

Force Account Guidance

1. Introduction

Force account work/services generally consist of professional services, construction, rehabilitation, repair or demolition that is performed by municipal or county employees.

In most instances an entity contracts with engineering and/or construction firms to perform project related work or services. However, TWDB funding programs permit limited use of the force account method wherein the entity may use their own employees, materials, and equipment to perform inspection and/or minor construction.

An entity must obtain prior written approval from the Texas Water Development Board (TWDB) to use force account labor in lieu of sub-agreements. This approval should be requested as soon as possible, preferably with the application for funds.

Force account work is not subject to Davis-Bacon Act (Act) wage requirements because governmental agencies and States or their political subdivisions are not considered “contractors” or “subcontractors” within the meaning of the Act. Since the entity is using its own employees, it is not required to pay the minimum prevailing wage of that region as prescribed by the Department of Labor.

2. Required Information

The entity must submit the following information with their request for approval of project related force account work/services:

- a. Description of the work/services to be performed.
- b. Justification for doing the work by force account: document that the work can be accomplished more economically by use of force account than by hiring a contractor or consultant or demonstrate an emergency situation which demands the use of force account work. The entity should estimate all anticipated force account costs (including salaries of administrative employees, travel expenses, etc.) in order to document cost effectiveness and allow an eligibility determination of the costs.
- c. Certification that personnel performing the work are employees of the entity. If the entity desires to hire temporary workers, consult with the TWDB project engineer/reviewer or regional team manager assigned to your project as this may not be an eligible activity under some funding programs. If allowed and temporary workers are hired, certify that the employer’s policies for temporary employees will be followed.
- d. Identification of each individual who will perform the work by name, qualification, and responsibility.

- e. Acknowledgement that the proposed personnel and the entity possess the necessary competence required to perform the work/services. Include details of experience with projects of like or similar nature.
- f. Acknowledgement that the personnel can schedule and accomplish the force account work in a timely manner.
- g. Provide evidence of a proper record keeping system to assure the TWDB of the entity's ability to ensure that all project charges (i.e. materials, supplies, equipment, labor costs, etc.) are actually used in connection with the project.
- h. Affirm that adequate insurance will be maintained. Adequate insurance is the same as that insurance covering such construction or project work as is customary and appropriate including fire and extended coverage, worker's compensation, public liability and property damage, and "all risk" as required by local or state law.
- i. Justify any indirect cost figure that is going to be used as part of the costs billed to the project. The TWDB will accept the rate or rates that are established in other current indirect cost agreements with other state or federal agencies, or the applicant may submit its own documentation of indirect rates for review by the TWDB.

3. Limitations on the use of Force Account Construction

The use of force account construction is limited to a situation with the following characteristics:

- a. minor construction of items above grade, 0 to 5 feet below grade, or inspection services;
- b. a documented track record of successfully completed projects; and
- c. a documented track record of sound financial management including record keeping.

4. Requests for Payment

All requests for payment that include force account costs must include:

- a. a map of the project area that clearly identifies the areas where work has been completed, the areas where work is included in the current request for payment, and the areas where work will be performed in the future; and
- b. adequate back-up documentation (invoices, time sheets) to support the requested amount.

5. Other Information

The following information should be recorded and available for review during the project, and must be available for the auditor at the conclusion of the project:

- a. The methods of timekeeping and time-checking, methods for establishment of wage scales, and mechanics and methods for establishment of salaries of supervisory employees (e.g., sample time sheet, proposed wage rates and an explanation of the methods for determining those rates and other necessary information). These items should be made available as soon as possible.
- b. A complete estimated cost schedule showing:
 1. the number of work hours and cost per hour for each category of labor; and
 2. a list of non-salary costs such as materials, supplies, equipment owned by the entity, equipment that must be rented, etc.
- c. Cost for use, repair and overhaul of entity owned equipment, rental rates for rental equipment (including when rental rates begin, apply and end), and the extent of allowability of repairs and overhauls (precise wage records for such equipment must be maintained).
- d. An accounting of the write-off depreciation of small tools and other expendable items or equipment.
- e. An accounting of any salvage value and adjustment of costs in connection with unused material and tools left over on completion of the work.

(NOTE: TWDB Reviewer, see TWDB-0704 for Check Sheet)