmental activity.