

EXHIBIT 10-C A&E CONSULTANT CONTRACT REVIEWERS CHECKLIST

(Not applicable for Non-A&E Contracts)

Date: _____ **District:** _____

Agency Name: _____

Federal or State Project Number: _____

Local Agency Contract Number: _____

Consultant Name: _____

Contract Period: _____ **Begin:** _____ **End:** _____

Contract Max Dollar Amount: _____ **Funding:** _____

No.	DESCRIPTION
A.	PROCUREMENT PLANNING
1	Description of need for consultant: _____
2	Local agency contract administrator information
	a Name: _____
	b Phone: _____ Email: _____
3	Do you have a scope of work?
	a Does the scope of work include a consultant in a management support role? _____
	b Is the schedule specified in the scope of work? _____
4	Independent cost estimates (23 CFR 172.7(a)(1)(v)(b))
	a What is the total value of independent cost estimate? _____
	b What cost estimating technique was used? _____
B.	SOLICITATION DOCUMENTS AND ADVERTISEMENT
1	Consultant selection committee and conflict of interest
	a What is the number of panel members? _____
	b Was Conflict of Interest form (EXHIBIT 10-T) signed by all? _____
	c Was Conflict of Interest form (EXHIBIT 10-T) dated by all? _____
2	Does the solicitation contain a procurement schedule?
3	Type of contract? _____
4	Method of payment? _____
5	Evaluation criteria and weights (EXHIBIT 10-B)
	Were weight values assigned to criteria? _____
6	Procurement type?
	Length of contract (in years): _____
7	DBE utilization goal setting (Federal-funded only)
	a Was Exhibit 9-D submitted (Contract amount greater than \$500,000)? _____
	b Was Exhibit 10-I included in solicitation? _____
	c What is the DBE Utilization Goal (%)? _____
	If No goal (not Zero goal), explain? _____
	d Was a Good Faith Effort (Exhibit 15-H) approved by LPA? _____
8	Records of publication for RFP or RFQ
	Was widespread publication used to advertise the RFP/RFQ (newspaper, web posting, Planetbids, etc.)? _____
	Specify: _____

No.	DESCRIPTION
	b How long was the advertisement period (in days)? _____
9	Records of response to solicitation
	a How many consultants responded to this solicitation? _____
	b Does your agency have a proposal responsiveness checklist? _____
	c Were records of response documented (e.g. log sheet, copies of time-stamped envelopes, other)? _____ Specify: _____
C.	EVALUATION AND SELECTION
1	Documentation of consultant selection
	a How many consultants were evaluated? _____
	b Were evaluation criteria the same as in solicitation? _____
	c Original score sheets and final rankings
	1. How many score sheets were signed by all? _____
	2. How many score sheets were dated? _____
	d Was Exhibit 10-O1 included in proposal (Federal funded only)? _____
	e Was Exhibit 10-U submitted if there is a consultant in a management role (if applicable)? _____
2	Develop top ranked consultants and notify all interviewees
	a Did you notify all candidates of their ranking? _____
	b Did you conduct oral interviews? _____
3	Cost proposal
	a Is cost proposal in Exhibit 10-H format or equivalent complete and in the correct form based on the method of payment? _____
	b Payment Method: _____
	c Is direct labor cost proposal broken down by job classifications and types of costs and/or rates? _____
	d Is the ICR for current fiscal year? _____
	e Are key personnel identified? _____
	f Are "other direct cost" itemized by items of work quantity, unit price and total for each item (EXHIBIT 10-H)? _____
	g Is fixed fee over 15%? _____
4	Audit and review documents before contract execution (Federal-funded only)
	a Was proposed ICR submittal sent to A&I for acceptance (EXHIBIT 10-K)? _____
	b What is A&I's ICR decision? _____
	c Does the final cost proposal reflect the adjusted or accepted ICR? _____
5	Record of cost/profit negotiations
	a Did you verify elements of the cost proposal from the top-ranked consultant? _____
	b Did you return remaining concealed cost proposals after successful cost negotiation or dispose of in accordance with written policies and procedures approved by Caltrans? _____
	c Did you perform a cost analysis (wage rates, fixed fee, other direct costs, indirect costs and profits)? _____
	d Did you document your profit negotiations? _____
6	Mandatory fiscal and federal provisions (EXHIBIT 10-R) (Federal-funded only)
	a Are all mandatory fiscal and federal provisions included in contract? (Article IV to XVII) _____
	b What mandatory provisions are not verbatim? _____
	c Was Exhibit 10-O2 completed and sent to DLAE? _____
7	Specify if sole source: _____
	Was a public interest finding (EXHIBIT 12-F) prepared by local agency and approved by DLAE? _____

No.	DESCRIPTION
8	Was price used as an evaluation factor? _____
9	What Policies and Procedures have been adopted? _____
	a Date adopted Caltrans procedures (CPM or LAPM Ch.10) (mm/yyyy): _____
	b Has Caltrans approved local agency's policies and procedures? _____
10	Method of payment in contract? _____
11	Does contract awarded match that of solicitation? _____

Note: Please submit EXHIBIT 10-C using fillable PDF along with a signed copy via email.

