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## 50.10 USING A CONSULTANT

If a LPA is not adequately staffed to provide the necessary engineering, they may hire a consulting engineer to provide professional services. Consultants must be on the NDOR certified consultant list. Certification forms (*DR497*) and a list of certified consultants are available on NDOR's website at [www.nebraskatransportation.org/rfp/](http://www.nebraskatransportation.org/rfp/). The costs for environmental, design, and construction engineering are eligible for federal participation provided that applicable requirements have been followed.



## 50.20 CONSULTANT SELECTION PROCEDURES

If estimated consultant fees are anticipated to exceed \$40,000, LPA's are required to follow the qualifications-based selection (QBS) process as outlined within this section. If the fee is estimated to be less than \$40,000, the LPA's are required to follow the small purchase procedures outlined within this section.

**Qualification Based Selection Procedures:** The QBS procedure must include a public announced solicitation process that requests proposals (RFP's) from at least three firms, all of which must be certified by NDOR. In case three firms don't respond, the LPA must show documented proof that at least three firms had been contacted and proper advertisement had taken place. The RFP must include a brief description of the scope of work, evaluation factors to be used in the selection and their relative importance, method of payment, submittal requirements, and deadline for submittal.

The following is a description of the QBS process:

### 1. Solicitation

The solicitation process must include public announcement or advertising. In addition to public announcement or advertising, direct mailings may occur. The process must assure qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. You may contact the NDOR Urban Off-System Coordinator for a list of state certified consultants. The RFP must include the following:

1. A description of the scope of work

2. The evaluation factors to be used in the selection, including their relative importance
3. The following is a list of acceptable payment methods.
  - a. Cost plus fixed fee
  - b. Lump sum
4. Request the submission of a letter of interest indicating the qualifications of the firm
5. Deadline date for submittal of letters of interest. The consultant’s letter of interest must include a completed DR Form 498 “Architect, Engineer & Related Service Detail Statement.” The DR Form 498 can be found at [www.nebraskatransportation.org/rfp/](http://www.nebraskatransportation.org/rfp/)

***Price cannot be a selection factor and must not be requested in the RFP or mentioned in interviews prior to selection.***

**2. Information to NDOR (for approval) prior to RFP being issued**

1. Draft of the RFP
2. Evaluation Forms
3. Advertising or distribution of the RFP cannot be performed prior to completing the LPA/NDOR agreement (see Section 40).

A sample RFP and scoring sheet can be found at the end of this section. These forms can also be obtained by contacting the NDOR Urban Off-System Coordinator assigned to your city or can be found at:

[www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

**3. Analysis and Selection**

1. The consultant’s submittal shall be evaluated and ranked in order of preference using an approved evaluation form. The contracting agency shall give consideration to Disadvantaged Business Enterprise (DBE) consultants in the selection process.
2. Personal interviews or telephone interviews with submitting firms are optional. If interviews are conducted, they must be conducted with all the firms under consideration.
3. The selection committee must consist of at least three individuals in which at least one person whose profession represents that particular field of endeavor being considered.
4. The selecting agency shall furnish NDOR a copy of the following:
  - a. Final Request for Proposal

- b. A list of those firms responding to the RFP or the three or more firms that a letter of interest was solicited from.
- c. Completed evaluation forms from all committee members.
- d. Copy of the letter to all submitting firms indicating selection.

#### **4. Negotiation**

Upon completion of the selection process and when proper documentation has been submitted to NDOR, NDOR will provide a standard agreement and conflict of interest form to the LPA that must be completed between the LPA and the consultant. The LPA and the consultant can begin negotiating fees for engineering services until an agreement is reached or until negotiations are officially terminated.

In the event negotiations are terminated with the first-rated consultant, the selection committee shall begin negotiations with the second-rated consultant. This process will continue until an agreement is reached. In the case where all negotiations are terminated, the reasons and facts surrounding those negotiation terminations shall be documented and submitted to the NDOR.

The process will continue until an agreement is reached with a qualified firm. If no agreement is reached, the terms of the contract under negotiation will be reviewed by the selection committee to determine the cause(s) for failure to achieve an agreement.

