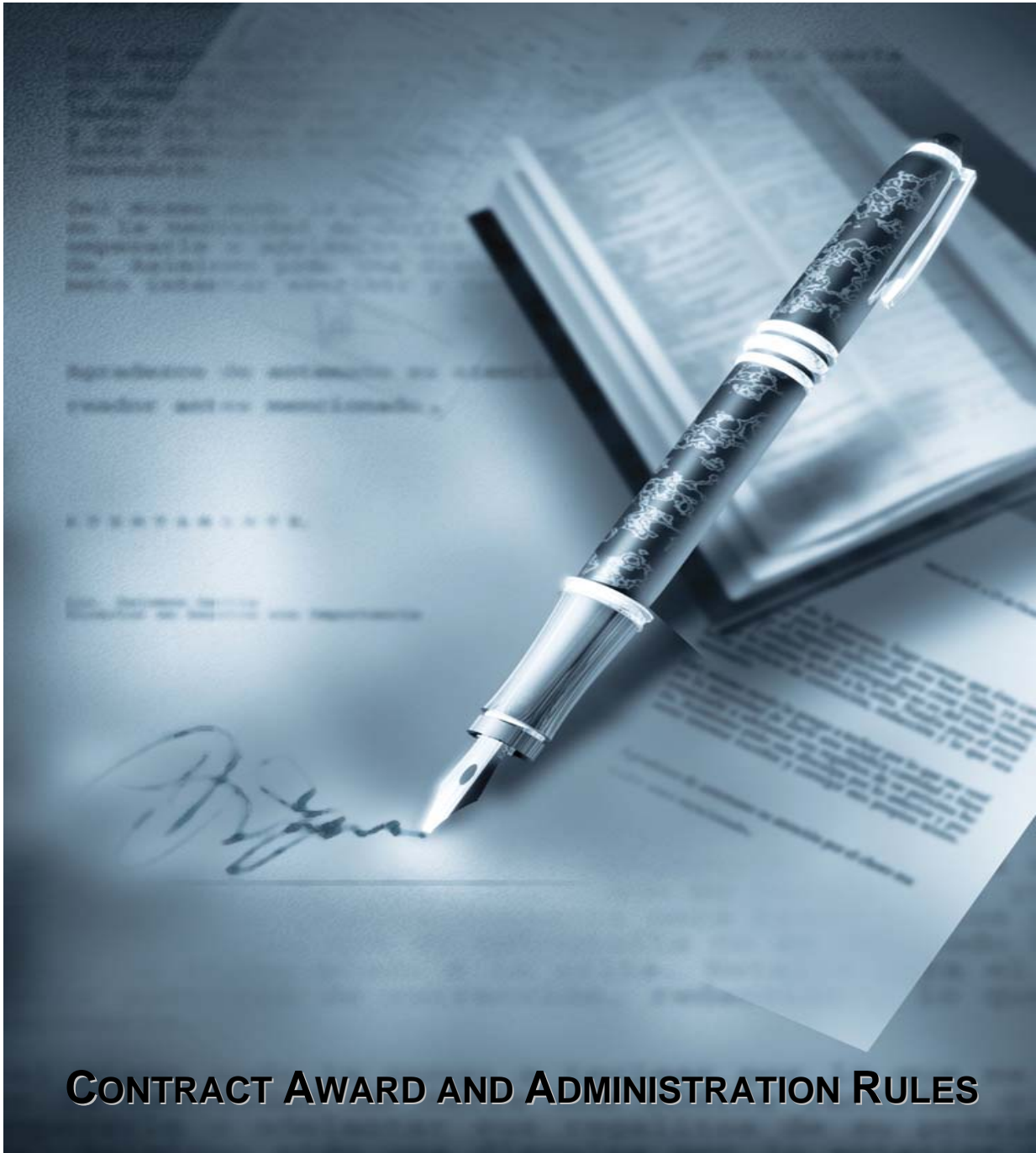


**ARIZONA DEPARTMENT OF TRANSPORTATION
Intermodal Transportation Division
ENGINEERING CONSULTANTS SECTION**



CONTRACT AWARD AND ADMINISTRATION RULES

August 2010

ARIZONA DEPARTMENT OF TRANSPORTATION
Intermodal Transportation Division

ENGINEERING CONSULTANTS SECTION
CONTRACT AWARD AND ADMINISTRATION RULES & PROCEDURES



Approved: August 2010

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CONTRACT AWARD AND ADMINISTRATION RULES

