

## **CONSULTANT SELECTION**

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## 1 GENERAL

### 1.1 INTRODUCTION

Local agencies requesting federal funds to reimburse consultants must follow the selection and contracting procedures detailed in this Local Programs Procedures.

### 1.2 LEGISLATIVE REQUIREMENTS

The provisions of the Brooks Bill (40 USC 541) require local agencies to award federally-funded engineering and design contracts on the basis of fair and open competitive negotiations, demonstrated competence and professional qualifications (Federal Register, Volume 56, Number 83, 23 CFR 172).

California law requires selection of architectural, engineering, environmental, land surveying, or construction project management services consultants on the basis of demonstrated competence and professional qualifications. Local agencies may not use cost as a basis for selecting such consultants. Contracts must be negotiated in order of the most qualified firms at prices determined to be fair and reasonable to the local agency (Government Code, Chapter 10, Sections 4525 through 4529.5).

Consultants, other than architectural, engineering, environmental, land surveying, or construction project management services, should be selected using cost as one of the selection criteria .

### 1.3 SUBCONTRACTED SERVICES

The consultant is responsible for performing the work required under the agreement in a manner acceptable to the local agency. The consultant's organization and all associated consultants must be identified at the time of the proposal.

If the consultant wishes to use a firm not specified in the proposal, prior written approval must be obtained from the local agency. If the subcontract for work or services to be performed by such firms exceeds \$25,000, the subcontract shall contain all required provisions of the prime contract.

### 1.4 AUDITS

On consultant agreements of \$250,000 or more, the Caltrans Audits and Security office will perform a pre-award audit. Pre-award audits will examine the consultant's accounting, estimating, and administrative systems; proposed costs; quantities; and financial condition.

If the consultant agreement is for less than \$250,000, a pre-award audit will be required only when one of the following conditions exist.

- There is inadequate knowledge about the consultant's accounting procedures.
- There has been a previous, unfavorable experience with the consultant's estimating or accounting methods.
- The audit has been requested by the local agency or the consultant.

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- It is the first time a consultant has performed services for the local agency and the State deems it appropriate.

The purpose of a pre-award audit evaluation is to provide the local agency with professional advice on accounting and financial matters and to assist in the award and administration of proposed consultant contracts. Pre-award audits also serve to alert both the consultant and the local agency of potential problems concerning the consultant's financial qualifications, basic agreement, cost/price proposal or cost accounting system.

The audit must be as broad in scope as necessary to meet the following objectives.

- Determine if the consultant agreement provides for a three-year record retention period, identifies methods of payment, references the cost principles set forth in the Code of Federal Regulations, and determines the allowability of individual items of cost.
- Determine if the consultant's cost proposal contains a breakdown of the estimate for performing the work, indicates reasonable proposed costs, and shows that the estimating system and procedures are adequate.
- Determine if the cost accounting system is capable of accumulating reasonable, allocable, and allowable costs.
- Determine if the consultant is financially capable of performing the required services.
- Determine the administrative systems' adequacy and the availability of applicable key personnel to perform the contract.

For situations where audits are appropriate, local agencies must send copies of the proposed consultant agreements to Caltrans Audits and Security Office.

When haste is imperative, the local agency may request Caltrans Audits to perform a desk audit which may considerably reduce delay. If the consultant has been successfully audited by Caltrans within the past several years and has a good record, staff may elect to perform a desk audit rather than reviewing operations in the field.

## 1.5 AUTHORIZATION TO PROCEED

Caltrans must give the Local Agency authorization to proceed with the work prior to the performance of any work for which Federal billing will be requested. (See Attachment 1 Project Authorization/Obligation of Federal Funds.)

Copies of the authorization to proceed and the consultant agreement must be retained in the project files for future audit purposes.

## 1.6 SELECTING THE PROJECT

Local agencies are responsible for selecting and initiating federal-aid highway projects. The decision to begin development is influenced by a project's need, its acceptability, and the timing of studies, financing and construction. The local agency should identify the project's objectives, including the general level of improvement or service, operating standards, and the target date for project completion before commencing the consultant selection process.

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## 1.7 APPOINTING THE CONTRACT ADMINISTRATOR

The contract administrator, named in the consultant agreement, will be responsible for the quality of contract products or services, and should be involved throughout the development of the contract provisions. The contract administrator must be a public employee qualified to ensure the work pursued is complete, accurate and consistent with the terms, conditions and specifications of the contract.

The contract administrator's duties may include

- providing direction to ensure the contract is advertised properly, the request for qualifications (RFQ), description of work, and request for proposals (RFP), if used, are prepared and distributed, and the draft contract is appropriately prepared.
- arranging for preparation of an advance, independent, estimate of the value of the work to be contracted out.
- making analysis of the selected consultant's cost proposal.
- serving as the successful consultant's primary contact person.
- monitoring the consultant's progress and providing direction.
- approving the consultant's progress payments.

The use of a consultant for a "management" role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the work. Consultants used in management roles must be selected using the same procedures as those for other consultants specified in this directive with full justification retained in the project files for future reference.

## 1.8 DETERMINING THE PROJECT SCHEDULE

The local agency should develop a schedule to show the time for performance of work and completion of the project. The schedule should include sufficient time to allow for selecting consultants, developing consultant contracts, and conducting meetings and project reviews.

## 1.9 IDENTIFYING NEED FOR CONSULTANT

The need for consultants should be identified by comparing the project's schedule and objectives with the local agency's capabilities, its staff availability, and its funding resources.

## 1.10 SEGMENTING CONSULTANT WORK

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity

of the work. Always try to combine preliminary engineering tasks with the preparation of the required environmental analysis.

Preparing an environmental assessment or environmental impact statement is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. It is necessary to perform only as much traffic and engineering analysis of alternatives as is needed to produce a sound environmental assessment or environmental impact statement. Final detailed design should be delayed until environmental clearance has been received if federal reimbursement is desired.

Figure 1 illustrates several satisfactory ways to segment consultant activities.