#### **5. Develop contract between LPA and consultant.**

Upon completion of negotiations, the LPA must use NDOR's standard agreement to state the terms and conditions of the contract. A standard agreement may be obtained from the NDOR Urban Off-System Coordinator assigned to your City or can be found at [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm).

A copy of the "NDOR Conflict of Interest and Disclosure Form" shall be submitted to NDOR with the negotiated contract. This form can be found at the end of this section. If a potential conflict occurs, please contact the NDOR Urban Engineer at the soonest possible time, to determine if the consultant can be considered for the work advertised.

**Small Purchase Procedures:** Consultant agreements with an estimated fee not to exceed \$40,000 are considered "Small Purchase" contracts by the State. The procedures for consultant procurement for "Small Purchases" are listed in the following paragraphs. This process is an abbreviated version of the contract procurement used for contracts exceeding \$40,000.

### 1. Solicitation

The local public agency wishing to use a consultant for engineering services obtains a list of certified consultants from the NDOR Urban Off-System Coordinator assigned to your city. This list identifies the consultants that have a DR Form 497 on file at NDOR.

The LPA must solicit bids in a competitive manner. The LPA can either submit a public notice or send a Request for Proposal (RFP) to a selected number of qualified firms (minimum 3). The public notice should include a general description of the project and should indicate how interested firms can apply for consideration for the project. LPA's can obtain a standard Request for Proposal (RFP) form from the NDOR Urban Off-System Coordinator assigned to your city.

### 2. Information to NDOR prior to RFP being issued

1. Proposed consultant procurement method.
2. Advertising or distribution of the RFP cannot be performed prior to completing the LPA/NDOR agreement (see Section 40).

A sample RFP and scoring sheet can be found at the end of this section. These forms can also be obtained by contacting the NDOR Urban Off-System Coordinator assigned to your city or can be found at:  
[www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

### 3. Analysis and Selection

The LPA can use a selection process of their choice. Two of the most popular methods used include a qualifications-based system and a low bid system.

- Qualifications-Based System

The LPA may form a selection committee that will review and evaluate the consultants responding to the RFP. Following receipt of the letters of interest for a project, the review committee will rank the consultants in order of preference. The qualification-based evaluation can use the consideration factors found in the standardized NDOR evaluation form found in Section 50.80.

- Low-Bid System

The LPA may select a consultant based solely on the lowest submitted bid if desired. The LPA may also use the QBS method where price can be used as a selection factor.

**4. Negotiate fees with selected consultant.**

The LPA should negotiate the fees submitted by the selected consultant. If a fair and reasonable price cannot be negotiated with the chosen firm, the LPA can move to the next ranked firm. This process can continue until an agreement can be reached.

**5. Develop contract between LPA and consultant.**

Upon completion of negotiations, the LPA must use NDOR's standard agreement to state the terms and conditions on the contract. A standard agreement can be obtained from the NDOR Urban Off-System Coordinator assigned to your City or can be found on the NDOR web page at [www.nebraskatransportation.org/projdev/](http://www.nebraskatransportation.org/projdev/)

A copy of the "NDOR Conflict of Interest and Disclosure Form" shall be submitted to NDOR with the negotiated contract. This form can be found at the end of this section. If a potential conflict occurs, please contact the NDOR Urban Engineer at the soonest possible time, to determine if the consultant can be considered for the work advertised.

## 50.30 CONSULTANT AGREEMENTS

To assure compliance with federal requirements, the NDOR Urban Engineer must review all consultant agreements prior to execution. In addition, the consultant and LPA must complete a Conflict of Interest (COI) form. This must be submitted to NDOR with the contract. NDOR will review the agreement and the COI form. All engineering agreements will be between the LPA and the consultant selected by the LPA. The LPA will be required to use standard agreements previously set up by NDOR. These agreements are in a fill-in-the-blank format and are meant to have a consultant scope of services and fee schedule attached as exhibits. Agreements for both preliminary engineering and construction engineering can be obtained from the NDOR Urban Off-System Coordinator assigned to your city or can be found at: [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

The consultant fee proposal must be reviewed by NDOR before the agreement is executed to ensure that the consultant fees are within state and federal guidelines for overhead and profit. The LPA is responsible to ensure that all blanks on the agreement

are filled in correctly and that a complete scope of work is attached as an exhibit (NDOR will conduct a cursory review of these items when the agreement is submitted for preliminary review). All consultant agreements must be approved and signed by NDOR after they are signed by the LPA and consultant.

