

MDOT LPA Consultant Operating Procedures for Professional Services



LOCAL TECHNICAL ASSISTANCE PROGRAM

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Stewardship and Oversight Program

The Stewardship and Oversight Program monitors the effective and efficient use of resources to best meet the transportation needs of the nation with the specific focus on financial integrity and project delivery.

Consultant Services Unit (CSU) Introduction

- CSU reviews the process for LPA Federally Funded Projects (through the MDOT LPA Coordinator);
- Multiple written MDOT concurrences for consultant selection and contractual process is vital.
- Proper documentation required before any MDOT concurrence (GoMDOT.com for templates);
- MDOT LPA Coordinator communicates with the LPA and the Consultant to assist the LPA in Compliance; and



Understanding the “Brooks Act”

- Foundation of all selection for consultant process, 23 CFR Part 172;
- Primary method of procurement for Engineering & Design Services using Federal Funds (includes Special Match);
- Promotes qualifications based competition and selection for the Consultants (cost can not be discussed until selection is made);
and
- LPA will advertise, rank, select the most qualified firm & negotiate the Contract at a fair and reasonable price.

General Overview (in order)¹

- A. LPA issues legal advertisement (call MDOT with questions about Legal Ad);
- B. LPA proceeds with Consultant selection process²;
- C. MDOT concurs with LPA advertisement and selection package;**
- D. LPA and Consultant begin contract negotiations;
- E. LPA submits (3) original unexecuted Contracts and Fee Proposal to MDOT for concurrence (signed by the Consultant only);
- F. MDOT concurs with the Contract and Fee Proposal package, if appropriate;**
- G. LPA executes the contract at their discretion;
- H. LPA issues the Notice to Proceed (NTP);
- I. Consultant/LPA submits invoicing; and
- J. Project is finalized.

* We strongly encourage the LPA/Consultant to communicate with us throughout the process.

MDOT CSU Must Concur with the Following Items:

- ❖ Selection Procedures Concurrence Package;
- ❖ Professional Service Contracts and Fee Proposals;
- ❖ Supplemental Agreements; and
- ❖ Special Match Packages

Selection Procedures Concurrence Package



Methods for Selecting a Consultant

- Advertisement;
- Small Purchase Procedures; or
- MDOT Master Services List.

MDOT Concurrence Selection³ Package for Advertised Projects

- ✓ Completed Consultant Selection Procedure Checklist⁴;
- ✓ Legal Ad;
- ✓ Any addenda during advertisement;
- ✓ Meeting Minutes⁵ from selection committee; and
- ✓ Score sheets from selection committee members.

Process for LPA to submit a Selection Concurrence Package for Advertised Projects

- A. LPA writes official letter to MDOT LPA Coordinator requesting MDOT concurrence;
- B. LPA submits Consultant selection concurrence package to MDOT (3 copies);
- C. MDOT reviews and concurs, if appropriate;
- D. MDOT sends letter to LPA verifying that the selection process was appropriate;
- E. LPA prepares and sends letter to all consultants notifying them of selection results; and
- F. LPA begins Contract negotiations.

Selection “Reminders”

- ✓ Make sure advertised in paper at Seat of Government;
- ✓ The Legal Ad must contain all of the required information;
- ✓ Complete the Selection Committee Meeting Minutes properly;
- ✓ LPA must select the #1 ranked firm;
- ✓ Score Sheets⁶ must be provided;
- ✓ Criteria in Legal Ad must match Score Sheets;
- ✓ Total of all allowable non-qualification based criteria can not exceed 10% of score (location, DBE scores, ...); and
- ✓ Do NOT talk with Consultants prior to MDOT concurrence.

Small Purchase

Utilizing a Small Purchase, as defined by CFR 172.5(a)(2), bypasses the standard competitive selection procedure for projects where the total professional services involving federal funds are valued under the Federal simplified acquisition threshold for A&E Services.

Small Purchase Procedures (Services¹ Less Than \$150,000)

- A. LPA submits MDOT a Small Purchase Letter per LPA SOP² (list the three (3) firms considered);
- B. Professional Services for **each** Phase (PE or CE&I) utilizing federal funds cannot exceed \$150,000; and
- C. LPA selects one (1) firm to negotiate with.

