



# Procurement and Contract Administration Challenges

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Safety: Mission

**ZERO**

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Striving for Zero Incidents; Zero Fatalities  
& Zero Lost-Production Days! How?  
Buckle your seatbelts, No Distracted  
Driving, Drive the Speed Limit and Never  
Drink and Drive!



***Safety Never Stops!***

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# Objectives

- **DEFINE THE CHANGES IN THE PEPS ORGANIZATIONAL STRUCTURE**
- **IDENTIFY THE CHALLENGES ENCOUNTERED DURING THE PROCUREMENT PROCESS FOR ALL PARTIES.**
- **IDENTIFY THE CHALLENGES ENCOUNTERED DURING THE CONTRACT NEGOTIATION PROCESS.**
- **IDENTIFY THE CHALLENGES ENCOUNTERED DURING THE CONTRACT ADMINISTRATION PROCESS.**

# PEPS Leadership Team

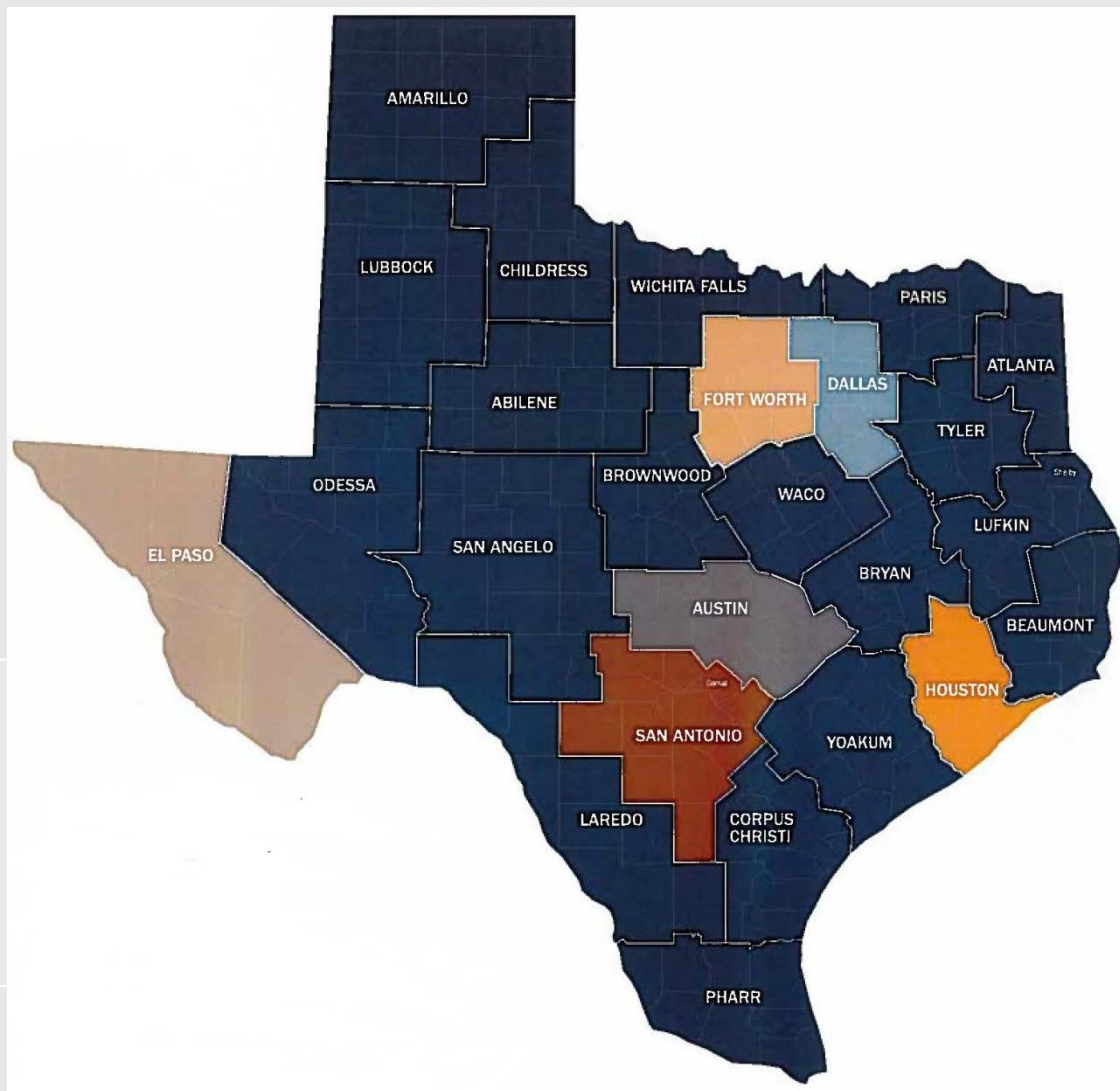
-  Austin Service Center – Charles Davidson
-  Dallas Service Center – Joseph Jancuska
-  Fort Worth Service Center – Norma Glasscock
-  Houston Service Center – Gail Morea
-  San Antonio Service Center – Kori Rodriguez
-  El Paso Service Center – Efrain Esparza
-  Central Service Center – Jaime Vela Jr.  
Note: The Central Service Center services TxDOT divisions and the remaining 19 districts.