TABLE OF CONTENTS

	Page
FORWARD	5
SECTION I – GENERAL INFORMATION	
1.01 PURPOSE AND SCOPE	6
1.02 APPLICATION	6
1.03 BACKGROUND	6
1.04 QUALIFICATION-BASED SELECTION	7
1.05 CONTRACT COMPENSATION TYPES	7
1.06 SOLE SOURCE	8
1.07 EMERGENCY PROCUREMENT	8
1.08 IMPRACTICABLE TO ADVERTISE (LOW VALUE) PROCUREMENTS	9
1.09 ON-CALL PROCUREMENTS	9
1.10 STANDARDS OF CONDUCT AND CONFLICT OF INTEREST	9
1.11 ANTI-COLLUSION	11
1.12 NON-PROCUREMENT DEBARMENT AND SUSPENSION	11
1.13 EXAMINATION OF ECS RECORDS	11
SECTION II - ADVERTISEMENT THROUGH SELECTION NOTIFICATION	
2.01 PREQUALIFICATION OF CONSULTANTS	13
2.02 DISQUALIFICATION	14
2.03 DISADVANTAGED BUSINESS ENTERPRISES	15
2.04 PRE-ADVERTISEMENT REQUIREMENTS	16
2.05 SOLICITATION	16
2.06 CONTACT WITH ADOT STAFF DURING SOLICITATION PERIOD	16
2.07 AMENDMENTS TO STATEMENT OF QUALIFICATION (SOQ) PACKAGE	17
2.08 PRE-SUBMITTAL MEETING	17
2.09 STATEMENT OF QUALIFICATIONS (SOQ) SUBMITTAL	17
2.10 NON-RESPONSIVE STATEMENT OF QUALIFICATIONS (SOQ) SUBMITTAL	18
2.11 EVALUATION OF STATEMENTS OF QUALIFICATION (SOQ)	18
2.12 SELECTION PROCESS	20
2.13 SELECTION/AWARD NOTIFICATION	20
2.14 DEBRIEFING SESSIONS	21
2.15 PROTESTS AND DISPUTE RESOLUTION	21
2.16 DEPARTMENT’S RIGHTS	21
SECTION III – NEGOTIATION THROUGH NOTICE TO PROCEED	
3.01 PRE-NEGOTIATION	22
3.02 FIXED FEE	22
3.03 COST ACCOUNTING	22
3.04 COST PROPOSAL REVIEW	23
3.05 UNSUCCESSFUL COST NEGOTIATIONS	23
3.06 ANTI-LOBBYING/DISCLOSURE	24
3.07 INSURANCE AND INDEMNIFICATION REQUIREMENTS	24
3.08 IMMIGRATION REQUIREMENTS	25
3.09 FINAL CONTRACT APPROVAL	25
3.10 NOTICE TO PROCEED (STATE-FUNDED CONTRACTS)	25

