
From: Zelasko, Elizabeth (FTA)
To: Bausch, Carl (FTA); VanWyk, Christopher (FTA)
Sent: 7/26/2010 2:18:28 AM
Subject: FW: Honolulu Transit PA - language on contractor assistance

I do not think the City would go for an additional review on every work product under the PA. My suggestion to the group would be to keep this independent contractor in place, but to select certain work products that the independent contractor can work with the City prior to submitting to the SHPO or FTA for review.

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Sunday, July 25, 2010 9:01 PM
To: Zelasko, Elizabeth (FTA)
Cc: Pua.Aiu@hawaii.gov
Subject: Re: Honolulu Transit PA - language on contractor assistance

Elizabeth,

I appreciate your seeking SHPD comments early. That said, at our last conference call, both ACHP and NPS expressed identical concerns.

Our three agencies are not seeking to create an additional level of review. What we are seeking is a system by which the City will meet its obligations in the Programmatic agreement. So I think we agree we should work in that direction. I think the area to be resolved is how can we set up a system where the quality of the material promised in the programmatic agreement meets standards and is complete *prior* to being submitted to SHPO for final review.

It is the common experience that developers - including public agencies - are primarily interested in moving a project forward as quickly as possible, and will rush paperwork, including these commitments they are making in the Programmatic Agreement. I say that without judgement and coming from a family of contractors. The developer's primary interest isn't historic preservation. It's getting a project into the ground. When done in the ordinary manner, the studies and other materials are handed to the SHPO with missing information and/or not in accordance with standards. This is true even when the City hires consultants - because the City staff don't have the expertise to evaluate whether the consultant's materials meet standards or if they're incomplete. They just pass it to the SHPO and expect the SHPO to do that work.

Long-term projects have compounded problems due to turnover in staff and consultants leading to inconsistent materials from one year to the next. Because the developer is primarily interested in the project, this system places the burden on the SHPO to correct materials, educate staff and new staff, and creates tremendous frustration between the agencies and unnecessary delays and fingerpointing in the project.

The purpose of the ACHP proposed solution is to have a consistent and neutral professional staff hired with SHPO's involvement and tasked to be the consistent professional oversight, review and staff on the City's side of the equation to make sure their materials are consistent and meet standards *before* the City submits them to SHPO. This system can also make the project faster. The idea is to work with the SHPO early to establish an agreement on standards for the materials, and then ensure all City materials meet those standards before delivered to SHPO for final review. In other words, the SHPO doesn't need to waste time educating the four different consulting firms the City hires, and later re-educating new consultants and new City staff. That is the City's responsibility. The SHPO does the final review of completed materials.

Given the ACHP experience in developing this model, I'd prefer to have some time to discuss the proposed language with them prior to responding. It's only fair that we have the opportunity for a sidebar conversation on what was done in these other jurisdictions, whether this proposed language is similar, and if not, how would we propose to change the approach.

As mentioned in our last conference call, I will be out of the country July 27-August 6, and on another trip August 11-16. I would really like ACHP to see the proposed language and have a chance to speak with them prior to our next call or written response.

In the interest of efficient use of time, perhaps it would be best for you to send all of us the proposed language; let SHPD, ACHP and NPS review and we'll have a conference call between the three of our organizations to discuss; and then get back as a group in writing with a response. Then our next conference call can have the benefit of discussing the draft and our consolidated response.

In the meantime, the City can work on a response to the other two issues I raised. If they are in agreement, they can continue to work with you to prepare some alternate language for the programmatic agreement. If they are not in agreement, I'd ask that they submit something in writing so we have something to respond to. That way they and you don't need to cease progress while I'm out of the office.

Elizabeth, thanks very much for your patience and perseverance in this matter. I'm sure these big projects take their toll. It's too bad you guys are in the middle of this heat wave at the same time. I hope you can stay cool.

