



Program Review

CALIFORNIA
DEPARTMENT OF
TRANSPORTATION

DIVISION OF
LOCAL
ASSISTANCE

OFFICE OF
GUIDANCE AND
OVERSIGHT



2018 A&E Oversight Performance Measures #18-01

January 2019

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FINAL REPORT



Table of Contents

Executive Summary	ii
Background.....	1
Purpose and Objective.....	5
Scope and Methodology	6
Data Analysis.....	8
Observations and Recommendations	13
Successful Practices.....	19
Action Plan.....	20
Team Members.....	21
Appendix A	22
Appendix B	24



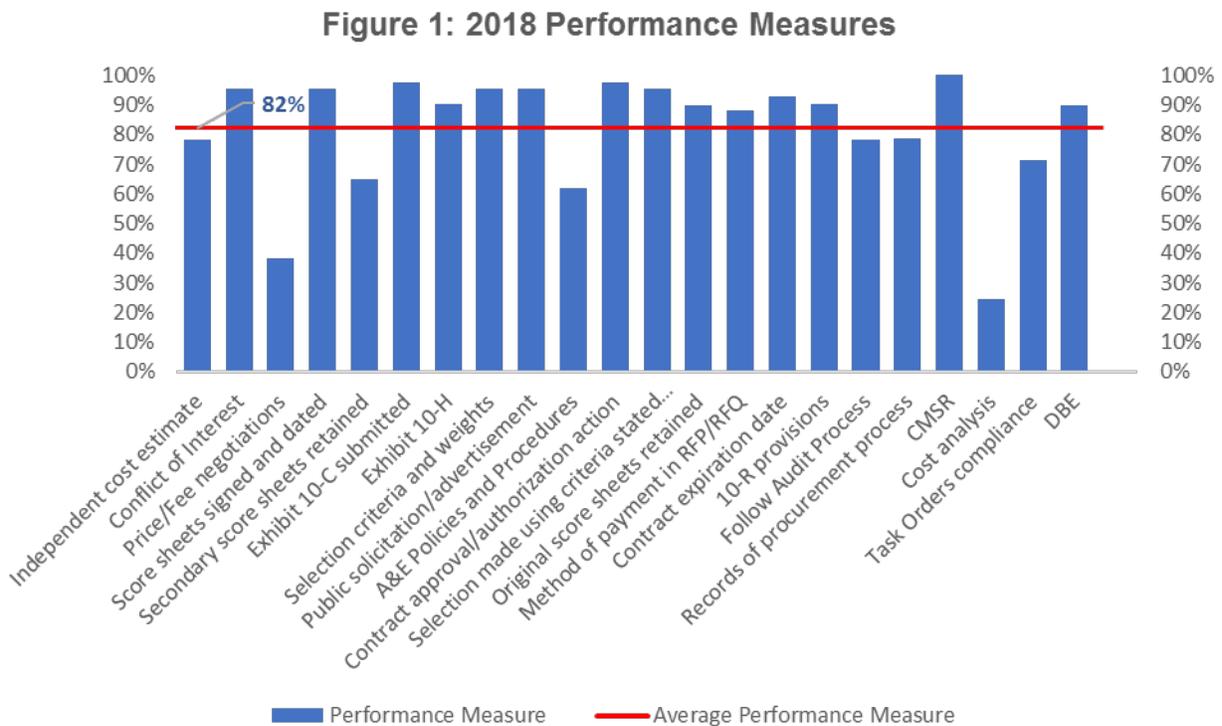
Executive Summary

The California Department of Transportation (Caltrans) Division of Local Assistance (DLA) Office of Guidance and Oversight (OGO) has conducted a process review of Architectural and Engineering (A&E) consultant contracts procured by local government agencies (LGA's) to assess compliance with federal regulations. Caltrans is required by federal regulations to ensure LGA's comply with 23 Code of Federal Regulations (CFR) part (§) 172, 2 CFR §200, and 48 CFR §31.

The objectives of the review were as follows:

- Determine if local agencies comply with 23 CFR §172 – *Procurement, Management, and Administration of Engineering and Design Related Services* for contracts executed in FFY 2017-18.
- Identify deficient areas in the LGA's procurement processes, recommend changes to Local Assistance Procedures Manual (LAPM) *Chapter 10: Consultant Selection* guidance, and create an action plan for increasing compliance.

The program demonstrated an overall compliance rate of 82% in 2018 as shown in *Figure 1: 2018 Performance Measures*.





There are 14 areas that are within the A&E Oversight branch's target compliance goal of 85%. There are 8 areas that are deficient. The areas listed in *Table 1: Overall Performance Compliance* with compliance below 70% are specifically targeted for improvement in 2019.

Table 1: Overall Performance Compliance				
No.	Area Performance	Overall 2014	Overall 2017	Overall 2018
1	Independent cost estimate	0.09	0.64	0.78
2	Conflict of Interest	0.13	0.89	0.95
3	Price/Fee negotiations	0.13	0.69	0.38
4	Score sheets signed and dated	0.39	0.78	0.95
5	Secondary score sheets retained	0.40	0.70	0.65
6	Exhibit 10-C submitted	0.41	0.92	0.98
7	Exhibit 10-H	0.48	0.78	0.90
8	Selection criteria and weights	0.56	0.81	0.95
9	Public solicitation/advertisement	0.56	0.92	0.95
10	A&E Policies and Procedures	0.38	0.50	0.60
11	Contract approval/authorization action	0.62	0.92	0.98
12	Selection made using criteria stated in RFP/RFQ	0.68	0.85	0.95
13	Original score sheets retained	0.72	0.89	0.90
14	Method of payment in RFP/RFQ	0.76	0.58	0.90
15	Contract expiration date	0.86	0.92	0.93
16	10-R provisions		0.81	0.90
17	Follow Audit Process		0.80	0.78
18	Records of Procurements and Submittals		0.53	0.78
19	CMSR			1.00
20	Cost analysis			0.24
21	Task Orders compliance			0.71
22	DBE			0.90
Average		0.49	0.77	0.82