3.11	ADVANCE NOTICE TO PROCEED	25
3.12	FEDERAL-AID HIGHWAY FUNDED CONTRACTS	26

SECTION IV – AWARD AND ADMINISTRATION

4.01	POST-AWARD INSTRUCTIONS	27
4.02	VENDOR REGISTRATION (CONSULTANTS)	27
4.03	MONTHLY PROGRESS AND WORK-HOUR REPORTS	27
4.04	PROGRESS PAYMENTS REPORTS	28
4.05	PROMPT PAY LEGISLATION (A.R.S. § 28-411)	28
4.06	CONTRACT MODIFICATIONS	28
4.07	CONTRACT MODIFICATIONS DISPUTE ESCALATION	29
4.08	POST-DESIGN SERVICES	29
4.09	ADMINISTRATIVE DETERMINATION LETTERS	30
4.10	CHANGE OF PROJECT TEAM/STAFF BY CONSULTANT	30
4.11	PROPERTY OR EQUIPMENT	31
4.12	ON-CALL CONTRACT TASK ORDER ASSIGNMENT	31
4.13	CONTRACT TIME EXTENSION	32
4.14	CONTRACT SUSPENSION/HOLD	32
4.15	PERFORMANCE EVALUATIONS	32
4.16	ERRORS AND OMISSIONS	32
4.17	BREACH OF CONTRACT	33
4.18	CONTRACT COMPLETION	34
4.19	FINAL/INCURRED COST AUDIT	34
4.20	TERMINATION FOR CONVENIENCE	34
4.21	OWNERSHIP OF MATERIALS	35
4.22	RECORDS RETENTION/DESTRUCTION	35

SECTION V – DEFINITIONS

5.01	DEFINITIONS	36
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SECTION VI – APPENDICES

6.01	APPENDICES	41
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FOREWORD

The information contained herein provides an overview of the Rules that govern the Arizona Department of Transportation (ADOT), Engineering Consultants Section (ECS) award and administration of engineering consultant contracts in accordance with A.R.S. §41-1005 (A)(15). ECS is committed to providing its stakeholders with professional administration of engineering consultant contracts through focus, vision, and quality management. The mission of ECS is to provide equitable, efficient and effective services that align with ADOT goals and objectives in meeting the transportation needs of the State of Arizona.

This document was developed to provide consistent Rules for individuals responsible for the advertisement, negotiation, execution and administration of engineering consultant contracts, as well as consulting firms wishing to do business with the State.

These Rules were developed in accordance with 23 USC 106, 112, 302 and 306, 40 USC 11, 41 USC 403(11), 23 CFR 1.33 and 172, 48 CFR 31, and 49 CFR 26. The administrative procedures are in compliance with 49 CFR 18. The Federal Highway Administration (FHWA) has reviewed and approved ADOT's Consultant Services Policies and Procedures (as specified in 23 CFR 172.9 (a)) to ensure compliance with referenced Federal laws and regulations.

Where procurement and administrative activities of Federal-Aid Highway Program funded engineering consultant contracts are performed by Local Governments, their own procedures may be followed, provided they are in compliance with the Federal Highway Administration Certification Acceptance Program 23 USC 117(a), Federal-Aid Policy Guide (FAPG), Code of Federal Regulations (CFR) 23 et al, (CFR) 48 et al, (CFR) 49 - Part 18, and A.R.S. § 41-2501 through 41-2652, as applicable, and are approved by FHWA.

The purpose of this document is to provide uniform application of Rules for the administration of engineering consultant contracts. Some of the requirements described herein may vary from contract to contract depending upon its complexity and type. Changes, revisions or amendments to these Rules shall require approval of the ECS Director, the Deputy Director for Development, the State Engineer and FHWA (as specified in 23 CFR 172.9 (a)). Approved changes or revisions will be published as an amendment to the current Rules and will be incorporated in the next update of this document.

The FHWA Engineering Consultant Services Program Manager will certify ECS Procurement Program every four (4) years for Federal compliance. As part of the Certification Review FHWA will do the following:

- ~ Review ECS Rules & Procedures Manual
- ~ Review ADOT Consultant Pre Qualification Process
- ~ Review the Equitable Distribution of Task Order Assignments
- ~ Review Internal/ External Audit Reports and Report Findings of ADOT ECS Group
- ~ Review Final/Incurred Cost Audit Reports and Findings of ECS contracts
- ~ Review Administration of DBE Requirements
- ~ Review Sampling of ECS Contracts

FHWA will submit a Certification Review Report to ADOT ECS which outlines any needed commendations, recommendations and corrective actions. FHWA then will issue a letter to ADOT to re-certify the ECS Procurement Program.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION I

General Information

1.01 PURPOSE AND SCOPE

The purpose of this manual is to outline the Rules that govern the award and administration of engineering consultant contracts managed by the Engineering Consultants Section (ECS) of the Intermodal Transportation Division (ITD) of the Arizona Department of Transportation (ADOT), in accordance with A.R.S. §41-1005 (A)(15). ADOT is also referred to in this document as, the State or the Department.