MDOT Master Services List

- A.** Professional Services may not exceed \$250,000;
- B.** LPA will request the MDOT Master Services List for the type work required from MDOT;
- C.** LPA selects three (3) Consultants from the MDOT Master Services List;
- D.** MDOT will transmit the Statement of Qualifications (SOQ)s of the three (3) Consulting Firms Selected to the LPA;
- E.** LPA chooses one (1) of the Consulting Firms to begin Contract negotiation; and
- F.** LPA and Consultant begin contract and Fee Proposal Preparation.

Professional Services Contracts



The Consultant Contract will include (PE):

- ✓ MDOT approved appropriate (PE) contract boilerplate⁷ (make sure Scope is Detailed, DO NOT ALTER THE BOILERPLATE CONTRACTS, without MDOT prior approval);
- ✓ Approved MDOT overhead rate⁸ (Audited or Provisional);
- ✓ Cost Fee Proposal (GoMDOT.com);
- ✓ Project Progress Schedule; and
- ✓ Contract checklist

Submitting a Preliminary Engineering Contract

- A. LPA/Consultant should email a draft of the Contract, Fee Proposal, Contract Checklist, and Schedule to MDOT LPA Coordinator;
- B. MDOT/CSU reviews the Contract, Fee Proposal, and Schedule
- C. MDOT/CSU communicates with the LPA/Consultant for any modifications;
- D. When requested, Consultant will submit three (3) signed original Contracts (contains Fee Proposal and Schedule) to the LPA;
- E. LPA submits to MDOT LPA Coordinator (but doesn't execute);
- F. CSU reviews the package;
- G. If appropriate, CSU sends a concurrence letter and two (2) original Contracts (contains Fee Proposal and Schedule) to the LPA;
- H. LPA executes Contracts, if appropriate, and issues the NTP; and
- I. LPA keeps one (1) executed original and sends one (1) executed original to the Consultant, LPA sends one (1) executed copy to CSU, MDOT LPA Coordinator, and the LPA Division.

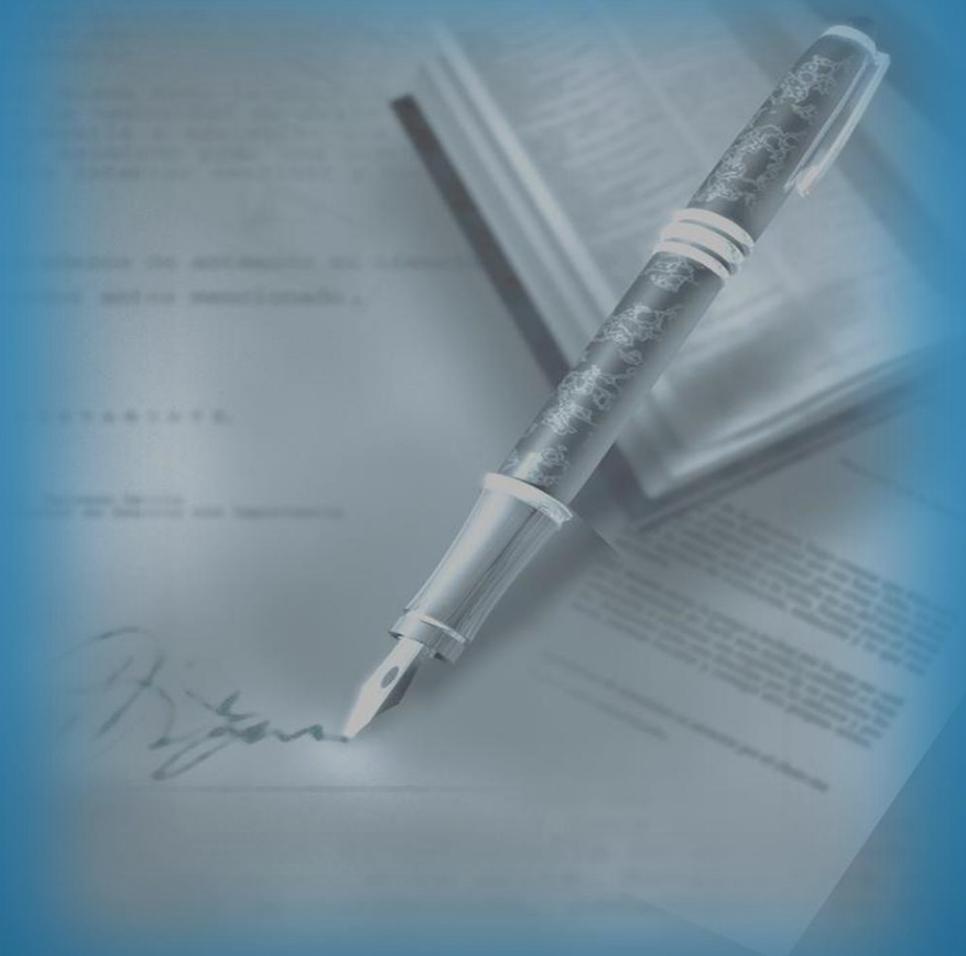
The Consultant Contract will include (CE&I):