**Figure 1 Segmenting Consultant Work**

	Well-structured Projects With Simple Right-of-way Requirements	Well-structured Projects With Complex Right-of-Way Requirements	More Difficult Projects	Very Complex Projects
<b>Preliminary Engineering</b>				
<b>Environmental Analysis</b>				
<b>Plans, Specifications &amp; Estimates</b>				
<b>Right-of-Way Activities</b>				
<b>Utility Relocation</b>				
<b>Construction Engineering</b>				

**1.11 SPECIFY PRODUCTS TO BE DELIVERED**

The contract administrator should identify the products and services to be delivered as a result of contract work. These will vary depending upon the type of projects and the phase of project development being addressed.

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## 1.12 DEFINE SCOPE OF CONSULTANT WORK

The scope of work, which the contract must include, is a detailed description of the products or services the consultant will provide. From a detailed scope of work, consultants responding to a project advertisement can determine personnel and time requirements, and can develop a technical proposal and person-hour estimate for the contract.

## 1.13 ESTABLISH INTENT FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

Local agencies receiving Federal funds must take affirmative steps to assure that Disadvantaged Business Enterprise (DBE) consultants are utilized when possible. Such steps include soliciting DBE firms and, when feasible, organizing the project schedule and task requirements to encourage participation by DBE firms. The consultant has the responsibility for using DBEs as sub-consultants when feasible. If a DBE subconsultant becomes unable to perform, the consultant must make a good faith effort to replace with another DBE subconsultant. (see Exhibit A – Disadvantaged Business Enterprise Consultant Contract Requirements).

## 1.14 ESTIMATE COST OF CONSULTANT WORK

An independent cost estimate is needed to ensure that consultant services are obtained at a fair and reasonable price. The estimate must be prepared in advance so the local agency's negotiating team has a detailed analysis of the project from which to evaluate the strengths and weaknesses of the consultant's cost proposal.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant will be required to deliver, and a schedule describing when they must be delivered.

The estimate must include a breakdown of

- direct labor costs.
- indirect costs.
- general and administrative costs.
- other direct costs.
- subconsultant costs.
- net fee.

## 1.15 DETERMINE TYPE OF CONTRACT

The contract must specify how the consultant is to be paid. Four methods of payment are permitted on consultant contracts: (a) Actual Cost Plus Fixed Fee; (b) Cost Per Unit of Work; (c) Specific Rates of Compensation; and (d) Lump Sum.

### 1.15(1) ACTUAL COST PLUS FIXED FEE

This method is used most commonly. The consultant is reimbursed for actual costs incurred and receives an additional predetermined amount as a fixed fee. The fixed fee is not adjustable for the life of the contract except where there is a significant change in the scope of the work, in which case the fee may be renegotiated.

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This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. Fixed fees apply to the total direct and indirect costs. Fixed fees over 15 percent must be justified and documented in the files prior to commencement of work. (See Exhibit B for a Sample Cost Proposal form, and Exhibit C, for a sample Payment Clauses form.)

**1.15(2) COST PER UNIT OF WORK**

The consultant is paid based on the work performed. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance, but the extent of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item.

**1.15(3) SPECIFIC RATES OF COMPENSATION**

The consultant is paid at an agreed and supported specific fixed hourly or daily rate for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an hourly breakdown, direct salary costs, salary additives, indirect costs, and net fee. Other direct costs may be set forth as an element of the specific rate or may be included as independent cost items.

This method of payment is used for on-call contracts, but should be considered only when none of the other three methods of payment can be used. It should be considered only for emergency work or when the tasks are relatively minor.

**1.15(4) LUMP SUM**

The consultant undertakes to perform the services stated in the agreement for an agreed amount as compensation. It is appropriate only if the extent, scope, complexity, character, and duration of the work have been sufficiently defined to permit just compensation to be determined and evaluated by all parties during negotiations.

## **2 CHOOSING THE SELECTION METHOD**

### **2.1 BACKGROUND**

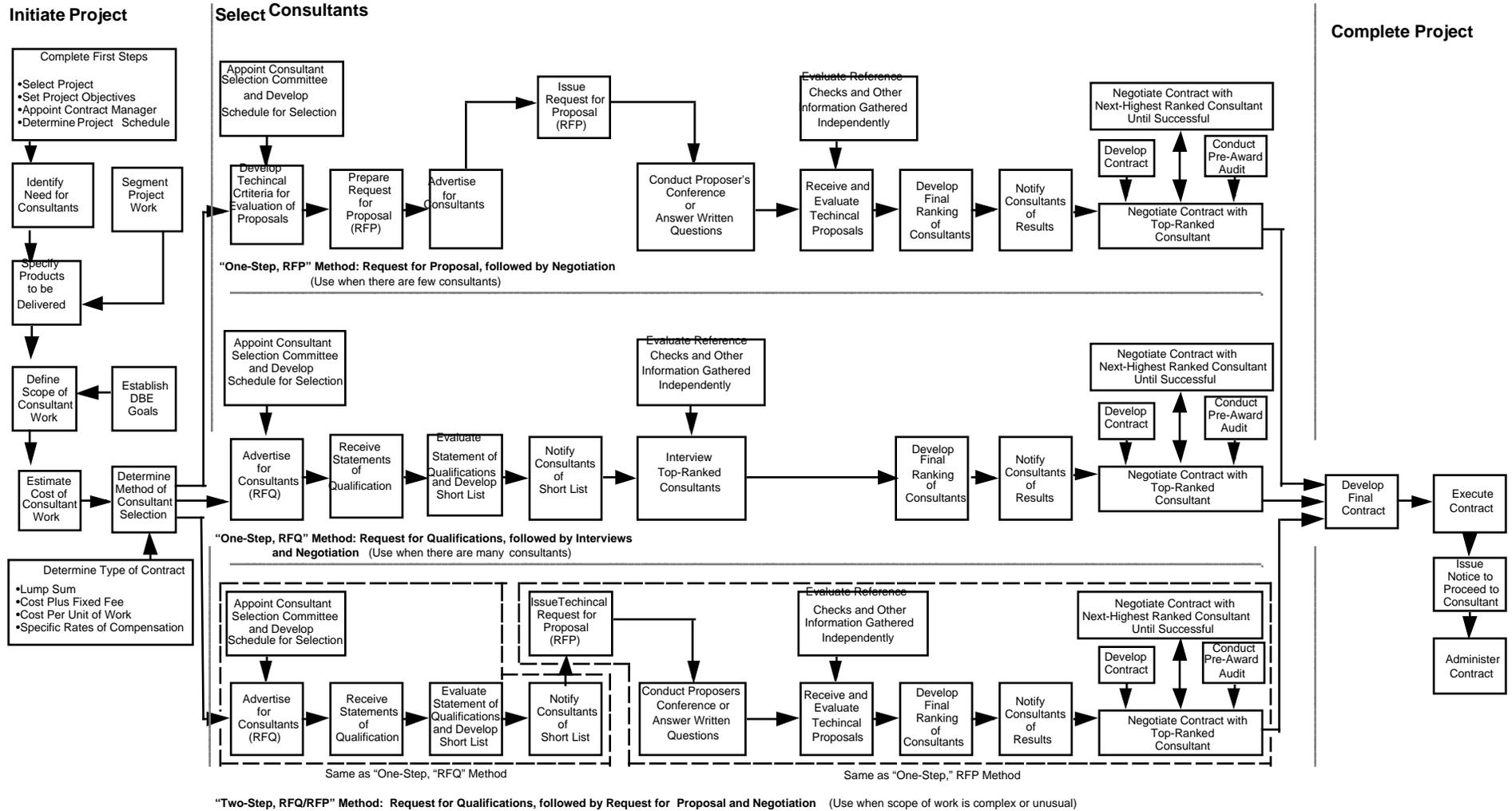
As shown in Figure 2, one of three methods is normally used in selecting a consultant.