1.02 APPLICATION

These Rules apply to contracts for consultant services required by the ITD or other Divisions of ADOT, as well as Federal-Aid Highway Program funded and state-funded consultant contracts which are solicited and administered by ADOT at the request of Local Governments, or are solicited and administered by Local Governments in accordance with ADOT approved procedures.

These Rules also apply to consultant services that are exempt from the State Procurement Code A.R.S. § 41-2501 (J) which states:

“The state transportation board and the Director of the Department of Transportation are exempt from the provisions of this chapter (other than section 41-2586) for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.”

The State Procurement Code exemption (see ECS website for most current version) encompasses the full spectrum of engineering and other consultative disciplines required to fully design and construct transportation facilities or highway facilities and programs to control and oversee the study, location, design and construction administration of the facilities. In addition to engineering disciplines, services may include those of architects, landscape architects, geologists, geotechnical investigators, environmentalists and other related services. For example, artists may be exempted where artwork or other artistic treatment is included as an integral part of the design scope of work of the transportation or highway facility.

1.03 BACKGROUND

Consultants and ADOT personnel shall adhere to all applicable ADOT policies, ECS Rules, State Statutes, federal laws/regulations and contract standard terms and conditions pertaining to engineering consultant services.

1.04 QUALIFICATION-BASED SELECTION

ADOT's engineering consultant contracts are awarded in accordance with a Qualification-Based Selection (QBS) procurement process similar to the one established by the United States Congress as a part of the Brooks Act-Public Law 92-582 (40 USC 1101 et. seq.)(see ECS website <http://www.azdot.gov/highways/ECS/Index.asp> for copy of the most current version of this law). QBS is a competitive contract procurement process whereby consulting firms submit qualifications to the procuring entity (the State) that evaluates and selects the most qualified firm, and then negotiates the project scope of work, schedule, budget, consultant fee, etc. Under the QBS process, the cost of the work (price) is not considered when making the initial selection of the best or most qualified provider of the professional engineering services required. The cost for services is negotiated, following selection/awarding of the contract to the most qualified firm and before the contract is signed by both parties.

1.05 CONTRACT COMPENSATION TYPES

The basic types of contract compensation for which proposals are solicited are listed below.

1. **Cost Plus Fixed Fee (CPFF)** – is a cost reimbursement payment method and is used when the Scope of Work is fairly well-defined but the total engineering effort required to complete the work cannot be estimated precisely. However, the extent, scope, complexity, character or contract duration may be adjusted, and the Department determines, in writing, after negotiation, the billable limitations for each cost category or cost subcategory. The compensation/payment method is based on actual costs plus a fixed fee (profit).

ADOT and the consultant agree on an estimated cost for the Scope of Work. The consultant's estimated wage and the consultant's overhead rate are used to determine the estimate. Under this type of contract, the consultant bills only the actual costs. Employee costs are billed at their actual wages, not at the estimated wages that were used to develop the cost estimate. The consultant must stay within budget. Additional funds may be added to contracts through a contract modification if there is a change in scope or when project goes into the construction phase and Post-Design Services (PDS) are needed.

Annually, consultants shall identify and reconcile their actual indirect costs (overhead) with billed overhead rates within six (6) months after consultant's fiscal year end. Any variances found as results of this "truing up" of costs may be repaid to the Department by consultant or reimbursed to the consultant by the Department.

2. **Lump Sum (LS)** – is a negotiated payment method and is used when the Scope of Work is well-defined and the total engineering effort required to complete the work can be estimated accurately. Using this method, the consultant undertakes to perform the services stated in the contract for an agreed amount as full compensation. The consultant is obligated to perform work for the agreed upon price regardless of the actual cost to the consultant.
3. **Cost Per Unit of Work (CPUW)** – is used when the effort per unit of work is well-defined but the number of units is uncertain. Where the specific cost per unit (e.g., cost per test or per hour) is negotiated and can be determined in advance with reasonable accuracy, but the duration and extent of the work may be adjusted or is indefinite. A unit of work may be defined as a measurement of work, such as linear feet (meters) of borings, number of right-of-way plats, tons (megagrams) of structural steel, or pounds (kilograms) of reinforcing steel.