**Division Director – Martin L. Rodin**

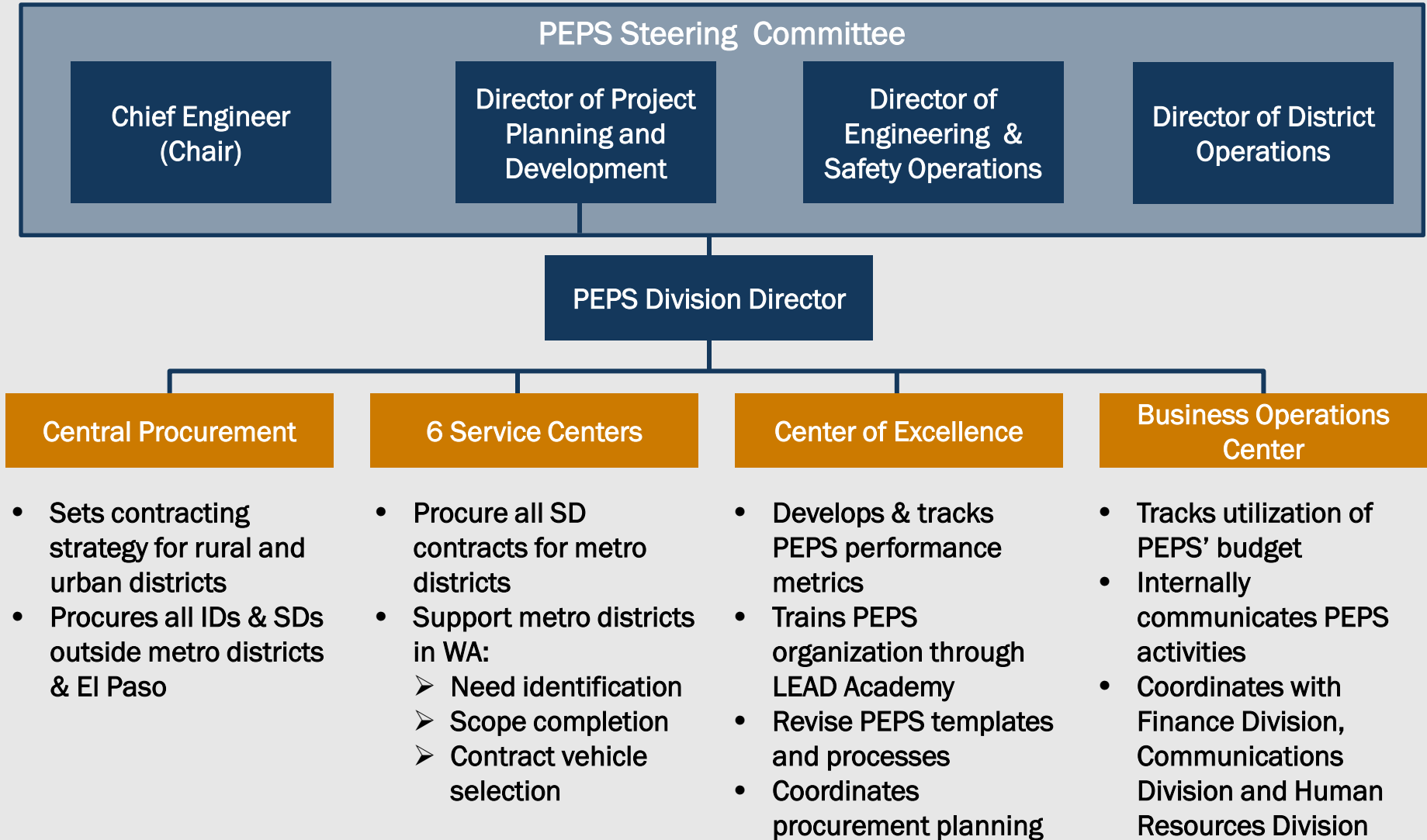
Deputy Division Director – Lucio Vasquez

