



1.1 Originator

The Bureau of Project Development is the originator of this chapter. Any questions or recommendations concerning this chapter should be directed to the BPD at (608) 266-3721. Abbreviations used in this chapter are provided in [Attachment 1.1](#). Central Office PS&E contacts are provided in [Attachment 1.2](#).

1.2 Purpose

The submittal of Plans, Estimate and Specifications to the BPD completes region design preparations, enabling a contract to be let or executed in the case of a LFA agreement. Upon receipt of the PS&E transmittal, the BPD can begin its Proposal Preparation Process (PPP).

The procedures in this Chapter are based on the traditional highway construction contracting (design-bid-build) model. In rare cases, alternative contracting methods may be used (see [FDM 11-2](#)).

1.3 Composition

The complete PS&E transmittal consists of the plans (as described in Chapter 15), the estimate, the special provisions, completion of pseTrak,

<http://trust.dot.state.wi.us/pse/>

and the necessary exhibits. Incomplete PS&Es should not be submitted.

When structure plans are included in the contract, the region shall coordinate with BOS to assure that the structure plans can be obtained by the BPD at the PS&E due date. This coordination is especially critical in those cases where the structure plans were completed some time ago, were placed on the shelf, and now must be reviewed and/or revised prior to inclusion in a project. Structure Plans are to be Esubmitted to BOS two months prior to PS&E.

If a project does not meet all of the criteria required for letting (see [FDM 19-1-3.2](#)), a PS&E Exception Request must be submitted using the pseTrak system. The PS&E Exception Request must provide a detailed explanation of the issue, parcel numbers, date and initials of person entering exception, a final resolution date and any mitigation measures that will be implemented. Regions must continue to work on clearing the PS&E until all criteria are met. The region must inform the appropriate bureau approving authority as the issues are cleared.

Exceptions should be requested rarely. [Table 1.1](#) details the PS&E Exception approval timeline and responsibilities.

Table 1.1 PS&E Exception Approval Schedule

Action	Result	Weeks Prior to Ad Meeting
Project team initiates active exception. Regional management early acknowledgement and involvement.	Identifies issues that are not resolved at PS&E submittal. Establishes latest anticipated date for issue resolution. Details must be placed in exception text box or as a project note. *	PS&E submittal
Project team confirms that the exception has not been cleared and requests region management approval.	Update issues that will not be resolved prior to the ad meeting. Confirms latest anticipated date for issue resolution. Confirm ability to be cleared by AD Meeting. Details must be placed in exception text box or project note. *	Five weeks
Region management approves exceptions.	Confirm exception and request that the proposal be advertised/let with the exception. Add additional supporting information in exception text box or project note. *	Four weeks
Bureau of Technical Services & Bureau of Rails and Harbors staff review and recommend exception approvals.	Real estate, utility and railroad staff review the exception requests and associated circumstances. The staff recommends approval/denial of the exceptions to bureau management and documents this action in a project note.*	Three weeks
Bureau of Project Development and Bureau of Technical Services approves exceptions.	Acknowledges exception and approves advertising/letting the proposal with the exception. Exceptions still in place should be of minimal risk and expected to be resolve prior to letting.	Two weeks
FHWA approves exceptions.	Acknowledges exception and approves advertising/letting the proposal with the exception.	One week

Project teams are responsible for ensuring that all exceptions are cleared. The project team must notify BTS when a real estate or utility issue is cleared and submit a revised R/W cert DT1899 or USR DT1080 as appropriate.

* Provide enough detail to expedite the approval process. See following examples:

[Attachment 1.3](#) Example Utility Exception Example

[Attachment 1.4](#) Example Real Estate Exception Example

If the exception request is approved by BPD, BTS and FHWA as needed, the PS&E will be conditionally approved. The region must clear all conditions and inform BPD at Mailbox – DOT DTSD BPD Proposal Management Section as the conditions are cleared. All exceptions must be approved by BTS and BPD prior to the Ad Meeting. Projects that are designated as design federal oversight require FHWA approval prior to the Ad Meeting. Extra time and coordination may be required to obtain these approvals.

1.4 Timing

PS&Es are submitted on a quarterly schedule as defined in [Attachment 1.5](#). Submittals received after 12:00 PM on the due date will be marked as late. If the quarterly due date falls on a holiday or weekend, the submittal must be received prior to 12:00 PM the following business day.

All requests for late PS&Es must be submitted to the Proposal Management Section Mailbox - DOT DTSD BPD Proposal Management Section (DOTDTSDBPDPProposalManagementSection@dot.wi.gov) prior to the project's scheduled PS&E submittal date. If a request to submit a late PS&E is made after the quarterly due date, the PS&E will be marked as late. All PS&Es that have been granted an exception to be late must be submitted by 12:00 PM on the expected delivery date.

The region may alter the PS&E date of a project prior to the PS&E submittal date. Changes to a project's submittal date less than 3 months prior to the originally scheduled PS&E date, must be coordinated with the Proposal Management Section. The region will update FIIPS after any PS&E submittal date changes have been made.

PS&Es for LFA agreements must be received eight weeks prior to the anticipated execution if they are not included under the same federal project number as a bid contract.

Plans and other agreement documents prepared by local municipalities, consultants, or others outside the department must be received by the appropriate region PD section a minimum of 4 weeks prior to the scheduled PS&E due date. This allows time for the region PD's staff to review and coordinate the project.