- One-Step Request for Proposals (RFP)
- One-Step Request for Qualifications (RFQ)
- Two-Step Request for Qualifications/Proposals (RFQ/RFP)

The method used will depend upon the scope of work, the services required, the project's complexity, and the time available for consultant selection.

Beginning with Section 3 Selecting Consultants Using the One Step RFP Method, the selection methods are explained in detail.

Figure 2 Selecting Consultants



## **2.2 ONE-STEP RFP (REQUEST FOR PROPOSALS, FOLLOWED BY INTERVIEWS AND NEGOTIATION)**

The One-Step RFP method may be used when the consultant service is highly specialized and there are few qualified consultants. This method is also used when a local agency has a modest number of projects per year, and the expected number of proposals is small--generally, less than Ten.

In this method, consultants submit at the same time, a technical proposal and statement of qualifications. Proposals by all consultants are evaluated based on criteria outlined in the RFP, and a short list of qualified consultants is developed. The local agency ranks qualified consultants and negotiation begins with the most qualified consultant.

## **2.3 ONE-STEP RFQ (REQUEST FOR QUALIFICATIONS, FOLLOWED BY INTERVIEWS AND NEGOTIATION)**

The most common selection process is the One-Step RFQ method. It is used when typical services (such as preparations of PS&E) are required and there are many consultants. The One-Step RFQ method is also used when a local agency produces many projects and there are numerous consultants that wish to participate.

The consultant submits a Statement of Qualifications in response to a request for qualifications. The responding consultants are ranked by a consultant selection committee which develops a short list of qualified consultants invited for interviews. The final ranking of consultants is based on the interviews; negotiation begins with the most qualified consultant. Although it may be used for more than one project, the ranking process must be renewed at least once each year to give new consultants the opportunity to participate.

## **2.4 TWO-STEP RFQ/RFP (REQUEST FOR QUALIFICATIONS, FOLLOWED BY REQUEST FOR PROPOSAL AND NEGOTIATION)**

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. The Two-Step RFQ/RFP method also may be preferred by local agencies that are apprehensive about negotiations and procedures for establishing compensation. However, Two-Step RFQ/RFP requires substantially more work and time than the other two methods described above.

In the Two-Step RFQ/RFP process, the consultant submits a statement of qualifications in response to a request for qualifications. Responding consultants are ranked by a consultant selection committee to prepare the short list of qualified consultants. Consultants on the short list receive a Request for Proposal (RFP) and respond with a technical proposal. The most qualified consultants are placed in a final ranking; negotiation begins with the most qualified consultant.

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## 2.5 NONCOMPETITIVE NEGOTIATED AGREEMENTS

A noncompetitive, negotiated contract may be developed when special conditions arise. Conditions under which noncompetitive negotiated contracts may be acceptable include:

- only one organization is qualified to do the work.
- an emergency exists of such magnitude that cannot permit delay.
- competition is determined to be inadequate after solicitation of a number of sources.

The local agency must carefully document details of the special conditions and retain them in the files for future Caltrans or FHWA review.

## 2.6 AGREEMENTS COSTING LESS THAN \$25,000

Service agreements subcontracts and other consultant agreements costing no more than \$25,000 each, may be handled through an informal method of procurement. The method must be sound and appropriate for procurement of consulting services. Written justification must be placed in the project files for future audit purposes (see Section 7-5 Engineering Services Under \$25,000).

# 3 SELECTING CONSULTANTS USING THE ONE-STEP RFP METHOD

## 3.1 APPOINT CONSULTANT SELECTION COMMITTEE

A consultant selection committee, with a minimum of three members, is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a short list of qualified consultants, and develops a final ranking of most qualified consultants. Representation on the committee should include the contract administrator and a representative from the project's functional area. Participation by a District representative is optional.

## 3.2 DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF PROPOSALS

The contract administrator is responsible for developing the technical criteria, and their relative weight, which will be used to evaluate and rank the consultant proposals.

The criteria and relative weights must be included in the RFP. Exhibit D shows a recommended evaluation sheet with criteria and rating points. This format is not mandatory but is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the State. The local agency should consult with the DLAE before making major changes to the suggested approach.

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### **3.3 DEVELOP SCHEDULE FOR CONSULTANT SELECTION**

The contract administrator completes a contract schedule, including key dates for consultant selection activities, before the contract is advertised. The contract administrator must confirm target dates with all members before completing the schedule.

### **3.4 PREPARE REQUEST FOR PROPOSAL (RFP)**

The information required in a RFP includes

- Description of project
- Scope of work
- Schedule of work
- Proposal format
- Method and criteria for selection

The RFP should specify the content of a proposal, the number of copies required, and the due date. A minimum of four weeks is usually allowed between the time the RFP is mailed and time that proposals must be submitted. More time may be required for very complex contracts or projects.