4. **Specific Rates (SR)** – is used when the Scope of Work and the required work effort cannot be determined at the time the consultant contract is signed/executed (i.e., it is difficult to estimate the extent or duration of the work or to anticipate costs with any reasonable degree of accuracy at the time of contracting). Using this method, the consultant is paid at an agreed specific fixed hourly or daily rate for actual hours engaged in the work. Direct non-salary costs may be either set forth as an element of the specific rate or may be included in the contract as independent cost items.
5. **Lump Sum by Task Order (LSTO)** – is used when the extent, scope, complexity, character, or contract duration may be adjusted, and ADOT determines, in writing, after negotiation, the lump sum amount for each task order. The cost of tasks cannot exceed \$400,000 for State and \$400,000 for Federal-Aid Highway Program funded contracts without a waiver from the ECS Director (chief administrator of ECS). The consultant is paid the agreed negotiated lump sum price regardless of the actual costs to perform the work.
6. **Cost Plus Fixed Fee by Task Order (CPFF by TO)** – Is used when the extent, scope, complexity, character or contract duration may be adjusted, and ADOT determines, in writing, after negotiation, the billable limitations for each cost category by task order. The Construction Administration tasks can only be assigned for construction projects with a project value of \$10 million or less and cannot exceed \$2,000,000 in total contract value per year.

1.06 SOLE SOURCE

In some instances, because of the unique characteristics of the project or in the best interest of the State of Arizona, ADOT may exercise the option of using "Sole Source" procurement. In this case, advertising requirements may be waived by the State Engineer.

"Sole Source" is utilized when the service is highly specialized or it is in the Department's best interest to have the project completed by the consultant who has performed previous services such as a prior review or task associated with a design done by the consultant.

ECS shall process the request after approval from the State Engineer. Written justification for using "Sole Source," including documentation of how fair and reasonable costs were negotiated for the project, shall be included in the contract file. If Federal-Aid funds are used for the project, a copy of the approval will be forwarded to FHWA for their records.

1.07 EMERGENCY PROCUREMENT

In the best interest of the State of Arizona, there may be some instances where ADOT may exercise the option of using "Emergency" procurement. In this case, advertising requirements may be waived by the State Engineer.

"Emergency" procurement may be utilized when an urgent condition exists that creates an immediate threat or serious need for materials or services that cannot be met through normal procurement methods. The "Emergency" may include conditions that pose a real or immediate threat to the operation of State Government, the preservation or protection of property, lives or the public health, welfare, or safety, or other urgent matters, as determined by ADOT.

ECS shall process the request after approval from the State Engineer. Written justification for using "emergency procurement," including documentation of how fair and reasonable costs were negotiated for the project, shall be included in the contract file. If Federal-Aid funds are used, a copy of the approval will be forwarded to FHWA for their records.

1.08 IMPRACTICABLE TO ADVERTISE (LOW VALUE) PROCUREMENTS

If the use of consultant services is expected to be less than \$50,000, the ECS Director has the option to forego the advertising requirements. To request that ECS waive the advertisement requirements, the ADOT Project Manager shall complete and submit an Advertisement Waiver form to ECS and obtain short written proposals from at least three (3) firms that outline why they are the most qualified to provide the service. The ECS Director shall select the most qualified consultant in the best interest of the State. After the selection is made, the ADOT Project Manager shall negotiate a reasonable price for the service, not to exceed \$50,000.

1.09 ON-CALL PROCUREMENTS

When it is determined to be in the best interest of the State of Arizona to obtain the services of a group of consultants to perform on-call services in a specific discipline (i.e., subsurface investigation, right-of-way plans, traffic engineering, roadway design, etc.), ADOT may advertise for these services. The Statement of Qualifications (SOQ) Package will indicate the optimum number of firms to be selected, any established dollar limitations, and include a copy of the general scope of work.

