A&E Federal Consultant Procurement Checklist

(For Federally Funded A&E Consultant Contracts)

*Disclaimer: This checklist is applicable to projects with any amount of federal funding unless otherwise noted. This checklist is not exhaustive and is provided as guidance only. It does not relieve local agency of its responsibility to meet all Federal and LAPM requirements.*

**Date:** **Caltrans District:**

**Local Agency Name:**  **Prime Consultant:**

**Contract Administrator Name:**  **Contract Administrator Phone:**

**Assigned Local**

**Assistance Project No.:**  **Local Agency Contract No.:**

**Project Name:**

**Description of Services:**

| REQUIRED ITEMS | COMPLETED |
| --- | --- |
| PROCUREMENT PLANNING | |
| 1. Adopt [LAPM Chapter 10](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/ch10.pdf) policies and procedures?   *[LAPM 10.1.10 | 23 CFR 172.5(b)(1)]*  **NOTE:** Must adopt by Resolution or by Public Works Director or equivalent manager on agency’s official letterhead.  For an example of the adoption resolution and letter, go to <https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/consultant-selection-procurement> | Yes No |
| 1. Have internal department Conflict of Interest policy?   *[LAPM 10.1.1 | 23 CFR 172.7(b)(4)(i)]*  **NOTE:** Conflict of Interest policy is a written code of standards of conduct for employees and consultants under contracts. It is not the same as Exhibit 10-T *Conflict of Interest & Confidentiality Statement*. | Yes No |
| 1. Consultant in a Management Support Role (CMSR)?   *[LAPM 10.1.9 | 23 CFR 172.7(b)(5)]*  **NOTE:** If contract is for CMSR, submit Conflict of Interest (COI) policy (see checklist item #2 above) and Scope of Work (SOW) to DLA-HQ prior to contract advertisement and receive FHWA approval prior to contract advertisement. [Exhibit 10-U](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10u.pdf) *Consultant in Management Support Role Conflict of Interest and Confidentiality Statement* is required to be submitted to DLA-HQ prior to contract execution. Receive FHWA approved Exhibit 10-U prior to contract execution. | Yes N/A |
| 1. Assign a Contract Administrator? (full-time public employee)   *[LAPM 10.1.2 | 23 CFR 172.9(d)(1)]*  **NOTE:** A Contract Administrator must be assigned to every A&E contract. A Contract Administrator must be a full-time, public employee of the contracting agency who is qualified to ensure the contract requirements are met. | Yes No |
| 1. Prepare independent cost estimate (ICE)?   *[LAPM 10.1.2, 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(v)(B)]*  **NOTE:** ICE must be prepared prior to receipt or review of the most highly qualified consultant’s cost proposal. ICE must contain elements of contract costs (e.g. indirect cost rates, direct salary or wage rates, fixed fee, and other direct costs) separately. Refine ICE based on more detailed Scope of Work (SOW) for project specific or on-call (IDIQ) at task level. ICE worksheet available at <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/part-c-d/part-1-ice-worksheet-rev-12112020-a11y.xlsm> | Yes No |
| 1. Establish and advertise DBE goal?   *[LAPM 10.1.2 | 23 CFR 172.7(b)(2) | 49 CFR 26]*  **NOTE:** Applies to **all federally funded contracts** regardless of contract amount. Use [Exhibit 9-D](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c09/09de.xlsx) *DBE Contract Goal Methodology* to establish DBE goal. Submit Exhibit 9-D to District Local Assistance Engineer (DLAE) for review and concurrence, or for Caltrans approval if consultant contract is greater than $500,000, prior to contract advertisement. See LAPM 9.7 for additional information. | Yes No |
| **SOLICITATION DOCUMENTS AND ADVERTISEMENT** | |
| 1. [Exhibit 10-T](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10t.pdf) *Conflict of Interest & Confidentiality Statement* signed and dated for all panel members?   *[LAPM 10.1.5, 10.1.6, 10.1.7 |23 CFR 172.7(b)(4)(ii)]*  **NOTE:** Prior to selection process initiation, each panel member must sign and date separate [Exhibit 10-T](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10t.pdf) *Conflict of Interest & Confidentiality Statement* | Yes No |