The proposal preparation process (PPP), as accomplished over a 12-week period, is shown in [Attachment 1.6](#). This process is necessary to define an orderly work flow and to allow processing of an average of 50 contracts for each letting. Approximately 6 weeks of this time are devoted to central office work activities, while the remaining 6 weeks are utilized in the bid advertisement process.

When the contract is especially complex, such as a lift bridge or a large major or mega project, the advertising time may be expanded from 4 weeks to 8 or 10 weeks. In these cases, the PS&E due date may need to be advanced accordingly. The expanded advertising time should be initiated by the region and discussed with the Proposal Management Section of the BPD. This expanded lead time is necessary to allow contractors and fabricators to obtain the cost data for any special machinery required.

Bid letting dates, along with corresponding PS&E due dates, are shown in [Attachment 1.5](#). To meet these letting dates, the BPD has determined intermediate dates by which certain specified activities must be accomplished.

1.5 Processing

The PS&E documents are processed between PS&E submittal and the ad meeting for the scheduled letting. Please remember that all PS&Es must be processed within this time, not just one. Major activities that occur during this process include: reviewing, editing and updating the plans, estimate and special provisions, establishing DBE goals for federal aid contracts, composing the advertisement, building the actual contract documents and financing the project(s). Late PS&E submittals jeopardize the PPP. The activities required to turn a PS&E into a contract proposal require staff not only from BPD but also BTS, DTIM and FHWA. Delays in one processing step make it difficult to complete subsequent steps on time.

The schedule for the major PPP activities is listed in [Attachment 1.5](#). The column titled, "Final R/W, Utility & RR Check; Ad Meeting; FHWA authorize to advertise for Bids," is the date on which a final decision is made whether to advertise each specific contract(s) in the proposed letting. During the Ad meeting, each contract included in the subject letting is reviewed. The meeting is chaired by the Proposal Development Specialist, BPD, and attended by the Chief Proposal Development Engineer BPD, Project Services Chief, BPD; a representative from the Acquisition & Services Section of the BTS; a representative from the Utilities Unit of the BTS; a representative from the Railroads and Harbors Section; and a representative from the BSHP. The BHO may be represented when issues related to them are present on contracts being proposed for the letting.

The purpose of this review is to assure that all real estate interests have been acquired and are clear; all utility and railroad coordination, clearances, and agreements have been completed; hazardous materials identification and remediation have been completed; necessary permits have been issued; and all design issues have been addressed. Any other problems associated with a contract that might affect its availability for letting are also examined at this time. An email summary of the ad meeting is sent to all project managers and PDS supervisors with contracts that have unresolved issues. This email is also sent to the FHWA and various others throughout WisDOT. This email documents PS&E approval of the contracts in the subject letting and summarizes the unresolved issues. After this meeting, the advertisement for the subject letting is prepared. After FHWA authorizes the federal aid contracts, the advertisement is posted to the WisDOT Internet site under bid letting advertisements at:

<https://wisconsindot.gov/Pages/doing-bus/contractors/hcci/bid-let.aspx>

As described under section 1.3 - Composition above, PS&Es may be conditionally approved. The BPD or the FHWA will notify the project manager of any conditions relating to the PS&E approval. The project manager is responsible for ensuring that all issues are resolved and notifying BPD of any status change. A contract will only be allowed to be advertised with unresolved issues, if it has an approved PS&E Exception Request in pseTrak. Contracts with unresolved issues are monitored during the five weeks between advertisement and letting to assure the issues are resolved or the contract may be withdrawn from the letting.

The following table lists the units that are responsible for the major PPP activities. Some activities occur concurrently, others must be completed prior to subsequent processing.

	Activity	STH System	Local System	FDM Reference
Region	Prepare PS&E	Region or consultant	Local Unit or consultant	19-1-1
	Prepare Structure Plans	Bureau of Structures or consultant (BOS reviews consultant prepared structure plans).	Local Unit or consultant (BOS reviews local unit or consultant prepared structure plans.)	19-1-1
	PS&E Pre-Submittal Review	Region or consultant	Local Unit or consultant	19-40 exhibit 1.1
	Approve PS&E Submittal	Region Project Managers recommend approval. Region PD Supervisor named in plan letter verifies that the PS&E was prepared to acceptable standards.	Local Unit or consultant recommends approval. Region PD Supervisor named in plan letter verifies that the PS&E was prepared to acceptable standards.	19-10-15
	Signing of Plans [signatures have meaning as noted in FDM 15-1-10]	Region Project Managers recommend signing. Region Director or designer signs.	Local Unit or consultant recommends signing. Region Director or designer signs.	19-10-5
Central Office	Review PS&E	For conformance with DSR: Project Oversight Unit	Local Program Delivery Manager	19-40-1
	Assign Proposal Numbers	BPD Proposal Management Section	BPD Proposal Management Section	N/A
	Add Final Structure Plans	BPD Proposal Development Unit	BPD Proposal Development Unit	19-1-1
	Review Plans	BPD Proposal Management Section	BPD Proposal Management Section	19-40-1
	Review Special Provisions	BPD Proposal Management Section	BPD Proposal Management Section	19-15-1
	Assign DBE Goals if Applicable	BPD Proposal Management Section	BPD Proposal Management Section	N/A
	Recommend PS&E Approval	BPD Project Oversight TMP, permits and design standards BTS Acquisition and Services Real estate BTS Utility and Access Unit Utilities DTIM Rails and Harbors RR engineering RR real estate	BPD Project Oversight TMP, permits and design standards BTS Acquisition and Services Real estate BTS Utility and Access Unit Utilities DTIM Rails and Harbors RR engineering RR real estate	19-1-1
	Build Proposal	BPD Proposal Management Section	BPD Proposal Management Section	N/A
	Submit Federal Oversight Projects for FHWA Approval	Proposal Management Section submits PS&E, contract proposal and plan letter to FHWA for review and approval	Proposal Management Section submits PS&E, contract proposal and plan letter to FHWA for review and approval	19-10-15
	Approve PS&Es	BPD Proposal Management Section and FHWA	BPD Proposal Management Section and FHWA	19-1-1
	Advertise Proposals	BPD Proposal Management Section	BPD Proposal Management Section	19-1-1

