

## Chapter 4. Consultant Selection and Contract Administration

### 4.1 OVERVIEW

In the sequence of project development, consultant selection occurs prior to any stage when consultant services are needed.

ODOT recommends project managers consult their local procurement staff to identify all applicable procurement requirements as part of the consultant selection process.

CERTIFICATION FUNCTIONAL AREAS	← Consultant Selection and Contract Administration →					
			Design		Ad, Bid, and Award	Construction Contract Administration
PROJECT PHASE	Program Development (Planning)	Project Development	Right of Way Acquisition	Utility Relocation	Ad, Bid, and Award	Construction

For consultant services costs to be eligible for federal reimbursement, LPAs are required to follow federal and state statutes and rules for the procurement and contract administration of architecture and engineering (A&E), design related, and other consultant services. Refer to the LPA A&E and Non-A&E Requirements Guides for specific procedures for consultant selection.

Certification in the functional area of consultant selection and contract administration is a Certification Program requirement. An LPA may choose to pursue certification in the following consultant selection procurement methodologies:

- Formal Selection
- Informal/Intermediate Selection
- Small Purchase Selection

Regardless of the procurement methodology, an LPA shall be in conformance with federal, state, and local laws regarding conflicts of interest and shall require appropriate disclosures from consultants. To assist LPAs with meeting procurement requirements, ODOT has developed the LPA A&E Requirements Guide, LPA Non- A&E PSK Requirements Guide, and related templates and forms for use on federal-aid projects. Per Section B of this manual, Certified LPA staff must meet minimum training requirements. Training requirements are detailed in the Consultant Selection Training & Qualifications for Certified LPAs. See the resource section at the end of this chapter.

**Note:** For disciplines in which ODOT retains oversight or approval authority, such as environmental and right of way, or when specified in the project agreement, ODOT may require the LPA to use specified task language and to submit the draft statement of work along with a breakdown of costs to ODOT for technical review prior to the LPA executing the contract. The purpose of ODOT's review is to assist the LPA with ensuring technical and project specific compliance and reasonableness of consultant costs.

## 4.2 TYPES OF CONSULTANT SELECTION

### 4.2.1 Formal Selection

LPAs certified by ODOT in the formal selection process may conduct formal procurements without any state or federal dollar limitation. Solicitations must be publicly advertised and awarded using the applicable formal selection process for procurements above the following thresholds (including any potential contract amendments):

- A&E and design related services exceeding \$250,000, unless the LPA has adopted rules with a lower threshold
- Non-A&E planning services exceeding \$250,000, unless the LPA has adopted rules with a lower threshold

LPAs should be aware of any local procurement requirements and dollar limitations that may be more restrictive, as the more restrictive limitations will apply.

**For both A&E and design related services and non-A&E planning services,** the formal selection process requires the LPA to solicit and evaluate proposals in a manner that provides full and open competition that assures qualified in- and out-of- state consultants are given a fair opportunity to be considered for award. This process requires the LPA to use a minimum of three evaluators to review and score all responsive proposals.

**For A&E and design related services,** a Disadvantaged Business Enterprise (DBE) goal will typically apply to formally procured consultant contracts. Regardless of whether a DBE goal applies, the LPA shall ensure applicable DBE contract provisions are included in the contract and follow program reporting requirements.

Refer to the following sections in the LPA A&E Requirements Guide for detailed requirements:

- 3.2 Informal and Formal Selection for A&E Services
- 3.4 Disadvantaged Business Enterprise (DBE) Goals
- 3.5 Billing Rate and Overhead Cost Data
- 3.6 Estimates, Costs Analysis, Negotiations, Profit and Method of Compensation

**For non-A&E planning services,** a DBE ‘no-goal’ is the standard assignment for formally procured consultant contracts. The LPA shall ensure applicable DBE provisions are included in the contract and follow program reporting requirements.

