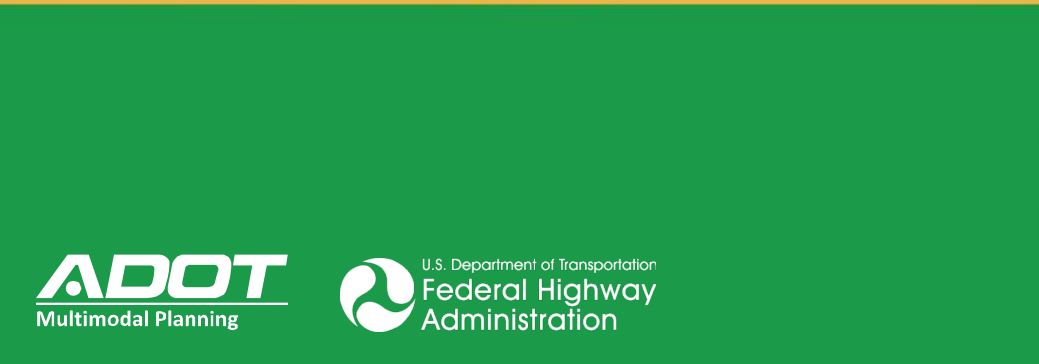




2015 Recertification Acceptance Agreement



Contract Administration Guidelines for Federal Aid Projects

Guideline Objectives:

Document consistent procedures for Certification Acceptance Agencies responsible for the advertisement, selection, negotiation, execution and administration of architectural and engineering (A/E) contracts using federal funds.

The following documents provide CA Agencies with the certification requirements to ensure compliance for procuring consultants:

- Certification Acceptance Agency Contract Administration Guidelines for Federal-Aid Projects
- ECS Certification Acceptance Contract Administration Procedures Review Checklist
- LPA Projects Manual
- ECS Contract Award and Administration Rules

<http://azdot.gov/business/engineering-consultants/CertificationAcceptanceProgram/documents>

Application:

A/E consulting services exempt from the Arizona State Procurement Code under A.R.S. 41-2501(K):

- Professional services associated with the design or construction of transportation facilities and highway facilities and programs

Contract Administration Guidelines for Federal Aid Projects

Certification Agencies Must Demonstrate that they have consultant procurement procedures in place that follow:

- All Required Federal and State Regulations
- All Required Advertisement and Selection Procedures
- All Required Contract Negotiation Procedures
- All Required Contract Administration Procedures
- All Required Contract Provisions

ADOT Contract Administration Oversight

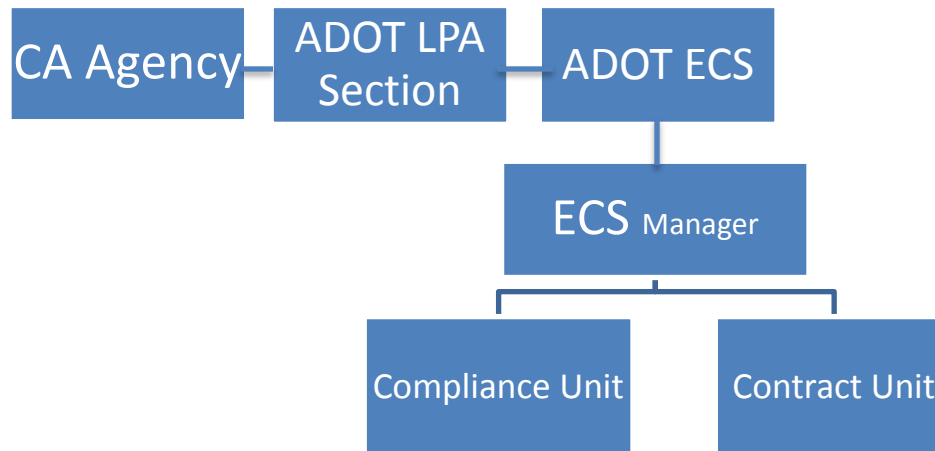
ADOT Engineering Consultants Section's Role:

- ECS works with the ADOT's Local Public Agency Section to ensure Certification Acceptance Agency's contract administration procedures are in compliance with State and Federal Regulations

ECS contact information

Address: 205 S. 17th Ave, Phoenix, AZ 85007

Phone (602) 712-7525



Federal, State and Other Regulations

Key Federal, State and other regulations associated with contract administration:

Brooks Act – Public Law 92-582 (40 USC 1101):

- Selection of firms and individuals to perform architectural, engineering and related services based on demonstrated competence and qualifications for the type of professional services required.
- The agency shall negotiate a contract with the highest qualified firm at compensation which the agency head determines is **fair and reasonable**.
- Cost/Value are not a factor in a selection
- Location of a Firm/Team is not a factor in a decision (no location preference is allowed).

