



*Expires – Upon Issuance of LPP*

## **Architectural and Engineering Consultant Contract Review**

Division of Local Assistance Office Bulletin (DLA-OB) 17-02 updates the Architectural and Engineering (A&E) Consultant Contract Reviewers Checklist (Local Assistance Procedures Manual (LAPM) Exhibit 10-C) and submittal procedure to increase local agency compliance with federal and state consultant procurement requirements and identifies deficiencies considered procedural and unrecoverable.

### **I. BACKGROUND**

On July 15, 2011, the Office of Inspector General (OIG) reviewed the Federal Highway Administration's (FHWA) oversight of Federal-Aid and Recovery Act projects administered by local agencies in California. OIG determined that FHWA and the California Department of Transportation (Caltrans) were not managing risks properly and many projects were found noncompliant with federal regulations.

As a result of the deficiencies found in the Federal-Aid Highway Program, FHWA revised Title 23 CFR 172 on May 22, 2015 to update and clarify the procurement, management, and administration of engineering and design related services.

### **II. POLICY**

#### A&E Consultant Contract Reviewers Checklist

Exhibit 10-C is revised to identify critical elements of the consultant procurement process to increase compliance with Title 23 CFR 172 and Government Code 4525-4529.5. Items not completed in the checklist may jeopardize federal and/or state project funding. A completed Exhibit 10-C for new or amended federal and/or state funded consultant contracts must be accepted by Caltrans prior to contract award.

#### Deficiencies and Sanctions

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 Title 23 CFR 172.9 (c) (1) (vi)] revisions needed in contracts (federal funded only).
- DBE requirements [per Title 23 CFR 172.9 (c) (1) (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 Title 23 CFR 172.9 (c) (1) (vi)] from contracts (Federal Funded Only).
- Missing DBE requirements [per Title 23 CFR 172.9 (c) (1) (vii)] from contracts (Federal Funded Only).

### III. PROCEDURE

Effective October 1, 2017, local agencies must submit a completed Exhibit 10-C for new or amended federal and/or state funded A&E consultant contracts to [aoversight@dot.ca.gov](mailto:aoversight@dot.ca.gov) for Caltrans **review and acceptance prior to contract award**. The Office of Guidance and Oversight (GO) will notify the local agency and DLAE of Exhibit 10-C acceptance or rejection within 5 business days.

If there are any changes to the contract after Caltrans acceptance of Exhibit 10-C, the local agency must notify the Office of GO and provide a copy of an updated Exhibit 10-C and all contract amendments to [aoversight.dot.ca.gov](http://aoversight.dot.ca.gov).

### IV. APPLICABILITY/IMPACTS

Exhibit 10-C is required for all federally and/or state funded A&E consultant contracts. Execution of an A&E consultant contract without Caltrans acceptance may result in ineligibility for reimbursement.



The following LAPM exhibits are updated to incorporate the revised policy and procedures associated with this OB:

- LAPM Exhibit 10-C A&E Consultant Contract Reviewers Checklist
- LAPM Exhibit 3-A, Request for Authorization to Proceed with Preliminary Engineering
- LAPM Exhibit 3-B, Request for Authorization to Proceed with Right of Way
- LAPM Exhibit 3-C, Request for Authorization to Proceed with Utility Relocation
- LAPM Exhibit 3-D, Request for Authorization to Proceed with Construction
- LAPM Exhibit 3-Q, Request for Authorization to Proceed with Non-Infrastructure Project

**Recommended:** Original Signature 08/17/2017  
**FELICIA HASLEM**, A&E Oversight Program Manager  
Office of Guidance and Oversight **Date**

**Approved:** Original Signature 08/17/2017  
**ERWIN GOJUANGCO**, Acting Chief  
Office of Guidance and Oversight **Date**

Attachments

- (1) LAPM Exhibit 10-C, A&E Consultant Contract Reviewers Checklist
- (2) LAPM Exhibit 3-A, Request for Authorization to Proceed with Preliminary Engineering
- (3) LAPM Exhibit 3-B, Request for Authorization to Proceed with Right of Way
- (4) LAPM Exhibit 3-C, Request for Authorization to Proceed with Utility Relocation
- (5) LAPM Exhibit 3-D, Request for Authorization to Proceed with Construction
- (6) LAPM Exhibit 3-Q, Request for Authorization to Proceed with Non-Infrastructure Project