I certify the information I provided on and in connection with this form is true, accurate and complete and supporting documents are filed in our office filing system. I also understand that any false statements or omissions on this document may be grounds for disqualification from federal and/or State funding.

Local Agency Contract Administrator

Date

I have reviewed the Exhibit 10-C Consultant Contract Reviewers Checklist but I have not reviewed the supporting documentation in detail. The Exhibit 10-C checklist appears to have been prepared in accordance with Chapter 10 "Consultant Selection" of the Local Assistance Procedures Manual. I have not conducted a comprehensive review of the supporting documentation and cannot, therefore, attest that there are no errors, ambiguities, or omissions in the Exhibit 10-C checklist. Caltrans assumes no liability for any defect in the Exhibit 10-C by virtue of its review of this checklist.

Caltrans DLA

Acceptance Date

INSTRUCTIONS FOR A&E CONSULTANT CONTRACT REVIEWERS CHECKLIST

Submittal of Exhibit 10-C is required for all A&E consultant contracts (State and Federal) for Caltrans review and acceptance prior to contract award. A designated contract administrator must prepare and sign EXHIBIT 10-C (Not applicable for Non A&E Contracts).

EXHIBIT 10-C must be submitted using fillable PDF along with a signed copy via email to aeoversight@dot.ca.gov in the following format LocalAgencyName_FederalProjectNumber.

The following are considered procedural deficiencies and may jeopardize federal and/or state funding on completed or ongoing projects.

- Did not advertise as required.
- Did not re-advertise for required period.
- Did not identify all evaluation factors in Request for Qualifications/Request for Proposals (RFQ/RFP).
- Did not identify the weights or values of each evaluation factor in RFQ/RFP.
- Method of payment in RFP not consistent with contract cost proposal.
- No supporting documentation that all proposals were received within the required time frames (example: proposals not date-stamped).
- No conflict of interest signed by panel members or evidence an appropriate Code of Ethics was followed in accordance with federal requirements.
- Profit not negotiated.
- No support that cost analysis was performed.
- Cost elements not negotiated/evidence of negotiations not maintained.
- No prior authorization given for sole source contracts.
- Title VI requirements [per 23 CFR 172 (c) (vi)] revisions needed in contracts (federal funded only).
- DBE requirements [per 23 CFR 172 (c) (vii)] revisions needed in contracts (federal funded only).

The following are considered unrecoverable deficiencies and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No records or documentation to support consultant procurement.
- No support for scoring and/or ranking of consultants.

Two or more of the following are considered unrecoverable deficiencies and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No justification for sole-sourcing.
- Could not support contract was advertised at all.
- No independent cost estimate performed.
- Local preference used.
- Price used as an evaluation factor.
- Scoring evaluation factors or weights do not match those identified in the RFQ/RFP.
- Did not include any evaluation factors in the RFQ/RFP.

- Cost proposal does not break down job classifications and types of costs by amount and/or rates.
- Missing Title VI requirements [per 23 CFR 172 (c) (vi)] from contracts (Federal Funded Only).
- Missing DBE requirements [per 23 CFR 172 (c) (vii)] from contracts (Federal Funded Only).

A. PROCUREMENT PLANNING

1. DESCRIPTION OF NEED FOR CONSULTANT

Describe need for consultant: How was the need for a consultant justified? Compare the project schedule and objectives with local agency capabilities, staff expertise and availability, and funding resources.

2. LOCAL AGENCY CONTRACT ADMINISTRATOR (NAME & CONTACT INFO)

The Local Agency Contract Administrator must be a qualified local agency employee, or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract.

- a. Include contact information: name of contract administrator.
- b. Phone and email of contract administrator.

Also, all agencies must have a person in responsible charge (23 CFR 172.9 (d)).

3. SCOPE OF WORK

Indicate if scope of work (SOW) is included in solicitation and contract. SOW means all services, work activities, and actions required of the consultant by the obligations of the contract.