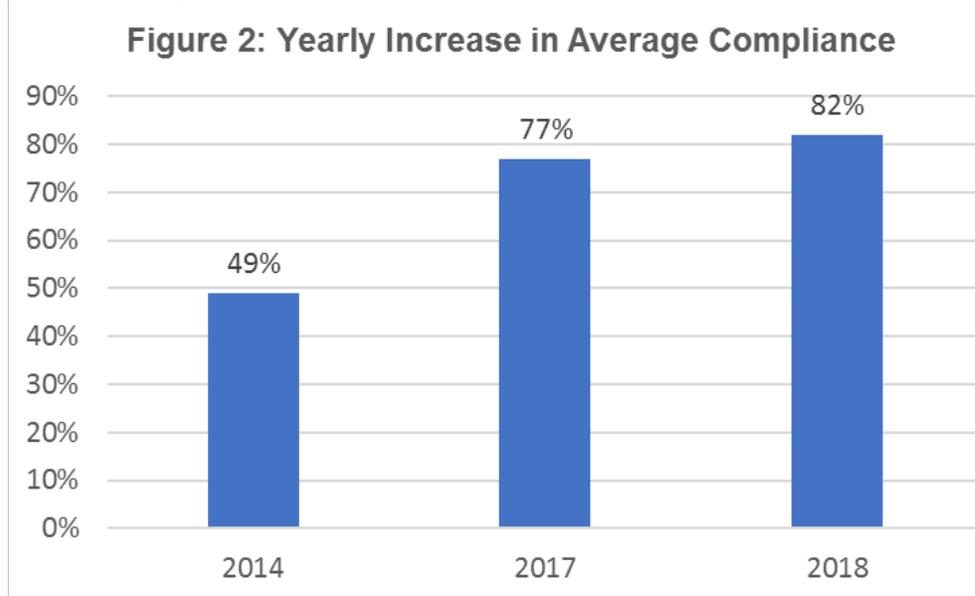
These 4 areas and the specific plans includes:

1. Price Fee Negotiations – this area had a decrease in compliance. This is partly due to the review team now having a greater understanding of the regulations and higher standards for review. The A&E Oversight branch will develop training in conjunction with Independent Office of Audits and Investigations (IOAI) and provide specific examples of how to negotiate a contract.



2. Secondary Score sheets – this item also had a decrease but seems to be more of an anomaly. The team believes by highlighting this in the training and guidance that this item will reach compliance logically.
3. Policies and Procedures – this item is slowly increasing so the team has implemented a prescribed policy and procedure adoption in the LAPM Chapter 10. An example resolution for adoption has been provided to all agencies.
4. Cost Analysis – this item had the lowest compliance rating. The team will provide training in conjunction with IOAI and provide specific examples of the expectations of doing a cost analysis.

The overall average compliance rate continues to improve as shown in *Figure 2: Yearly Increase in Average Compliance*.



Previously, there was no process for collecting data for A&E contracts and the branch had little idea of how many consultant contracts were executed throughout the state. The A&E Oversight branch changed the Exhibit 10-C criteria and review process in the fall of 2017 requiring agencies to submit an Exhibit 10-C for each contract. An astonishing 585 submittals were received for FFY 2017-18, 400 contracts and 185 amendments. Several focus trainings were done in 2018 in response to the Exhibit 10-C review findings including: independent cost estimates, cost analysis, and task order issuance and DBE for on-call contracts This significantly increased the success of compliance by determining and targeting deficiencies throughout the year.



The team is currently developing a plan to reduce the amount of time and effort required for submittals while still collecting necessary data to improve the program. The criteria for reporting compliance will continue to be refined in conjunction with Federal Highway Administration (FHWA) and IOAI.

The increase in compliance usually does not occur in the same year as the report findings. This is due to the time it takes for the A&E Oversight branch to implement a training plan and update the guidance, which then goes into effect the following year.

Resolutions for this report includes developing a user-friendly Exhibit 10-C submittal process, clarifying guidance in the LAPM *Chapter 10: Consultant Selection*, and providing statewide training focusing on the critical areas.

The future goal of the A&E Oversight branch is to reach an 85% compliance rate. Recommendations are included in this report for reaching the targeted future goals.

Background

23 CFR §172.1 requires State Transportation Agencies (STA) such as Caltrans to ensure that subrecipients comply with the requirements of 23 CFR §172 in addition to the 2 CFR §200 *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards rule*. The master agreement between Caltrans and LGA's require all agencies to follow the LAPM Chapter 10 for consultant contracts.

FHWA considered A&E consultant contracts as a high-risk area in 2014 and still considers A&E consultant contracts a high-risk area. The A&E Oversight branch was created to reduce this risk and has continuously improved the LAPM and training to increase compliance since the first process review from 2014.

The 2014 process review measured 15 areas of interest and set a baseline of compliance. The 2017 report measured the same 15 areas and included 3 more areas to establish a baseline for 18 areas for future comparisons. This process review added 4 additional areas for a total of 22 areas reviewed. The 4 additional areas include:

- CMSR
- Cost analysis
- Task order issuance process
- DBE requirements

A full list of the areas measured are included in the Scope and Methodology section and in *Table 1: Performance Measures Compliance*. The 4 areas that are being targeted for specific improvement in 2019 are in red font in *Table 1: Overall Performance Compliance* below.



Table 1: Overall Performance Compliance

No.	Area Performance	Overall 2014	Overall 2017	Overall 2018
1	Independent cost estimate	0.09	0.64	0.78
2	Conflict of Interest	0.13	0.89	0.95
3	Price/Fee negotiations	0.13	0.69	0.38
4	Score sheets signed and dated	0.39	0.78	0.95
5	Secondary score sheets retained	0.40	0.70	0.65
6	Exhibit 10-C submitted	0.41	0.92	0.98
7	Exhibit 10-H	0.48	0.78	0.90
8	Selection criteria and weights	0.56	0.81	0.95
9	Public solicitation/advertisement	0.56	0.92	0.95
10	A&E Policies and Procedures	0.38	0.50	0.60
11	Contract approval/authorization action	0.62	0.92	0.98
12	Selection made using criteria stated in RFP/RFQ	0.68	0.85	0.95
13	Original score sheets retained	0.72	0.89	0.90
14	Method of payment in RFP/RFQ	0.76	0.58	0.90
15	Contract expiration date	0.86	0.92	0.93
16	10-R provisions		0.81	0.90
17	Follow Audit Process		0.80	0.78
18	Records of Procurements and Submittals		0.53	0.78
19	CMSR			1.00
20	Cost analysis			0.24
21	Task Orders compliance			0.71
22	DBE			0.90
Average		0.49	0.77	0.82

LGA's are required to follow the LAPM *Chapter 10: Consultant Selection* when procuring contracts utilizing federal funds through DLA. LAPM Chapter 10 is intended as a guide for local agencies and includes the State and Federal requirements listed in 23 CFR §172.