Items typically required in a technical proposal include

- Work plan (specify what is to be covered).
- Organization chart
- Schedule
- Staffing plan
- Staff resumes
- Names of consultant's project manager and the individual authorized to negotiate the contract on behalf of the consulting firm
- Information about the consultant's use of Disadvantaged Business Enterprises (DBEs)

### **3.5 ADVERTISE FOR CONSULTANTS**

The local agency advertises the availability of the RFP in a major newspaper of general circulation or technical publication of widespread circulation. Also the local agency shall identify and send the RFPs to organizations qualified to do the specified work as well as professional societies and recognized DBE and Women Business Enterprise (WBE) organizations. In some cases, it may be desirable to advertise nationwide for a particular project or service.

### **3.6 ISSUE REQUEST FOR PROPOSAL**

The local agency shall issue the RFP to all consultants responding to the advertisement.

### **3.7 CONDUCT PROPOSER'S CONFERENCE OR ANSWER WRITTEN QUESTIONS**

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both.

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The local agency must mail responses to written questions to all consultants receiving an RFP. No response should be given to verbal questions submitted by telephone or in person.

If a proposers' conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposers' conference normally is not mandatory. However, consultants not attending the conference will not receive notes from the meeting.

### **3.8 RECEIVE AND EVALUATE TECHNICAL PROPOSALS AND STATEMENTS OF QUALIFICATIONS**

The contract administrator must verify that each proposal contains all forms and other information required by the RFP. If all required information is not provided, a proposal may be considered non-responsive and rejected without evaluation. Late submittal, submittal to the wrong location, or submittal with inadequate copies is considered non-responsive and shall result in rejection of the submittal. Submittal of additional information after the due date shall not be allowed.

The members of the consultant selection committee must evaluate each proposal in terms of the technical criteria which were listed in the RFP. The committee must also evaluate reference checks and other information that is gathered independently.

### **3.9 DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS**

The selection committee discusses and documents the strengths and weaknesses of each proposal and develops a final ranking of most qualified consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

### **3.10 NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT**

After the top-ranked consultant submits a cost proposal, the local agency negotiates a contract. The goal of negotiation is to agree on a final contract that delivers, the services or products required at a fair and reasonable cost to the local agency. The independent cost estimate developed in advance by the local agency is an important basis for negotiation. A pre-award audit of the consultant's operations may be required. (See Section 1.4, Audits.) If so, cost negotiations must not begin until after the audit report is received.

Items typically negotiated include

- Work plan
- Schedule
- Products to be delivered
- Classification and experience level of personnel to be assigned
- Cost items, payments and fee

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A consultant will be awarded the contract only if it has either satisfied the intent for DBE participation or made a good-faith effort to do so. (See Exhibit A Disadvantaged Business Enterprises (DBE) Consultant Contract Requirements.)

If the local agency fails to conclude an agreement with the top ranked consultant a new negotiation is started with the next highest ranked consultant. If this new negotiation fails the process is repeated until a contract is negotiated successfully.

Before executing the consultant agreement, the local agency must make a review to ensure all federal requirements have been met. Exhibit E is a checklist which will be helpful in this evaluation. A copy of the completed checklist should be signed by the Contract Administrator and retained in the project files.

## **4 SELECTING CONSULTANTS USING THE ONE-STEP RFQ METHOD**

### **4.1 APPOINT CONSULTANT SELECTION COMMITTEE**

A consultant selection committee, with a minimum of three members, is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a short list of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee should include the Contract Administrator and a representative of the function upon which the work centers.. Participation by a District representative is optional.

### **4.2 DEVELOP SCHEDULE FOR CONSULTANT SELECTION**

Before a contract is advertised, the contract administrator completes a contract schedule, including key dates for consultant selection activities.

### **4.3 ADVERTISE FOR CONSULTANTS**

Advertisements may take one of two forms. The most common form of advertisement is publication of the RFQ. The RFQ shall contain sufficient project information, permitting interested consultants to submit appropriate statements of qualifications.

In the second approach, the local agency advertises the availability of the RFQ in a major newspaper of general circulation or technical publication of widespread circulation. RFQs shall also be sent to organizations qualified to do the specified work, to professional societies, and to recognized DBE/WBE organizations. In some cases, it may be desirable to advertise nationwide for a particular project or service.

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#### **4.4 RECEIVE AND EVALUATE STATEMENTS OF QUALIFICATIONS AND DEVELOP SHORT LIST**

The first step in the evaluation process is to determine that each proposal contains all forms and other information required by the RFQ. Submittals may be considered non-responsive if all required information is not provided, and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered non-responsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

#### **4.5 INTERVIEW TOP-RANKED CONSULTANTS**

Interviews are to be structured and conducted in a formal manner. Each consultant shall be allowed the opportunity to make a presentation if desired; however, a time limit should be specified.

Interview questions should be prepared in advance. Two types of questions may be asked.

- Those questions that will be asked of all competing consultants
- Questions relating to each specific consultant, based upon the reference checks and the strengths and weaknesses identified during evaluation of the statement of qualifications

The agency can request competing consultants to bring additional information or examples of their work to the interviews if additional information will facilitate the interview or evaluation process. Additional information requested should be kept to the minimum, i.e., only that information required to select the most qualified consultant for the contract.

#### **4.6 DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS**

The selection committee should discuss and document the strengths and weaknesses of each proposal and develop a final ranking of most qualified consultants. All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

#### **4.7 CONDUCT SCOPING MEETING**

The contract administrator should meet with the selected consultant's Project Manager to review the project and ensure that the consultant has a complete understanding of the work that is required. The consultant should be shown as much material as is available regarding the project. Any technical questions regarding the project should be answered completely for the consultant.

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## 4.8 REQUEST COST PROPOSAL

The first-ranked consultant is then asked to provide a cost proposal to perform work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to conditions described in the draft contract using the payment method described therein. If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract.

## 4.9 NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT

After the top-ranked consultant submits a cost proposal, the local agency negotiates a contract. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate developed in advance by the local agency is an important basis for negotiations. A pre-award audit of the consultants operations may be required. (See Section 1.4, Audits.) If so, cost negotiations must not begin until after the contract administrator receives the audit report.

The Items typically negotiated include:

- Work plan
- Schedule
- Products to be delivered
- Classification and experience level of personnel to be assigned
- Cost items, payments and fee

A consultant will be awarded the contract only if he/she has either satisfied the intent for DBE participation or made a good-faith effort to do so. (See Exhibit A for a sample form.)