- a. Indicate if the contract includes a consultant in a management role (EXHIBIT 10-U). The use of a consultant in a management role should be limited to unique or unusual situations. These situations require a thorough justification and approval by FHWA before contract execution.
- b. Schedule of work from work breakdown structure (WBS) helps to determine the schedule of contract delivery and must be included in the scope of work to increase accountability and efficiency of a contract.

4. INDEPENDENT COST ESTIMATES (ICE)

- a. Enter the amount of an independent cost estimate (ICE). An ICE is needed for cost analysis and contract negotiation (23 CFR 172.7(a)(1)(v)(B)) to ensure that consultant services are obtained at a fair and reasonable cost. In order to properly identify the maximum amount of the contract and to assess the validity of a consultant's cost proposal, the contracting agency shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work.
- b. Agencies are required to maintain documentation to show how the ICE was calculated. Several methods can be used. Refer to <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M4-slides.pdf> or <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M4-2016-11-14.mp4>. Module 4 for examples on how to calculate the ICE.

B. SOLICITATION DOCUMENTS AND ADVERTISEMENT**1. CONSULTANT SELECTION COMMITTEE AND CONFLICT OF INTEREST**

- a. 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 shortlist of qualified consultants, and develops a final ranking of the most qualified proposals.
- b. Exhibit 10-T should be completed by all panel members and anyone involved in the procurement process, and include signatures and dates.
- c. Completed Exhibit 10-T includes all applicable boxes checked and the contract administrator's signature verifying no conflicts of interest.

2. PROCUREMENT SCHEDULE

Provide an estimated schedule for the procurement process. Establish a submittal deadline for responses to the RFP/RFQ that provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal. Except in unusual circumstances, this deadline shall not be fewer than 14 calendar days from the date of issuance of the RFP/RFQ. A contract procurement schedule must be completed before advertising the contract and included in the solicitation document, identifying key dates for consultant selection activities.

3. TYPE OF CONTRACT

Specify the anticipated type of contract listed in the solicitation document. Three contract types are typical for A&E consultant services for Federal aid highway projects. Contract type refers to the method in which the contract is structured to cover the work.

- a. Project-specific contract: A contract between the contracting agency and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- b. Multi-purpose or Multi-phased contract: A project-specific contract where the defined scope of work is divided into phases that may be negotiated and executed individually as the project progresses.
- c. On-call contract: A number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period. An "on-call" is typically used when a specialized service of indefinite delivery or indefinite quantity is needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, field surveying, etc. Further requirements for on-call contracts:
 1. Specify a reasonable maximum length of contract period, including the number and period of any allowable contract extensions, not to exceed five years;
 2. Specify a maximum total contract dollar amount that may be awarded under the contract;
 3. Include a statement of work, requirements, specifications, or other description to define the general scope, complexity, and professional nature of the services; and
 4. Indicate if multiple consultants are to be selected and multiple on-call or indefinite delivery/indefinite quantity (IDIQ) contracts will be awarded through a single solicitation for specific services, and if so, how task orders will be issued.

4. METHOD OF PAYMENT

The anticipated method of payment must be specified in the original solicitation, the executed contract and any subsequent modification thereto. Methods of payment are based on the scope of services to be performed:

- a. *Actual Cost-Plus-Fixed Fee*: 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.
- b. *Cost Per Unit of Work*: is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance and the extent or quantity of the work is indefinite
- c. *Specific Rates of Compensation*: should only be used when estimating the extent or the duration of work is not possible at the time of procurement, or estimating costs with any reasonable degree of accuracy.
- d. *Lump Sum*: is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations.

When the method of payment is other than lump sum, the contract shall specify a maximum amount payable which shall not be exceeded unless adjusted by a contract modification.

5. EVALUATION CRITERIA AND WEIGHTS (EXHIBIT 10-B)

The criteria and relative weights must be included in the RFP/RFQ, and the same criteria and relative weights must be used on the evaluation sheets. See Exhibit 10-B for example criteria. The evaluation criteria MUST have weights in order to properly evaluate the submittals. The criteria MUST be the same as what was listed in the solicitation document. Any changes not made through an addendum render the contract invalid. The combined total of non-technical criteria cannot exceed 10% of the evaluation criteria. Consultants should be initially ranked based on raw data and the final ranking based on the sum of the initial ranking. Please see example iii. Module 3: Evaluation and Selection of Consultant located at:

- <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M3-slides.pdf> or
- <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M3-2016-08-31.mp4>

6. PROCUREMENT TYPE (RFP vs RFQ)

- a. One step RFQ: For services (materials testing, construction inspection, etc.)
- b. One step RFP: For project specific work (bridge painting, roadway design, etc.).
- c. The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple on-call contracts, or pre-qualified list, through a single solicitation. This method requires substantially more work and time than the other two methods described above.
- d. Length of contract: all contracts must have a duration specified. On-call contracts should not exceed five years (three year contract with options to twice extend an additional year). The type and length of the contract should be listed in the solicitation.