Since the 2017 report, various measures were taken to increase compliance such as:

- Implemented a Consultant in a Management Support Role (CMSR) process
- Implemented the Exhibit 10-C review process
- Provided training in all 12 Districts including a webinar for the new Exhibit 10-C process
- Updated the LAPM Chapter 10



- Provided focused training in four Caltrans districts and posted the trainings online

Deficiencies below the target compliance rate of 85% were found in 8 of the 22 areas reviewed. The most critical areas are listed with their respective compliance rates:

1. Cost analysis – 24%
2. Price/Fee negotiations – 38%
3. A&E Policies and Procedures adoption – 60%
4. Secondary score sheets retained – 65%
5. Task order issuance – 71%
6. Records of procurement process – 78%
7. Follow audit/Indirect Cost Rate (ICR) acceptance process – 78%
8. Independent cost estimate – 78%

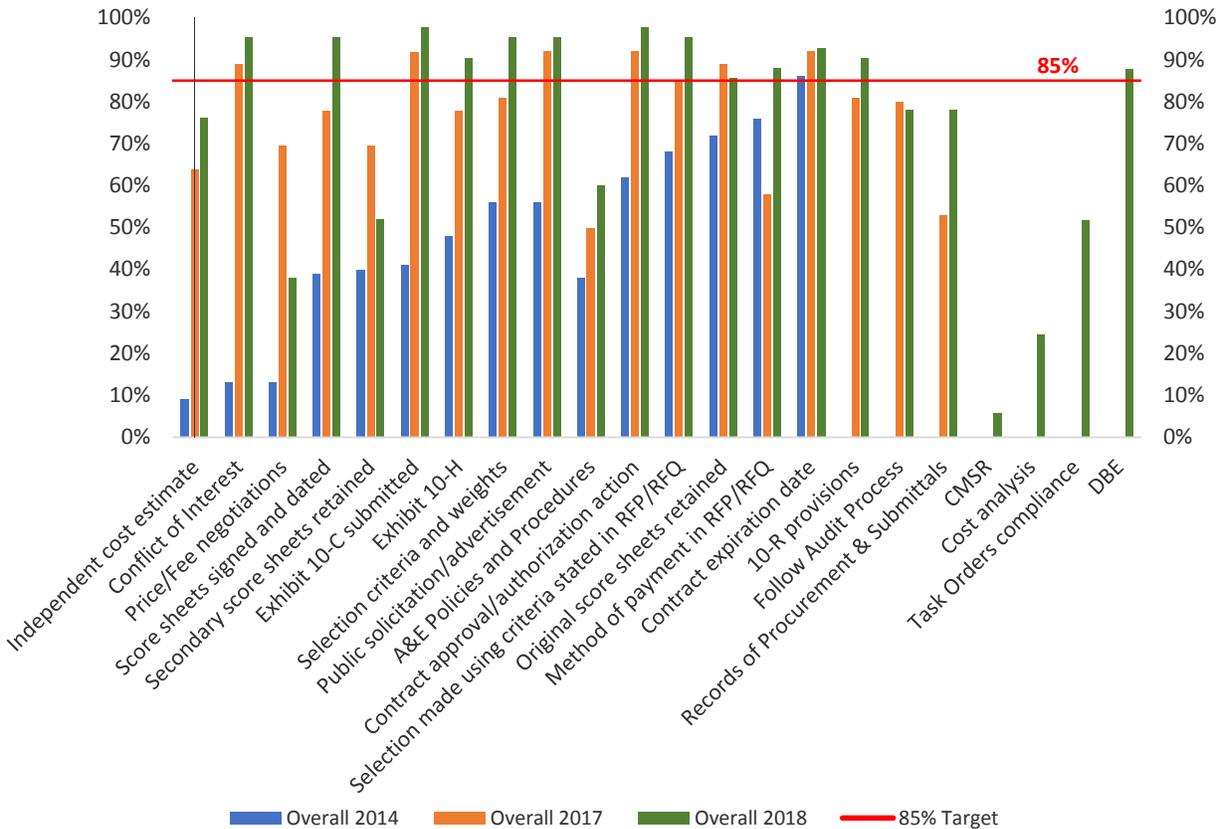
Most of these critical areas are directly related to the financial oversight of contracts. This creates a significant fiscal risk for LGA's.

The A&E Oversight branch will specifically focus on the four lowest compliance areas; cost analysis, price/fee negotiations, policies and procedures adoption, and secondary score sheets to improve the compliance of these in relation to the other measures.

Two previous process reviews were used to report compliance and to establish a baseline. *Figure 3: Progressive Performance Measures* compares the findings from 2014, 2017, and 2018.



Figure 3: Progressive Performance Measures



The target goal for 2018 of the original 15 measured criteria (2014 Performance Measures) was 85% compliance. There have been significant increases in compliance since 2014 and most of the original criteria have met this 85% target, due to the implementation of the Exhibit 10-C review process in the fall of 2017 requiring agencies to submit an Exhibit 10-C for each contract. This significantly increased the success of compliance by ensuring data collection to determine and target deficiencies throughout the year. Several focused trainings have resulted in the increase success of compliance because of the ongoing Exhibit 10-C review findings.

There are 7 areas from the original review that had compliance rates at or above 85% for both the 2017 and 2018 reviews. These 7 areas are now considered in compliant and will be removed for the 2019 process review. The A&E Oversight branch ambitiously targets the lowest performing areas for training and guidance improvements. Although DLA expects agencies to meet all the requirements in the LAPM, the A&E Oversight branch realizes that without specific outreach and training, the agencies are unaware of the underperforming areas.

The data from this review will be used to report program compliance, improve guidance in the LAPM, and create statewide training.



Purpose and Objective

The purpose of this review is to assess compliance with Federal and State regulations for A&E consultant contracts procured by local agencies. The information and data will be used to improve guidance, training, and oversight provided to the Districts and LGA's.

The objectives of the review were as follows:

- Determine if local agencies were in compliance with 23 CFR §172 – *Procurement, Management, and Administration of Engineering and Design Related Services* for contracts executed in FFY 2017-18. Refer to Appendix B for specific target areas of review.
- Identify deficient areas in LGA's procurement processes and recommend changes to LAPM *Chapter 10: Consultant Selection* guidance and create an action plan for increasing compliance.



