Consultant Contract Administration

• An Overview of Processes and Procedures for the Administration of Professional Services Contracts

Presented by:
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WHO IS ECS?

ECS administers the processes and procedures for the fair and efficient advertisement, selection, negotiating, monitoring and management of professional services contracts for ADOT which are exempt from the State Procurement Code (ARS 41-2501).
WHO IS ECS?

Part of IDO
Report to Deputy St. Eng. (Barry)
3 Units
  • 3 Teams
22 Members
  • 2y 5mo average
215 Current Contracts
Avg. 800 Mods & 2,060 PRs/Year
Design Contracts (9 Tech Groups)
Supplemental Service
Alternative Delivery (CMAR & DB)
Regulations

Some Regulations that Govern What and How we do things:

- 23 CFR Part 172 Administration of Engineering and Design Related Service Contracts
- 48 CFR Chapter 12 FAR (DOT)
- 2 CFR Part 200 Uniform Admin Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 49 CFR Part 26 DBE
- 49 CFR Part 26.7 Small Business Concern
- Title 2 CFR Part 180 OMB Guidelines on Gov't Debarment and Suspension (Non-procurement)
- 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)
- Public Law 112-141 Map – 21 Moving Ahead for Progress in the 21st Century
- 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
- 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 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
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**Introduction – Process & Procedures**

Key Terms, Acronyms and Information associated with the contract lifecycle:

**Brooks Act** – Public Law 92-582 (40 USC 1104):

- 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**.

**Prompt Pay Law** – ARS 28-411:

- ADOT must issue payments to Prime Consultants within 21 calendar days after receipt and acceptance of the payment report/invoice.
- Consultants must pay their subconsultants within seven (7) calendar days after receiving payment from ADOT.

**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.

**ECS Consultant Contract Manual**

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

**FAR – Federal Acquisition Regulations**

- Basis for accepted accounting principles and regulations.
Approved Contract Types for professional design and engineering services:

**Type of Contract and Scope of work must be defined in the Request for Qualifications (RFQ).**

**Project Specific Contract (Single and Multi Phase)**

- Contract where services are performed for a Defined Scope of Work for a Specific Project.
- Services may be divided into phases whereby the specific scope of work and associates costs may be negotiated and authorized by phase as the project progresses.

**On-Call Contract**

- Contracts for the performance of services for a number of projects which are awarded on a task-order basis.
- Shall define the number of consultant teams which shall be procured, duration and established dollar limitations.
- Original selection of consultant teams must be by Qualifications Based Selection.
- Tasks are awarded to the selected qualified consultants through one of the following options:
  1. Regional Basis
  2. Additional Qualifications Based Selection Procedures

**23 CFR Part 172 – Equal or Rotational Distribution of Task Orders is no longer permitted on new On-Call Contracts.**

**Assignment of Task Orders is not guaranteed.**
Introduction – Process & Procedures

Compensation Methods – On-Call Contracts
Approved Compensation Methods for professional design and engineering services:

**Type of Contract Compensation Method must be defined in the Request for Qualifications (RFQ).**

Lump Sum by Task Order (LSTO)
- Negotiated payment method establishing a defined price for a defined scope of work associated with a Task Order on an On-Call contract.

Cost Plus Fixed Fee by Task Order (CPFF by TO)
- Compensation type based on actual costs plus a fixed fee (FF). Budgets (estimated costs) are negotiated for the scope of work associated with a Task Order on an On-Call contract.

Specific Rates (SR)
- Compensation method when negotiated rates are used to compensate for work performed. Materials are paid at cost.
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What do we do?

How do we do it?

Why do we do it?

Contract Lifecycle Map

Contract Initiation
- Initiation
- Selection

Contract Administration
- Negotiation
- Execute Work
- Modifications
- Payment Reports

Contract Closeout
- Documentation
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Contract Administration

Managing the Contract

- Negotiation
- Execute Work
- Modifications
- Payment Reports
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Project Initiation – On-Call Contracts

Initiation of Task Order

1. Upcoming Project List
2. Development of the Project’s Scope of Work and Need
   • Project Information/Location
   • PM Contact Information
   • LPA Contact Information
   • Project Features
   • Scope of Work
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Project Initiation – On-Call Contracts

Initiation of Task Order

3. Development and Coordination of the Project Schedule
4. Statement of Interest (SOI) Package
   • Project Framework
   • Solicitation Schedule (posting dates; questions; due date; selection date)
   • SOI Response Page Limitation
   • Selection & Scoring Criteria
   • Attachments
5. Authorization of Funds for the Project
   • FHWA Authorization of Funds or State Funds
6. Reference Documentation Availability & Posting
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Project Initiation – On-Call Contracts

Task Order Initiation

Selection
Kick-Off

Evaluation
and Scoring

Selection
Meeting

Notification

Advertisement & Submittals

1. Approval to Advertise
2. Communication (SOI/Amendments)
   • External Website
3. Submittals
   • Low-Tech (email)
   • Requirements and Initial Review
Who makes up a Selection Panel?