If the local agency fails to reach an agreement with the top ranked consultant a new negotiation is started with the next highest ranked consultant. If this new negotiation fails the process is repeated until a contract is negotiated successfully.

Lists of qualified consultants established through the RFQ process must be re-established at least once every 12 months to give new consultants the opportunity to qualify.

## 5 SELECTING CONSULTANTS USING THE TWO-STEP RFQ/RFP METHOD

### 5.1 COMBINED RFQ AND RFP

Selecting consultants using the Two-Step, RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The combination of these steps is indicated on the Flow Chart. (See Figure 2 Selecting Consultants).

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Initial steps in this method are the same as the initial steps followed when using the One-Step RFQ method. The remaining steps are the same as the later steps followed in the One-Step RFP method.

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, combined RFQ/RFP is recommended for use only when the scope of work is very complex or unusual.

## 6 COMPLETING THE PROJECT

### 6.1 DEVELOP THE FINAL CONTRACT

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and to verify that all required back-up documents have been provided. The appropriate numbers of copies of the contract are sent to the consultant for signature.

### 6.2 LOCAL AGENCY REVIEW

Agreements between local agencies and consultants are no longer subject to Caltrans approval to qualify for Federal reimbursement, but they must meet federal requirements. Federal-aid is contingent on meeting the federal requirements and can be withdrawn if the procedures are not followed and documented. The files should be maintained in a manner to facilitate future FHWA and/or Caltrans process reviews.

As specified in Section 3.10, the proposed agreement must be reviewed before execution and the check list shown as Exhibit E completed and signed. A copy of the signed document must be retained in the project files

### 6.3 EXECUTE CONTRACT AND ISSUE NOTICE TO PROCEED TO CONSULTANT

The Contract Administrator notifies the consultant when the contract is fully executed and issues a notice to proceed. Federal funds may not be used to reimburse consultants for costs incurred before the authorization to proceed is issued.

### 6.4 ADMINISTER THE CONTRACT

Project work begins immediately after the notice to proceed is issued to the consultant. Thereafter, the local agency manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget.

Contract administration activities ensure that contractual obligations are completed satisfactorily. Generally, these activities include

- monitoring project progress and compliance with contract requirements.
- reviewing invoices and approving payments.

- 
- record-keeping and reporting.
  - controlling costs..
  - identifying changes to the scope of work and preparation of amendments.
  - completing performance evaluations.

## 6.5 FINAL PAYMENTS

The local agency submits a final voucher to Caltrans to complete federal reimbursement, after making final payment of consultant invoices, and closes out the contract.

## 6.6 CLOSE OUT PROJECT

Local agencies are encouraged to close-out consultant contracts quickly. However, such close-outs should be delayed until after physical construction of the project is completed. Waiting for project completion will ensure the consultant's availability should problems arise or the need for change occurs.

## 6.7 PERFORMANCE EVALUATION

The contract Administrator should evaluate the consultant's performance after the consultant's final report has been submitted and the Contract Administrator has conducted a detailed evaluation with the consultant's Project Manager.

## 6.8 PROJECT RECORDS

Among the records to be retained are the following:

- Copies of RFPs and RFQs
- Documentation of DBE efforts and participation
- Solicitation/advertisement records
- Identification of selection committee members
- Evaluation and ranking records
- Independent cost estimate
- Negotiations
- Pre-award audit when applicable
- Executed consultant contracts and amendments
- Construction oversight/progress meetings
- Progress and final payments
- Performance evaluation
- Consultant Contract Checklist

Project records and documentation generally must be kept for three years after payment of the final voucher for audit purposes.

## 7 MISCELLANEOUS CONSIDERATIONS

### 7.1 RETAINING A CONSULTANT AS CITY OR COUNTY ENGINEER

A local agency may retain a qualified consultant as City Engineer or County Engineer. The retained consultant can be an individual or firm providing professional services. Eligibility for Federal reimbursement for these services requires

- compliance with the selection procedures specified in this chapter.
- existence of a contract between the local agency and the consultant specifying the services to be performed.
- designation as City Engineer or County Engineer.
- selection on an open and competitive basis within the last three years.

If engineering services for a project are within the scope of the services described in the retained consultant's agreement, they may be performed by the person or firm designated City Engineer or County Engineer. If the services are not within the scope, a new consultant agreement must be developed. A copy of the consultant agreement should be included with the agency's request for authorization to proceed.

Retained consultants involved in the preparation of the request for proposals/qualifications may not compete for the resulting work.

### 7.2 REVIEW AND APPROVAL OF AGREEMENTS

Proposed agreements for consultant services, including those for subcontracted work exceeding \$25,000, must be reviewed to verify that

- appropriate conditions are included and objectionable features are deleted.
- compensation is fair and reasonable.
- work activities and schedules are consistent with the nature and scope of the project.
- a pre-award audit is conducted when appropriate. (See Section 1.4.)

The Outline for Consultant Agreements, shown in Exhibit F and the checklist shown in Exhibit E should be used to ensure that required documentation is provided.

A Sample Cost Proposal form is shown in Exhibit B and must include costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees and backup calculations.

Before approving an agreement for consulting services, the Contract Administrator must be satisfied that the consultant's organization is

- qualified to perform the services required.
- in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed.
- fully apprised of all applicable federal and State laws, including implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the project, and administrative controls including those of FHWA.

The agreement must provide for a level of acceptability and a statement to the effect that the consultant is required to modify its work as necessary (to meet that level of acceptability as defined in the agreement).

The agreement shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews should be made by the local agency.

The agreement shall also provide that the prospective consultant will establish a working office at a place acceptable to the local agency.

Furthermore, the agreement shall provide that the consultant and its subcontractors shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available at their offices at reasonable times during the contract period. And such materials are to be available for inspection by federal, State and local agency authorized representatives, and copies thereof shall be furnished if requested. Following final settlement of the contract accounts with FHWA, such records and documents may be microfilmed at the option of the local agency, but in any event shall be retained for a three-year period after processing of the final voucher by FHWA.

Agreements with consultants covered by this manual must not be approved by the local agency until the certifications shown in Exhibits G and H are executed and incorporated in the agreement. The certifications shall be executed by a principal or authorized corporate official of the consultant, and by a principal administrative officer of the governmental agency responsible for the selection of the consultant. It is essential these certifications be preserved in the project files.