## 50.40 PAYMENT METHODS

There are two approved categories of payment for consultant services: “**Cost Plus Fixed Fee**” and “**Lump Sum**”. Lump sum contracts are most appropriate when the scope of services is well defined.

### ***Cost Plus Fixed Fee***

Cost plus fixed fee is a Cost Reimbursement payment method. The actual cost may be adjusted, through negotiation, as a result of substantive changes in the work or services to be performed. This type of payment method is suitable for the performance of research, or preliminary exploration or study, where the required level of effort may not be well defined. It is the most commonly used payment method for preliminary engineering and design. However, if preliminary studies and other information are sufficient to allow development of a well-defined and specific scope of services, the lump sum method might be more appropriate.

The ***fixed fee*** is based on the scope, complexity, degree of risk, and specialized expertise associated with the project. For preliminary engineering (PE), firms with an overhead less than 150 percent are allowed a fixed fee for profit of 13 percent. Firms with an overhead of 150 percent or higher, are allowed a fixed fee for profit of 12 percent.

For construction engineering (CE), firms with an overhead less than 150 percent are allowed a fixed fee for profit of 11 percent. Firms with an overhead of 150 percent or higher, are allowed a fixed fee for profit of 10 percent.

### ***Lump Sum***

Lump sum is a Fixed Price payment method. It provides for a price, which is not subject to any adjustment because of cost changes the consultant might encounter in the performance of the work. Because the consultant assumes full responsibility in the form of profit or losses for all costs under or over the firm fixed price, it has a maximum profit incentive for effective cost control in contract performance. This type of payment method imposes a minimum administrative burden on the contracting parties. Lump sum contracts shall not be used for construction engineering services or preliminary engineering in excess of \$150,000. Lump sum contracts may be supplemented when the scope of work has changed.

**Maximum Amount Payable**

The contract will specify a maximum dollar amount within which the consultant will complete all tasks in the scope of services. Should the consultant's costs exceed the maximum amount payable, the consultant must complete the work without compensation above that amount, unless the extra work is approved by the contracting agency.

**50.50 NOTICE TO PROCEED**

LPA's whom desire to be reimbursed with federal-aid must receive approval for this type of services prior to RFP. After the NDOR/LPA Agreement is in place, the LPA may advertise the RFP. If the RFP occurs prior to requesting establishment of the NDOR/LPA agreement, then no costs associated with the LPA/Consultant agreement will be reimbursed.

Consultants who are to be paid with federal-aid dollars cannot begin work until NDOR issues a Notice to Proceed letter (or email). The notice to proceed will be issued after the LPA/Consultant agreement has been reviewed and approved by NDOR. Any work performed prior to the Notice to Proceed, provided by NDOR, will not be eligible for reimbursement.

After the LPA has received a Notice to Proceed from NDOR, they in turn may offer the consultant a Notice to Proceed to begin work. The LPA shall send a copy of the Notice to Proceed to the Urban Engineer.

**50.60 CHANGES TO THE AGREEMENT**

Occasionally, the conditions of a consultant agreement may change. This may be due to revisions in the scope of services, fees, or beginning and completion dates. If this happens, a Supplemental Agreement will be necessary to amend existing conditions of the agreement. Contact the NDOR Urban Off-System Coordinator assigned to your city know if you need to supplement the executed consultant agreement. The LPA will be required to use NDOR standard Supplemental Agreements. These agreements can be obtained from the NDOR Urban Off-System Coordinator assigned to your city or can be found at [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

Supplements require signatures of both the LPA and Consultant so please notify NDOR at the earliest possible date if you anticipate any changes. The supplements require the same approval by the NDOR as the original agreement.