Scope and Methodology

The A&E Oversight branch had collected *Exhibit 10-C: Consultant Contract Reviewers Checklist* for all A&E consultant contracts in FFY 2017-18. Due to a limited resource, a sampling design was established to represent the whole population of Exhibit 10-C's (see *Table 1: Overall Performance Compliance*). A representative sample for this report was designed to be random without bias from the population of interest, but still representative of the population as a whole. A pool of 585 Exhibit 10-C submittals were chosen to draw a sample size. A combination of stratified random sampling and systematic sampling was applied. The selection criteria of sample size included Federally and State funded projects (on-call and project specific contracts were both considered) equal to or greater than \$150,000. Only one contract per LGA was chosen (the first contract of the same LGA on the list), and randomly selected every other on the short list. By doing this, forty-six (46) projects representative for eleven (11) Districts were selected (excluding District 9 that had insignificant amounts of contracts). Also, four (4) were dropped from the sample size (judgmental sampling) due to the contracts being determined non-A&E or were recently audited by IOAI.

The review was a random sample of 42 contracts greater than \$150,000 chosen throughout the State. The team reviewed support documentation for Exhibit 10-C for 22 requirements chosen from 23 CFR §172 regulations.

Forty-two (42) selected contracts equivalent to 7% of the population (less than 10%) were requested to provide supporting documents for this process review. This number meets sample size calculation with a margin of error of 15% and confidence interval of 95% shown below:

$$ME = z \sqrt{\frac{\hat{p}(1-\hat{p})}{n}}$$

Sample proportions

$$0.15 = 1.96 \sqrt{\frac{0.5(1-0.5)}{n}}$$

Where:

- ME is the desired margin of error (15%)
- z is the z-score, e.g., 1.96 for a 95% confidence interval, 2.58 for a 99% confidence interval
- \hat{p} is sample proportion of contracts in compliance with Fed/State regulations. Assume $\hat{p} = 0.5$
- n is the sample size.

Hence: **n = 42.7 projects.**



The A&E Oversight branch demonstrates with 95% confidence that the compliance of the 22 Federal requirements assessed lies between 67% and 97%. Appendix A contains the list of chosen projects and Appendix B contains the list of measured criteria.

A review checklist was created (Appendix B) that included relevant questions and the respective regulatory citation. Supporting documentation corresponding to the checklist questions were requested from the LGA's. The team then completed a review of the supporting documentation and analyzed the results.



Data Analysis

The data sets of performance areas for 2014, 2017, and 2018 were collected and statistical tests were used to evaluate the performance measures of the LGA's A&E procurement.

Performance Measures of 2014, 2017, and 2018:

Table 1: Overall Performance Compliance				
No.	Area Performance	Overall 2014	Overall 2017	Overall 2018
1	Independent cost estimate	0.09	0.64	0.78
2	Conflict of Interest	0.13	0.89	0.95
3	Price/Fee negotiations	0.13	0.69	0.38
4	Score sheets signed and dated	0.39	0.78	0.95
5	Secondary score sheets retained	0.40	0.70	0.65
6	Exhibit 10-C submitted	0.41	0.92	0.98
7	Exhibit 10-H	0.48	0.78	0.90
8	Selection criteria and weights	0.56	0.81	0.95
9	Public solicitation/advertisement	0.56	0.92	0.95
10	A&E Policies and Procedures	0.38	0.50	0.60
11	Contract approval/authorization action	0.62	0.92	0.98
12	Selection made using criteria stated in RFP/RFQ	0.68	0.85	0.95
13	Original score sheets retained	0.72	0.89	0.90
14	Method of payment in RFP/RFQ	0.76	0.58	0.90
15	Contract expiration date	0.86	0.92	0.93
16	10-R provisions		0.81	0.90
17	Follow Audit Process		0.80	0.78
18	Records of Procurement Process and Submittals		0.53	0.78
19	CMSR			1.00
20	Cost analysis			0.24
21	Task Orders compliance			0.71
22	DBE			0.90
Average		0.49	0.77	0.82



Performance Measures of 2018 vs. 2014:

Table 2: 2018 vs. 2014 Overall Performance Compliance				
No.	Area Performance	Overall 2014	Overall 2018	Difference 2018 - 2014
1	Independent cost estimate	0.09	0.78	0.69
2	Conflict of Interest	0.13	0.95	0.82
3	Price/Fee negotiations	0.13	0.38	0.25
4	Score sheets signed and dated	0.39	0.95	0.56
5	Secondary score sheets retained	0.40	0.65	0.25
6	Exhibit 10-C submitted	0.41	0.98	0.57
7	Exhibit 10-H	0.48	0.90	0.42
8	Selection criteria and weights	0.56	0.95	0.39
9	Public solicitation/advertisement	0.56	0.95	0.39
10	A&E Policies and Procedures	0.38	0.60	0.22
11	Contract approval/authorization action	0.62	0.98	0.36
12	Selection made using criteria stated in RFP/RFQ	0.68	0.95	0.27
13	Original score sheets retained	0.72	0.90	0.18
14	Method of payment in RFP/RFQ	0.76	0.90	0.14
15	Contract expiration date	0.86	0.93	0.07
Average		0.49	0.85	0.37