### 7.3 SUPPLEMENTAL AGREEMENTS

Supplemental agreements are required for modification in the terms of the original agreement to provide changes such as extra time, added work, or modification of payment. There is no prescribed format for supplemental agreements. They may take the form of letter-type agreements meeting the legal requirements of the local agency, clearly outlining the changes, and containing a mutually agreed upon method of compensation. Such agreements must conform to the requirements of this section with regard to payment

Supplemental agreements shall be approved by the local agency prior to the performance of the work. When public interest requires that work begin without delay, it may not be practicable to establish equitable compensation prior to commencing the work.

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## 7.4 CONSTRUCTION ENGINEERING SERVICES

A consultant may be utilized for periodic or full-time technical inspection of construction. Under Federal-aid regulations, however, the prime responsibility for general supervision of construction must remain with the local agency. The public agencies must also ensure the work is performed in accordance with the approved PS&E. Therefore, a full-time, registered engineer employed by a public agency must be placed in charge of the project (he or she need not be assigned solely to that project).

The consultant's engineering responsibility generally should be that of professional adviser to the local agency. The activities performed by the consultant will be under the overall supervision of the local agency engineer. These operations may include construction surveys, foundation investigations, measurement and computation of quantities, testing of construction materials, checks of shop drawings, preparation of estimates and reports, and other resident inspection activities necessary to ensure the construction is being performed in accordance with the plans and specifications. The construction engineering consultant agreement should define the relative authorities and responsibilities of the full-time, publicly-employed engineer in charge of the project and the consultant's inspection staff.

If the technical inspection consultant is giving professional assistance to the local agency's resident engineer a formal consultant agreement must be executed which follows all of this chapter's requirements.

## 7.5 ENGINEERING SERVICES UNDER \$25,000

When it is determined that engineering services in amounts less than \$25,000 are needed and federal reimbursement will be sought, these services may be obtained through personal services agreements up to a limit of \$25,000 each. In construction, such services may include, but are not limited to, surveys and inspection of materials to be incorporated into the project. Such services must be under the direction and control of the engineer in charge of the phase of work being conducted and must be for logical segments of the work.

Compensation for construction engineering services should be based on actual costs incurred plus a fixed fee, or in the case of individual compensation, on an agreed-upon, hourly or daily rate. Lump sum payments should not be used for construction engineering services.

For contracts under \$25,000, the following information must be approved by the local agency and retained in the project files.

- An explanation of the services needed and why they cannot be provided by the local agency
- The name and qualifications of the consultant who will provide the services
- Documentation of the fees to be covered showing they are within the prevailing range and are reasonable by comparative standards
- A copy of the agreement between the local agency and the consultant

**7.6 RETENTION CLAUSES**

At the option of the local agency, a retention clause may be included in the consultant agreement. The usual retained amount is 5 percent, and appropriate securities on deposit may be substituted for the retention. This procedure is used on many agreements and agencies wishing assistance in developing appropriate clauses may refer to the Caltrans Consultant Services Manual. Caltrans strongly recommends stipulating a retention in the consultant agreement.

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONSULTANT CONTRACT REQUIREMENTS**

The provisions of Title 49, Part 23, Code of Federal Regulations (49 CFR 23) and the (Local Agency)\_\_\_\_\_’s adopted DBE Program require that Disadvantaged Business Enterprises (DBEs) have the opportunity to participate in federally-funded, transportation projects.

In order to meet these requirements, the following criteria have been established:

1. Participation by Caltrans’ certified DBEs as prime consultants or sub-consultants in this contract or
2. A good faith effort by the prime consultant in trying to secure participation by DBEs prior to award of this contract. Documentation of a good-faith-effort will be submitted in writing and will consist of the following:
  - a) A list of Caltrans’ certified DBEs solicited.
  - b) Description of efforts to use the services of available minority community organizations; minority contractor groups; women contractor groups; and local, State, and federal minority business assistance centers in the recruitment and placement of DBEs including name of contact, date of contact, and information they provided.
  - c) Identification of the portions of the work to be performed by DBEs including type of work and dollar-value.
  - d) Documentation of good-faith negotiations between subcontractors and interested DBEs including names and dollar-values of all bids).

## SAMPLE COST PROPOSAL

### LABOR

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>	
Project Director	-----	-----	-----	
Staff Engineer	-----	-----	-----	
Traffic Technician	-----	-----	-----	
Clerical	-----	-----	-----	
			Total Labor	\$-----

### INDIRECT COSTS (Overhead)

Overhead Rate	-----		Total Overhead	\$-----
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### DIRECT COSTS

	<u>Quantity</u>	<u>Unit cost</u>	<u>Total</u>	
Equipment	-----	-----	-----	
Supplies	-----	-----	-----	
Others	-----	-----	-----	
			Total Direct Costs	\$-----

FEE (profit) \$-----

TOTAL COST \$-----

## SAMPLE PAYMENT CLAUSES\*

### COST-PLUS-FIXED FEE

The basis of payment for the services provided under this agreement shall be cost-plus-a-fixed fee.

1. The local agency shall reimburse the consultant for actual costs (including labor costs, employee benefits, overhead and other direct costs) incurred by the consultant in performance of the work, in an amount not to exceed \$\_\_\_\_\_, exclusive of any fixed fee. Actual costs shall not exceed the estimated wage rates and other costs set forth in the consultant's proposal.
2. In addition to the costs referred to in paragraph 1 of this article, the local agency shall pay the consultant a fixed fee of \$\_\_\_\_\_. Said fixed fee shall not be altered unless there is a significant alteration in the scope, complexity or character of the work to be performed.
3. The Consultant shall be reimbursed for actual travel expenses incurred in the performance of this work, including the use of private cars at the rate of \_\_\_\_\_ cents per mile, while traveling away from consultant's headquarters which is hereby designated as \_\_\_\_\_. In addition, consultant's personnel shall be reimbursed for per diem expenses at a rate not to exceed that currently authorized for State employees under State Department of Personnel Administration rules.
2. Total expenditures made under this agreement, including the fixed fee, shall not exceed the sum of \$\_\_\_\_\_.