Refer to the following sections in the LPA Non-A&E PSK Requirements Guide for detailed requirements:

- 3.2 Intermediate and Formal Selection
- 3.4 DBE Goals
- 3.5 Billing Rates
- 3.6 Estimates, Cost Analysis, Negotiations, Profit and Method of Compensation

#### **4.2.2 Informal/Intermediate Selection**

LPAs certified by ODOT in the informal or intermediate selection process may conduct procurements up to the following limits (including potential amendments):

- Informal selection for A&E and design related services: For procurements greater than \$100,000 and not to exceed \$250,000, unless the LPA has adopted rules with lower limits.
- Intermediate selection for non-A&E planning services: For procurements greater than \$10,000 and not to exceed \$250,000, unless the LPA has adopted rules with lower limits.

**For A&E and related services,** the informal selection process requires the LPA to prepare and distribute a request for proposal (RFP) and sample contract documents to a minimum of five prospective consultants identified on an ODOT-approved list of qualified consultants (see OAR 137-048-0210(b)). For consultants not on an ODOT-approved list, the LPA may seek ODOT approval by submitting a Consultant List Exception Request form to the Certification Program.

A DBE goal may apply to informally procured consultant contracts. Regardless of whether a DBE goal applies, the LPA shall ensure applicable DBE contract provisions are included in the contract and follow program reporting requirements.

Refer to the following sections in the LPA A&E Requirements Guide for detailed requirements:

- 3.2 Informal & Formal Section for A&E Services
- 3.4 Disadvantaged Business Enterprise (DBE) Goals
- 3.5 Billing Rate and Overhead Cost Data
- 3.6 Estimates, Costs Analysis, Negotiations, Profit and Method of Compensation

**For non-A&E planning services,** the intermediate selection process requires the LPA to prepare and distribute a request for proposal (RFP) and sample contract documents to a minimum of three prospective consultants qualified to perform the needed services (see OAR 137-047-0270 and ORS 279B.070). DBE goals are not currently assigned for non-A&E contracts, but the DBE no-goal provisions must be included in the contract.

Refer to the following sections of the LPA Non-A&E PSK Requirements Guide for detailed requirements:

- 3.2 Intermediate & Formal Selection
- 3.5 DBE Goals
- 3.5 Billing Rates
- 3.6 Estimates, Cost Analysis Negotiations, Profit and Method of Compensation

#### **4.2.3 Small Purchase/Small Procurement**

LPAs certified by ODOT in the small purchase process may use this process to enter into consultant contracts, including any amendments, up to the following limits:

- Small Purchase for A&E and related services: For procurements not to exceed \$100,000, unless the LPA has adopted rules with lower limits.
- Small Procurement for Non-A&E planning services: For procurements not to exceed \$10,000, unless the LPA has adopted rules with lower limits. (Note: This is the federal micro-purchase threshold as defined in 48 CFR 2.101.)

**For A&E and related services,** this process requires the LPA to identify a minimum of three qualified consultants to consider for the services needed and prepare a Small Purchase Selection form listing each of the consultants considered. The LPA shall select consultants from an ODOT-approved list of qualified consultants or otherwise seek ODOT approval by submitting a Consultant List Exception Request form to the Certification Program.

While DBE goals typically do not apply to contracts under \$100,000, other DBE program requirements still apply to small purchase procurements. The LPA shall ensure the applicable DBE contract provisions are included and follow the program reporting requirements.

Refer to the following sections in the LPA A&E Requirements Guide for detailed requirements:

- 3.1 Small Purchase
- 3.4 Disadvantaged Business Enterprise (DBE) Goals
- 3.5 Billing Rate and Overhead Cost Data
- 3.6 Estimates, Costs Analysis, Negotiations, Profit and Method of Compensation

**For non-A&E planning services**, the LPA may directly select any consultant with experience performing the services needed. The LPA shall ensure the DBE no-goal contract provisions are included in the contract and follow program reporting requirements. Refer to the following sections of the LPA Non-A&E PSK Requirements Guide for detailed requirements:

- 3.1 Small Procurements
- 3.4 DBE Goals
- 3.5 Billing Rates
- 3.6 Estimates, Cost Analysis, Negotiations, Profit and Method of Compensation