**50.70 CONSULTANT EVALUATION**

The LPA shall monitor the quality of consultant's work and perform periodic performance evaluations. This information will be supplied to NDOR at the time of project completion. NDOR will retain this information in a consultant performance database. LPA's can evaluate consultants using the standard Consultant Evaluation Form found at the end of this section.

**EXAMPLE**  
**REQUEST FOR PROPOSALS**  
**STATE PROJECT NO. ####**  
**DESIGN SERVICES, PROJECT NAME – Project Type**

**1. PURPOSE AND INTENT**

- 1.1 The City intends to retain a professional engineering firm or firm(s) to provide normal and customary preliminary and final engineering design services to produce a set of construction documents for **PROJECT NAME** - Safety Improvement Project.
- 1.2 It is the intent to select a firm based on qualifications, recommended project approach, and practical applications which best accomplishes the objectives of the project while incorporating innovative and cost effective methods.
- 1.3 The City will rely on the firm to remain on schedule for all services rendered so as to meet the construction bid and start as specified for this project.
- 1.4 The City reserves the right to contract for additional services on this project with another firm or utilize its own forces.

**2. PROJECT DESCRIPTION**

- 2.1 The firm selected will develop this project from its current intersection configuration to include realigned dual left-turn lanes to replace the existing single left-turn lane at \_\_\_\_\_ Street. The existing traffic signals will be renovated to meet the new intersection configuration. This project will improve vehicular safety and operation by decreasing accidents and will improve delay, air quality, and overall operations. See attached conceptual sketch of intersection improvements.
- 2.2 The limits of the project are identified as the intersection of \_\_\_\_\_ Streets.
- 2.3 This project includes construction of dual left-lanes for northbound to westbound vehicles, sidewalk improvements along \_\_\_\_\_, traffic signal modifications, pavement markings and signing. Appropriate ITS applications such as dynamic message signs, traffic monitoring cameras, road and weather information systems, etc. will also be included in this project.
- 2.4 This project will require coordination with the \_\_\_\_\_ Parks and Recreation Department.

**3. AVAILABLE INFORMATION**

- 3.1 Any currently available landbase, public utility, contours and aerial photographic information in Microstation format.
- 3.2 Information is available for review at the offices of the City of \_\_\_\_\_ Engineers office located at \_\_\_\_\_, \_\_\_\_\_, Nebraska.

**4. REQUIRED SERVICES**

- 4.1 The consultant selected shall provide normal and customary professional services for this project may include but not limited to:

4.1.1 Survey - Preliminary and ROW	4.1.10 Still Photo / Video Log
4.1.2 Geometry	4.1.11 Traffic Signal Plans
4.1.3 Utility plans	4.1.12 ROW/easements
4.1.4 Environmental/historical review	4.1.13 Text legal descriptions
4.1.5 Pedestrian/bicycle uses	4.1.14 Marking /signing plans
4.1.6 Aesthetics	4.1.15 Traffic control plans
4.1.7 Construction Phasing	4.1.16 Public Involvement
4.1.8 Construction Estimates	4.1.17 Roadway Design
4.1.9 Emergency Services	4.1.18 StarTran Coordination

In addition, appropriate landscaping in collaboration with the \_\_\_\_\_ Parks and Recreation Department will be included in this project.

- 4.2 All the above shall be in conformance to/with City, State and Federal requirements.
- 4.3 Meetings will be held with representatives from the City of \_\_\_\_\_, NDOR central office and District \_\_\_\_\_ office at appropriate times to discuss progress and issues. The project will be funded 80% from Federal funds and 20% from the City of \_\_\_\_\_.
- 4.4 Prepare a preliminary design memorandum which defines in detail the Consultant's and City's mutually agreed understanding of project scope, objectives, and schedule, including budgetary information.
  - 4.4.1 Meet with City and State staff to review the memorandum for the project.