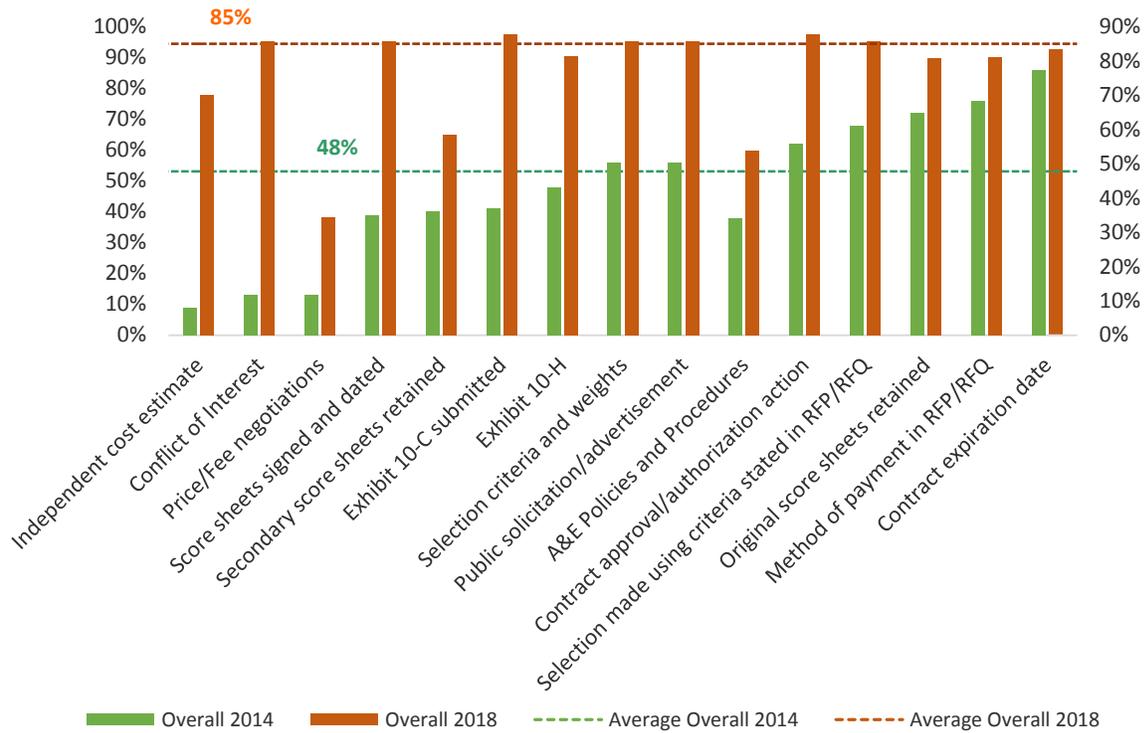
The overall 2018 compliance just for the original 15 areas measured is 85%.

Table 3: Statistical Test for Equal Variances

Normal w/Equal Variances	
Two sample t-Test (Pooled)	$H_0: \mu_{2018} = \mu_{2014}, \alpha=0.05$
p-value < $\alpha = 0.05$	Reject H_0 , Perform Multiple Comparisons (Tukey's Quick and Mann-Whitney's Tests)
p-value > $\alpha = 0.05$	Fail to Reject H_0 : Analysis Ends

From Excel for two sample t-test with one tail for equal variances, $p = 0.0000149 < 0.05$. As a result, null hypothesis is rejected. Multiple Comparisons will be made to compare the performance measure between the two data sets. By looking at Table 2 and Figure 4, a conclusion can be made that the 2018 performance measure is much better than 2014 performance measure.

Figure 4: 2018 vs. 2014 Overall Performance Compliance



Performance Measures of 2018 vs. 2017:

Table 4: 2018 vs. 2017 Overall Performance Compliance			
No.	Area Performance	Overall 2017	Overall 2018
1	Independent cost estimate	0.64	0.78
2	Conflict of Interest	0.89	0.95
3	Price/Fee negotiations	0.69	0.38
4	Score sheets signed and dated	0.78	0.95
5	Secondary score sheets retained	0.70	0.65
6	Exhibit 10-C submitted	0.92	0.98
7	Exhibit 10-H	0.78	0.90
8	Selection criteria and weights	0.81	0.95
9	Public solicitation/advertisement	0.92	0.95
10	A&E Policies and Procedures	0.50	0.60
11	Contract approval/authorization action	0.92	0.98
12	Selection made using criteria stated in RFP/RFQ	0.85	0.95
13	Original score sheets retained	0.89	0.90
14	Method of payment in RFP/RFQ	0.58	0.90
15	Contract expiration date	0.92	0.93
16	10-R provisions	0.81	0.90
17	Follow Audit Process	0.80	0.78
18	Records of Procurement and Submittals	0.53	0.78
Average		0.77	0.85

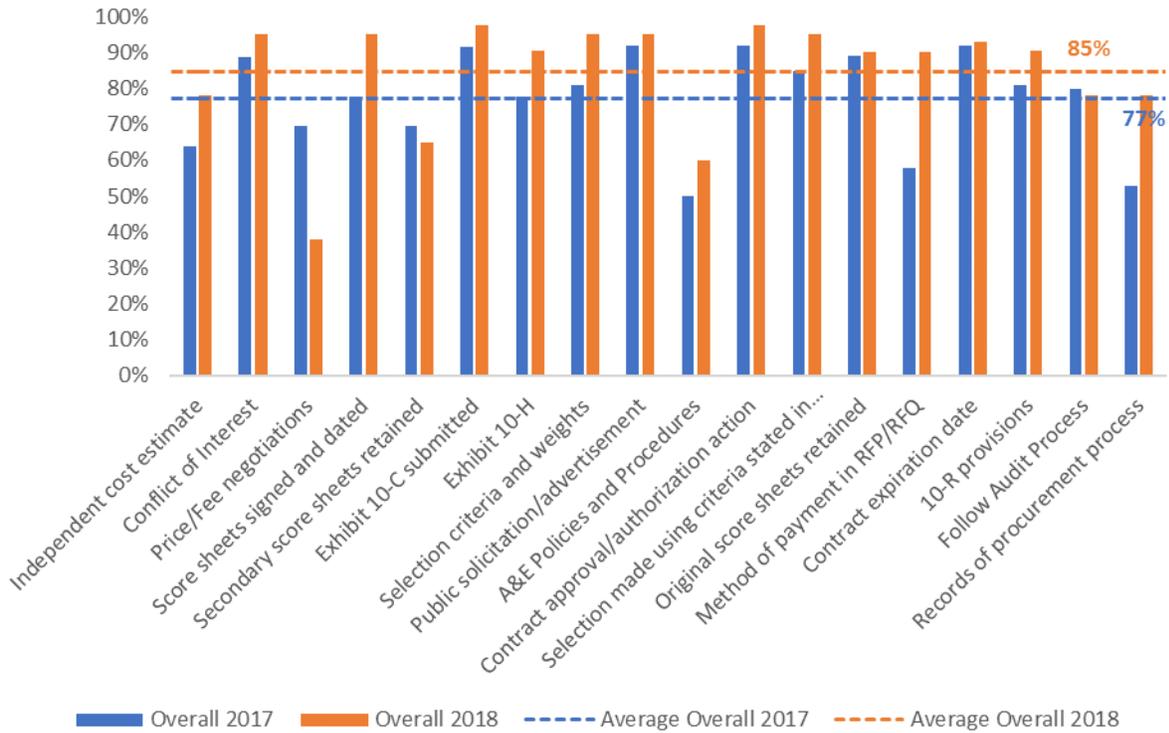
The overall 2018 compliance just for the 18 areas measured is 85%.