Laura H. Thielen
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<elizabeth.zelasko@dot.gov>

07/20/2010 08:46 AM

To <Laura.Thielen@hawaii.gov>
cc <Pua.Aiu@hawaii.gov>, <Nancy.A.McMahon@hawaii.gov>
Subject Honolulu Transit PA - language on contractor assistance

Good afternoon,

Before sending out an email to all the signatories, I wanted to get your thoughts on language we drafted regarding an independent contractor position in the programmatic agreement. I would like to see if we are getting closer to addressing your concerns with reducing the burden of your work load before we bring this to the larger group discussion.

I am trying to balance your interest in having help with reviewing the materials in the document with the City's interest in not adding additional reviews. I hopefully have developed a compromise, but I am welcoming comment on it. The City has provided some comments on the language.

If you could provide comments within the next day or two on this language, I will make revisions, and then send this out to the other signatories along with other requested changes to the PA and responses to comments.

Please call if you have questions.

AR00100464

Thank you,

Liz

[Elizabeth Zelasko](#)

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A. City Support of SHPD Reviews—Within [time period]the City will fund an independent historic preservation contractor to monitor and assess compliance by the City with this PA. The independent contractor filling this responsibility will meet the qualifications described in Stipulation I.E. The FTA and the SHPO shall review and approve (1) the request for proposals (RFP) for the independent historic preservation contractor prior to the release of the RFP, (2) the qualifications of the final candidates under consideration by the City prior to the final section of the historic preservation contractor, and (3) the scope of work of the historic preservation contractor in order to ensure that the contractor’s duties and responsibilities are consistent with the provisions of this Stipulation I.G. The contractor shall perform the following responsibilities:[\[eaz1\]](#)

- 1. Meet and/or communicate regularly with the City, as needed, to oversee the implementation of the terms in this PA. As requested by the City, the historic preservation contractor would review and provide preliminary comments on work products prior to submission to the consulting parties.**
- 2. Regarding Stipulation IV of this agreement, prior to submission to the consulting parties, the historic preservation contractor will review plans and documents using the Project’s Design Language Pattern Book and provide comments on all project elements and design and engineering plans for project elements within the context of this PA during the Final Design Phase.**
- 3. Coordinate regularly with FTA and the SHPD in connection with the historic preservation contractor’s observation and recommendations regarding the progress of the Project in implementing measures to resolve Adverse Effects called for under this Agreement.**

This regular coordination will include providing comments on any reports or products submitted to the FTA or the SHPD during the first third of any review period identified in the PA. For example, if there is a 30 day review period on any product submitted to FTA or SHPD, the historic preservation contractor shall provide comments within the first ten days of the review period unless another agreement is arranged by the FTA or the SHPD.

4. Provide summaries of observations and recommendations on the City's progress on implementing stipulations in the PA to the consulting parties prior to meetings of the consulting parties identified in Stipulation XIII.E of this PA.

5. Report to the City, FTA, and the SHPO concerning the existence, if any, of any previously unidentified Adverse Effects of the Project on Historic Properties.

6. In addition to the informal conference and meetings that the historic preservation contractor and the City will hold in the normal course of the implementation of the PA, if requested by either party, the City and the historic preservation contractor will meet formally to review any recommendations provided in writing by the historic preservation contractor. If, following such a formal conference, the City and the historic preservation contractor reach consensus regarding the appropriate resolution of the historic preservation contractors recommendations, the City shall document the consensus that was reached in a letter to FTA and the SHPO. Subsequent to the FTA's approval, the City shall implement the actions incorporated in such a letter.

7. The City, in cooperation with SHPD and FTA, will review the workload generated for this independent contractor semi-annually and may amend its work description in the future if review obligations decrease as the Project progresses.

The intent of this approach is to assist with the reviews of PA products without adding another layer of review to the process. Except for a few work products that can be explicitly identified in the PA, the independent contractor would provide the signatories comments during the already-identified review periods. This would help focus reviews by the signatories. The Signatories could choose to adopt the independent contractor's comments, ignore the independent contractor's comments, or use some of the comments and generate others.

The independent contractor could also track the progress on the implementation of the PA and provide updates and observations prior to scheduled meetings with the consulting parties.