- 4.5 Submit plan and estimate review sets at preliminary plans (30%); Functional plans (60%); and PS & E (90%).
- 4.6 Complete final design drawings, technical specifications, special provisions, estimates and contract documents for bidding and construction of the project in accordance with design memorandums and using the City of \_\_\_\_\_ Standard Plans and Standard Specifications of Municipal construction.
  - 4.6.1 Elements shown on the plans will include: sections where necessary, plan and profiles, removals (including trees), storm water system details, water system elements, wastewater system elements, quantities, and construction phasing.
  - 4.6.2 All elements should be clearly readable with no lines intermingled with text.
  - 4.6.3 Utilities and utility conflicts will be shown on the plan and profile sheets.
  - 4.6.4 Show on the plans all easements and ROW acquisitions.
- 4.7 Prepare all applications for required Federal, State, or local permits for construction including flood plain permits, 404 permits, storm water permits, NDEQ construction permits, etc., as necessary and insure all data is sufficient for receiving such permits. The Consultant will be required to address 4F issues in collaboration with the \_\_\_\_\_ Parks and Recreation Department.
- 4.8 Submit completed design documents to local regulatory agencies as required and assist City in obtaining approval for improvements from such agencies.
- 4.9 Assist City in obtaining bids for construction, including: coordinating and attending pre-bid meetings, when required; answering all technical questions from prospective bidders; preparing bid addenda as required.
- 4.10 Submit printed copies and computerized file copy of final design and construction contract documents and meet with City project team to present and review final design documents.

**5. DELIVERABLES**

- 5.1 Any and all final design plans, technical specifications, special provisions, estimates and contract documents necessary for the bidding and construction of the above mentioned project.
- 5.2 The final submitted plans will be signed drawings on Mylar, sized as directed by the City Engineer. CD\_ROM CAD files of the final design plans will be submitted which are compatible and suitable for transfer to the City's Comprehensive Engineering Information System (CEIS) currently using Microstation, Geopak, and GIS mapping system.
- 5.3 Any technical specifications, special provisions, estimates and contract documents shall be submitted in WordPerfect V9 or more recent format, both hard copy and electronically.
- 5.4 The final estimates will be delivered in APPIA with bid items and their corresponding costs.

**6. TENTATIVE PROJECT SCHEDULE**

- 6.1 Review & Open RFP's \_\_\_\_\_
- 6.2 Review of RFP (Short List): \_\_\_\_\_
- 6.3 Notification for Interviews: \_\_\_\_\_
- 6.4 Interviews : \_\_\_\_\_
- 6.5 Negotiate Scope of Work : \_\_\_\_\_
- 6.6 Final Meeting: \_\_\_\_\_
- 6.7 Contract Signed by Firm: \_\_\_\_\_
- 6.8 Notice to Proceed : \_\_\_\_\_
- 6.9 Right of Way Documentation: \_\_\_\_\_
- 6.10 Final Design Completion: \_\_\_\_\_
- 6.11 Consultant shall propose intermediate milestone dates to meet Right of Way and Final Design Deadlines.

**7. ADDITIONAL CONSTRUCTION PHASE AND OTHER SERVICES**

- 7.1 Based on the firm's performance and at the sole option of the City, additional services during the construction phase, such as construction inspection/resident engineering services, shall be reviewed and negotiated at a later time, as necessary.
- 7.2 Other services as requested by the City shall also be reviewed and negotiated at a later time, as necessary.
- 7.3 The City reserves the right to contract for additional construction phase services on this project with another firm or utilize its own forces.

**8. CITY'S RESPONSIBILITIES**

- 8.1 Designate project representative and City project team to coordinate work activities of City project team, Consultant, and other affected parties.
- 8.2 Make all policy and budgetary decisions so as to allow timely completion of the work.
- 8.3 Supply pertinent existing drawings, records, and available information.

- 8.4 Assist in coordinating, arranging, and conducting meetings with representatives of affected agencies as required for completing the work.
- 8.5 Conduct related advertising, bidding process, and award of Contract(s) for construction.