Table 5: Statistical Test for Equal Variances

Normal w/Equal Variances	
Two sample t-Test (Pooled)	$H_0: \mu_{2018} = \mu_{2017}, \alpha=0.05$
p-value < $\alpha = 0.05$	Reject H_0 , Perform Multiple Comparisons (Tukey's Quick and Mann-Whitney's Tests)
p-value > $\alpha = 0.05$	Fail to Reject H_0 : Analysis Ends

From Excel for two sample t-test with one tail for equal variances, $p = 0.07815 > 0.05$. Therefore, it is concluded by the analysis that the performance measure of 2017 and 2018 are not statistically different even though the overall results show 85% compared to 77%.

Figure 4: 2018 vs. 2017 Overall Performance Compliance





Observations and Recommendations

Objective #1: Determine if local agencies were in compliance with 23 CFR §172 – Procurement, Management, and Administration of Engineering and Design Related Services for contracts executed in FFY 2017-18.

Observation: The Local Agencies have a rate of compliance between 67% and 97% (average overall 82 percent) amongst the 22 areas measured (95% confidence interval and 15% margin of error).

Condition: The team reviewed 42 projects (Appendix A) out of roughly 585 recorded. The areas measured included 22 items considered significantly important for 2018 are listed in Appendix B.

Criteria: The 2018 A&E Oversight Process Review Questionnaire contains Federal requirements for procuring A&E contracts found in 23 CFR §172. LGA's are required to adhere to all of 23 CFR 172, and 22 requirements were chosen for review.

Cause: The Federal regulations are detailed and comprehensive. Although necessary for ensuring competitive qualifications-based selection for A&E consultant contracts, LGA's are not currently knowledgeable of all the requirements.

Effect: Caltrans DLA, FHWA, and IOAI all consider A&E consultant contracts high risk. IOAI conducts audits and consistently finds deficiencies in A&E contracts, resulting in funding loss.

Compliance Issue: Several measured areas do not meet the interim 85% compliance rate or the future compliance rate of 95%. There are 8 areas at 95% or above, 6 areas are between 85% and 94%, and 8 areas below 85%.

Recommendation: Research and collaborate with FHWA, IOAI, stakeholders, and partners to clearly define and communicate expectations and regulations. Clearly define and communicate all requirements of the Federal regulations in the LAPM *Chapter 10: Consultant Selection* to serve as the standards for expectations and reviews.

Resolution: Caltrans will continue improving the risk-based review procedures of Exhibit 10-C and continue conducting annual process reviews to monitor compliance.



Objective #2: Identify deficient areas in LGA's procurement processes and recommend changes to LAPM Chapter 10: Consultant Selection guidance and create an action plan for increasing compliance.

The full list of areas reviewed are in Appendix B. The LGA's had 8 areas of the 22 reviewed that are below the 2018 target success rate of 85%. The areas in which the deficiencies were found include:

- 2A. Cost analysis
- 2B. Price/Fee negotiations
- 2C. Policies and Procedures adoption
- 2D. Secondary score sheets retained
- 2E. Task order issuance
- 2F. Records of procurement process
- 2G. Follow audit/ICR acceptance process
- 2H. Independent cost estimate

Observation #2A: Cost analysis not done consistently or properly.

Condition: The reviews indicated that only 24% of the contracts reviewed had verification that a cost analysis was performed.

Criteria: 23 CFR §172.7(a)(1)(v)(E): in general, the agency shall document analysis of costs. 48 CFR §31.105 in general states the cost principles and procedures in subpart 31.2 shall be used if a cost analysis is performed as required by 48 CFR §15.404-1(c). 48 CFR §15.404-1(c) states a cost analysis is the review and evaluation of any separate cost elements and profit or fee in an offeror's proposal as needed to determine a fair and reasonable price or to determine cost realism.

Cause: LGA's do not understand why a cost analysis is required or how to do one.

Effect: Not verifying reasonableness of contract costs could lead to overpaying for contracts.

Compliance Issue: A Federal-aid project without an adequately documented cost analysis for each negotiated contract is non-compliant with 23 CFR §172.7(a)(1)(v)(E).

Recommendations: Caltrans should provide clear guidance in the LAPM Chapter 10, additional training on cost analysis, and an example document for LGA's to use.

Resolution: Caltrans will update the LAPM, provide training in all 12 Caltrans districts for this specific item, and post an example document on the DLA A&E Oversight website.



Observation #2B: Price/fee negotiations not done consistently or properly.

Condition: The reviews indicated that only 38% of the contracts reviewed had verification of a negotiated price/fee. This is less than the 2017 findings. However, the reviewer's expectations are higher due to clarification of the negotiation process.

Criteria: 23 CFR §172.7(a)(1)(v)(E): the agency shall retain documentation of negotiation activities.

Cause: LGA's do not fully understand how to negotiate a contract.

Effect: Overpriced contracts can result.

Compliance Issue: A Federal-aid project without an adequately documented cost negotiation for each contract is non-compliant with 23 CFR §172.7(a)(1)(v)(E) and 48 CFR §15.404-1(c).

Recommendation: Post an example and provide training on how to do cost negotiation and fee calculations.

Resolution: Caltrans will update the LAPM, provide training in all 12 Caltrans districts for this specific item, and post an example document on the DLA A&E Oversight website.

Observation #2C: Policies and Procedures adoption.

Condition: Only 60% of the contracts reviewed had either adopted Caltrans LAPM Chapter 10 as their A&E policies and procedures or had their agency's policies and procedures reviewed and approved by Caltrans.

Criteria: 23 CFR §172.5(b)(1): requires subrecipients to adopt a written policies and procedures either prescribed by Caltrans or if not prescribed, follow 23 CFR §172.5(c).

Cause: LGA's do not understand that a policies and procedures must be adopted specifically for A&E procurements and contain the criteria listed in the CFR.

Effect: Consistent audit findings on this particular item. FHWA considers complying with this CFR a priority.

Compliance Issue: A Federal-aid project without an adopted policies and procedures is non-compliant with 23 CFR §172.5(b).

Recommendation: Prescribe all agencies to adopt Caltrans policies and procedures.

