# Engineering Consultants Section (ECS)

To support its ability to deliver the 5-Year Transportation Program, ADOT often hires professional services firms to provide design and consultation services to prepare required planning, design, survey and construction documents. In order to retain these services from professional services firms, ADOT must enter into an agreement with the firm documenting what is being required. This agreement is called a “contract”, which is a written, legally binding document between ADOT and a professional services firm(s) defining the expected responsibilities and services to be provided, including defined (negotiated) scope of work to be provided, schedule and compensation.

ADOT’s Engineering Consultants Section (ECS) is responsible for prescribing and administering procedures for managing ADOT’s professional services contracts, ensuring compliance with applicable State and Federal regulations. ECS partners with the ADOT Project Manager(s), who is responsible for developing and managing the scope, schedule and budget of the project, to ensure that consultants are properly contracted for the services they are tasked to provide.

ECS manages professional services contracts which are exempt from the State Procurement Code (ARS 41-2501), which include engineering services of transportation facilities or highway facilities and any other services related to land titles, appraisals, real property acquisition, relocation, property management, building facility design and construction for highway development. As a recipient of both state and federal funds, ADOT must remain in compliance with state and federal regulations throughout the contract lifecycle.

Below are regulations, statutes, and laws that a Project Manager may find of interest.

## 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.
* ADOT shall negotiate a contract with the highest qualified firm at compensation which the agency head determines as fair and reasonable.

## 49 CFR Part 26

Regulations for reporting, documentation and participation by Disadvantaged Business Enterprise in Federal DOT financial assistance programs.

## 23 Code of Federal Regulation (CFR)

Advertisement and Administration of Engineering and Design Related Service Contract

## Federal Acquisition Regulations (FAR) – 48 CFR Part 31

Basis for accepted accounting principles and regulations.

## 23 USC 112 (B)(2) – Audit Requirements

Contracts for engineering services shall be performed and audited in compliance with cost principles in FAR.

## ADOT Title VI/Non-Discrimination Assurances

These statutes and regulations, along with many more, apply to all of the key elements of the contract lifecycle. Although contract needs vary from one project to another, the contract lifecycle typically includes the following processes:

1. Project Identification

Identification of project need, funding availability and programming in the State Five-Year Transportation Construction Program.

1. Project Scope and Budget Development

ADOT Project Manager develops a scoping document, identifying tasks needed for the development of construction related drawings, specifications, estimates, schedules, and permits. The Project Manager will prepare a preliminary estimate of costs anticipated to complete the required tasks outlined, identifying which costs are associated with services performed by ADOT staff and those performed by external professional services consultants.

1. Project Funding Authorization

ADOT Project Manager requests and obtains required funding approval by the State Transportation Board and FHWA (if federal aid is required for preliminary engineering phase).

1. Advertisement for Consultants Services

Upon completion of the project scope documentation, the ADOT Project Manager will initiate the contract advertisement in the Electronic Contract Management System (eCMS). ECS will work with the PM in completing the necessary contract advertisement documents, including the Request for Qualifications (RFQ). This document will provide the consultants with all of the instructions and requirements associated with the contract. Included in the RFQ will be:

* + Funding Source
  + Project Scope & Schedule
  + DBE Goal Requirement
  + SOQ Submittal Requirements
  + SOQ Evaluation Criteria

1. Consultant Selection

As required by the Brooks Act, a Qualification Based Selection (QBS) process must be used in the selection of the consultant for a given contract. ADOT assembles a selection panel comprised of qualified technical and professional staff (or other outside agency representatives – as appropriate) to review and evaluate the Statement of Qualifications (SOQ’s) submitted by consultants. The panel members review, evaluate, and score the SOQ’s based on specific criteria given to them. Upon completion of their review, the selection panel is brought together, their scores are compiled and as a group (consensus) the most qualified consultant(s) is selected for the contract.

1. Contract Negotiation

Upon notification of being selected, ADOT will enter into negotiations with the consultant(s). The ADOT PM, ADOT ECS, ADOT Audit & Analysis, and ADOT BECO all have significant roles in the negotiation process. The primary roles for these parties include:

* + ADOT PM: Negotiation of Scope, Schedule & Costs.
  + ADOT ECS: Negotiates Terms of Contract & provides guidance to PM.
  + ADOT Audit & Analysis: Reviews costs for allowability, reasonableness and conformance with FAR
  + ADOT BECO: Reviews DBE documentation for conformance with 49 CFR Part 26.

1. Contract Notice to Proceed (NTP)

Upon successful negotiations and execution of the contract, ADOT will issue a Notice to Proceed (NTP) to the consultant authorizing the consultant to proceed with the negotiated and authorized services and to begin invoicing ADOT for these services.

1. Contract Management - Consultant Payment Reports

Consultants are required by contract to invoice the Department on a monthly basis for services they, and their subconsultants, performed in the billing cycle month. Consultants are required to submit a Payment Report document, supporting backup, and a brief Payment Report Summary, which summarizes the services they performed and are invoicing. The PM will review the invoice and ECS will process the payment.

Contract Modifications

If the original scope of work is changed (increase or decrease), then a modification to the contract is required. A Contract Modification is negotiated, documenting any change in scope, schedule and cost. In order, the consultant proposes, the PM reviews and negotiates, then ECS processes the Contract Modification.

1. Contract Closeout

Upon completion of the contracted scope of work and upon final payment of the negotiated costs, the contract will be closed out. Final documentation and agreements on records retention will be executed between the Department and Consultant(s).

# Contract Lifecycle

Project Managers should be familiar with the following key steps in the contract lifecycle:

* Project Identification
* Project Scope and Budget Development
* Project Funding Authorization
* Advertisement for Consultants Services
* Consultant Selection
* Contract Negotiation
* Contract Notice to Proceed (NTP)
* Contract Management
  + Consultant Payment Reports (Invoicing)
  + Contract Modifications
* Contract Closeout

The ADOT Project Manager is responsible for identifying and defining the contract needs. ADOT’s Engineering Consultants Section will work with the ADOT PM in providing contract administration services to ensure the contracting needs are compliant and accurate.

Detailed information on the critical ECS contract administration processes is found on ECS’s Intranet website: <http://adotnet/divisions/itd/ECS/ProjectMgr.asp>