- ✓ MDOT approved appropriate (CE&I) contract boilerplate⁷ (make sure Scope is Detailed, DO NOT ALTER THE BOILERPLATE CONTRACTS, without MDOT prior approval);
- ✓ Approved MDOT overhead rate⁸ (Audited or Provisional);
- ✓ Approved MDOT District Materials Engineer S&T Letter;
- ✓ Labor Cost, Direct Cost and Testing Cost Fee Breakdown (GoMDOT.com);
- ✓ Approved Construction Schedule; and
- ✓ Contract checklist

Submitting a CE&I Contract

- A. LPA/Consultant should email a draft of the Contract, Labor Cost, Direct Cost and Testing Cost Fee Breakdown, Approved Construction Schedule, Approved MDOT District Materials Engineer S&T Letter, and Contract Checklist to the MDOT LPA Coordinator;
- B. MDOT/CSU reviews the Contract and Fee Proposal;
- C. MDOT/CSU communicates with the LPA/Consultant for any modifications;
- D. MDOT receives three (3) copies of the CE&I Services Contract and the Fee Proposal (signed only by Consultant) with the submission of the Plans, Specifications, and Estimates (PS&E) assembly¹¹;
- E. MDOT reviews the CE&I Contract and Fee Proposal and concurs if appropriate;
- F. MDOT sends CE&I Contract to LPA for execution;
- G. LPA signs Contracts and issues the NTP; and
- H. LPA keeps one (1) original executed Contract and Fee Proposal, LPA sends one (1) original executed Contract and Fee Proposal to the Consultant, LPA sends one (1) copy each of the original executed Contract and Fee Proposal to CSU, MDOT LPA Coordinator, and the LPA Division.

Supplemental Agreements



Concurrence of Supplemental Agreements (SA)

- Necessary when adjusting scope & costs;
- Use SA Boilerplate template;
- Includes description, adjustment of costs, justification, and benefit for added work (cover letter, SA, and Fee Proposal);
- Must be signed and executed **before** additional work can begin;
- The submission process is the same as the contract submission

Contract “Reminders”

- ✓ Select the CORRECT Contract boilerplate from GoMDOT.com;
- ✓ Fill out the Contract completely;
- ✓ Include the correct Cost Fee Schedule (subs included);
- ✓ Use updated Overhead Rates (subs included);
- ✓ Use Scope of Work example as your starting point (PE Contracts);
- ✓ Keep track of the Contract Not to Exceed amount;
- ✓ Keep up with you contract Termination Date issue addendum for Time Extensions;
- ✓ Include Progress Schedule for PE Contracts;
- ✓ Include detailed Scope of Work; and
- ✓ MDOT must approve all Contracts (PE, CE&I, and SA’s) **PRIOR** to starting new work.