Resolution: The 2019 LAPM update includes language to prescribe agencies to adopt LAPM Chapter 10 as their A&E consultant contract procurement policies and procedures.



Observation #2D: Secondary score sheets not retained.

Condition: The reviews indicated that only 65% of the contracts reviewed had secondary score sheets retained. This is less than the 2017 findings.

Criteria: CFR §172.7(a)(1)(iv)(F): the agency shall retain supporting documentation of the evaluation and selection of the consultant.

Cause: LGA's do not understand the importance of retaining score sheets for the secondary or interview evaluations.

Effect: Selection of the most qualified consultant cannot be verified.

Compliance Issue: A Federal-aid project without retention of secondary score sheets is non-compliant with 23 CFR §172.7(a)(1)(iv)(F).

Recommendation: Highlight the findings of this report in the statewide trainings and in a Caltrans Oversight Information Notice (COIN). Create more guidance and examples for secondary evaluations.

Resolution: Caltrans will update the LAPM, provide training in all 12 Caltrans districts for this specific item, post more example documents on the DLA A&E Oversight website, and issue a COIN.

Observation #2E: Issuance of task orders for on-call contracts not done properly.

Condition: The reviews indicated that 71% of the contracts that had multiple contracts awarded for the same type of work, issued task orders properly.

Criteria: 23 CFR §172.9(a)(3)(iv)(B): in general, the agency must use an additional qualifications-based selection procedure or on a regional basis to award a task order where multiple consultants are awarded contracts from a single solicitation for the same type of service.

Cause: Many LGA's are unaware of this specific requirement.

Effect: Audit findings and/or challenges and complaints from other consultants.

Compliance Issue: A Federal-aid project not issuing task orders properly is non-compliant with 23 CFR §172.9(a)(3)(iv)(B).

Recommendations: Caltrans should provide clear guidance in the LAPM Chapter 10 and additional training on on-call projects specifically.

Resolution: Caltrans will update the LAPM and provide training in all 12 Caltrans districts for this specific item.



Observation #2F: Records of the procurement process.

Condition: The reviews indicated that 78% of the contracts reviewed had adequate records of the procurement process.

Criteria: 23 CFR §172.7(a)(1)(iv)(F): the agency shall retain supporting documentation of the proposal of the consultant and determine if the proposal met the published criteria.

Cause: LGA's did not have a responsiveness checklist that verified the consultant met the published solicitation criteria and within the due date.

Effect: Responsiveness of proposer and date and time of submittal by consultant cannot be verified.

Compliance Issue: A Federal-aid project without an adequately documented proposal submittal is non-compliant with 23 CFR §172.7(a)(1)(iv).

Recommendation: Direct LGA's to use a responsiveness checklist, date stamp proposal covers, use a submittal log showing consultant, date, and time.

Resolution: Caltrans will update the LAPM, provide training in all 12 Caltrans districts for this specific item, and post more example documents on the DLA A&E Oversight website.

Observation #2G: Follow audit ICR process.

Condition: The reviews indicated that 78% of the contracts reviewed had ICR acceptance letters.

Criteria: 23 CFR §172.11(b)(1): the agency shall accept a consultant's ICR established by a cognizant agency.

Cause: LGA's did not submit Exhibit 10-A and associated documents in accordance with requirements in the LAPM.

Effect: Repayment of unsupported ICR's could result.

Compliance Issue: A Federal-aid project without an adequately documented ICR acceptance is non-compliant with 23 CFR §172.11(b)(1).

Recommendation: Providing training and guidance.

Resolution: Caltrans will provide training in conjunction with IOAI in all 12 Caltrans districts for this specific item.



Observation #2H: Independent cost estimates were not done consistently or correctly.

Condition: The reviews indicated that 78% of the contracts reviewed had verification of an appropriately completed cost estimate.

Criteria: 23 CFR §172.7(a)(1)(v)(B): the agency shall prepare an independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor, other direct costs, and consultant's fixed fee and shall serve as the basis for negotiation.

Cause: LGA's do not understand the criteria required in the CFR for generating a cost estimate.

Effect: Inappropriate scope of work or overpriced contracts can result.

Compliance Issue: A Federal-aid project without an adequately documented cost analysis for each negotiated contract is non-compliant with 23 CFR §172.7(a)(1)(v)(B).

Recommendation: Improve existing examples and create more examples for LGA's to use as guides.

Resolution: Caltrans will update the LAPM, provide training in all 12 Caltrans districts for this specific item, and post more example documents on the DLA A&E Oversight website.



Successful Practices

Trainings that were conducted in 2017 and 2018 have made the biggest impacts in LGA compliance. The trainings varied based on an LGA's level of experience. The team offered three distinct trainings: an overview of the procurement process, Exhibit 10-C specific training, and focused trainings including independent cost estimates, cost analysis, and DBE for on-call contracts.

The May 2017 Performance Measures Report identified cost estimates and A&E Policies and Procedures as deficient items. These were part of the A&E Oversight branch focused trainings in 2018.

The process implemented in October 2017 requiring LGA's to submit Exhibit 10-C was critical for collecting pertinent data. This has been the most beneficial and practical way to ensure data collection. The team has also been able to continuously assess the health of the A&E Oversight program. Most deficiencies found during the year reviewing Exhibit 10-C's were verified with this process review further clarifying needed changes to the DLA program. For example, the cost analysis, ICR review submittals, and Policies and Procedures adoption were consistently identified as deficiencies while reviewing Exhibit 10-C's.

LAPM Chapter 10: Consultant Selection is very detailed for A&E consultant contract procurement. This is continuously updated based on the Exhibit 10-C risk-based reviews, training and survey feedback, and the annual process reviews. The LAPM is the primary guidance for LGA's.

Several tools and other guidance, such as the cost analysis worksheet, DBE task order summary, and DBE final closeout of on-call contracts were also created based on these findings. These tools were recently implemented, so the effect on compliance will be assessed in 2019.



Action Plan

Observation #1: The LGA's have an overall 82 percent compliance rate amongst the 22 areas measured.

Resolution: The A&E Oversight branch will clarify the measurement areas needed for future reports, modify LAPM Exhibit 10-C accordingly, and streamline the data collection process to improve efficiency.

Completion Target: December 1, 2019.