LIST OF ATTACHMENTS

Attachment 1.1	Abbreviations used in FDM Chapter 19
Attachment 1.2	Central Office PS&E Contacts
Attachment 1.3	Utility Exception Example
Attachment 1.4	Real Estate Exception Example
Attachment 1.5	Proposal Preparation Process Schedule
Attachment 1.6	Central Office Proposal Preparation Process

FDM 19-1-3 Project Letting Process (PLP)

February 18, 2020

The PLP establishes the Department's policies and strategies for how projects within its annual improvements programs should be scheduled for letting within each fiscal year (FY) of the 6-year program. It monitors the spectrum of elements that can influence letting strategies and determines the optimal blending of those influences to establish letting policies for:

- Percent of program dollars by let dates
- Number and type of proposals requiring review
- Individual project or program specific scheduling requirements
- Quantities
- Current and future programmatic funding assumptions
- Scheduling strategies for families of project types for optimal bidding competition

The PLP attempts to achieve simultaneous goals of letting all scheduled program dollars, achieving best possible bid prices, and delivering projects at lowest possible cost. The PLP also provides policy guidance on the roles and responsibilities for all parties involved in the delivery of projects to achieve PLP deliverables.

3.1 Guidelines and Definitions

PLP – The process of developing a letting plan, delivering complete PS&Es and measuring the progress of delivery according to that plan.

PLP Committee - A committee composed of staff from the Bureau of State Highway Programs (BSHP), region, and Bureau of Project Development (BPD) who will administer the PLP.

Letting Implementation Plan (LIP) - A list of projects to be let in a given fiscal year. Projects are identified by the fiscal quarter when they will be submitted and the month when they are expected to be let.

Quarterly PS&E Delivery Date - The first business day of February, May, August, November when state and local PS&Es are due at BPD for all projects to be let.

Annual Letting Goal - The amount of dollars established by the division that will be spent during a particular fiscal year for all state and local highway project contracts to be let, awarded and executed within that fiscal year.

Quarterly and Monthly Target Ranges - Ranges of dollars or percentages of the Annual Letting Goal within which the cost of let projects will be maintained for each month and quarter of the year when establishing and maintaining the LIP and when conducting lettings.

Advanceable Projects - A project that is scheduled to complete its PS&E one or more FYs earlier than its FIIPS scheduled PS&E date. An advanceable project is given an Early PS&E (EPSE) tag in FIIPS along with an EPSE due date that is earlier than the PS&E date.

Advanceable Program - The program tags, schedules, and delivers a specific number or dollar volume of advanceable projects for each year of the approved improvement program.

Advanceable Project Letting Process (APLP) - APLP is a sub-component of the PLP. The application of PLP concepts for the scheduling and delivery of the Advanceable Program.

Advanceable Letting Implementation Plan (ALIP) - The ALIP is a sub-component of the LIP. The list of projects that are advanceable for let in any year. Advanceable projects are scheduled as necessary to achieve the APLP goals.

Quarterly PS&E Results Report (QPRR) - A report generated within 15 days of the Quarterly PS&E Delivery Date which indicates which of the scheduled LIP projects for that quarter were received by the due date.

Advanceable Quarterly PS&E Results Report (AQPRR) - A sub-section report of the QPRR that indicates which of the scheduled ALIP projects for that quarter were received by the due date, and the cumulative tracking of the ALIP delivery goals for the FY.

Current Monthly Letting Report (CMLR) - A report generated monthly which indicates which of the scheduled LIP and ALIP projects were LET in the current month.

Letting Status Report - A monthly report that shows the accumulated costs of each month's lettings for the fiscal year to date.

3.2 The Purpose

The LIP is structured to maximize benefits for the department. The quarterly goals provide a letting plan intended to obtain the most cost-effective bidding environment.

Quarterly PS&E submittals give the department an opportunity to meet the quarterly letting goals by providing flexibility to move projects within a quarter. BPD will contact the project manager to discuss the possibility of moving projects between lettings.

The regions will deliver projects, ready to be let, based on the schedule below.