### LUMP SUM

1. Pursuant to satisfactory completion of this agreement, a lump sum payment of \$\_\_\_\_\_including all expenses incurred will be made to the consultant.
2. The above lump sum payment will include salary, fringe benefits, overhead, profit and all other expenses incurred by the consultant.

\*The other methods of payment are not addressed here.

<b>SUGGESTED EVALUATION SHEET*</b>		
Criteria	Maximum Points	Rating
Understanding of the work to be done	25	
Experience with similar kinds of work	20	
Quality of staff for work to be done	15	
Capability of developing innovative or advanced techniques	10	
Familiarity with State and Federal procedures	10	
Financial responsibility	10	
Demonstrated DBE intent	10	
Total	100	

\*For projects other than architectural, engineering, environmental, land surveying, or construction project management services, cost should be one of the criteria.

The evaluation criteria and suggested maximum points shown above are not mandatory, but are recommended in the interest of maintaining consistency among the hundreds of agencies utilizing Federal funds.

## CONSULTANT AGREEMENT REVIEWERS CHECKLIST

### I SELECTION PROCEDURES ITEMS NEEDED FOR REVIEW

- A. Description of need for consultant \_\_\_\_\_
- B. Publication of RFP or RFQ records \_\_\_\_\_
- C. Solicitation records \_\_\_\_\_
- D. Evaluation criteria \_\_\_\_\_
- E. Documentation of selection \_\_\_\_\_
- F. Evaluation of DBE Good Faith Efforts (when applicable) \_\_\_\_\_
- G. Plan to monitor work \_\_\_\_\_

### II CONSULTANT AGREEMENT

#### A. Introduction

- 1. Date of agreement \_\_\_\_\_
- 2. Names, addresses, and other identifying data of agreeing parties \_\_\_\_\_
- 3. Location and description of project \_\_\_\_\_
- 4. Name of Contract Administrator \_\_\_\_\_

#### B. Agreement

- 1. Type of work to be done
  - a) Consultant services \_\_\_\_\_
  - b) Right of Way \_\_\_\_\_
  - c) Subsurface investigations \_\_\_\_\_
  - d) Obligations of local agency to consultant \_\_\_\_\_
  - e) Conferences, visits to site, inspection of work \_\_\_\_\_
  - f) Checking of shop drawings \_\_\_\_\_
  - g) Consultant services during construction \_\_\_\_\_
  - h) Deliverables and number of copies \_\_\_\_\_
- 2. Time of beginning of contract \_\_\_\_\_
- 3. Payment methods \_\_\_\_\_
- 4. Record retention (three years) \_\_\_\_\_
- 5. Contract cost Principles and Procedures (CFR 48, Federal Acquisition Regulation System,, Chapter 1, Part 31`)
  - a) Covenants Against Contingent Fees - Exhibits G & H \_\_\_\_\_
  - b) Design Standards - Exhibit F, 2f(2) \_\_\_\_\_
  - c) Documentation - Exhibit F, 2f(3) \_\_\_\_\_
  - d) Ownership of Documents - Exhibit F, 2f(4) \_\_\_\_\_
  - e) Patent Rights - Exhibit F, 2f(5) \_\_\_\_\_
  - f) Copy Rights - Exhibit F. 2f(6) \_\_\_\_\_
  - g) Changes in work - Exhibit F. 2f(7) \_\_\_\_\_
  - h) Delays and Extensions - Exhibit F. 2f(8) \_\_\_\_\_

(Continued)

## CHECKLIST CONTINUED

- k) Disputes - Exhibit F. 2f(11) \_\_\_\_\_
- l) Responsibility for Claims and Liability - Exhibit F. 2f(12) \_\_\_\_\_
- m) General Compliance With Laws and Wage Rates - Exhibit F. 2f(13) \_\_\_\_\_
- n) Subcontractors, Assignment and Transfer - Exhibit 1F. 2f(14) \_\_\_\_\_
- o) Consultant's Endorsement on Plans, etc. - Exhibit F. 2f(15) \_\_\_\_\_
- p) DBE considerations - Section 1.13, Exhibit A \_\_\_\_\_

- C. CONCLUSIONS (ACCEPTED LEGAL EXPRESSION, ETC.) \_\_\_\_\_
- D. SIGNATURES \_\_\_\_\_
- E. CERTIFICATIONS OF CONSULTANT AND AGENCY \_\_\_\_\_
- F. COST PRICE PROPOSAL \_\_\_\_\_

\_\_\_\_\_  
**Contract Administrator**

\_\_\_\_\_  
**Date**

## CONSULTANT AGREEMENT OUTLINE

### 1. INTRODUCTION

The introduction should include:

#### A. DATE OF AGREEMENT

#### B. NAMES, ADDRESSES AND OTHER DATA IDENTIFYING AGREEING PARTIES

State the complete name and address of each party to the agreement, together with information with respect to whether the party is an individual, an agency of government, a partnership or a corporation. If a corporation is one of the parties, show the state of incorporation. Show the location of the office where the consultant's work will be available for inspection by local agency and State representatives. For the sake of brevity, a suitable short title, such as "State," "County," "Engineer" or "Consultant," should be designated and defined for each of the parties and used throughout the remainder of the agreement.

#### C. LOCATION AND DESCRIPTION OF THE PROJECT.

State the location and description of the project as precisely and as briefly as possible. Give the name of the project should one exist. If major structures are to be included, their approximate locations, lengths and types, if known, should be shown.

### 2. AGREEMENT

#### A. DESCRIPTION OF WORK TO BE DONE

1. Consultant Services  
Detail based on the services to be furnished by the consultant nature and extent verified in the negotiations to make precise statements to eliminate subsequent uncertainties and misunderstandings. Describe acceptance criteria. Environmental documents should not be considered complete until final FHWA approval, such as a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision have been approved or completed by FHWA (refer to LPM, Volume III, Environmental Procedures).
2. Right of Way  
State whether Right of Way requirements are to be determined and shown by the consultant; whether land surveys and computations with metes and bounds descriptions are to be made; and whether Right of Way plots are to be furnished.
3. Subsurface Investigations  
State specifically whether or not the consultant has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of the consultant, appropriate provisions should be incorporated. Archaeological testing and data recovery guidance can be found in LPM, Volume III, Environmental Procedures.