7. DBE UTILIZATION GOAL SETTING (FEDERAL FUNDED ONLY)

DBE goals are required for all Federal-aid contracts including on-call contracts.

- a. Exhibit 9-D (DBE Contract Goal Methodology) must be submitted and reviewed by Caltrans for consultant contracts equal to or greater than \$500,000. An agency must have documentation as to how the goal was calculated. Use your independent cost estimate and follow the DBE procedures located at <http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter9/9d.pdf>
- b. Exhibit 10-I (NOTICE TO PROPOSERS DBE INFORMATION) must be included in the solicitation.
- c. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation are considered nonresponsive and shall be rejected. Zero (no subcontracting opportunities) DBE goals must be approved by the DLAE prior to contract execution. No goal means DBE was not considered in solicitation.
- d. Exhibit 15-H (DBE Information—Good Faith Efforts) must be approved by LPA.

8. RECORDS OF PUBLICATION FOR RFP OR RFQ

- a. List the platform that was used to advertise the RFP/RFQ: A public forum must be used that gives both in-state and out-of-state consultants a fair opportunity to be considered for award. Acceptable advertisements include, although not limited to: public clearinghouse, BidSync, Public Purchase, and local agency's website.
- b. Advertising must be at least 14 calendar days. Caltrans suggests 21 calendar days minimum.

9. RECORDS OF RESPONSE TO SOLICITATION

- a. A minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement; if only one proposal is received, a signed Public Interest Finding (PIF) approved by the DLAE is required. In either case, the re-advertisement of the RFP should be considered as an option.
- b. The Contract Administrator must evaluate each SOQ/SOP and verify each proposal contains all of the forms and other information required by the solicitation.
- c. All proposals received should be documented (e.g. log sheet, copies of time-stamped envelopes, etc.), and copies must be kept in agency's files.

C. EVALUATION AND SELECTION

1. DOCUMENTATION OF CONSULTANT SELECTION

- a. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. All supporting documentation must be retained in the project files for the required retention period in the event an audit or review is performed.
- b. Evaluation criteria must be the same as in solicitation from which a qualifications based selection was conducted.
- c. Original score sheets complete with signatures must be in the file. Spreadsheets alone are not an acceptable method of showing evaluation. Score sheets must be signed and dated by all evaluators.
- d. Exhibit 10-O1 must be included in the technical proposal or the statement of qualification package provided to the local agency by each (prime consultant) proposer and required to be

submitted to the DLAE for federal reimbursement (Federal funded projects only). For calculating goals, refer to <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-slides.pdf> or <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-2016-09-02.mp4> Module 2. For contracts with no DBE contract goal, Exhibit 10-O1 is not necessary.

- e. Exhibit 10-U must be completed by all consultant engineering staff in management positions and submitted to FHWA for approval through Caltrans HQ prior to contract execution.

2. DEVELOP TOP RANKED CONSULTANTS AND NOTIFY ALL INTERVIEWEES

- a. Three or more highest ranked consultants (short listed) will be interviewed and a final ranking of the highest ranked consultants must be developed. All consultants that submitted technical proposals must be informed about the final ranking of consultants. Notes should be kept to explain why a particular consultant was not selected if requested.
- b. Interviews are to be structured and conducted in a formal manner. Each consultant to be interviewed is sent an invitation to the interview, with an agenda and timeline. A copy of the draft proposed contract, defining the standard contract language/boilerplate is also provided. Reference checks shall be completed and other information gathered before the interviews are conducted. All oral interviews must be evaluated including signatures and dates.