Projects to be Let in These Months	All PS&E's are Due in CO on These Dates
November, December, January	August 1
February, March, April	November 1 of the previous year
May, June, July	February 1 of the same year
August, September, October	May 1 of the same year

The department has set the following quarterly letting goals to be met by this process:

FY Quarter	% of the Annual Program
1	24%
2	30%
3	37%
4	9%

The Department has set the following ALIP goals for submission of EPSE's for advanceable projects within the FY:

CY Date	% of Annual Advanceable Program \$
May 1 prior to FY of advancement	50%
Sep. 1 of the FY of advancement	75%
Dec. 1 of the FY of advancement	100%

The annual Advanceable Program amount is currently determined by Wis. Stat. 84.01(33). The Department may supplement the statutory goals from time to time, and it will be the PLP Committee's responsibility to adjust the ALIP and APLP accordingly.

The overall process for a given fiscal year is shown in [Attachment 3.1](#) and is explained below.

3.3 The Process

The PLP consists of three major activities.

1. Develop and maintain an annual LIP and ALIP.
2. Deliver PS&Es according to the LIP and ALIP
3. Monitor PS&E delivery and report progress

3.3.1 Develop and Maintain the LIP and ALIP

A LIP and ALIP will be prepared for each state fiscal year. The original LIP and ALIP for any fiscal year will be completed by October 1 of the preceding calendar year. See [Attachment 3.2](#) for the schedule of activities associated with the LIP and ALIP.

The LIP will contain all projects for which the DTSD will advertise and receive bids during the fiscal year regardless of program, type of funding or jurisdictional authority. It will include state and local improvement projects, and state trunk highway traffic and maintenance projects. The July 15 submittal shall have the "level of effort" entries replaced with actual projects. The ALIP contains only the state improvement projects (3R and Backbone) specifically scheduled with an early let date to achieve the department's advanceable program requirements for the fiscal year.

The preliminary LIP and ALIP will be generated from FIIPS. Regions must ensure that the schedule is the way they want it prior to the October 1 snapshot date. If any project must be let in a particular month or within a specific time period, the Region is required to submit a report to request that and explain why it is necessary. The report is due July 15 and is submitted by email using the format shown in [Attachment 3.3](#). Examples and some typical reasons for these types of restriction are shown in [Attachment 3.3](#).

The responsibility for developing the LIP and ALIP rests jointly with the regions and the PLP Committee. The PLP Committee will initiate the annual LIP and ALIP development process and will coordinate directly with each region, mega project teams and the backbone and major's committees. The region directors are ultimately responsible for PLP goal achievement.

The purpose in preparing the LIP and ALIP will be to compile a list of projects expected to be let or available to be advanced into each quarter of the fiscal year that meet the following objectives:

1. Complies with established program levels.
2. Reflects region allocations equitably.
3. Meets statewide quarterly and cumulative monthly dollar target ranges.
4. Provides a reasonable balance between quantities of earthwork, asphalt paving, concrete paving, base course and structures.
5. Complies with any statutory directives for project or program deliverables.

The first two objectives will vary from year to year. Pertinent information will be provided by the BSHP. The fourth objective will also vary depending upon historical quantities for each of the major types of work.

For the third objective, letting dollar levels will be established for the fiscal year and the percentage ranges shown in [Attachment 3.4](#) will be applied to determine the desired dollar level targets for each cumulative monthly letting total.

The PLP Committee chairs will negotiate with the regions as needed to bring the LIP and ALIP into compliance with the objectives above. It will request revisions from individual regions whose schedule of projects does not comply with program allocation limits. When schedule adjustments are needed to meet target ranges or when program revisions are required to produce an acceptable balance of quantities for major work items, the committee will contact all regions to solicit potential changes. It will evaluate all potential schedule changes and choose those that will produce an LIP and ALIP that best complies with the above criteria.

The PLP Committee is responsible for maintaining an updated LIP and ALIP should either region or centrally initiated changes are necessary. The Committee will work with the regions to determine the best method for achieving necessary changes.

3.3.2 Deliver Planned PS&Es and Early PS&Es

Regions are responsible for submitting PS&Es and Early PS&Es to central office on (or up to two weeks prior to) the dates specified in the LIP and ALIP.

If a region believes it will be unable to deliver a PS&E or Early PS&E for the quarter specified in the LIP or ALIP, the LIP or ALIP should be updated. The region should contact the PLP Committee chairs to initiate the substitution process or clarify delivery time. If the deferral will not seriously impair meeting the quarterly targets and if the project can still be delivered for letting within the fiscal year, the region may be allowed to reschedule the project without further action. However, if BPD and BSHP/OPFI feels the deferral threatens the ability to achieve a letting level within the target range, a substitute project will be requested.

The region requesting the deferral will be expected to produce the substitute project. In the event it cannot, the committee will ask all the other regions for potential substitutes. The substitute project(s) chosen will be the one(s) most similar to the deferred project and/or which best meet the criteria noted under "Develop and

Maintain the LIP”.

In addition to arriving at the central office by the due dates shown in [Attachment 3.1](#), PS&Es and Early PS&Es must be able to be let to be credited as delivered in compliance with the LIP or ALIP. The following criteria, defining projects that can be let, apply to all let projects.