Invoice Packages



LPA Invoice Package Requirements

- ✓ Signed LPA-CSU-001 for Consultant Services;
- ✓ Current consultant invoice per the Consultant's Contract;
- ✓ Copy of checks the LPA paid to the Consultant; and
- ✓ All support documentation for payments (i.e. hotel receipts, mileage logs, subconsultant invoices and all of their support, reproduction, hotel receipts (meals), time sheets or billing backup)

Submitting an Invoice

- ✓ MDOT creates LPA-CSU-001 and e-mails it to the Consultant/LPA after NTP and executed Contract is received by MDOT;
- ✓ Consultant's project manager signs LPA-CSU-001 and forwards a complete copy of the Invoice Package to the LPA;
- ✓ LPA Reviews Invoice Package, if appropriate, CAO signs LPA-CSU-001;
- ✓ LPA pays the Consultant prior to MDOT reimbursement;
- ✓ **LPA submits to MDOT "LPA Invoice Package" digitally at lpainvoice@mdot.ms.gov;**
- ✓ MDOT reviews billing, if appropriate, processes invoice; and
- ✓ MDOT CSU will sign and email a digital copy of the invoice to the LPA.

Invoice “Reminders”

- ✓ MDOT will not process an invoice prior to receiving the fully executed Contract and NTP letter;
- ✓ Rates, Classifications and Names MUST match the Contract for Labor Hour Contracts;
- ✓ Provide billing backup and supporting documentation for all reimbursable expense (meals receipts not required unless there is an overnight stay);
- ✓ Do NOT alter the LPA-CSU-001 formulas or codes;
- ✓ Provide proof of prior payment to the Consultant; and
- ✓ **LPA's should always submit their Invoice Package digitally at lpainvoice@mdot.ms.gov.**

LPA Preliminary Engineering Special Match Process Checklist

The following information shall be included in the Preliminary Engineering – Special Match Credit Package.

- LPA Special Match Process Checklist;
- MDOT Selection Concurrence Letter or Small Purchase Letter;
- Complete Statement of Expenditures for Special Match Credit;
- MDOT Consultant Contract concurrence Letter;
- Copy of **fully** executed contract;
- Notice to Proceed letter for the contract;
- Any Supplemental Agreements and/or Time Extension if executed (including the NTP for each)
- All LPA Proof of payments to the Consultant (i.e. Cancelled Checks); and
- All Consultant Invoices including billing Backup and/or Time Sheets and Supporting Documentation for Direct Cost.

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¹ Note: For Small Purchase, Project Services includes all phases of a project involving Federal Funds, Brooks Act does not apply for small purchase when under \$150,000.

²<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/LPA%20Consultant%20selection%20process%20checklist.pdf>

³<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/LPA%20Consultant%20Operating%20Procedures%20For%20Professional%20Services.pdf>

⁴<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/LPA%20Consultant%20selection%20process%20checklist.pdf>

⁵<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/LPA%20Meeting%20Minutes%20for%20Consultant%20Selection.doc>

⁶<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/LPA-ADM-201.pdf>

⁷<http://sp.mdot.ms.gov/Consulting%20Services/Pages/Home.aspx?RootFolder=%2FConsulting%20Services%2FInformation%2FLPA%20Consulting%20Services%20Information&FolderCTID=0x01200060E2A75EA1EFD24B960FF7240D4DC075&View={614C9105-F0E2-4BDA-96F6-79E4BA7DBFC5}>

(Pick from the different types of Contracts under LPA Consulting Services Information)

⁸ AASHTO Uniform & Accounting Guide, <http://audit.transportation.org>

⁹<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/Scope%20of%20Work%20Example.docx>

¹⁰<http://sp.mdot.ms.gov/Consulting%20Services/Information/LPA%20Consulting%20Services%20Information/Testing%20Services%20Fee%20Proposal.xlsx>

¹¹ Can submit electronic copy prior to the PS&E Assembly.

¹²<http://sp.mdot.ms.gov/Consulting%20Services/Pages/Home.aspx?RootFolder=%2FConsulting%20Services%2FInformation%2FLPA%20Consulting%20Services%20Information&FolderCTID=0x01200060E2A75EA1EFD24B960FF7240D4DC075&View={614C9105-F0E2-4BDA-96F6-79E4BA7DBFC5}>