#### **4.2.4 Contract Administration**

LPAs are required to maintain a contract administration system that ensures consultants perform in accordance with the terms, conditions and specifications of their contract. Contract administration must include, but is not limited to:

- Collecting and submitting subcontractor Paid Summary Reports (form 734-2882)
- Maintaining records
- Reviewing invoices and supporting documentation
- Determining contract amendment necessity
- Evaluating consultant performance
- Enforcing the LPA's errors and omissions procedures
- Closeout documentation

Refer to Section 3.7 Contract Administration Procedures and Section 4. Documentation Requirements of the LPA A&E Requirements Guide or LPA Non-A&E PSK Requirements Guide, as applicable, for more details regarding requirements.

## 4.3 DEMONSTRATION PROJECT

### 4.3.1 Procurement Procedures

LPAs are certified in consultant selection based on ODOT's approval of the LPA's foundational documents and training requirements per Section B of this manual. Additionally, LPAs must demonstrate their competency in adhering to the procurement processes outlined in the LPA A&E Requirements Guide or LPA Non-A&E PSK Requirements Guide, as applicable, by performing a "demonstration project" for each procurement methodology: formal, informal/intermediate, and small purchase.

If an LPA is first approved in the formal methodology, the LPA will not be required to conduct a separate demonstration for the informal/intermediate methodology. However, a demonstration will still be required for the LPA's first use of the small purchase methodology.

For each procurement demonstration the LPA will present their processes, procedures and documentation to ODOT for evaluation and compliance determination. **The LPA presentation will be required after the consultant procurement process has been completed, but prior to contract execution.**

The Consultant Selection Procurement Demonstration Process is outlined below.

Consultant Selection Procurement Demonstration Process	
1.	<b>LPA</b> identifies an appropriate project with consultant needs to serve as a demonstration project for the procurement method(s) selected and contacts the Certification Program for concurrence and copies the ODOT project contact.
2.	<b>LPA, ODOT project contact, and the Certification Program</b> , coordinate to include the appropriate consultant selection demonstration project language in the applicable supplemental project authorization.
3.	<b>LPA, ODOT project contact, ODOT procurement, and the Certification Program</b> meet to coordinate scheduling for the demonstration project and to provide resources and template.
4.	<b>LPA</b> follows the applicable procurement processes outlined in the LPA A&E Requirements Guide or LPA Non-A&E PSK Requirements Guide, as applicable (or LPA's alternate procedures approved by ODOT).
5.	<b>LPA</b> submits draft Request for Proposal, Statement of Work and Sample Contract (as applicable to the procurement) to the Certification Program for review by ODOT procurement <b>prior to solicitation/advertisement</b> . ODOT procurement's goal is to provide guidance within 10 business days and LPA incorporates guidance as appropriate.
6.	<b>LPA</b> conducts the procurement up to contract execution but does <b>not</b> execute.
7.	<b>ODOT Certification Program</b> contacts the LPA to confirm the evaluation meeting date with ODOT procurement <b>several weeks prior to the anticipated contract execution date</b> .
8.	<b>ODOT Certification Program</b> sets up the consultant selection evaluation meeting.
9.	<b>LPA</b> submits organized supporting documents <b>3-7 days prior to evaluation meeting</b> for preview by ODOT evaluators.
10.	<b>LPA</b> presents the following documents to ODOT at the consultant selection evaluation: <ul style="list-style-type: none"> <li>• Scope of Work/Statement of Work (Note, the LPA works with the ODOT project contact to coordinate any ODOT technical reviews that may be required, for example, review of environmental or right of way related services tasks.)</li> <li>• Request for Proposal (RFP) (formal and informal/intermediate procurements only)</li> <li>• Small Purchase Selection form (small purchase procurements only)</li> <li>• Internal Cost Estimates and Breakdown of Costs</li> <li>• Evaluator score sheets and Conflict of Interest Disclosure for Proposal Evaluator forms (formal and informal/intermediate procurements only)</li> <li>• Record of Negotiation and Cost Analysis</li> <li>• Approved Committed DBE Breakdown Forms (for contracts with an assigned goal)</li> <li>• Final Negotiated Contract</li> </ul>
11.	<b>ODOT</b> evaluates the LPA using the applicable Consultant Evaluation Checklist and provides feedback to the LPA. See the resources section at the end of this chapter.
12.	<b>LPA</b> resolves any outstanding issues. If needed to address more serious deficiencies, ODOT may require LPA to develop a Corrective Action Plan.
13.	<b>ODOT</b> will notify the LPA when it has been approved to proceed with executing the contract, once ODOT is satisfied that the LPA has met the procurement procedure requirements.
14.	<b>LPA</b> executes the consultant contract and begins contract administration.