4. Local Agency Obligations  
All data applicable to the project and in possession of the local agency or other agency or government that are to be made available to the consultant should be referred to in the agreement. Any other assistance or services to be furnished to the consultant should be stated clearly.
5. Conferences, Visits to Site, Inspection of Work  
The agreement should provide for conferences as needed, visits to the site and inspection of the work by representatives of the State or FHWA. Costs incurred by consultants for meetings subsequent to the initial meeting shall be included in the fee.
6. Checking Shop Drawings  
For agreements requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by the consultant may be included in the contract fee or provision may be made for separate payment.
7. Consultant's Services During Construction  
The extent, if any, of the consultant's services during the course of construction should be specified in the agreement, together with the method of payment for such services.
8. Number of Copies  
The number of copies of papers or documents to be furnished, such as reports, brochures, sets of plans, specifications or Right of Way plots should be specified. Provision may be made for payment of additional copies.

#### **B. TIME OF BEGINNING AND COMPLETION**

A time must be set for beginning work under the agreement. Usually this is a given number of days after a letter of notification has been sent to the consultant. The time allowed for performing the work should be specified; it should be reasonable for the kind and amount of services contemplated; and it should be stated in the agreement. It is desirable that Critical Path Method (CPM) networks be prepared and incorporated into the contract by reference.

#### **C. PAYMENTS**

State the basis of payment for the services to be furnished should be stated. The services may be considered as a whole or by units. The agreement should establish a method of payment as the work progresses or as each unit is completed, and for final settlement after all work is delivered, accepted, and approved. The agreement should set a maximum limit on the total amount payable.

#### **D. RECORD RETENTION**

The agreement should state the period of time that the consultant's records will be retained for inspection by the State, FHWA, or their duly authorized representatives. This time period must be at least three years after final payment to the consultant (currently, records must be retained indefinitely for ongoing audits).

#### **E. COST PRINCIPLES**

The agreement must state that the Federal Acquisition Regulations in Title 48, CFR 31 are the governing factors regarding allowable elements of cost.

## F. MISCELLANEOUS PROVISIONS

1. **Covenant Against Contingent Fees**  
All Agreements for consultant services in which Federal funds are to participate shall contain the following clause:  
  
*“The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this agreement. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or at its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.”*
2. **Design Standards**  
The Agreement should include reference to the appropriate standards for design or other standards for work performance stipulated in the consultant agreement.
3. **Documentation**  
Agreements, where appropriate, shall provide that the consultant document the results of the work to the satisfaction of the local agency and the State. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the agreement objectives.
4. **Ownership of Documents**  
The agreement should provide that tracings, plans, specifications, and maps prepared or obtained under the terms of the agreement be delivered to and become the property of the local agency, and that basic survey notes and sketches, charts, computations, and other data prepared or obtained under such agreement shall be made available, upon request, to the local agency without restriction or limitation on their use. When an agreement is for preliminary plans only, no commitment should be stated or implied that would constitute a limitation of the subsequent use of the plans or ideas incorporated therein for preparation of construction plans.
5. **Patent Rights**  
Applicable patent rights provisions described in 41 CFR 1-9.1 regarding rights to inventions shall be included in Agreements as appropriate.
6. **Copyrights**  
The local agency may permit copyrighting reports or other agreement products. If copyrights are permitted, the agreement shall provide that the FHWA shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
7. **Changes in Work**  
The agreement should contain provisions that permit mutually acceptable changes in the scope, character, or complexity of the work if such changes become desirable or necessary as the work progresses. A method should be established for making adjustments to the basis of payment and to the time for performance of the work. Provision should be made for special cases where it is essential that the extra work be performed immediately with execution of a supplemental agreement covering the changes as soon as possible.

8. Delays and Extensions  
The agreement should provide for appropriate extension of time in case of unavoidable delays and for consideration of corresponding warranted adjustments in payment.
9. Termination or Abandonment  
A procedure covering, among other things, the ownership of work completed or partially completed, including the basis of payment, should be established in the event of termination of the agreement prior to completion of the work. Conditions for termination due to default and circumstances beyond the control of the contractor should be included.
10. Remedies  
Provision(s) should be included allowing administrative, contractual, or legal remedies for violation or breach of contract terms, citing appropriate sanctions and penalties.
11. Disputes  
The agreement should provide for a procedure to resolve any dispute concerning a question of fact in connection with the work not settled by agreement between the parties. Such procedures should conform to the practice followed by the local agency in resolving disputes in other contractual matters.
12. Responsibility for Claims and Liability  
The consultant should be required to save harmless the local agency or other agency of government from all claims and liability due to his/her negligent acts or the negligent acts of his/her subcontractors, agents or employees.
13. General Compliance with Laws and Wage Rates  
The consultant shall be required to comply with all Federal, State and Local laws and ordinances applicable to the work. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.
14. Subcontractors, Assignment and Transfer  
Consultant services are considered to be a personal relationship between client and principal; therefore, agreements in which participating Federal funds are furnished shall contain a clause expressly prohibiting the subcontracting, assignment or transfer of any of the work except as otherwise provided for in the executed agreement. All contracts shall provide that subcontracts exceeding \$25,000 in cost shall contain all required provisions of the prime contract.
15. Consultant's Endorsement on PS&E/Other Data  
The responsible consultant/engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her and where appropriate, indicate his/her registration number.
16. Disadvantaged Business Enterprise Considerations  
Agreements for engineering and design: Consultants must give consideration to DBE Firms as specified in 23 CFR 172.5(e).

### **3. CONCLUSION**

The concluding clause may be any one of the many accepted legal expressions commonly used for that purpose.

### **4. SIGNATURES**

**5. CERTIFICATIONS (see Exhibits G and H)**

**6. COST PRICE PROPOSAL (see Exhibit B)**

## CERTIFICATION OF LOCAL AGENCY

I HEREBY CERTIFY that I am the \_\_\_\_\_ of  
the \_\_\_\_\_ (local agency) and that the consulting firm of  
\_\_\_\_\_ or its representative has not been required (except as herein expressly  
stated), directly or indirectly, as an express or implied condition in connection with obtaining or carrying  
out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or person; or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or  
consideration of any kind.

I acknowledge that this Certificate is to be made available to the California Department of Transportation  
(Caltrans) in connection with this Agreement involving participation of Federal-aid Highway funds, and  
is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

## CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)