1.10 STANDARDS OF CONDUCT AND CONFLICT OF INTEREST

ADOT staff, including selection panel members, and consultant project staff are required to adhere to Standard of Conduct and Conflict of Interest laws and guidelines contained in the Arizona Revised Statutes (A.R.S.) § 38-501 through 38-511, and ADOT Policies and Procedures PER- 6.02 (see the ADOT and State of Arizona websites for most current versions of these policies) which establish minimum standards for the conduct of public officers, employees and former employees who are, or may become, involved with a contract or decision, in their official capacity, which might affect their personal pecuniary interest or those of their relatives, i.e., spouse, children, grandchildren, parent, grandparent, brother, sister and their spouses, or the parent, brother or sister or child of one's spouse, A.R.S. § 38-502 (9). Furthermore, ADOT's Conflict of Interest Policy (PER 6.02) relating to the acceptance of gifts or gratuities is fully applicable to the contract process. Consultants should further adhere to the ITD Policy, Consultant Participation in ADOT Contracts Policy (MGT 02-3) (see ECS website for most current version of this policy), which provides guidelines for consultant participation in design and construction contracts. These policies are available to all interested parties through the ADOT website.

Some specific issues related to these Conflict of Interest statutes, policies and standards are listed below.

1. A.R.S. § 38-504(A) states that:

“A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly involved

And

in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.”

ECS may consider positions that the former employee held, and determine decision making opportunities that the person had had in that position concerning the particular project.

Consultants shall be required to disclose and identify former ADOT employee(s) listed in proposals that have left ADOT in the preceding twelve months and certify that he/she/they have not made any material decisions about the proposed project while employed by ADOT.

2. In order to avoid actual or perceived conflicts of interest, current ADOT employees shall not be employed by a consultant to work on ECS contracts. Current ADOT employees, contract or Supplemental Services employees shall not be included in a Statement of Qualifications proposal for an ADOT consultant contract as an owner, or member of the consultant's team. This rule applies to both full-time and part-time employees.

If a former ADOT employee or contract employee is employed by a consultant who has an active ADOT contract, and the former or contract employee was the Project Manager on the project or the contract, or a member of the selection panel for any contract on the project, the employee is prohibited from working on the contracts.

3. A current ADOT or Supplemental Services consultant (individuals retained via contractual agreement with ADOT) shall not be included in a Statement of Qualifications proposal for an ADOT consultant contract as an owner, individual, or member of the consultant's project team. This rule applies to both full-time and part-time contract employees.

Exceptions shall include:

- a. if the contract employee or Supplemental Services consultant resigns to comply with this rule, the last day of ADOT contract employment must be prior to the date that the proposals are due; or
 - b. if the contract or Supplemental Services consultant is in the final year and within four months of the contract completion date; or
 - c. if the Department exercises its option not to extend the existing contract.
4. A current ADOT or Supplemental Services consultant cannot be employed by a consultant to work on active ECS contracts.
 5. If a current or former ADOT or Supplemental Services consultant is employed by a consultant which has an active ADOT contract for which the consultant was a decision maker (for example, involved in the final scope preparation, negotiated/approved billings or contract modifications), the ADOT or Supplemental Services consultant is prohibited from working on these contracts.
 6. A current ADOT or Supplemental Services consultant shall not serve on consultant Selection Panels.

7. The Department may enter into an agreement with a consultant for the purpose of assisting with the writing of the scope of work. The consultant selected to prepare the scope of work will not be eligible to submit a bid or proposal on the solicitation for which the scope of work was prepared nor is the consultant eligible to supply a product or service to a bidder or offeror on the solicitation for which the specification was prepared. However, the consultant may submit a written explanation to the Department prior to the solicitation and request an exemption. The Department may make an exception when justified by the business practices of the applicable industry or it is otherwise in the best interest of the Department. The Department shall place in the solicitation file, a written determination, including all relevant facts.
8. A consultant contracted by ADOT to complete design work up to 30% or greater shall not be permitted to propose on the final design for the project. Furthermore, firms who were contracted to design a project may not propose to be the contractor or a subcontractor within the same discipline for the construction phase of the project.