1. The PS&E is complete. All the pieces are included, and individual pieces are complete.
2. Real estate acquisition must achieve status 1 or 2, as defined in the Real Estate Manual, within 45 days of the quarterly PS&E due date.
3. Utility parcels and agreements must be received by central office and be executed by both the state and the utility company within 45 days of the quarterly PS&E due date. Arrangements for non-compensable moves must be completed.
4. Railroad stipulations and agreements necessary to allow contract work to proceed must be received by the central office and must be executed by both the state and the Railroad Company within 45 days of the quarterly PS&E due date.
5. All permits must be issued and validated within 45 days of the quarterly PS&E due date.
6. All necessary reports and documents supplied to or approved by the central office must be received and approved by the quarterly PS&E due date.
7. The following actions regarding hazardous materials must be completed by the quarterly PS&E due date.
 - Site investigation (Phases 1 and 2) finished.
 - Remediation plans (Phase 3) developed for dealing with materials on the right-of-way and approved by DNR.
 - Contracts signed for remediation to be conducted independently of and concurrently with highway construction. Language informing bidders included in the special provisions.
 - Appropriate bid items and special provisions included in the PS&E when remediation will be accomplished under the highway construction contract.

The region shall document the above requirements have been met as detailed in FDM 19-1 [Table 1.1](#).

There may on occasion be valid reasons to consider an exception to these delivery guidelines. It is the responsibility of the party requesting the exception to contact the PLP Committee chair for approval of that exception. Otherwise all PS&Es and EPS&Es are expected and assumed to be compliant with the delivery guidelines.

3.3.3 Monitor PS&E Delivery and Report Progress

A region missing a quarterly PS&E due date will receive no credit for on-time delivery of the project either in that or any subsequent quarter. However, a project for which the PS&E fails to arrive by its quarterly due date will not necessarily be deferred to the next quarter for letting. If there is sufficient time to process it for its scheduled letting or a later letting in that same quarter, it will be let that quarter. If there is not sufficient time to process it for that quarter, it will be deferred to a later quarter. When a project is deferred to another quarter for failure to deliver the PS&E on time the LIP will be adjusted to show the project, but it will not be used to determine the success rate for the quarter performance will be measured and reported. They are the QPRR and the CMLR.

The QPRR will be used as an early warning device to identify non-compliance with LIP objectives and to alert management that special action may be required. The report will be prepared by the BSHP and sent to the PLP Committee, all regions, and division upper management within 15 days following the quarterly PS&E delivery date. The QPRR will be prepared four times a year for state projects, for local projects and combined. For each quarter it will list all of the projects on the LIP for that particular quarter and for which PS&Es arrived by the quarterly delivery date.

The second standard report, the CMLR, will be used to measure progress in achieving the LIP objective on a monthly basis.

The Ad Meeting Minutes will be prepared and distributed by the BPD by the end of the week in which each monthly ad meeting occurs, about six weeks prior to a letting, for the purpose of determining which projects will be advertised for that letting.

LIST OF ATTACHMENTS

[Attachment 3.1](#) Project Letting Process for Fiscal Year “X”

Attachment 3.2	Schedule for Establishing Annual Letting Implementation Plan (LIP)
Attachment 3.3	Sample Letting Restriction List
Attachment 3.4	Quarterly & Cumulative Monthly Goals

FDM 19-1-5 Proprietary Products

August 17, 2020

5.1 General

Competitive Bidding for WisDOT highway construction projects is conducted under the authority provided in Wisconsin Statutes 84.06(2)(a) Bids, Contracts. Contracts shall be awarded to the lowest competent and responsible bidder as determined by the department. Competitive bidding opportunity is required by Statute both for the award of the contract, and for the various products, materials and processes involved in the work.

A proprietary product is a product, specification, or process identified in the plans or specifications by a “brand” or trade name (e.g.: “Acme Pozzolan”). However, it may also be a product so narrowly specified that only a single provider could meet the specification, regardless of whether the manufacturer is named explicitly.

To best facilitate competition, effort should be made to use generic specifications written to obtain the desired results and at the same time assure full bidding opportunity for substantially equivalent materials, equipment, and methods. The contract specification of a proprietary product may restrict competition, and increase cost, as the pool of available products is reduced to the product specified. In some cases, however, the need for a specific product outweighs the need to procure products competitively.

The use of a specification issued by a national organization (i.e. AASHTO, ASTM) does not ensure that the specification is generic in nature. Designers should research the market prior to specifying products outside WisDOT standards, attempt to verify the number of potential suppliers during PS&E development, and determine the need for sole-source documentation on that basis.

5.1.1 Procurement Conditions

Proprietary products shall be procured in accordance with “Buy American” provisions under Title 23 CFR 635.410.

Uses of proprietary products that are 100% locally funded and competitively bid with a State/Federally funded project must follow documentation guidance under [FDM 19-1-5.3](#).

Use of proprietary products on a Project level is allowed without supplemental documentation if only proprietary products are acceptable and two or more proprietary products from multiple manufacturers are offered as alternatives. Specifications must include as many acceptable products as possible.

Proprietary products that fall under specifications for which the Department publishes Approved Product or Source Lists (See [FDM 19-1-5.5](#)), but which have not fulfilled the requirements for inclusion on those lists, shall not be specified for sole-source use on WisDOT projects.

Generally, sole-source specification of products already on Approved Product Lists should be avoided, as this increases cost. For 100% locally funded items or for systems that will be locally owned after construction, sole-source/proprietary electrical products from the Electrical Approved Product Lists may be specified with documentation per [FDM 19-1-5.3](#), using the synchronization criteria from [FDM 19-1-5.2.1](#). Any other proposed specification narrowing the pool of eligible products from a published Approved Products List should be coordinated with BPD Design Oversight Section.