**9. SPECIFIC PROJECT INTENTS AND SERVICES REQUIREMENTS**

- 9.1 The resultant design for the project shall be in conformance with design standards and regulations imposed by federal, state and local agencies such as the Nebraska Department of Environmental Quality (NDEQ), Nebraska Department of Roads (NDOR) and the City of \_\_\_\_\_.
- 9.2 Phasing of construction will be needed to provide continuous movement of traffic as well as meet budgetary considerations.
- 9.3 Phasing plans and resultant implementation schedules for completing the work by the required dates and in a timely manner to allow for proper reviews by various agencies and developing of final funding adjustments and requirements for this projects.

**10. PROPOSAL CONTENTS**

- 10.1 Describe and outline the **Firm's Approach** to performing the work required by this project.
  - 10.1.1 Include implementation plan describing project phases, key work elements to meet critical project dates, and a recommended schedule of meetings to provide for timely input by City project team.
- 10.2 Outline of the **Proposed Project Schedule** to meet the project schedule listed in this RFP shall be included.
  - 10.2.1 Provisions for meaningful input from City project team during the initial project review are essential and shall be addressed.
- 10.3 Delineate the **Project Team and Organization**.
  - 10.3.1 Include names of key individuals to be assigned to, and work directly on, the project.
  - 10.3.2 Describe specific areas and limits of responsibilities for each of the team members and proposed sub-consultants to be utilized.
  - 10.3.3 Include a project team organizational chart showing lines of responsibility and extent of involvement for sub-consultants.
  - 10.3.4 Include resumes for project team members, key individuals, and sub-consultants.
- 10.4 Describe the **Ability of the Firm to Meet the Intent of Required Services** outlined in this RFP, including:
  - 10.4.1 Time availability of team members to meet the tentative project schedule.
  - 10.4.2 Quality Assurance and Quality Control (QA/QC) review procedures to be utilized on this project.
  - 10.4.3 Cost estimating and cost control procedures used by firm on similar projects.
  - 10.4.4 A statement of general qualifications and background experience of the firm and project team members, including sub-consultants in this type of project and work.
  - 10.4.5 Listing of types of anticipated assistance that may be required from the City project team or other City agencies.
  - 10.4.6 List four contacts of former clients (to include contact person, title, and telephone number) for which your firm was engaged within the past five (5) years to perform projects of similar size, capacity and dollar amount.
- 10.5 Provide a description of your Public involvement process.
- 10.6 Nebraska Department of Roads DR498 forms shall be submitted in the proposal.

**11. PROPOSAL FORMAT**

- 11.1 Proposals shall be plain white paper, black ink, 6 single sided pages, stapled in the upper left corner. This does not include cover letter and resumes.
- 11.2 The following is a list of attachments which are not part of the six (6) page limit.
  - 11.2.1 A summary description of the firm's history, structure, size and philosophy.
  - 11.2.2 A summary resume/dossier of the key staff to be assigned to the project.
  - 11.2.3 A list of similar projects the firm has completed and the names, telephone numbers of the contract administrator/s.
  - 11.2.4 NDOR DR498 forms

**12. PROPOSAL EVALUATION CRITERIA**

Each proposal submitted will be evaluated by the following items, listed in the order of importance:

- 12.1 Understanding of the requirements of this project.
- 12.2 Relevance and suitability of the project approach and schedule to meet the needs of the City.
- 12.3 Qualifications and expertise of the key personnel to be assigned to this project.
- 12.4 Background experience of the firm and the project team as it directly relates to this project.
- 12.5 Record of past performance on similar projects.

- 12.6 Comments and opinions provided by references.
- 12.7 Quality and cost control procedures to be used on this project.
  - 12.7.1 Identify personnel responsible for these controls.
- 12.8 Resources of the firm to conduct and complete this project in a satisfactory manner.
  - 12.8.1 Factors to be considered include: current work load (including current work with the City), proposed schedule for completion, and ability and willingness to commit the key personnel.
- 12.9 Clarity, conciseness, and organization of proposal.
- 12.10 Firm must be certified by the Nebraska Department of Roads
- 12.11 NOTE: Proposals will be reviewed, evaluated and ranked (e.g.: 1, 2, 3) in accordance with the City's selection process and procedure.