The prohibition in Item 8 above, also applies to any work performed or to be performed by related entities. "Related Entities" mean firms (regardless of ownership structure) with any common ownership, directly or indirectly through parent companies, subsidiaries or otherwise with any common managers, officers, or directors. A publicly traded company is not related to another entity if the common ownership, direct or indirect, does not exceed 1% of the outstanding stock of the publicly traded company and there are no common managers, officers or directors.

Any request for waiver from the restrictions related to contract/supplemental services consultant must be submitted to ECS describing the nature of their involvement well in advance to the proposal submittal or work assignment for proper review and determination on the matter. Decisions on waivers and resolution of potential conflicts of interest will be determined by the State Engineer. The State Engineer's decision shall be final.

1.11 ANTI-COLLUSION

Consultants are prohibited from engaging in collusion, which is action with other consultants/proposers that would limit the scope and/or extent of competition and/or otherwise discourage or suppress competition among consultants for ADOT engineering consultant contracts. In every Statement of Qualification (SOQ), proposal or other request to contract with ADOT, the proposer shall certify that it has not engaged in collusion with respect to the contract under consideration.

1.12 NONPROCUREMENT DEBARMENT AND SUSPENSION

The consultant signature on any SOQ proposal or contract constitutes an authorization to ADOT to ascertain the eligibility of the consultant to enter into contract with ADOT and with any other governmental agency. In addition, the consultant and subconsultant(s) will be required to certify as to their own current eligibility status, as well as that of their principals. When a firm is unable to certify, if applicable, a firm may submit a written explanation to the Department. The written explanation will be considered in connection with ADOT's determination.

1.13 EXAMINATION OF ECS RECORDS

Requests for copies or to view contract documents other than the consultants' own contract files shall be considered in accordance with applicable Public Records request statutes. Requests

must be submitted in writing to ADOT Risk Management, Custodian of Records, with a copy forwarded to ECS. Response to requests and all documents provided in response to requests shall be made available by the ADOT Office of Risk Management. Access to consultant documents may be restricted based on confidentiality, such as financial information, privacy of information and other conditions that are in the best interest of the State. A fee for reproduction of the documents may be assessed at cost.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION II

Advertisement Through Selection Notification

2.01 PRE-QUALIFICATION OF CONSULTANTS

Prime consultants interested in providing services to ADOT are required to be pre-qualified with ECS. Pre-qualification is intended to be done on a bi-annual calendar year basis to expire on December 31st. Pre-qualification applications are available on the ECS website and may be filed at any time throughout the year. Firms must be pre-qualified by ECS in order to submit a proposal.

The information required as part of the prequalification application includes, but is not limited to:

1. A Transmittal Letter signed by the owner or corporate officer attesting that all information contained in the application for consultant prequalification is true and accurate and shall have a Non-Discrimination Statement as outlined in the Pre-Qualification Package.
2. A disclosure of the firm, owners and officers current status regarding any Suspension/Debarment actions by any governmental agencies, ineligibility, voluntary exclusion and convictions and/or civil judgments against the individual and/or firm.
3. A copy of the firm's policy and/or a statement regarding Affirmative Action and use of Disadvantaged Business Enterprises (DBE) and must make the necessary assurances as outlined in the Pre-Qualification Package.

Firms wishing to be considered as DBEs must be certified by the Arizona Department of Transportation, Civil Rights Office, 1135 N. 22nd Avenue, 2nd Floor, MD 154A, Phoenix, Arizona 85009, or by calling (602) 712-7761; FAX (602) 712-8429.

4. A copy or listing of the firm's corporate organizational structure showing parent company, subsidiaries or related entities, specifically architectural, professional engineering and construction firms. If a corporate organizational structure is not applicable, a statement to that effect must be made, e.g., "ABC Consulting is a sole proprietorship and not related to any other firms in any manner."
5. Financial information that demonstrates the firm's financial viability and understanding of the components of a compliant accounting system that meets Federal Acquisition Regulations.
6. Prime consulting firms and subconsultants interested in or have been awarded contracts described in Section 1.05 (1), (2), (4), (5) or (6) of these Rules or who perform more than a certain amount of work in any year as defined in the ADOT Consultant Audit Guidelines (see ECS website for most current version of these guidelines) shall provide evidence and/or a statement attesting that the firm has a compliant accounting system.