49 CFR Part 26

- Regulations for participation by Disadvantaged Business Enterprises in federal DOT financial assistance programs. This also includes all required reporting and documentation requirements.

USC – United States Code

- Basis for accepted accounting principles and regulations, as well as contract administration rules.
 - 23 USDC 112(b)(2) – Letting of Contracts for Engineering and Design Services – Negotiations

FAR – Federal Acquisition Regulations

CFR – Code of Federal Regulations

Federal, State and Other Requirements

ECS Contract Award and Administration Procedures

- Rules and Procedures that govern ADOT's Engineering Consultants Section's award and administration of professional services contracts.

Certification Acceptance Agency Contract Administration Guidelines for Federal Aid Projects

- Guidelines for Certification Acceptance Agencies to administer professional services contracts using Federal Aid funds.

ADOT Local Public Agency Projects Manual

- Rules and Procedures that govern LPA's administration of federally funded projects

AASHTO Uniform Audit and Accounting Guide

- Provides specifics and best practices for applicability of FAR.

Additional Accounting/Audit Standards/Guides:

- Generally Accepted Accounting Principals (GAAP)
- Cost Accounting Standards
- Generally Accepted Government Auditing Standards

Federal, State and Other Requirements

Arizona Revised Statutes

- ARS 41-2501 (K) Exemption to Procurement Code
- ARS 34-201(A) Public Notice of Intention
- ARS 39-201 Newspaper Defined
- ARS 39-203 Number of Publications
- ARS 39-204 Publication of Notice: Time, Place
- ARS 41-2653 Exempted services
- ARS 28-501 through 28-511 Standard of Conduct and Conflict of Interest
- ARS 41-753 Unlawful Acts
- ARS 41-2503 APC Definitions
- ARS 39-121 Inspection of Public Records
- ARS 28-411 Prompt Pay Legislation
- ARS 35-214 Inspection and Audit of Contract Provisions
- ARS 41-4401 Government Procurement, E-Verify
- ARS 23-214(A) Verification of Employment Eligibility
- ARS 38-503 Conflicts of Interest, Exemptions and Employee Prohibition
- ARS 38-504 Prohibited Acts
- ARS 41-2616 Violation; Classification; Liability; Civil Penalty; Enforcement Authority
- ARS 41-2517 Procurement Officers and Procurement Employees
- ARS 41-2534 Competitive Sealed Bids
- ARS 41-2537 Emergency Procurements
- ARS 41-2538 Competitive Selection Procedures for Certain Professional Services
- ARS 41-2578 Procurement of Specified Professional and Construction Services
- ARS 41-741 Definitions
- ARS 44-1401 Uniform State Anti-Trust Act
- ARS 32-121 to 32-131 Registration and Certification

Federal, State and Other Requirements

Cont'd

Other Applicable Codes and Regulations

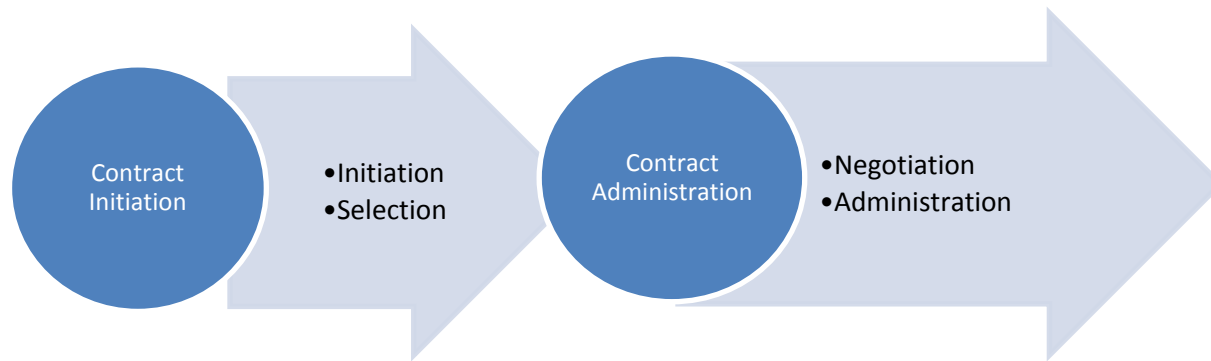
- Public Law 112-141 Map – 21 Moving Ahead for Progress in the 21st Century
- 23 CFR Part 172 Administration of Engineering and Design Related Service Contracts
- 48 CFR Chapter 12 FAR (DOT)
- 49 CFR Part 18 Uniform Admin Req's for Grants and Cooperative Agreements to State and Local Gov'ts
- 49 CFR Part 26 DBE
- 49 CFR Part 26.7 Small Business Concern
- 23 CFR 635.112(f) Advertising for Bids and proposals
- Title 2 CFR Part 180 OMB Guidelines on Gov't Debarment and Suspension (Nonprocurement)
- USDOT Order 4200-5E Suspension and Debarment Procedures
- Title 31 USC 1352 Limitation on Use of Appropriated Funds to Influence Federal Contracting
- 23 USC 112(b)(2)(b-c) Letting of Contracts
- 23 CFR 172.5 (a)(c) Contract Compensation Types
- 23 CFR 172.9 Federal-Aid Funded Contracts
- 5 USC §552 Examination of Records (FOIA)

