

PROBLEM STATEMENT

NCHRP 20-6, Combined Statement of Work Study Topic 13-3, Civil Rights Section; Study Topic 13-4, Constitutional Law Section; Study Topic 13-5, Indian Transportation Law Section; Study Topic 13-6 Motor Vehicle Law

The NCHRP 20-6, project Legal Problems Arising from Highway Programs has virtually completed revisions of four (4) volumes of Selected Studies in Transportation Law that relate to highway projects. These volumes included Contracts, Eminent, Environmental and Torts. There will also be two (2) volumes on transit law. The committee now wishes to explore the feasibility of an additional volume that would definitely include sections dealing with civil rights, constitutional law, Indian transportation law, motor vehicle law and possibly governmental relations.

This project has published legal research digest in these areas. The committee does not believe that there is sufficient information, relevant to each of the above substantive areas, to comprise separate volumes of Selected Studies in Transportation Law. Instead, TRB will consider including these topics as different sections in a single volume.

We envision one author per study topic, although an offeror can submit on as many study topics as he/she wishes.

The successful offeror(s) will be expected to develop a work plan for each study topic along with a detailed outline for a 125-200 page report which will comprise a section within a volume of SSTL. The detailed outline will be sufficient to demonstrate that a section can be developed within the allocated pagination that provides a highway attorney what he/she needs to know about the subject area including crucial issues to be resolved.

In developing your offers, and subsequently, when the successful offeror(s) is developing the detailed outline, he/she should consider and update the legal research digests listed below:

Study Topic 13 -3 Civil Rights

- Research Results Digest (RRD) #146 - Minority and Disadvantaged Business Enterprise Requirements in Public Contract (1985).
- Legal Research Digest (LRD) #11 - Impact of 42 U.S.C. 1983 (Civil Rights Act) on Highway Departments, Personnel & Officials (1990).
- LRD #25 - Supplement to Minority and Disadvantaged Business Enterprise Requirement in Public Contracting (1992)
- LRD #48 - Civil Rights in Transportation Projects (2003).

Study Topic 13-4 Constitutional Law

- RRD #136 - State Highway Programs versus Spending Power of Congress (1982).
- RRD #150 - Planning and PreCondemnation Activities as Constituting a Taking Under Inverse Law (1986)

- LRD #18 - Planning and PreCondemnation Activities as Constituting a taking under Law (1991).
- LRD #32 - Federalism and the Intermodal Surface Transportation Efficiency Act of 1991 (1995).
- LRD #44 - Reexamination of the Line between Governmental Exercise of Police Power and Eminent Domain (2000).
- LRD #45 - The States Immunity from Suit in Federal and State Courts (2000).

Study Topic 13-5 Indian Transportation Law

This section will examine legal issues arising out of Federal, State and local transportation agencies' relations with Indian Tribes – Government-to-government relations with Indian tribes touch a gamut of legal issues: contracting with the tribes, Tribal Employment Rights ordinances (TERO), funding issues, land use impacts of tribal improvements on state highways, real property issues arising out of rights-of-way through Indian reservations, regional planning issues, compliance with environmental laws bumping up against Indian sovereign immunity, tort liability issues, etc. The federal government has a fairly well delineated relationship with Indian tribes based upon unique trust obligations owed to them as domestic dependant nations. States and local governments do not have that same relationship and yet must interact with tribal governments on a number of legal issues. The constitutional or statutory authority conferred upon these states and local jurisdictions to do so, to the extent it exists, is a patchwork of laws that varies from jurisdiction to jurisdiction, leave huge gaps, in some cases, in a state or local transportation agency's ability to conduct business with a tribe. Moreover, there is an overlay of federal law which may affect the rights and obligations of state and local agencies. Prior legal research digest related to Indian legal issues are listed below. Material from these digest should be revised, updated, condensed and included in the section.

- LRD #30 - Legal Issues Relating to the Acquisition of Right-of-Way and the Construction and operations of Highways Over Indian Lands (1994).
- LRD #41 - Application of Outdoor Advertising on Indian Land (2000).

Study Topic 13-6 Motor Vehicle Law

- RRD #154 - Trial Strategy and Techniques in Enforcing Laws Relating to Truck Weights and Sizes (1986).
- LRD #36 - Photographic Traffic Law Enforcement (1996)
- LRD #43 - Application of the Fourth Amendment to the Inspecting of Commercial Motor Vehicle and Driver (2000).
- LRD #47 - Judicial enforcement of Variable Speed Limits (2002)

The successful offeror for each of the study topics will proceed in accordance with the following:

RESEARCH IMPLEMENTATION

- TASK 1.** Research Plan and Detailed Report Outline. Consultant will conduct background research and develop a complete research plan. The final step

of this task will consist of a work plan and a detailed outline for a 100-150 page report for each study topic. This material will be submitted to TRB for approval.

Consultant will include in his/her cost proposal \$1,500.00, cost reimbursable, travel expenses for a meeting with the committee/subcommittee in Washington, DC, Woods Hole, Massachusetts, or Irvine, California to discuss aspects of the research plan/detailed outline.

Estimated Length of time: 60 days
Estimated work effort: 75-125 hours

TASK 2. Draft report in accordance with the approved outline (including modifications required by TRB).

Estimated Length of Time: 90-120 days
Estimated work effort: 225 hours

TASK 3. Revise report as necessary. Offeror should estimate that 2 revisions will be necessary. One revision may be required after review by the Principal Investigator and members of the Governmental Subcommittee. Additional, revisions may be required after the report has been reviewed by the full committee.

Estimated Length of time: 120 days
Estimated work effort: 80 hours

Total effort: Estimated Length of time: 270-300 days
Estimated work effort: 380-430 hours

- Estimated compensation: \$23,000.00 - \$38,700.00 for each study topic.
- Consultant will be entitled to a 10% incentive payment if work is completed in accordance with an accelerated work scheduled to be determined by the Academies.

Submit Statements of Interest on or before February 6, 2004 by mail to:

James B. McDaniel
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Transportation Research Board
500 5th Street, NW
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