3. COST PROPOSAL

- a. All cost proposals need to be in the same format as Exhibit 10-H or equivalent and contain all of the cost components including direct, indirect, other direct, and fee. See <http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10h.pdf> for sample form for each method of payment.
- b. The method of payment must be specified in the cost proposal. Four methods are permitted depending on the scope of services to be performed: Actual Cost-Plus-Fixed Fee; Cost Per Unit of Work; Specific Rates of Compensation; Lump Sum.
- c. Cost proposal must identify classifications to be billed. Labor costs must be broken down into direct and indirect.
- d. ICR must be given for current fiscal year.
- e. All key personnel must be identified in cost proposal.
- f. Cost proposal must include other direct costs (ODC) and supporting calculations (EXHIBIT 10-H)
- g. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. Fixed fees in excess of 15% of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist (23 CFR 172.11.b (3) (iii)).

4. AUDIT AND REVIEW DOCUMENTS (FEDERAL FUNDED ONLY)

An annual Exhibit 10-K, Consultant Annual Certification of Indirect Cost and Financial Management System of all A&E firms on the contract must be submitted to A&I for review (All prime and sub-consultants). The firm will be listed on A&I's website, if the firm's annual indirect cost rate has been accepted by A&I and shown with the identification number and the applicable fiscal year.

- a. Proposed indirect cost rate on all contract proposals are subject to review by A&I prior to execution.
- b. The review may result in acceptance, adjustment, or denial of proposed ICR. The final cost proposal must be revised if applicable to reflect the adjusted or denied ICR.
- c. Any findings by A&I needs to be resolved prior to contract execution or the contract could be

considered ineligible for federal funding.

5. RECORD OF COST/PROFIT NEGOTIATIONS

- a. Selected/best-qualified consultant's cost elements must be analyzed including necessity for and reasonableness (verification of cost or price information not comparing cost or price data).
- b. At the completion of successful cost negotiations, all remaining concealed "unopened" cost proposals shall be returned to consultants or disposed of in accordance with written policies and procedures approved by FHWA (23 CFR 172.5(c)).
- c. Cost analysis is to verify the cost in the cost proposal from the top-ranked consultant and evaluate the specific elements such as direct salary or wage rates, fixed fee, other direct costs, indirect costs and profits (23 CFR Part 172.11(b)). Cost Analysis is the analysis of the separate cost elements of a service to verify proposed costs are reasonable for the work to be performed and in compliance with Federal cost principles. Cost Analysis is used to verify direct cost in consultant's cost proposal to actual costs of labor, products and services and to determine if the costs are reasonable. Price Analysis (comparisons with previous prices) may be included, provided Cost Analysis was performed on the previous prices, reasonableness was determined and the previous contracted work is substantially the same.
- d. In accordance with federal guidelines, project record of negotiations of cost/profit shall be kept at least for three (3) years after payment of the final federal or state voucher.

6. MANDATORY FEDERAL FISCAL PROVISIONS (FEDERAL-FUNDED ONLY)

- a. List provisions that are not verbatim.
- b. The 14 articles listed in Exhibit 10-R are mandatory and verbatim and must be in the contract.
- c. Exhibit 10-O2 must be completed at the conclusion of cost negotiations, incorporated into the final agreement and a copy sent to the DLAE. Refer to:
<https://player.vimeo.com/video/127551624> or
<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-2016-09-02.mp4> Module 2 for calculating goals.

7. SOLE-SOURCE CONTRACT

Sole-source also known as noncompetitive is defined as the method of procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation. Sole-source contracts should be used only in very limited circumstances. Document the justification for sole-source in detail. For sole-source contracts, the DLAE must approve and sign the Public Interest Finding (PIF) EXHIBIT 12-F. If the PIF is not approved, the contract is considered invalid and not federally reimbursable. All sole-source PIF's must have an independent cost estimate attached.

8. EVALUATION FACTOR

For A&E contracts, price cannot be used as an evaluation factor. Price should not be considered until negotiations. Only the consultant chosen for negotiations should have their cost proposal opened (all other proposals should be returned to sender unopened or disposed of according to agency policy after contract execution).

9. POLICY AND PROCEDURES

- a. Date adopted Caltrans procedures - Consultant Procurement Manual (CPM) or LAPM Ch. 10. According to federal regulations, an agency must have an approved procedure or adopt Caltrans.

- b. If not Caltrans procedures, has local agency's procedure been approved by Caltrans? Local agency can use their own procedures but these must be approved by Caltrans to be considered valid. All agencies must follow LAPM Ch. 10 for consultant contracts in addition to any policies and procedures they have in place.

10. METHOD OF PAYMENT IN CONTRACT

The method of payment listed in the executed contract should be the same as the solicitation and cost proposal.

11. CONTRACT AWARDED SHOULD MATCH SOLICITATION

The type of contract (Specific or On-call) listed in the executed contract must be the same as the solicitation and cost proposal.