Federal, State and Other Requirements

Cont'd

- 23 CFR 172.5 (a)(3) Non-Competitive Negotiations
- 40 USC 1101 QBS Defined
- 40 USC 1104(a) Negotiation of Contract
- 48 CFR 31 Contract Cost Principles and Procedures
- 48 CFR Subpart 9.4 Federal Debarment, Suspension and Ineligibility
- 48 CFR Subpart 3.8 Same as Title 31 USC 1352
- 49 CFR Part 21 Nondiscrimination in Federally Assisted Programs
- 41 CFR Part 60 Contract Compliance Programs, EEO
- 23 CFR 230.311 State Responsibilities
- Section 306 of the Clean Air Act Federal Procurement
- Immigration Reform and Control Act of 1986
- Executive Order 11246 & 11375 EEO
- Executive Order 09-04 Nondiscrimination
- 8 CFR Federal Immigration

Contract Administration



For a Local Public Agency to become a Certified Acceptance Agency, they must demonstrate that their Contract Initiation and Administration Processes are in conformance with all required Federal and State regulations.

Contract Initiation

Requirements for Project and Contract Advertisement

Objective: Fair and Consistent Procurement of Professional Services Contracts

Key Elements:

- 1. Document Request for Qualifications Instructions*
- 2. Documented Qualifications Based Selection*
- 3. Federal Authorization of Project and Funds*
- 4. Established DBE Goal*

Requirements:

1. Federal Authorization of Project and Funds
2. Documentation of Method of Procurement and Number of Awards
3. Advertisement Procedures
4. DBE Goal Assessment
5. RFQ Documentation Requirements
 - FHWA Authorization, Contract Number and Project Name
 - Public Advertisement Notice
 - SOQ Instructions & Submittal Requirements
 - Scope of Work
 - Evaluation Criteria and Possible Award Points
 - Right to Reject Notice Provisions
 - Prequalification Requirement
 - SOQ Proposers List Requirement (UTRACS)
 - Licensure Requirements
 - Contract & Insurance Provisions
 - Accounting & Audit Provisions
 - DBE Goal Documentation
 - Sample Contract
 - Communication and Debrief Instructions

Contract Initiation

Requirements for Consultant Selection Procedures

Objective: Fair and Consistent Selection of Professional Services Contracts

Key Elements:

- 1. Documented Qualifications Based Selection Process & Criteria*
- 2. Conflict of Interest & Panel Disclosure Documentation*

Requirements

1. Communication and Documentation Procedures
2. Procedures for “Non-Responsive” or “Rejected” SOQ’s
3. Conflict of Interest Procedures
4. Selection Process
5. Evaluation Criteria and Scores
6. Interview Procedures
7. Selection Notification Procedures
8. Selection Protest Procedures
9. Debriefing Procedures
10. Agency’s and Consultant’s Rights
11. Documented Records of Selection Process

Contract Administration

Requirements for Contract Negotiation Procedures

Objective: Fair and Consistent Contract Negotiation Process

Key Elements:

- 1. Documented Qualifications Based Selection Process*
- 2. Federal Authorization of Project and Funds*
- 3. Established DBE Goal*

Requirements:

1. Pre-Negotiation Procedures
2. Establishment of Project Budget
3. Cost Accounting and Audit Procedures
4. Cost Proposal Negotiation Procedures
5. Insurance and Indemnification Requirements
6. Notice to Proceed
7. Documented Records of Negotiations

Contract Administration

Required Contract Administration Procedures

Objective: Fair, Consistent, and Transparent Contract Administration Process

Key Elements:

- 1. Documented Procedures for Contract Administration (Modification, Payment Reports, etc.)*
- 2. Federal Authorization of Project and Funds*
- 3. Documented Reporting Procedures*

Requirements:

1. DBE Reporting for Progress Payment Reports
2. Prompt Pay Procedures
3. Procedures for Contract Modifications
4. On-Call Contract Task Order Assignment Procedures.
5. Errors & Omissions Procedures
6. Contract Completion
7. Payment and Records Retention Policies