Center of Excellence – Dan Neal

Business Operations Center – Roy Gonzales



# PEPS Division Organizational Structure





# Procurement Roles and Responsibilities

## ▪ Role of the District or Division

- Identifies Project Need
- Participates on Consultant Selection Team (CST)
- Develops Contract goals & vendor characteristics
- Develops robust questions and responses for Statement of Qualifications (SOQs); and, if applicable the interview as well
- Reviews and scores SOQs
- Top ranked firms are identified for contract award based on CST scores .
- Federal and SD contracts require interview process and the top firm(s) are awarded contracts based on the outcome of the interview.

## ▪ Role of PEPS Service Centers

- Guides the District thru the procurement process
- Identifies type of procurement based on district needs
- Posts the Request for Qualifications
- Aids the CST in the development of robust questions
- Screens the SOQ packages
- Issues the Interview & Contract Guide should the procurement process require an interview
- Awards the contracts based on the scoring results from the CST
- Publishes the firm rankings for all qualified firms
- Negotiates the staffing levels and rates
- Builds the contracts and processes for execution.
- Debriefs (Group vs firm face to face)

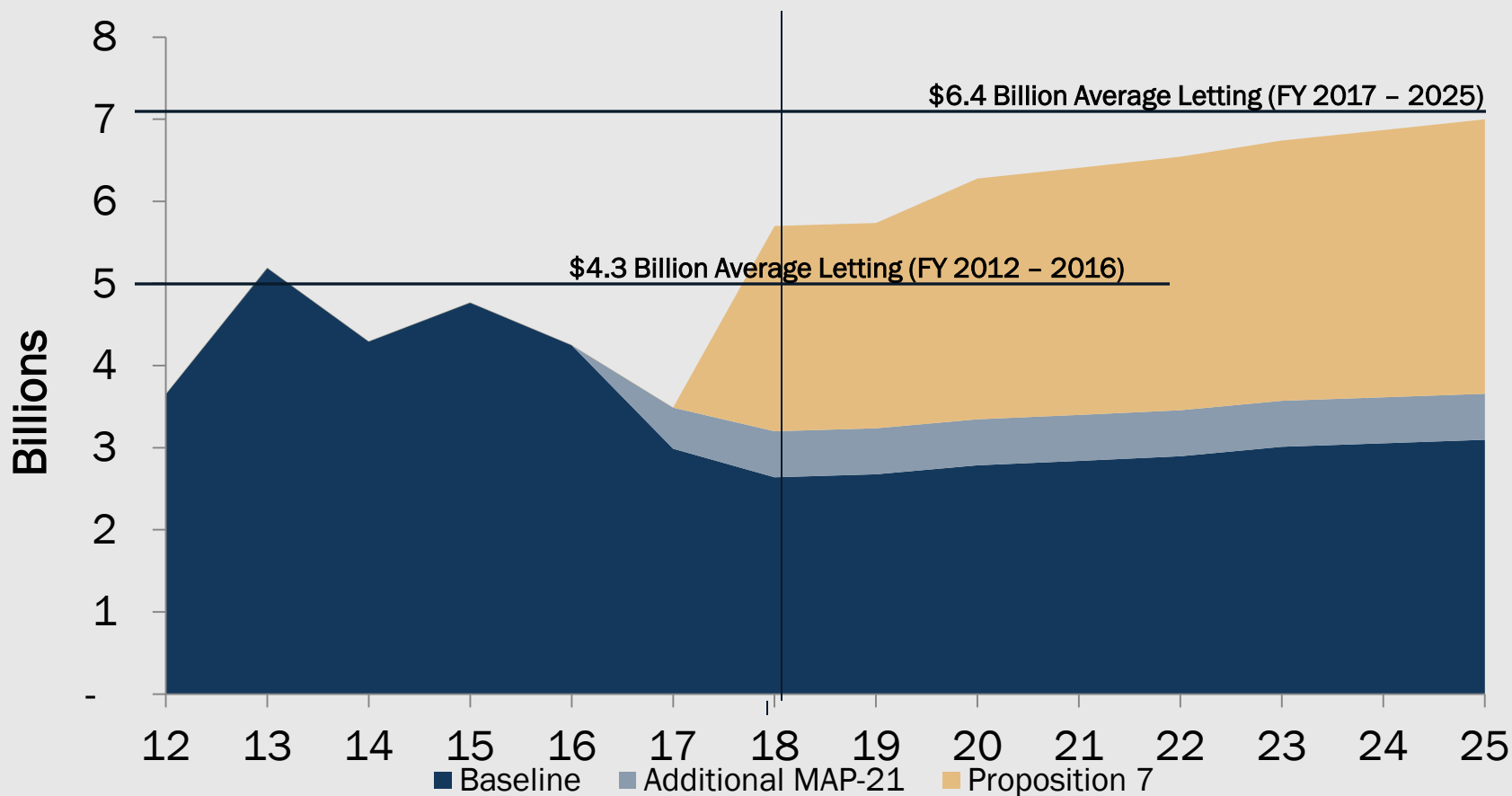


# CHALLENGES DURING THE PROCUREMENT PROCESS

- Dollar Volume and Number of Procurements needed to meet TxDOT's future demands
- Senate Bill 20
- Administrative Qualifications
- Disqualifications
- Restrictions
  - Preclusions
  - Core Team
- Consultant Competition

# Future Letting Volume

**Prop 7 Will Significantly Increase Letting Volume**



# PROCUREMENT CHALLENGES

- **SENATE BILL 20 EFFECTIVE 9/1/2015**

- **Procurement & Negotiations Impacts:**

- ✓ Individual approves or performs materially relevant step in the opportunity to “steer” or select a firm.
    - ✓ Individual negotiates or approves price or terms
    - ✓ In effect until second anniversary of the date the employee’s service with the state agency ceased
    - ✓ Doesn’t include handling administrative matters.
    - ✓ Prime contracts only effective on or after 9/1/2015
    - ✓ Not Supplemental agreements or work authorizations
    - ✓ Is this monitored?
    - ✓ Impacts to the CST?

- **Administrative Qualifications (AQ):** An engineering firm has an indirect cost rate that meets department requirements. Firm should submit a new CPA audit by June 30<sup>th</sup> each year. Note exceptions to AQ requirements.