| 1. Advertise publicly?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(i)]*  **NOTE:**  Minimum length of advertisement is 14 calendar days.  See RFP/RFQ Review Checklist for guidance in preparing RFP/RFQ  <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/files/rfp-rfq-review-checklist.docx> | Yes No |
| 1. Perform responsiveness check?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)]*  **NOTE:**  All proposals are to be verified & documented. Check proposals meet all RFP/RFQ requirements, e.g. submittal deadlines, number of copies, cost proposals deadline, etc. Date stamp proposals.  See Responsiveness Checklist <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/2022/sop-soq-responsiveness-checklist-20220503.docx> | Yes No |
| **EVALUATION AND SELECTION OF CONSULTANT** | |
| 1. Use competitive negotiation (minimum of 3 consultants responded)?   *[LAPM 10.1 | 23 CFR 172.7(a)(1) | 2 CFR 200.334]*  **NOTE:**  For non-competitive negotiation (sole-source or only one consultant responded to solicitation), submit [Exhibit 12-F](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c12/12f.pdf) *Cost-Effectiveness/Public Interest Finding/A&E Noncompetitive* to DLAE. If 2 consultants responded to solicitation, retain written justification in project file. Re-advertisement is recommended when less than 3 proposals received. | Yes No |
| 1. Evaluate consultant proposals based on published criteria?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)]*  **NOTE:** Minimum of 3 proposals received. If two proposals, retain written justification in project file.  If one proposal, an [Exhibit 12-F](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c12/12f.pdf) *Cost-Effectiveness/Public Interest Finding/A&E Noncompetitive* is required to be submitted to DLAE for acceptance prior to evaluating consultants. Re-advertisement is recommended when less than 3 proposals received. | Yes No |
| 1. Consultant meet DBE goal?   *[LAPM 10.1.5, 10.1.6, 10.1.7, 10.1.8 | 23 CFR 172.7(b)(2)]*  **NOTE:** Document Good Faith Efforts ([Exhibit 15-H](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c15/15h.pdf) *Proposer/Contractor Good Faith Efforts*) if consultant did not meet DBE goal set in RFP/RFQ. | Yes No |
| 1. Consider price in evaluation?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iii)(B)]*  **NOTE:** Price cannot be considered in Qualifications-Based Selection (QBS) process. | Yes No |
| 1. Rank a minimum of 3 consultants?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)(D)]* | Yes No |
| 1. Notify final ranking of top 3 consultants?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)(E)]*  **NOTE:** Top 3 consultants must be notified of their ranking. | Yes No |
| 1. Conduct discussion with top ranked consultants?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)(C)]*  **NOTE:** Discussions are required only if stated in RFP/RFQ. Discussions may be written, by telephone, video conference or by oral presentation/interview. Discussions shall be with at least the 3 top ranked consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. | Yes No Not stated  in RFP/RFQ |
| **CONTRACT NEGOTIATION** | |
| 1. Receive cost proposal from top ranked consultant (consultant ranked #1)?   *[LAPM 10.1.2, 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(v)(D)]*  **NOTE:** Only open cost proposal from the top ranked consultant (consultant ranked #1). If  negotiations with top ranked consultant are formally terminated, cost proposal from second  ranked consultant shall be requested and opened. If negotiations with second ranked consultant  are formally terminated, cost proposal from third ranked consultant shall be requested and  opened, followed by lower ranked consultants as needed. | Yes No |