Typical Contract Provisions

Typical Contract Provisions

1. General compliance with laws and Governing Law (**State & Federal Req**)
2. Monthly Payment Reports, work progress and work-hour reports (ECS Rules, Section 4.03; CA Guidelines, Section 4.03)
3. Late Submittal of Payment Reports (ECS Rules, Section 4.04)
4. Prompt Pay Law (**State Req**; A.R.S. 28-411; CA Guidelines, Section 4.05)
5. Contract Modifications (CA Guidelines, Section 4.06)
6. Contract Time Extensions (**Federal Req**; 23 CFR 172.9; CA Guidelines, Section 4.13)
7. Dispute Escalation (CA Guidelines, Section 1.17)
8. Force Majeure and Electronic Plan Documentation
9. Errors and Omissions (**Federal Req**; 23 CFR 172.7; CA Guidelines, Section 4.16)
10. Consultant and Subconsultant Endorsement of Plans (**State Req**; AZ Administrative Code R4-30-304)
11. Arbitration and Litigation
12. Suspension of Work (CA Guidelines, Section 4.14)
13. Project Delays, Postponements and Extensions
14. Termination for Convenience or Default (**State Req**; ARS 38-511(A); CA Guidelines, Section 4.20)









Typical Contract Provisions Cont'd

Typical Contract Provisions (continued)

- 15. Cancellation of State Contract (**State Req**; A.R.S. 38-511)
- 16. Insurance and Indemnification Requirements (CA Guidelines, Section 3.06)
- 17. Permits for Work on ADOT ROW
- 18. Anti-Trust Violations (**State Req**; ARS 44-1401)
- 19. Consultant's Responsibility for Plans and Data
- 20. Professional Conduct and Professional Registration
- 21. Improper Exercise of Authority
- 22. Conflict of Interest (**State Req**; ARS 38-501 to 38-511; ARS 41-753 (D) & 41-2503)
- 23. Organizational Employment Disclaimer
- 24. Federal Debarment and Suspension (**Federal Req**; 48 CFR Subpart 9.4; 2 CFR Part 180; CA Guidelines, Section 1.15)
- 25. Contingent Fees
- 26. Subletting, Assignments, and Transfers
- 27. Subcontracts (**Federal Req**)
- 28. Key Personnel (CA Guidelines, Section 4.10)
- 29. Employment of Personnel of Public Agencies (**Federal Req**)

Typical Contract Provisions Cont'd

Typical Contract Provisions (continued)

- 30. Successors and Assigns
- 31. Continuing Obligation
- 32. Name Change, Merger and Acquisition (CA Guidelines, Section 4.09)
-  33. Anti-Lobbying (**Federal Req**; 48 CFR Subpart 3.8; 31 USC 1352; CA Guidelines, Section 1.21, ECS Rules, Section 3.06)
- 34. ADOT Products
-  35. Records Retention, Maintenance & Audit (**State Req**; ARS 35-214; CA Guidelines, Section 4.22)
-  36. Final Incurred Cost Audit (**Federal Req**; 23 CFR 172.7; CA Guidelines, Section 4.19)
-  37. Review and Inspections (**Federal Req**)
- 38. Property or Equipment
-  39. Nondiscrimination (**Federal Req**; 49 CFR Parts 21 & 26, Executive order 09-04, 11246 & 11375; 41 CFR Part 60)
-  40. Affirmative Action (**Federal Req**; 23 CFR 230.311)
-  41. DBE Participation & Counting DBEs (**Federal Req**; 49 CFR Part 26; CA Guidelines, Section 1.18)
-  42. Environmental Protection (**Federal Req**; Section 306 of the Clean Air Act; Executive Order 11738)

Typical Contract Provisions Cont'd

Typical Contract Provisions (continued)

- 43. Energy Conservation (**Federal Reg**)
- 44. Publicity and Endorsements
- 45. Ownership of Data (**Federal Reg**; CA Guidelines, Section 4.21)
- 46. Patents and Copyrights
- 47. Fraud and False Statements (**Federal Reg**)
- 48. Federal Immigration and Nationality Act (**State & Federal Reg**; 8 CFR; ARS 41-4401; ARS 23-214(A); CA Guidelines, Section 1.22)
- 49. Pandemic Contractual Performance
- 50. Performance Evaluation (**Federal Reg**; 23 CFR 172.9; CA Guidelines, Section 4.15)
- 51. Contract Completion (CA Guidelines, Section 4.18)
- 52. Breach of Contract (CA Guidelines, Section 4.17)

*****Please refer to the following documents for the final requirements for Contract Administration and Contract Terms & Conditions:**

- **Certification Acceptance Agency Contract Administration Guidelines for Federal-Aid Projects**
- **ECS Certification Acceptance Contract Administration Procedures Review Checklist**

Certification Acceptance Submittal Requirements

Required Certification Acceptance Application Documents

1. ECS Certification Acceptance Contract Administration Procedures Review Checklist
(Completed)
2. CA Agency Procurement Procedures
3. A/E Contracting Procedures
4. Sample A/E SOQ/RFQ Package
5. Sample Contract Boilerplate Document(s)

Q & As

