

PEPS Fireside Chat Question & Answer Summary

Invoice Impediments – March 2023

Q1: What about a supplemental invoice? Can a separate invoice be submitted to supplement a previous one, if charges like a subprovider invoice were left out?

A1: While not ideal, a supplement can be submitted. To identify the invoice as a supplement, the prime consultant must use the same invoice number being supplemented on the invoice appended with the suffix "-SUPP", such as Invoice No. 123456-SUPP. These are not subject to the 30-day rule requirement but should be submitted no later than 90 days as specified by the terms and conditions of the contract.

Q2: TxDOT Project Managers normally do not provide data for the invoice. How do we get them from PEPS?

A2: The TxDOT PM should be providing the basic information for the submission of the invoice, such as the chart of accounts (payment) codes.

Q3: If you fall behind on invoicing for any reason, how do you catch up if you can only submit one invoice every 30 days and if you don't allow combining of invoices?

A3: TxDOT does allow the submission of invoices that contain more than one month. However, they shouldn't go further than 90 days (3 months).

Q4: Smaller firms do not have the accounting capabilities like the large firms to do the invoicing, as a result the PM working on the project prepares the invoice. For specified rate contracts, this is a time-consuming effort that TxDOT considers OH. Because TOD invoices require timesheets and other ODE receipts, the effort required should be chargeable as it is a project function and not overhead.

A4: The accounting costs associated with the preparation of invoices is normally part of the overhead costs and is recouped by the consultant as part of the overhead when billed.

Q5: If TxDOT requests significant delays or puts projects on hold, will escalation (cost increases) be considered in that situation? In those situations, increases in contract value may be needed and out of the control of the consultant.

A5: If the project is delayed, then a supplemental may be needed to extend the term of the work authorization. However, if the work authorization term is still within the term of the contract, then no escalation beyond what has been included in the contract will be considered. If the term of the contract requires an extension, then the Department may consider a request for escalation.

Q6: When a Prime gets behind a month on their billing, is it okay for the firm to submit a combined invoice for 2 months to catch up? And should the totals of the 2 months be rolled into one single combined Invoice Template?

A6: Yes, a consultant can roll both months into a single invoice and combined on a single invoice template.

Q7: Just for clarification again - we have consultants that are telling us they can bill per diem, though we have told them they cannot. On a specified rate you cannot bill per

diem, correct?

A7: That is correct. While we are not requesting meal receipts to be submitted, all that should be billed is the actual cost of the meals. The TxDOT project manager may ask for meal receipts on a periodic basis to spot-check or TxDOT may conduct an audit. So, both the prime and subprovider must be maintaining their receipts.

Q8: Will a Work Authorization Manager be considered for a rate category?

A8: No, TxDOT will not be creating a labor category for a work authorization project manager. They are to bill at their appropriate labor category.

Q9: How does submitting a supplemental play into the 30-day rule? Can you submit multiple supplementals for the same project within the same month?

A9: The 30-day rule being referenced is associated with the submission of invoices, which is not more frequently than monthly. It is not connected to a supplemental agreement or supplemental work authorization.

Q10: When the contract has a fixed rate on mileage at say .525, with mileage rates fluctuating, are subs still able to invoice at the current state rate? I have some contracts where the mileage rate is fixed at a lower rate and the PM didn't think they could charge at the current rate since the contract had it a fixed rate. Is the sub consultant allowed to charge at the current rate even if their WA shows fixed rate, which is lower?

A10: If the mileage in the contract was negotiated at a fixed rate, then that fixed rate must be used, regardless of whether the state rate fluctuates. If the contract mileage rate is negotiated as the "Current State Rate" then the consultant may bill at the current state rate in the work authorization.

Q11: Can consultants request to include ODEs and Unit Costs as Lump Sum Costs instead of Unit Cost/Specified Rate?

A11: No. These are different payment types.

Q12: Will the firm submit monthly invoices even if the invoiced amount is small, in the order of a few hundred or a \$1000?

A12: A firm has to weigh its processing costs, while they can submit small invoices, it may be more economic for them to combine a small charge occurring in a single month with more costs in the next month's invoice.

Q13: Can we charge for invoicing at all – maybe by calling it different names?

A13: No. A consultant cannot charge for services that are not billable as direct labor by calling them by another name.

Q14: How would you know it is actual cost on per diem unless we provide receipts? Our PEPS reviewer always requires receipts.

A14: TxDOT is not requiring meal receipts to be submitted with every invoice. However, the TxDOT project manager may periodically ask for meal receipts for verification purposes, or an audit of the information may be conducted. While not requested, all meal receipts must be maintained for audit purposes.