# DISQUALIFICATIONS

## Current Conditions

- Administrative Qualifications (AQ)
- Standard TxDOT precertification errors
- DQ for NLC experience
- DQ due to preclusion or potential conflict of interest
- Confusion regarding self performing HUB requirements

## Improvements

- Better education of AQ requirements and future automation
- Improved PTC form screening out this wave
- Converting NLCs to standard precerts and simplifying requirements
- RFQ published precluded firm names
- Better education of requirements to self perform all work for Prime HUB credit

## Key Takeaways

- PEPS goal is for ZERO disqualifications
- Improved screening process with updated PTC forms
- Automation upcoming!



# RESTRICTIONS: Preclusions

## Policy

- OGC is responsible for defining what a conflict is for TxDOT
- Preclusions are finalized by PEPS Division Director
- If conflict is identified, e-mail notification will be sent out to prime and subs
- Preclusion statements will be listed in the RFQ with the affected firm names

**Conflict of interest** - a situation in which competing interests may exist (a firm or individual).

- On CEI contracts, consultants involved in PS&E and supporting services cannot inspect their own work on the same project
- Consultants performing utility engineering services cannot inspect their own work through a third party contract (e.g. city, utility providers) on the same project
- Consultants preparing schematic and ENV documents cannot pursue PS&E work unless the schematic and ENV documents are approved by the time of RFQ advertisement

## Key Takeaways

- Preclusion is the only tool currently used by TxDOT to manage conflicts
- **PEPS is currently studying alternative mitigation strategies**
- Preclusion firm names will be published in future RFQs



# RESTRICTIONS: Core Team

## Typical Use

Core team restrictions are typically used on specific deliverable (SD) contracts for the following contract disciplines:

- CEI
- PS&E
- Transportation Planning

Typically not used on ID contracts, but may be used if there is a need for independence or anticipated high utilization.

## Purpose

- To manage the Project Manager availability, for anticipated high utilization on a single contract.
- To manage core team members availability, when it is anticipated that those members will be highly or fully utilized on a single contract.