| 1. Start contract negotiation with top ranked consultant (consultant ranked #1)?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(iv)(D)]*  **NOTE:** If unable to negotiate a satisfactory contract with the top ranked consultant (consultant ranked #1), negotiations with that consultant shall be formally terminated. Start negotiations with the second ranked consultant. If unable to negotiate a satisfactory contract with the second ranked consultant, negotiations with that consultant shall be formally terminated. Then subsequently start negotiations with the third ranked and lower ranked consultants as needed. | Yes No |
| 1. Submit Financial Document Review Request to Independent Office of Audits and Investigations (IOAI) and receive Acceptance Identification (ID) number?   See IOAI website: <https://ig.dot.ca.gov/resources/instructions-fdr-icr/>  *[LAPM 10.1.3 | 23 CFR 172.11(b)(1)]*  **NOTE:** For any contract (project specific, multi-phased, or on-call) ≥ $1M, Acceptance ID for all consultants (Prime and subconsultants) must be received prior to contract execution. | Yes  No, contract less than $1M |
| 1. Negotiate contract items with top ranked consultant?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(v)(D)]*  **NOTE:** Negotiated items: Workplan; classification/wage rate/personnel experience level; cost items/payments/fees; hours, etc. | Yes No |
| 1. Perform cost analysis by comparing ICE and consultant cost proposal?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(v)(C)]*  **NOTE:** Cost analysis must be performed to establish that costs and elements were determined to be fair and reasonable.  Cost Analysis worksheet available at <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/part-c-d/part-2-cost-analysis-worksheet-rev-12042020-a11y.xlsm> | Yes No |
| 1. Fixed fee over 15%?   *[LAPM 10.1.2 | 23 CFR 172.11(b)(3)]*  **NOTE:** The allowable profit/fixed fee is up to 15%. A profit/fixed fee over 15% must be well-justified and documented. | Yes No |
| 1. Apply Federal Cost Principles?   *[LAPM 10.1.2, 10.1.3, 10.1.10 | 23 CFR 172.5(c), 172.11]* | Yes No |
| 1. Complete and submit the A&E Consultant Contract form to the A&E Consultant Contract database? <https://dla.dot.ca.gov/fmi/webd/AE%20Consultant%20Contract%20Form>   *[LAPM 10.1, 10.1.2, 10.1.5, 10.1.6, 10.1.8]*  **NOTE:** Submit prior to contract execution or after contract execution, but no later than the first invoice. Retain copy in project file. | Yes No |
| **CONTRACT EXECUTION** | |
| 1. Contract contains required Fiscal and Federal and State Provisions?   *[LAPM 10.1.2, 10.1.8 | 23 CFR 172.9(c)]*  **NOTE:** See [Exhibit 10-R](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10r.pdf) *A&E Boilerplate Agreement Language* | Yes No |
| 1. Return concealed cost proposals from unsuccessful consultants?   *[LAPM 10.1.5, 10.1.6, 10.1.7 | 23 CFR 172.7(a)(1)(v)(D)]*  **NOTE:** Concealed cost proposals must be returned to unsuccessful consultants unless using a system that ensures cost proposals of unsuccessful consultants are disposed of properly. | Yes No |
| 1. Send copies of executed contract and DBE Commitment Exhibits ([Exhibit 10-O1](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10o1.pdf): *Consultant Proposal DBE Commitment* and [Exhibit 10-O2](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10o2.pdf): *Consultant Contract DBE Commitment*) to DLAE   **NOTE:** For on-call contracts, send copy of issued task order and corresponding [Exhibit 10-O2](https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c10/10o2.pdf) to DLAE. | Yes No |
| **DOCUMENTATION** | |
| 1. Retain all records and supporting documents for three (3) years from date of submission of the final expenditure report?   *[LAPM 10.1.8 | 23 CFR 172.7(a)(1)(iv)(F) | 2 CFR 200.334]*  Example of records and supporting documents:   1. Responsiveness checklist/Proposal responses 2. Score sheets/Consultant ranking 3. Forms/Exhibits used 4. Independent cost estimate/Cost analysis 5. Negotiations (cost/profit) 6. All financial documents | Yes No |
