

LOCAL AGENCY

CONSULTANT SELECTION PROCEDURES

June 23, 2010

Recommended:

Approved:


Assistant Chief Engineer-Design
Arkansas State Highway and
Transportation Department


Deputy Director and Chief Engineer
Arkansas State Highway and
Transportation Department

LOCAL AGENCY
CONSULTANT SELECTION PROCEDURES

Section I – Application

These procedures apply to federally funded contracts for engineering and design services for projects. The federal laws and regulations that govern the procurement of engineering and design related services with Federal-aid highway funds are:

- 23 U.S.C. 112 “Letting of contracts”.
- 23 CFR 172 “Administration of Engineering and Design Related Service Contracts”,
- 49 CFR 18 “Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments” or more commonly known as the “Common Rule”,
- 40 U.S.C. Chapter 10 Subchapter VI, paragraphs 541-544 or commonly called the “Brooks Act”.

In accordance with the above federal laws and regulations, the Arkansas State Highway and Transportation Department (AHTD) has approved these procedures for use by the Local Agency for the “competitive negotiation” method of procurement as defined in 23 CFR 172.5, Methods of Procurement.

The Local Agency will use these procedures for Federal-aid contracts and may elect to use them for non-Federal-aid contracts.

These procedures do not apply to design-build Contracts.

Section II – Advertisement for Letters of Interest (LOIs).

The Local Agency may employ a consultant engineering firm when a need exists for engineering services and it is in the Local Agency's best interest to employ an engineer or engineering firm.

As a minimum, the Local Agency will advertise in a statewide newspaper, the AHTD's website and the Local Agency's website (if available), advising that consultant engineering services are being sought. In addition, the Local Agency may advertise in appropriate national trade magazines or websites for specialized services. Interested firms must furnish a Letter of Interest with primary contact information and Architect-Engineer Qualifications Standard Form 330 Parts I and II. The advertisement will be for either a specific single project, a group of projects, or for an indefinite delivery of projects to be determined at a later date with specific task orders issued for each project.

When the Local Agency advertises a specific project, the advertisement will describe the work in general terms so that firms may evaluate their interest in performing the desired services.

When the Local Agency advertises a group of projects, a general description of work will be furnished. Firms will be asked to specify the projects they are interested in performing. When the Local Agency decides to proceed with a certain project, those firms having expressed interest in that project will be considered for selection.

When the Local Agency advertises for an indefinite delivery of projects with later specified task orders, the advertisement will include a general description of work for the project tasks.

Section III – Selection Committee.

The Local Agency will designate a Selection Committee (Committee) to evaluate and analyze the LOIs and Proposals.

Section IV – Evaluation of LOIs.

The Committee will evaluate each consultant firm based on the following:

No.	Evaluation Factors for LOIs	Maximum Points Possible
1	Professional staff including the education, experience, number of personnel available, and any partnerships with sub-consultants	10
2	General and professional reputation, including responsiveness to civil rights and equal employment opportunity requirements and opportunities	10
3	Past work performance	10
4	Experience with projects of a similar nature as those advertised	10
	Total Points for LOI	40

Following their review, the selection committee will prepare a short list of engineering firms and recommend to the Local Agency that these firms submit detailed proposals for further evaluation.

Section V – Request for Proposal (RFP).

The Local Agency will prepare a scope of work statement and request proposals from the engineering firms on the short list. For projects with FHWA oversight, the Local Agency will forward the scope of work statement to AHTD to forward to FHWA for review and approval before soliciting RFPs. A Local Agency’s scope of work will typically include the following:

1. A detailed description of the work
2. Services that will be furnished by the Local Agency
3. Services expected of the consultant
4. Project conditions of the work
5. Special conditions of the work
6. Assurance of participation of Disadvantaged Business Enterprises (DBE) in Federal-aid projects. The Local Agency may establish a DBE goal of a certain percentage of the work for DBE's to assure DBE's participation in Federal-aid projects. When a DBE goal is specified, the Local Agency will ensure that a certified DBE(s) performs the identified engineering work and that the payments to the DBE(s) verify that the goal was reached. The establishment of a DBE goal does not preclude a DBE from being the prime consultant for the project.

The short-listed firms should submit proposals that contain the following:

1. A cover letter with primary contact information
2. A detailed work plan that identifies the major tasks of work
3. A list of major concerns associated with completing the work
4. A detailed work schedule for specific projects as requested
5. A manpower estimate for specific projects as requested
6. Updated Standard Form 330 Parts I and II if necessary

The Committee will review the proposals with particular attention to the following evaluation factors and the consideration of Section IV. The evaluation factors and their relative importance will be listed in the RFP if any of the factors are different from the list below.

No.	Evaluation Factors for Proposals	Maximum Points Possible
1	Obvious indication that the scope of work is clearly understood	10
2	Comprehensive, coherent, and detailed work plan	10
3	Realistic work schedule when applicable	10
4	Proposed working office location, need for a local office, and any local representative*	5
5	Identification of sub-consultants and responsiveness to DBE goals and opportunities	5
6	Total Points for LOI	40
	Total Points for Proposals	80

*Locality preference may be used on a project by project basis where it is not based on political boundaries.