## Key Takeaways

- Applied where utilization of the core team members is anticipated to be high
- Applied to specific procurements identified within the RFQ and only for that wave
- Restriction does not prevent a project manager or core team member from pursuing other contracts (such as ID work)



# CONSULTANT COMPETITION AND ITS CHALLENGES

- Showcase your PM and task leaders by focusing on details, challenges, their resolutions while identifying best practices.
- Present innovative ideas or alternatives.
- Use your best examples and give credit to the firm that performed the work under your team, as applicable.
- Be clear, concise and technical.
- Take ownership!
- Maintain Administrative Qualifications!
- Maintain firm's Active status in CCIS database
- Verify Task Leaders are pre-certified in standard work categories.
- Check that all mandatory forms are in your package!
- Keep alert to amendments!
- Use space wisely, it is not for marketing!
- QA/QC the SOQ by referring directly to the RFQ to avoid disqualifications.
- Watch out for HUB and DBE requirements!



# NEGOTIATION CHALLENGES

- Remember it is **state and federal** law which mandates TxDOT negotiate fair and reasonable rates and the subsequent costs!
- Turnaround times for counters should be flexible but within reason.
- Take ownership of the rate negotiations! What services are you providing TxDOT? Is the method of payment correct? Ask your PEPS negotiator!
- The Scope of Services-Clearly understood by all? Is everything needed?
- Work Schedule
- Consider the work breakdown structure needed to perform the services. What is the division of labor being used by the provider?
- Cutting the scope of services that were advertised to meet a cost is unacceptable.
- Best interests for all lie in reaching a mutual agreement! A deadlock is a loss for everyone.

# CONTRACT ADMINISTRATION CHALLENGES

- Being in a bind doesn't justify using a contract inappropriately.
- Indefinite deliverable work authorization scope of services must comply with the general scope of the contract. It is not intended that it be used for practically anything.
- Clearly identify the anticipated deliverables expected in the scope of services
- Remember Work authorizations can't be issued for stand-alone non-engineering work and to do so represents a circumvention of contracting laws.
- Provider and TxDOT PM should monitor budget and time as the project progresses.
- Change in scope of services meaning new work or a time extension require a contract amendment. Can't bill for services that are beyond the termination date of the work authorization or that aren't in the work authorization.

# CONTRACT ADMINISTRATION CHALLENGES

Audit Performed by State Comptroller's Office

**Findings: 42% of the firm's we do business with have failed to input their monthly HUB/DBE Monthly Progress Assessment Reports (PAR's) into the PS-CAMS Portal**

## Key Takeaways

- **Bring your HUB/DBE Monthly PARs into compliance meaning up to date!**
- **Remember input is required on a monthly basis!**
- **Failure to comply means invoices may not be processed until this is rectified.**

# Invoicing Challenges-Pitfalls to Avoid

- Number One reason for an invoice to be rejected?
- **Close Second: Services provided outside the termination date of the work authorization.**
- Each Work Authorization (WA) issued “authorizes” the rates, staffing, scope of services and expenses.
- Method of payment identifies the expectations and invoice template to use.
  - Lump Sum is paid by the Table of Deliverables located under Exhibit D of the WA
  - Specified Rate (contract rate-loaded) and Cost Plus Fixed Fee (raw labor rate)- both are actual hours worked and expenses incurred as long as the **MAXIMUM AMOUNT PAYABLE** isn't exceeded
  - Unit Cost is by test, survey crew or boring, etc.
- Invoice straddles fiscal years
- Remember TxDOT has the right to ask for evidence of actual hours worked, travel expenses, etc.
- TxDOT PM isn't in agreement with services and the costs incurred

## Key Takeaways

- **Practice good project management!**
- **PM/Accounting staff need to be familiar with the terms of the contract and work authorization.**

# Typical Questions Providers Ask About Invoicing

- Other Direct Expense billings:
  - Can I bill for an expense not found in contract and/or work authorization? No
  - Can I bill for an expense whose rate is more than maximum rate shown in the contract? No.
- Can I invoice for a staff position not in the work authorization? No.
- Can I invoice for two Project Managers? No.
- One of my employees (Administrative) just received a merit and their rate is no longer covered within the range for their staffing level, can I bill this employee at another staffing level (CADD Operator or Engineer Tech) to cover their rates? No.
- Can my firm invoice for a sub-provider not part of the contract yet they performed work on the project? No.
- My firm signed a sub-contract with one of the sub-providers and agreed to pay a higher rate than my contract with TxDOT. Can we invoice TxDOT for the higher rate? No.
- Can the prime apply a handling fee or pass thru fee for subs invoices? No.

# Future Alerts !

- Ongoing Improvements to the PTC form
- Standard NLCs are being converted to standard pre-certified work categories.
- More alignment with the FHWA on Federal Process leading to RFP Proposals
- Stay tuned to anticipated Future Improvements by Martin L. Rodin, P.E., PEPS Director



# Thank You!

- Questions?

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