| 1. Document all procurement process?   *[LAPM 10.1 | 23 CFR 172.7(a)(1)(iv)(F), 172.7(a)(1)(v)(E), 172.11(a)(2)]*  **NOTE:** Make sure to document and keep records of Items 1-27 at a minimum. | Yes No |
| 1. Contract Administrator check applicable documentation and exhibits: 2. A&E Consultant Contract From 3. Exhibit 9-D: DBE Contract Goal Methodology 4. Exhibit 10-G: Individual A&E Task Order DBE Tracking Sheet 5. Exhibit 10-I: Notice to Proposers DBE Information 6. Exhibit 10-O1: Consultant Proposal DBE Commitment 7. Exhibit 10-O2: Consultant Contract DBE Commitment 8. Exhibit 10-Q: Disclosure of Lobbying Activities 9. Exhibit 10-R: A&E Boilerplate Agreement Language 10. Exhibit 10-T: Conflict of Interest & Confidentiality Statement 11. Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement 12. Exhibit 15-H: Proposer/Contractor Good Faith Efforts 13. Internal Department Conflict of Interest Policy 14. Financial Document Review Request Form and Certification of Indirect Costs and Financial Management System (if applicable)   (See IOAI website <https://ig.dot.ca.gov/resources/instructions-fdr-icr/>) | Yes No |
| **AMENDMENT** | |
| 1. Extend contract date?   *[LAPM 10.1.8 | 23 CFR 172.9(e)]*  **NOTE**: For on-call (IDIQ) contracts, the maximum length of contract period is 5 years. The recommended practice is to contract for the first 3 years and amend every year after for a total of 5 years. | Yes No |
| 1. Increase contract amount?   *[LAPM 10.1.8 | 23 CFR 172.9(e)]*  **NOTE:** For on-call (IDIQ) contracts, the original maximum contract amount cannot be increased by amendment. | Yes No |
| 1. Submit Financial Document Review Request to Independent Office of Audits and Investigations (IOAI) and receive Acceptance Identification (ID) number?   See IOAI website <https://ig.dot.ca.gov/resources/instructions-fdr-icr/>)  *[LAPM 10.1.3, 10.1.8]*  **NOTE:** For any contracts (project specific, multi-phased, or on-call) with original amounts under $1M but subsequently became > $1M after amendment, IOAI Financial Document Review is not required | Yes  No, original contract amount less than $1M |
| 1. Scope of work change?   *[LAPM 10.1.8 | 23 CFR 172.9(e)(4&5)]*  **NOTE:** A contracting agency may add to a contract only the type of services and  work included within the scope of services of the original solicitation from which a qualifications-based selection was made.  For any additional engineering and design related services outside of the scope of work established in the original solicitation, a contracting agency shall either procure the services under a new solicitation, perform the work itself using agency staff, or use a different, existing contract under which the services would be within the scope of work. | Yes No |
| 1. Replacing subconsultant or adding new subconsultant?   *[LAPM 10.1.8]*  **NOTE:** If yes, submit Financial Document Review Request to IOAI if original contract amount is ≥ $1M. If subconsultant is a DBE, replace with DBE subconsultant regardless of original contract amount. | Yes No |
| 1. Complete and submit amended A&E Consultant Contract Form to the A&E Consultant Contract database (<https://dla.dot.ca.gov/fmi/webd/AE%20Consultant%20Contract%20Form>)   *[LAPM 10.1.8]*  **NOTE:** Submit prior to the first invoice after the contract has been amended. | Yes No |
| 1. Document amendment process?   *[LAPM 10.1.8 | 23 CFR 172.9(e)(2)]* | Yes No |

**Comments:**

Comments should include checklist item number as reference

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| **Contract Administrator Signature:** |  | **Date Checklist Completed:** |  |

**References:**

Local Assistance Procedures Manual Chapter 10 Consultant Selection – Latest Published Version (Updated Annually)

<https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm>

2 CFR 200

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

23 CFR 172

<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-B/part-172>

49 CFR 26

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>