**13. SUBMITTAL PROCEDURES**

- 13.1 Submit seven (7) copies of your proposal to the office of the Purchasing Agent, located at \_\_\_\_\_, \_\_\_\_\_, Nebraska, \_\_\_\_\_ **no later than** \_\_\_\_\_ at \_\_\_\_\_.

**14. CONTACTS**

- 14.1 Contact regarding the development of a proposal shall be made in writing only, with the Project Selection Committee Chair, \_\_\_\_\_, \_\_\_\_\_, City of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Nebraska \_\_\_\_\_, cc: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, NE \_\_\_\_\_.
- 14.2 Any follow-up conversations with City staff will be directed by the Selection Committee Chair.
- 14.3 Any addenda answering questions or providing clarifications will be sent out by the Purchasing Department and be available on the City of \_\_\_\_\_ website at [http://www.\\_\\_\\_\\_\\_.htm](http://www._____.htm)
- 14.4 Verbal responses and/or representations shall not be binding to the City.

**15. ESTIMATED FEES**

- 15.1 If the city is unable to arrive at a mutual agreement with the top ranked firm, the city retains the sole right to move on to negotiations with the second (then, third, etc.) ranked firm.
- 15.2 The method of payment for this project will be cost plus fixed fee plus reimbursement of actual expenses with an agreed maximum amount.
- 15.3 The Nebraska Department of Roads standard City/Consultant agreement will be used for this project.

# EXAMPLE

## NDOR Selection Criteria

NEBRASKA DEPARTMENT OF ROADS CONSULTANT SELECTION COMMITTEE EVALUATION FACTORS											
Project No.: .....	Point Range Poor-Excellent	Short List	Final								
Location: .....											
Rater's Name: .....											
Standard Work Category No.(s): .....											
(1) ABILITY AND EXPERIENCE of professional personnel and staff	0-20										
(2) PAST PERFORMANCE	0-20										
(3) ADEQUATE STAFF to perform the work and WILLINGNESS to meet time requirements	0-20										
(4) LOCATION OF PROJECT in regard to the location of the consultant's personnel and the consultant's familiarity with the area.	0-10										
(5) INFORMATION PROVIDED as required by R.F.P.	0-20										
TOTAL POINTS TO DETERMINE SHORT LIST											
(6) EQUITY in distribution of work and WILLINGNESS to meet time requirements.	0-10										
TOTAL POINTS FOR FINAL SELECTION											
NOTES: _____ _____ _____											

# NDOR Conflict of Interest and Disclosure Form

## **Purpose**

This checklist provides assistance to consultants in screening for potential organizational conflicts of interest. The checklist must be completed and signed by the consultant and LPA and submitted to the Nebraska Department of Roads (NDOR) prior to or with the signed consultant LPA agreement.

Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a consultant determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

## **Conflict of Interest**

No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for an in behalf of the State.

## **Use of the Disclosure Form**

The consultant and LPA must complete the attached disclosure form and submit it to NDOR/LPA with their proposal. If potential conflict of interest exists, they must be disclosed on the form. A disclosure will not necessarily disqualify a consultant from being awarded a contract. The disclosure form must be provided separate from the bound proposal, and it will not be provided to selection committee members. NDOR/LPA representatives will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the consultant may be awarded the contract despite the potential conflict.

## **Material Representation**

The consultant is required to submit the attached disclosure form either declaring to the best of its knowledge and belief, either that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to ameliorate such conflicts. The consultant must also update conflict information if such information changes after the submission of the proposal. Information provided on the form will constitute a material representation as to the award of this contract. NDOR/LPA reserves the right to cancel or amend the resulting contract if the selected consultant failed to disclose a potential conflict, which it knew or should have known about, or if the consultant provided information on the disclosure form that is materially false or misleading.