5.2 Justification of Proprietary Applications

To facilitate compliance with the above statutory requirements, the Department has established a set of allowable conditions under which proprietary applications may be specified. Proprietary applications may be specified from a sole source with supplemental documentation per [FDM 19-1-5.3](#) under the following justification criteria:

5.2.1 Synchronization with existing facility

Synchronization is providing a product that matches current or desired characteristics of a project’s existing facility or inventory. Synchronization may be based on:

1. Function - The proprietary product is necessary for the satisfactory operation of the existing facility. An example of synchronization based on function would be replacing or addition to street signal controllers. Only one brand is compatible to the Municipality’s existing system.
2. Aesthetics - The proprietary product is necessary to match the visual appearance of existing facilities. An example of synchronization based on aesthetics would be selected Community Sensitive Solution

(CSS) products.

3. Logistics - The proprietary product is interchangeable with products in an agency's maintenance inventory. An example of synchronization based on logistics would be specifying a specific anchoring system for high tension cable barrier for which the maintaining agency only stock piles the proprietary product.

5.2.2 Unique Product or Single Source

A unique product with no suitable alternative(s) or "single source" means that after a product search, only one product is determined to be reasonably available for the required product, process, or construction item. Specifying "no suitable alternative" is documenting that only one product can perform a desired function or satisfy a need.

Example where a single source process may apply. A historic bridge requires specialty rehabilitation work. The project design team, after a search determines that there is only one supplier that can provide the replacement parts and still meet design requirements.

5.2.3 Best Interest of the Public (similar products may exist)

The following factors may influence use of a product in the best interest of the public.

- Specific needs and how the proprietary product best accomplish meeting those needs.

- Critical factors may include time to construct, availability, complexity to construct, impact to road users, safety issues, and innovation.

- Engineering and economic analysis to support the proprietary product. This may include product specifications/properties/performance/innovation that is consistent with the project needs.

- Compatibility or improved integration with other project items can support the use of the product.

- Advantages for production availability and distribution.

5.2.4 Department-Approved Research

This justification requires a research plan to exist within WHRP, FHWA (coordination with FHWA is not required for use of such research to justify specifying a proprietary product), or one of the WisDOT Central Office Bureaus. BTS-Materials will provide review of documentation necessary in the context of research justifications for proprietary applications.

5.3 Proprietary Product Documentation

5.3.1 Project-Level Proprietary Product Documentation

Region PDS prepares Proprietary Product documentation. Final accepted documentation shall be filed in the Region's Design Project & Contract Files. Final approval for project-level proprietary product applications lies with the Regional PDS Chief.

5.3.2 Statewide Proprietary Product Documentation

Proprietary products that will potentially see frequent statewide use over an extended period (i.e., a patented product essential for functional synchronization that is unlikely to become more broadly available) may be deemed eligible for Division approval at the statewide level.

The appropriate DTSD statewide bureau will develop and approve documentation for statewide proprietary products, based on where technical oversight of the product category lies. Coordination with BPD Design Oversight Section is required for final approval.

5.3.3 Documentation Format

Documentation for both Project and Statewide proprietary products shall be prepared using Form [DT1584](#).

Documentation for use of proprietary products based on best interest of the public should supplement the above with factors of influence found in [FDM 19-1-5.2.3](#).

Documentation for use of proprietary products based on active Department-approved research under [FDM 19-1-5.2.4](#) should supplement the above with research details as coordinated through BTS.

Multiple products representing components furnished under the same bid item from the same manufacturer, may be documented on the same [DT1584](#). Different bid items or manufacturers require separate documentation.

Proprietary products specified by change order require Proprietary Product documentation as outlined above.

5.4 Publication of Proprietary Product Lists

Under the above rules, the Department will maintain a Statewide Proprietary Product List that delineates

proprietary products and materials that are pre-approved at the Division level for use on WisDOT projects. Region-level documentation of project uses of Statewide proprietary products only need to include the approved list showing the product. BTS materials management section will update the list as new products are added and old products expire. The approved Statewide proprietary product list can be found at:

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/tools/appr-prod/default.aspx>

No list will be published for project-level uses of proprietary products. Regions are responsible for maintaining those records as part of the Design Project & Contract Files.

5.5 Approved Product Lists

WisDOT also maintains Statewide Approved Product Lists that consist of materials or sources for which Quality Assurance procedures under Title 23 CFR 637 are partially conducted on a Division-wide basis, and which are compiled and published by BTS materials management to facilitate project-level acceptance.

“Approved” in this context means that listed materials and sources have been tested and/or inspected to verify consistency of character or process relative to the applicable Department specifications. Approval does not confer implicit project-level acceptance of such materials or sources. Project-level acceptance of all materials is subject to applicable requirements contained in the contract.

5.5.1 Current Approved Product Lists

All approved product and source lists are available at the following link:

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/tools/appr-prod/default.aspx>

Approved product lists for Erosion Control items under Standard Specification Section 628, along with further guidance on product approval, are published here (also linked from the above primary site):

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/tools/pal/default.aspx>

Approved product lists for Electrical items under Standard Specification Sections 652, 653, 655, 657, 658, 659, 661, 670, and 673, along with guidance on product approval, are published here (also linked from the above primary site):

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/tools/prods/qpl.aspx>

5.6 References

Wis. Stat. 16.75 (2)(a)

Wis. Stat. 84.06 (2)(a)

LIST OF ATTACHMENTS

[Attachment 5.1](#) Example DT1584 Patented or Proprietary Product Justification

FDM 19-1-7 Use of Publicly Owned Equipment on Let Contracts

February 25, 2011

Publicly owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local public agency for highway construction purposes may be warranted or justified. Proposed use of publicly owned equipment must be supported by a CEF (see [FDM 3-5-10](#)). For federal oversight projects, the CEF requires FHWA approval.

Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the following conditions are met:

1. The proposed use of such equipment is clearly set forth in the PS&E.
2. The advertised specifications specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged, and the points of availability or delivery of the equipment; and

3. The advertised specifications include a notification that the successful bidder has the option either of renting part or all of such equipment from the State or local public agency or otherwise providing the equipment necessary for the performance of the contract work.

In the rental of publicly owned equipment to contractors, the State or local public agency shall not profit at the expense of Federal funds.

Unforeseeable conditions may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or local public agency after the work has started. Any such arrangement shall not form the basis for any increase in the cost of the project on which Federal funds are to participate.

When publicly owned equipment is used on projects constructed on a force account basis, costs may be determined by agreed unit prices or on an actual cost basis. When agreed unit prices are applied the equipment need not be itemized nor rental rates shown in the estimate. When the work is to be performed on an actual cost basis, approval for the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use is required.

FDM 19-1-9 State Owned, Furnished and Designated Materials for Let Contracts

February 25, 2011

9.1 Applicability

Applies to all Federal-aid highway construction projects. References: 23 U.S.C. 112 and 23CFR 635.407

9.2 Guidance

Current FHWA policy requires that the contractor shall

1. Furnish all materials to be incorporated in the work and
2. Be permitted to select the sources from which the materials are to be obtained.

Exceptions to these requirements may be made when there is a definite finding, by the STATE or Local Public Agency and concurred in by the FHWA that it is in the Public's Interest to require the contractor to use materials furnished by the STATE or Local Public Agency or from sources designated by the STATE or Local Public Agency. The exception policy can best be understood by separating State-furnished materials into the categories of manufactured materials and local natural materials.

A CEF justifies that State owned, furnished and designated materials is in the public's interest. For all federal oversight projects, the CEF must be approved by FHWA.

9.2.1 Manufactured Materials

When the use of State-furnished manufactured material, such as materials for lighting and traffic signals, is approved based on a CEF, such use must be made mandatory. The optional use of State-furnished manufactured materials is in violation of Federal policy prohibiting public agencies from competing with private firms. Manufactured materials to be furnished by the State must be acquired through competitive bidding, unless the CEF justifies another method.

9.2.2 Local Natural Materials

When the State owns or controls a local natural materials source, such as a borrow pit or a stockpile of salvaged pavement materials, or flyash, etc., the materials may be designated for either optional or mandatory use; however, mandatory use will require a CEF.

To permit prospective bidders to properly prepare their bids, the location, costs, and any conditions to be met for obtaining materials that are made available to the contractor shall be stated in the bidding documents.

9.3 Mandatory Disposal Sites

Normally, the disposal site for surplus excavated materials is to be of the contractor's choosing; although, an optional site may be shown in the contractor provisions. A mandatory site shall be specified when there is a finding by the STATE or Local Public Agency that such placement is the most economical or that the environment would be substantially enhanced without excessive cost. Discussion of the mandatory use of a disposal site in the environmental document may serve as the basis for the CEF.

Factors to justify a CEF may include such items as cost effectiveness, system integrity, local shortages of materials and environmental considerations.

<u>Responsibility</u>	<u>Action</u>
Region PDS and Local Program Management Consultant	Prepare a CEF justifying State owned/furnished/designated materials. Obtain approval signature from Region Director or designee. Request review and approval from BPD-Statewide (If project is On-System send to Oversight Engineers if project is local send to Chief Local Project Delivery Section) Document CEF approval dates in the DSR, and PS&E Plan letter. Document Mandatory Disposal Sites approved in the Environmental Document in the DSR and PS&E Plan Letter.
BPD – Statewide Bureaus	Review and if appropriate approve the CEF. For Federal Oversight projects forward the CEF to FHWA for final review and approval. Return the approved CEF to the Region.

FDM 19-1-11 Expedited Lettings

May 17, 2021

11.1 Selecting an Appropriate Contract Type

Most of the department’s projects are let using the normal PLP. The PLP utilizes a quarterly production schedule, which helps the department achieve its quarterly letting goals shown in [Attachment 3.1](#).

When there is insufficient time to develop a PS&E package, because the roadway is damaged or jeopardized by flooding, structure failure, landslide, or another extraordinary condition, emergency repairs may be necessary using an emergency contract. The HMM contains criteria for emergency contracts, and information on how to process them in section 3.1.20, Emergency Work,

<https://wisconsin.gov/Documents/doing-bus/local-gov/hwy-mnt/mntc-manual/chapter03/03-01-20.pdf>

Note that emergency contracts are not synonymous with ER contracts. ER contracts are contracts funded under the Federal Emergency Relief Program and may include emergency contracts, expedited contracts, or regular, competitively-bid contracts for either emergency or permanent work.

