

**ODOT Local Agency Certification Program
Direct Appointments for Federally Funded A&E
Related Services**



Certification Presentation Checklist

LOCAL AGENCY INFORMATION	
Project Name:	
Contract Amount:	
Local Public Agency:	
Address:	
Contact:	
Telephone number:	
Email:	
Date:	
Procurement Type	<input type="checkbox"/> Direct Appointment <input type="checkbox"/> Informal Selection <input type="checkbox"/> Formal Selection

CHECKLIST	COMMENTS
<input type="checkbox"/> Direct Appointment Procedures Followed the procedures in the LPA A&E Requirement Guide document (including any lower dollar thresholds in local rules, or other local requirements not in conflict with state and federal rules). Threshold amount: _____	
<input type="checkbox"/> Statement of Work Statement of Work meets Fit for Use Standard. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Consultant Selection 3.1.2 Follow applicable local rules, provided the selection is in conformance with applicable state and federal laws/regs. If LPA administrative rules are not in conformance with state and federal rules for A&E direct appointments, LPA shall follow DOJ Model Rule OAR 137-048-0200. Identify three consultants from ODOT's current full-service on-call Price Agreement list for services needed and made selection from the following list of ODOT approved firms as applicable. Matrix of Primes and Approved Subs <input type="checkbox"/> List of firms under ODOT Full-Service PAs	

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	<input type="checkbox"/> ESA Qualified List <input type="checkbox"/> Qualified ROW Appraisers (and contacted ODOT Right of Way Manager as required) <input type="checkbox"/> Register of Professional Archaeologist <input type="checkbox"/> Qualified Construction Inspectors <input type="checkbox"/> LPA's Consultant list*.	
<input type="checkbox"/>	<p>Negotiations</p> <p>3.6.4 After preparing the internal estimate, receiving contractor's estimate and completing cost analysis, enter negotiations with the selected proposer with the objective of a agreeing on a contract at a compensation level that is reasonable and fair to the Agency. If the Agency and the selected candidate are unable for any reason to reach agreement within a reasonable time, the Agency shall, either orally or in writing, formally terminate negotiations with the selected candidate. The Agency may then negotiate with the next highest ranked candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the Agency terminates the consultant contracting process.</p> <p>Did LPA follow the negotiation procedures in 3.6 of the A&E Requirements Guide for LPAs (or LPA procedures approved by ODOT)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/>	<p>Internal Cost Estimate</p> <p>3.6.1. The LPA's independent estimate becomes the basis for ensuring the consultant services are obtained at a fair and reasonable cost and will be used as the basis for negotiations. A detailed breakdown of estimated costs for the elements of the work must be prepared prior to receiving the consultant's breakdown of estimated costs. A budget line-item amount or simple range based on a percentage of the dollar amount programmed for the construction project is sufficient for determining solicitation method (i.e., formal versus informal), but is not sufficient for purposes of the cost analysis and negotiation required for A&E and other no-bid pricing actions.</p> <p>Did LPA prepare an independent breakdown of estimated costs, prior to receipt of consultant estimate? <input type="checkbox"/> Yes <input type="checkbox"/></p>	

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<input type="checkbox"/>	<p>Cost Analysis 3.6.3 Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required per 49CFR 18.36. Cost Analysis is the analysis of the separate cost elements of a service or good and the application of judgment to determine what it should cost to complete or produce (rather than comparing to previous prices, i.e., Price Analysis), assuming reasonable economy and efficiency. Cost Analysis is used in developing Agency’s estimate, and in the review of costs and profit in a Contractor’s estimate to determine reasonableness. A detailed internal estimate for comparison purposes is required. Price Analysis (comparisons with previous prices) may be included, provided Cost Analysis was performed on the previous prices, reasonableness was determined and the previous contracted work is substantially the same.</p> <p align="center">Did LPA conduct cost analysis, to determine reasonableness of costs? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/>	<p>Billing Rates 3.5 ODOT Approved Rates. LPAs may request billing rate and overhead information for firms that ODOT has approved rates for on file. However, ODOT does not provide audit services to LPAs for cost data not on file. FHWA Policy. Consultant certification of compliance with Federal Cost Principles is required. “It is FHWA’s policy that an indirect cost rate proposal should not be accepted and no agreement should be made by a contracting agency to establish final indirect cost rates, unless the costs have been certified by an official of the contractor as being allowable in accordance with the applicable FAR cost principles of 48 CFR, part 31.” Related provisions and certification form are included in the RFP and Contract templates. Approved Indirect Rate. If the indirect cost rate of the consulting engineering firm has been approved by a cognizant agency, the LPA must use this approved rate for contract estimation, negotiation, administration, reporting, and payment. Administrative or de-facto ceilings on indirect cost rates are not allowed (23 U.S.C. 112(b)(2)(C) and (D) and 23 CFR 172.7)</p> <p align="center">Did LPA use billing rate data approved by ODOT? <input type="checkbox"/> Yes <input type="checkbox"/> No If no:</p> <p align="center">a. Who approves rates? N/A.</p>	

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	<p>b. Was a cognizant audit and certification of compliance with 48CFR Part 31 obtained from consultant (only required for indirect costs)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/>	<p>Record of Negotiations 3.6.7 A record of the negotiations must be prepared for the procurement file. Best practice is to begin preparing the RON from the beginning and throughout the negotiation process rather than waiting until end of process and trying to recall what happened. The RON must identify how reasonableness of cost was determined. This includes documentation such as:</p> <ul style="list-style-type: none"> • Minutes/summary of SOW discussion meeting(s) • Local agency's detailed estimate (prepared prior to receiving the consultant's estimate) • Consultant's initial and revised final estimate • Cost analysis and any pre-negotiation plan prepared by LPA, LPA's negotiation position on profit and final agreed to profit (based on criteria in previous paragraph) • Minutes/summary of negotiation meeting(s) • Copies of relevant correspondence <p>Did LPA prepare a record of the negotiations? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/>	<p>Documentation 4. The basic expectation is that the effort and documentation applicable internal estimates, cost analysis, negotiation, SOW detail, documentation detail, etc., for A&E contracting and contract administration should be directly related to the dollar value, importance, and complexity of the contract or amendment.</p> <p>Direct Appointment Selection Form completed <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/>	<p>Contract 2. LPAs in ODOT's certification program for consultant selection shall use the following standard procurement templates for all federal aid A&E procurements: A&E Contract Template used <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

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Comments:

Corrective Action	Yes <input type="checkbox"/> No <input type="checkbox"/>
Second Test Project Required	Yes <input type="checkbox"/> No <input type="checkbox"/>
Certification Recommended	Yes <input type="checkbox"/> No <input type="checkbox"/>

Reviewed By	Date:
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