Q15: If the District requests firms to come into the District for a Consultant meeting/workshop, can the firm bill for the travel expenses associated to attend this meeting?

A15: Yes. If it appears that more meetings will be required than is budgeted in the work authorization, a supplemental work authorization should be completed to ensure those extra costs are captured.

Q16: It was mentioned that we could transfer small amounts of funds between function codes. Does this include between FC 130 and other Function Codes because FC 130 is Strategy 111 budget and others are Strategy 102 budgets?

A16: Yes. While these budgets are from different strategies small (minor) amounts can be transferred between. If these move beyond minor, then a supplemental work authorization must be completed. Changes of 10% or less can be considered a minor change.

Q17: How cumbersome is it to add a rate category to an ID contract?

A17: Adding a rate category requires a supplemental agreement to be processed.

Q18: How does a prime confirm that a sub is not just billing per diem, or is that something TxDOT will address, and the prime should not worry about verifying?

A18: As stated, TxDOT is not asking for meal receipts to be submitted with invoices. However, the TxDOT project manager may request them periodically or they may be requested as part of an audit. While it was not the intent of a prime to police this requirement, a prime may request them of their subproviders.

Q19: For lump sum, actual work does not match percentages of FCs shown in Table of Deliverables (TOD) for an invoice? Can we adjust these percentages to reflect actual work completed? This is for intermediate invoices where the FC is not fully completed and delivered. For sure, at milestones such as 30%, 60%, etc., the consultant will get cumulative fees as per the TOD. Can we adjust percentages for intermediate invoices?

A19: The TOD specifies what deliverables must be submitted for payment. Those deliverables are fixed and cannot be modified outside of a supplement to the work authorization.

Q20: How can we get setup for receiving notifications of all trainings/seminars for invoicing, etc.?

A20: Notifications will be posted on this link <https://www.txdot.gov/business/peps/training-and-events.html>, along with email notifications.

Q21: What recourse do we have when an invoice has been submitted but PEPS says they cannot locate it? Once you provide a copy of the invoice submittal email, you are instructed to resubmit and the 30 days start with the resubmittal date instead of the initial invoice submittal date.

A21: Work with the PEPS Invoice Center on that submittal. If the submittal can be confirmed, then it will not count against the 30-day requirement.

Q22: Can we question a sub consultant when we see they are, for example, billing per diem rate for 2 people for 10 days straight. Where we see this can cause a possible audit because they are saying their people actuals are exceeding the max every day every month. Thus, billing per diem.

A22: In that unique case, the prime may opt to submit the meal receipts with the invoices to document the situation.

Q23: I ran into some instances with a consultant where they disputed that the language in

the scope required invoice preparing, therefore they should be able to charge for invoicing. Can the language in the contract be changed to clarify invoicing is not payable?

A23: The scope contains both tasks and instructional language. The task items are payable, and the instructional items are not. Instructional items such as where to submit an invoice, use of function codes, and the required template to be used are not payable items. Additionally, the cost for preparation of invoices is included in the overhead costs and is recouped by the consultant as part of the overhead when billed. Thus, the consultant is being paid for the preparation of invoices.

Q24: Is there a way to get confirmation from PEPS that our invoices are being received when they are submitted? I have had several instances where we submit an invoice and come to find out PEPS never received the invoice when we request a status update. We do not get undeliverable messages, so we have no way of knowing if an invoice was not received. Is there a way to get a confirmation?

A24: On the first invoice submitted, the Department's Outlook email system will send an automated response, but not on subsequent submissions. The consultant can put a read receipt request on the email, which can trigger a response. The Department is working on a new process flow system that will automatically generate a response with each submission. More information to follow as that system is completed.

Q25: Can we build the Table of Deliverables such that each deliverable's line item is broken down by Function Code AND by each team member's (prime and sub) portion of that Function Code? Example: line 1 – FC 110 for Prime, line 2 – FC 110 for Sub 1, line 3 – FC 110 for Sub 3, etc. This provides maximum flexibility for billing. Some Districts have allowed this, others have not.

A25: A TOD is negotiated between the prime and the District or Division (D/D). So, how a deliverable is determined is up to the D/D and consultant to determine. However, once established in the agreement, it can only be changed through a supplemental.

Comments:

- I am happy to hear that TxDOT is considering the TODs will be moving over to percentage versus milestones, thank you.
- Please prioritize rate escalation in your workgroups. Labor inflation in 2022 and 2023 has far outstripped any rate escalation provided by TxDOT.