In special circumstances and only when the department has an urgent need to let a project, an expedited letting process may be used if the BPD provides prior approval. This process may only be used if the region has enough time to:

- Have previously submitted the PS&E package to BPD, and has addressed all concerns raised,
- Submit a complete PS&E package,
- Secure sufficient funds and verify the funding source(s) with the DTIM’s Fiscal Services Section,
- Clear all utility and railroad interests, and
- Purchase all required right-of-way.
- Have previously coordinated with BOS to ensure all structure plans have been submitted to BOS with adequate time to review plans, and all concerns raised have been addressed.

A decision matrix is provided in [Attachment 11.1](#) that may be used when determining which letting process is needed for a particular project.

11.2 Expedited Letting Documents

A project being let using the expedited letting process is an exception. In addition to the previously mentioned criteria, an expedited project with federal funding will only be allowed if FHWA agrees to participate and has approved all environmental documents, the TMP, and PS&E documents.

The Emergency/Expedited Justification form must be submitted to initiate either the emergency contract or expedited letting process. The Emergency/Expedited Justification form can be found in the HMM section 18.20, Emergency Work, attachment 1.

The region must submit all exhibits that are required for a regular let project, i.e., the plans, estimate, special provisions, plan letter, project time chart, and utility, railroad, and right-of-way certifications. All utility, railroad, and right-of-way interests must be clear before submittal. There will be NO exceptions.

11.3 Final PS&E Review Process

By email, the Central Office Proposal Management Section will initiate the expedited letting process by notifying everyone involved in the proposal preparation and letting process, region and statewide bureau directors, the Secretary’s Office, and the Governor’s Office. The Proposal Management Section will establish a PS&E and

letting date. The PS&E date established by BPD will take into consideration the time necessary to review all PS&E documents and advertise the project.

If federal funding is being used to finance the project, the region will confirm with DTIM that FHWA will participate and will notify the Proposal Management Section Chief that there will be federal participation. The region's SPO section initializes the design project in FIIPS and requests authorization, and contacts their Regional Oversight Engineer and, if the project will have federal funds, FHWA's Field Operations Engineer to coordinate the completion of all project reviews.

The region is responsible for completing all environmental, TMP and permitting processes, identifying construction administration resources, and completing all project documents including the estimate in AASHTOWare Project Preconstruction. When e-submitting the PS&E package to BPD-Project Services Section, the designer must enter "expedited letting" in the comment field and check the "ExLet" box on the e-submit form, and provide the name and contact information of a project person, who will be available as needed during plan checking, proposal preparation and review, and letting stages.

Upon receipt of the PS&E package, the BPD will review the submitted plans, estimate, and special provisions, create the proposal, and will establish a letting in AASHTOWare Project Preconstruction™ and Bid Express. Every effort will be to include the expedited project in an already established letting. If federal funds are being used and the project is designated design oversight, BPD will submit the PS&E to FHWA for approval. If the contract is designated construction oversight, the proposal will be labeled as such.

Before advertising the project, an "Ad Meeting" teleconference will be held. Instead of advertising the proposal for 5 weeks, the advertisement period for a normal let project, the expedited proposal will be advertised for a period of 3 weeks or less. For federal aid projects, FHWA must approve of advertisements less than 3 weeks in duration. BPD will place a special letting notice on HCCI and Bid Express web sites, and will place the proposal and plan on the special lettings web site. BPD will not print any paper copies of the proposal nor will it print and distribute CDs to contractors. Proposal Request forms must be submitted before 10:00 AM, the day prior to the letting. All bids must be submitted electronically.

BPD will open the bids at 9:30 AM on the day of the letting and will post bid results to Bid Express and HCCI. The Proposal Management Section will analyze the bid results, seek concurrence in award from FHWA, if appropriate, and award the contract. The department will process the DT25 form and forward it to the Governor's Office.

The successful bidder will submit the required contract documents. After award, the Design and Construction Technologies Support section will transition the proposal from AASHTOWare Project Preconstruction™ to AASHTOWare Project Construction™. At the completion of the transition process, the region will receive a system generated email notification that the process is complete, The Proposal Management Section will execute the contract in AASHTOWare Project Construction™. Proposal Management Section will execute the contract, notify the region, and send the contract to the appropriate FieldManager account.

11.4 Timing

Since Expedited Lettings happen so quickly, good communication is essential. The actual schedule will be modified to meet the project's needs. The advertisement period will typically be from one to three weeks. The following graphic depicts one possible Expedited Let schedule.

STATE FUNDED ONLY

Work days required for task	Work Days							
	1	min. of 5 days*	3	15**	1	1	5	
Expedited Bid Request Form Submitted		█						
PS&E Development	█	█						
Proposal Development			█					
Advertisement & contractor bid prep.				█				
Letting					█			
Analysis and Award						█		
Contract Execution							█	

* the region must submit the Expedited Letting Request form at least 5 work days before the anticipated PS&E date

** the ad period may be reduced, check with the Proposal Management Section

WITH FEDERAL FUNDING

Work days required for task	Work Days						
	1	min. of 5 days*	3	15**	1	2	10
Expedited Bid Request Form Submitted		█					
PS&E Development	█	█					
Proposal Development			█				
Advertisement & contractor bid prep.				█			
Letting					█		
Analysis and Award						█	
Contract Execution							█

* the region must submit the Expedited Letting Request form at least 5 work days before the anticipated PS&E date

** the ad period requirement is 3 weeks, shorter advertisements require FHWA approval

LIST OF ATTACHMENTS

[Attachment 11.1](#) Selecting a Contract Type