1. Panel Group Composition is determined by the Project Manager. Effort is made to make sure representation is provided by the appropriate ADOT Sections.
2. ADOT Group/Section Managers may provide recommendations for qualified Panel Members from their Group/Section to serve.
3. Final Panel Member list is approved by ECS Manager.

Selection Panels are typically comprised of the following members:

- ADOT Project Manager
  - ADOT District Representative
  - ADOT Disciplinary/Group Representatives
  - Other Relevant ADOT Technical Staff
Selection Panel Kick-Off

Upon submittal of all qualified SOI’s, the Selection Panel Members are provided:

• A detailed summary of the Project’s Scope and Goals (SOI Package).
• Copies of the qualified and responsive SOI’s.
• SOI Evaluation Criteria
• Directions and Process Overview
  • Schedule
  • Confidentiality
  • Communication
• Required Forms:
  • Panel Member Participation Form
  • Confidentiality Agreement Form
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**Project Initiation – On-Call Contracts**

- Task Order Initiation
- Selection Kick-Off
- Evaluation and Scoring
- Selection Meeting
- Notification

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**Evaluation and Scoring**

Each Panel Member evaluates and scores each SOI independent from the other panel members.

The same selection criteria is used by each Panel Member:

1. Project Understanding and Approach
2. Project Team & Availability
3. Project Risks
4. Schedule

Evaluations and scoring are performed manually. Upon completion of the evaluations and scoring, the ECS Contract Manager reviews the evaluations for completeness and accuracy.
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**Project Initiation – On-Call Contracts**

**Selection Meeting**

After all Panel Members have completed their review and scoring, Panel Members meet to:

1. Discuss and address any concerns or questions about what was presented in the SOI’s.
   - Panel Members are given the opportunity to discuss the rationale for their individual scores.
   - Any Panel Member may elect to amend his or her score based on the discussion held during this meeting.
2. Ranking of the firms is presented and the selected firm(s) is identified.
3. Upon consensus, complete and sign the “Selection Approval Confirmation Memorandum”.
Task Order
Initiation

Selection
Kick-Off

Evaluation
and Scoring

Selection
Meeting

Notification

Notification

• The completed “Selection Approval Confirmation Memorandum” is presented to the ECS Manager for review and signature. Additionally, copies of the panel members score, ranking and comments are provided for review. Discussions are held as appropriate.

• The Selected Firm is Notified.

• The non-selected firms are notified of the selection and provided the opportunity for a Debrief. The Debrief includes:
  1. Copy of the selection panel’s evaluation comments and scores of their firm’s SOI.
  2. Score of the Selected Firm’s SOI.
  3. Copies of the SOI submitted by the Selected Firm is not provided for review.
  4. Copies or reproduction of the Selected Firm’s SOI and comments/scores are not permitted.
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Project Initiation – On-Call Contracts

Plan & Schedule

• **Project (Task Order) Initiation**
  1. Posting to Upcoming Project List (minimum): 2 Weeks
  2. Development of the SOI (concurrent): 2 Weeks
  3. SOI Advertisement: 1 Week

• **Consultant Selection Process**
  1. SOI Internal Compliance Review: 1-2 Days
  2. SOI Evaluation & Scoring: 1 Week
  4. Selection Meeting & Ranking: 1 Day
  5. Notification: 1-2 Days

Total Time Allotted (Initiation to Notification): 3-5 Weeks

Task Order Process (Notification to Notice to Proceed): 50 Days
What are some “Barriers” to a Smooth and Timely Selection Process?

1. Funding.
2. Scheduling conflicts with panel members.
3. High volume of SOI’s to review...requires more time.
4. Panel Member conflict of interest issues.
   • Potential Removal or Re-assignment.
5. Poor Communication of:
   • Schedules
   • Submittal Requirements
   • Questions and Responses
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Project Initiation – On-Call Contracts

What are some “Barriers” to a Smooth and Timely Execution of Modifications?

1. Incomplete or delayed submittals by Consultant, Subconsultant or Vendors.
2. Incomplete or delayed review by ADOT.
3. Errors or missing contract documentation.
4. Funding is not authorized or available.
5. Review and/or negotiation of allowable or unallowable expenses.
6. Delayed communications between ADOT and Consultant and between Consultant and ADOT.
7. Incomplete or unapproved DBE documentation.
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Summary – Other Helpful Tools

Engineering Consultants EXTERNAL Website - [https://azdot.gov/business/engineering-consultants](https://azdot.gov/business/engineering-consultants)

Consultant Prequalification
  How To Information and Resources

Advertisements
  Pending Advertisements, Current Advertisements
  SOQ Submittal Guidelines
  Upcoming Projects

Selections
  Pending Selections
  Recent Selections

Information Bulletins

Consultant Resources
  Procedures, General Information & Instructions

Forms & Templates
  Sample Contracts, Certifications, Guidelines, Forms, & Checklists

Policies & FAQ

Disadvantage Business Enterprise (DBE) Programs
  Forms, Links & Resources

Local Public Agency Consultant Procurement

Contact Information
Questions?
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Overview of Process & Procedures

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