## **Reviewing Potential Conflicts**

NDOR/LPA recognizes that consultants must maintain business relations with other public and private sector entities in order to continue as viable businesses. This fact will be taken into account as the appropriateness of proposed measures to mitigate potential conflicts is evaluated. It is not the intent of NDOR/LPA to disqualify consultants based merely on the existence of a business relationship with another entity, but rather only when such relationships causes a conflict that potentially impairs the consultant's ability to provide objective advice to NDOR/LPA. Consultants would be disqualified only in those cases where a potential conflict cannot be adequately mitigated.

### **An organizational conflict of interest may exist in any of the following cases:**

- The consultant, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs, appraisals, or other deliverables required by this contract.
- The consultant is providing other services to a governmental or private entity and the consultant knows or has reason to believe, that entity's interests are, or may be, adverse to the client's interests with respect to the specific project covered by this contract. Comment: The existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriate to submit a proposal for a NDOR project if a local government has also retained the consultant for the purpose of persuading NDOR to stop or alter the project plans.
- The contract is for right-of-way acquisition services or related services (e.g. geotechnical exploration) and the consultant has an existing business relationship with a governmental or private entity that owns property to be acquired pursuant to the contract.
- The consultant is providing real estate or design services to a private entity, including but not limited to, developers, whom the consultant knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this contract, when the value or potential uses of such property may be affected by the consultant's performance of work pursuant to this contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to current or potential right-of-way for the project. The value or potential uses of the private entity's property may be affected by the consultant's work pursuant to the contract when such work involves providing recommendations for right-of-way acquisition, access control, and the design or location of frontage roads and interchanges.
- The consultant has a business arrangement with a current NDOR/LPA employee or immediate family member of such an employee, including promised future employment of such a person, or a subcontracting arrangement with such a person, when such arrangements are contingent on the consultant being awarded this contract. This item does not apply to pre-existing employment of current or former NDOR/LPA employees, or their immediate family members. Comment: This provision is not intended to supersede any NDOR/LPA policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a consultant may have unfair access to "inside" information.

- The consultant has, in previous work for the state/LPA, been given access to information relevant to this procurement or this project that is classified as “private” or “nonpublic” and such data potentially provides the consultant with an unfair advantage in preparing a proposal for this project. Comment: This provision will not, for example, necessarily disqualify a consultant who performed some preliminary work from obtaining a final design contract, especially when the results of such previous work are public data available to all other consultants. Rather, it attempts to avoid an “unfair advantage” when such information cannot be provided to other potential consultants.
- The consultant has, in previous work for the state/LPA, helped create the solicitation by performing work such as: writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The consultant, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the state/LPA.

## DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Having had the opportunity to review the Organizational Conflict of Interest Checklist, the consultant hereby indicates that it has, to the best of its knowledge and belief:

\_\_\_\_\_ Determined that no potential organizational conflict of interest exists.

\_\_\_\_\_ Determined a potential organizational conflict of interest as follows:

Describe nature of potential conflict:

Describe measures proposed to mitigate the potential conflict:

.....  
Consultant Signature

.....  
Date

.....  
LPA Signature

.....  
Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with NDOR personnel.

.....  
Consultant Name

.....  
Phone

.....  
LPA Name

.....  
Phone

# NDOR Consultant Evaluation Form

**Project Information**

Project Number .....

Project Location (*city/county*).....

Prime Consultant .....

Prime Consultant Address .....

.....

Prime Consultant Point of Contact.....

Subconsultants .....

.....

.....

Contract Duration: Start..... Finish .....

Contract Fee .....

Evaluator..... Title.....

Date .....

**Evaluation**

(5 = Exceptional, 4 = Exceeds Standards, 3 = Satisfactory, 2 = Marginal, 1 = Unsatisfactory)  
Provide comments on next page if rating is exceptional or unsatisfactory.

Schedule	5	4	3	2	1
Budget	5	4	3	2	1
Responsiveness	5	4	3	2	1
Content/Deliverables	5	4	3	2	1
Other.....	5	4	3	2	1

Comments

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Evaluator Signature

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Date