Observation 2#: The local agencies had 8 areas of the 22 measured in 2018 that were below this year's 85% target success rate. The deficiencies found include:

1. Cost analysis
2. Price/Fee negotiations
3. Policies and Procedures adoption
4. Secondary score sheets retained
5. Task order issuance
6. Records of procurement process
7. Follow audit/ICR acceptance process
8. Independent cost estimate

Resolution: The A&E Oversight branch will conduct training throughout the State and focus on the deficient areas found in this review.

Completion Target: November 30, 2019.



Team Members

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Appendix A

LIST OF LOCAL AGENCY CONTRACTS IN PROCESS REVIEW

CALTRANS DISTRICT	PROJECT ID	LOCAL AGENCY	TYPE OF CONTRACT
1	BRLO-5904(138)	County of Humboldt	Project-Specific
1	BRLRT-5910(041)	Mendocino County	Project-Specific
2	5909(029)	Plumas Country Dept. of Public Works	Project-Specific
3	EO ER-32L0 (Disaster No. CA 17-2 PR ER 32L0)	Butte County Public Works	Project-Specific
3	HSIPL-5037(029)	City of Chico	Project-Specific
3	DEMO5LN-5015(023)	City of Placerville	Project-Specific
3	On-call for HSIPL-5002(183-188, 198-201)	City of Sacramento	On-call
3	CML 5447(042)	City of West Sacramento	Project-Specific
3	BRLS 5925(050)	El Dorado County Department of Transportation	Project-Specific
3	BRLO-5919(105)	Placer County	Project-Specific
4	N/A	Alameda County Public Works Agency	On-call
4	STPL 5470 (011)	City of American Canyon	Project-Specific
4	HSIP7-04-015	City of Oakland	Project-Specific
4	ATPL-5137(049)	City of Richmond	Project-Specific
4	ATPL-5303(017)	City of San Pablo	Project-Specific
4	N/A	Contra Costa County Public Works Department	On-call
4	BHLS-6003(051) and BHLS-6003(052)	Golden Gate Bridge Highway and Transportation District	Project-Specific
4	ER32L0-(108)	Marin County Department of Public Works	On-call
4	32L0-(347),(422),(419),(420),(423),(348),(421),(349)	Napa County	On-call
4	BRLS 5937(205), (206) and (207)	Santa Clara County	Project-Specific



LIST OF LOCAL AGENCY CONTRACTS IN PROCESS REVIEW

CALTRANS DISTRICT	PROJECT ID	LOCAL AGENCY	TYPE OF CONTRACT
5	CML-5359(020)	City of Grover Beach	Project-Specific
5	HPLUL-6090(048)	County of Santa Barbara	Project-Specific
6	Various	City of Fowler	On-call
6	CML 5044(122)	City of Visalia	Project-Specific; Multiphase
6	TBD - Federal Project Number(s) Anticipated	Kern County Public Works	On-call
6	BRLO 5941(081)	Madera County	Project-Specific
7	CML-5200(046)	City of Burbank	Project-Specific
7	BHLS 5249(026)	City of Torrance	Project-Specific
7	On-call for Agency No 5952	County of Ventura - Public Works Agency, Transportation Department	On-call
7	N/A	Los Angeles County	On-call
8	ATPL 5426(013)	City of Big Bear Lake	Project-Specific
8	ATPSBIL-5275(053)	City of Indio	Project-Specific
8	ATPL 5441(069)	City of Moreno Valley	Project-Specific
10	CML-5206(013)	City of Angels	Project-Specific
10	CML-5244 (027)	City of Patterson	Project-Specific
10	CML 5008 (149)	City of Stockton	Project-Specific
10	BRLO-5932(091)	County of Tuolumne	Project-Specific
10	BRNBIF-5929(154) SJCDPW-RFP-17-08	San Joaquin County Department of Public Works	Project-Specific
11	ATPL-5466(021)	City of Encinitas	Project-Specific
11	BRLS-5381(033)	City of San Marcos	Project-Specific
11	CML-5958(105 &106)	Imperial County Department of Public Works	Project-Specific
12	BRLS 5063(184)	City of Santa Ana	Project-Specific



Appendix B

2018 A&E OVERSIGHT PROCESS REVIEW QUESTIONNAIRE

1	Was there an independent cost estimate prior to review of proposals – 23 CFR 172.7(a)(1)(v)(B)?
2	Did members involved in the procurement process complete the mandatory Conflict of Interest statements – 23 CFR 172.7(b)(4), LAPM Exhibit 10-T?
3	Was price/fee negotiations documented – 23 CFR 172.7(a)(1)(v)(E)?
4	Were score sheets signed and dated?
5	Were secondary score sheets retained – 23 CFR 172.7(a)(1)(iv)(F)? If oral interviews were conducted?
6	Was LAPM A&E Consultant Contract Reviewer Checklist (Exhibit 10-C) submitted?
7	Does contract cost proposal meet LAPM standard (Exhibit 10-H)? (e.g. labor costs broken down into direct, indirect and profit components) – LAPM Chapter 10 and 23 CFR 172.11?
8	Were selection criteria and weights properly defined in RFP/RFQ – 23CFR 172.7(a)(1)(ii)(C)? Used LAPM Exhibit 10-B?
9	Was RFP/RFQ solicitation by public announcement/advertisement – 23 CFR 172.7(a)(1)(i)?
10	Does Local Agency have written Policy and Procedures for procuring A&E contracts – 23 CFR 172.5(a)(1)?
11	Did Local Agency document contract approval/authorization action (e.g. council resolution)?
12	Was selection made using criteria stated in RFP/RFQ – 23 FR172.7(a)(1)(iv)(D)?
13	Were original score sheets retained – 23 CFR 172.7(a)(1)(iv)(F)?
14	Is method of payment clearly identified in RFP/RFQ – 23 CFR 172.7(a)(1)(ii)(D)?
15	Does contract term have expiration date – LAPM Chapter 10, Exhibit 10-R?
16	Does contract have mandatory provisions specified in LAPM Exhibit 10-R?
17	Did Local Agency follow Audit Process?
18	Did Local Agency record procurement process and submittals 23 CFR 172.5 and 2 CFR 200.318(i)?
19	Is the contract for a Consultant in a Management Support Role?
20	Was a cost analysis done - 2 CFR 200.323(a)?
21	Were Task Orders issued in accordance with 23 CFR 172.7, 172.9 (if applicable)?
22	Were DBE requirements met - LAPM Ch. 9 &10?



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