#### **4.3.2 Consultant Contract Administration**

For the LPA's first demonstration project that includes consultant contract administration, the LPA's compliance with consultant contract administration requirements will be reviewed during the Certification Program project compliance review as set out in Section B of this manual. If any deficiencies are noted, the Certification Program may work with the LPA to develop and implement a corrective action plan on the Review and Corrective Action Report form 734- 5070.

Additionally, to ensure the LPA's consultant contract administration demonstration project gets off to a good start, at approximately 30% contract completion, the LPA should work with ODOT to informally review the LPA's files against the consultant contract administration certification presentation checklist with respect to the following required elements:

- Contract administration responsibilities
- Deliverables and schedule
- Contract amendments (if applicable)
- Invoicing review and processing
- Records Retention (review of file organization at this point of contract completion)

The LPA and ODOT might also discuss any questions the LPA have about the other required elements of records retention, consultant evaluation, and contract closeout.

**Note:** Thirty percent completion is approximate. It is recommended to review earlier for larger, more complex projects or later for smaller, less complex contracts. The idea is to ensure there has been sufficient work performed, deliverables received, and invoicing processed, to evaluate whether the LPA is meeting the contract administration requirements.



## 4.4 RESOURCES

For related questions not covered here, contact [odotcertification@odot.oregon.gov](mailto:odotcertification@odot.oregon.gov).  
Information on the consultant selection certification process is in Section B of this manual.

Provider	Resource Title	Description	Link
ODOT	Certification Program Consultant Contracting	Webpage (includes links to LPA A&E and Non-A&E guides, required RFP and contract templates, approved consultant lists, and resources for statement of work and contract administration)	<a href="https://www.oregon.gov/odot/LocalGov/Pages/Consultant-Contracting.aspx">https://www.oregon.gov/odot/LocalGov/Pages/Consultant-Contracting.aspx</a>
ODOT	Consultant Contract Administration Certification Presentation Checklist	Form 734-5087	<a href="https://www.oregon.gov/odot/Forms/20DOT/5087.docx">https://www.oregon.gov/odot/Forms/20DOT/5087.docx</a>
ODOT	Consultant Selection and Contract Administration Training & Qualifications for Certified Local Agencies	Document	<a href="https://www.oregon.gov/odot/LocalGov/Documents/ConsultantSelectionTrainingandQualificationsforCLPAs.pdf">https://www.oregon.gov/odot/LocalGov/Documents/ConsultantSelectionTrainingandQualificationsforCLPAs.pdf</a>
ODOT	Direct Appointments Consultant Evaluation Checklist for Federally Funded A&E Related Services	Form 734-5082 (used to evaluate small purchase procurement demonstration projects)	<a href="https://www.oregon.gov/odot/Forms/20DOT/5082.docx">https://www.oregon.gov/odot/Forms/20DOT/5082.docx</a>
ODOT	Formal Consultant Selection Evaluation Checklist for Federally Funded A&E Related Services	Form 734-5083 (used to evaluate formal procurement demonstration projects)	<a href="https://www.oregon.gov/ODOT/Forms/20DOT/5083.docx">https://www.oregon.gov/ODOT/Forms/20DOT/5083.docx</a>
ODOT	Informal Consultant Evaluation Checklist for Federally Funded A&E Related Services	Form 734-5092 (used to evaluate informal procurement demonstration projects)	<a href="https://www.oregon.gov/odot/Forms/20DOT/5092.docx">https://www.oregon.gov/odot/Forms/20DOT/5092.docx</a>