Based on these various items, the Committee will rank the firms in order of preference and submit the list to the Local Agency who will either:

1. Select one firm to enter negotiations with;

2. Select multiple firms for an indefinite delivery contract; or
3. Select two or more firms to interview (a firm may present additional information concerning their proposal at the interview). After the interviews, the Committee will re-evaluate the firms based on the interview and the same evaluation factors as noted previously. The ranked list will be submitted to the Local Agency for review and final selection.

The contract file will contain records of the rankings and supporting data; however, the rankings will not be public information. Copies of the LOI advertisement, the rankings, and supporting data shall be submitted to AHTD for the contract file.

Section VI – Negotiation and Contract Preparation.

Once a firm is selected for negotiation for a specific job or a group of projects, it will prepare a draft contract including a cost estimate for the project. The other firms on the short list will be advised of the firm selected, subject to successful negotiations.

More than one firm may be selected for an indefinite delivery contract. The contract will establish a maximum cost for the contract as well as an expiration date. As individual task orders are issued, individual task order cost estimates will be negotiated.

The selected firm will prepare a draft contract based on a sample contract furnished by the AHTD. In accordance with the principles of 23 CFR 172, the draft contract must include an overhead rate that is approved by the AHTD. The overhead rate shall be verified by an audit by a certified public accountant on behalf of the consultant if the contract exceeds \$250,000. If the contract is less than \$250,000, the overhead rate shall also be verified by an audit by a certified public accountant on behalf of the consultant if at least one of the following conditions applies:

1. when there is insufficient knowledge of the consultant's accounting system;
2. when there is previous unfavorable experience regarding the reliability of the consultant's accounting system; or
3. when the contract involves procurement of new equipment or supplies for which cost experience is lacking.

Pursuant to this requirement, the AHTD will notify the Local Agency if an audit by a certified public accountant for the selected firm is necessary. The certified audit needs to be provided by the selected firm prior to the submission of the final draft contract.

The Local Agency will review the draft contract proposal and either approve it as submitted or enter into negotiations with the selected firm to establish a contract and contract amount that the Local Agency deems is fair and reasonable. If a satisfactory contract cannot be negotiated with the selected firm, negotiations will be formally terminated. The Local Agency will then enter into negotiations with the second ranked firm. If negotiations with that firm fail, the Local Agency will formally terminate those

negotiations and begin to negotiate with the third ranked firm, and so on. If the Local Agency cannot negotiate a satisfactory contract with any of the firms on the short list, the Local Agency shall either:

1. Request proposals from additional firms who have submitted LOIs and are considered competent and qualified; evaluate and rank the firms based on the criteria described in Section V; and continue the negotiation process, or
2. Terminate all negotiations and begin the selection process again.

When the Local Agency and the consultant agree on a negotiated contract, the consultant will prepare a final draft and submit it to the Local Agency and AHTD for review. After review and a determination that it is acceptable, the consultant will sign the contract. The Local Agency will then execute the contract. The contract will subsequently be submitted to AHTD for final review and approval. When approved, copies of the signed contract will be distributed within the Local Agency and to the consultant.

For projects with FHWA oversight and for indefinite delivery contracts utilizing federal funds, the AHTD will forward the initial and final drafts of the contract to FHWA for review and comment. The FHWA approves the final executed contract by stamp and signature and retains a copy.

After the Local Agency executes an indefinite delivery contract, it will assign specific projects by task order for the duration of the contract period. The consultant will prepare each task order based on the scope of work furnished by the Local Agency. The task order will include a manpower estimate and cost. The Local Agency will review the task order and approve it as submitted or negotiate with the consultant to establish a task order and task order amount that the Local Agency deems is fair and reasonable. After review and a determination that the task order is acceptable, the consultant will sign the task order. The Local Agency will execute the task order. The task order will subsequently be submitted to AHTD for final review and approval. When approved, copies of the signed task order will be distributed within the Local Agency and to the consultant. For projects with FHWA oversight, the AHTD will forward the initial and final drafts of the task order to FHWA for review and comment. The FHWA approves the final executed task order by stamp and signature and retains a copy.

Section VII – Monitoring the Contract.

The Local Agency may identify staff members as key liaisons for specific projects or for technical matters during the administration of the contract period.

The Local Agency will:

1. Maintain the contract files.
2. Arrange and attend periodic progress meetings.
3. Coordinate reviews and approval actions with other agencies when necessary.

4. Review progress payments.
5. Coordinate questions from the consultant.
6. Negotiate any change or amendment to the contract and submit to AHTD for review and approval.
7. Prepare an evaluation of the consultant's performance after completion of the contract. A copy of the evaluation shall be submitted to the AHTD.

Section VIII – Consultant Liability

The Local Agency will include a contract requirement that the consultant will warrant that all services and work products provided as part of the contract are free from defects in workmanship at the time of acceptance and that the work conforms to the requirements of the contract. This warrant is effective regardless of the degree of inspection and acceptance by the Local Agency or others.

If the consultant is required to correct or re-perform any work or services, the work will be performed at no cost to the Local Agency, and any work or services corrected or re-performed by the consultant shall also be warranted that it is free from defects in workmanship. If the consultant fails or refuses to correct or re-perform, the Local Agency may, by contract or otherwise, correct or replace the deficient items or services with similar work or services, and charge the cost to the consultant or make an equitable adjustment in the consultant's reimbursement.

Acceptance is an act of an authorized representative of the Local Agency by which the Local Agency approves specific services, as partial or complete performance of the contract. Correction is the elimination of a defect.