7. Names and registration number(s) of any members of a firm registered to practice in the State of Arizona, as well as the firm's technical registration number and/or contractor's license number, shall be provided as outlined in the Pre-Qualification Package.

Firms wishing further information on Technical Registration for Architects, Assayers, Engineers, Geologists, Home Inspectors, and Land Surveyors may contact the Arizona Board of Technical Registration, 1110 W. Washington Street, Suite 240, Phoenix, AZ 85007, Phone: (602)-364-4930 or visit their website www.btr.state.az.us.

For information on Contractor Licensing, contact the Arizona Registrar of Contractors, 3838 North Central Avenue, Suite 400, Phoenix, AZ 85012, Phone: (602)542-1525 or visit their website www.azroc.gov.

For information on Real Estate Licensing, contact the Arizona Department of Real Estate, 2910 North 44th St., Suite 100, Phoenix, AZ 85018, Phone: (602) 771-7799 or visit their website www.re.state.az.us.

8. Additional information may be required such as resumes, firm's historical information, staff overview, company philosophy, current job progress, company brochures, references, etc.

ECS will review the pre-qualification applications for completeness and compliance with requirements stated above. Firms submitting all of the required information and satisfactorily meeting requirements shall be approved and notified by email. Pre-qualified firms will be retained on the ECS mailing list to receive notifications of future contract solicitations. However, firms should not solely rely on these notifications. Consultants are responsible for regularly checking newspapers and/or visiting the ECS website for the most up-to-date information on contract solicitations.

Pre-qualification information provided shall be used to develop the pre-qualification/ mailing list. Consultants shall notify ECS of significant changes in the firms' information, such as, address changes, organizational and/or ownership changes, email address changes, etc. within ten calendar days. Prior to the expiration of a two (2) calendar year pre-qualification period, all currently pre-qualified firms will receive a letter from ECS notifying them of renewal dates and the process.

Subconsultants are not required to be pre-qualified but are encouraged to do so.

2.02 DISQUALIFICATION FROM SOQ SUBMITTAL

Once pre-qualified, a consultant may be disqualified from submitting SOQ's for ADOT contracts as a prime or subconsultant for a number of reasons including, but not limited to, if the consultant:

1. Failed to report any changes submitted in their pre-qualification submittal and/or, contract obligations, or if the consultant suffers any conditions that could adversely affect its capability to effectively fulfill the terms of the contract.
2. Falsified any document or misrepresented any material fact in information furnished to the Department.
3. Breached a current/previous contract with the Department.
4. Was deemed by ADOT to have made significant or egregious errors or omissions in previous contract(s).

5. Has a documented unsatisfactory work performance record/evaluation history with the Department in the areas of producing quality work, project team issues, completion of work product within established time frame(s), effective communication with the Department, submission of required information, meeting contract terms and conditions, timely delivery of documentation and/or deliverables for closing out a contract.
6. Repeatedly failed to submit Progress Payment Reports, Contract Modifications and other required contract documents within established time frame(s).
7. Repeatedly failed to pay subconsultants within the established time frame(s) in accordance with Prompt Pay law (A.R.S. § 28-411) as outlined in Section 4.05 of these Rules.
8. Failed to repay ADOT for overbilled charges based on the results of pre-award or incurred cost audits within the established time frame.
9. Failed to report key personnel change or made unauthorized key personnel change without ADOT approval.
10. Failed to notify ECS of changes within thirty (30) calendar days of any change in ownership, corporate officers or general partners, relocation of offices, license or registration, major financial conditions such as bankruptcy, receivership, reorganization, or other conditions that could affect the consultant's capability to effectively fulfill the terms of the contract.
11. Was suspended, allowed its license to lapse or otherwise became unlicensed to do business in the State.
12. Destroyed, damaged or lost accounting records, files, cost proposals, invoices and backup data representing substantial parts or all documents related to the contract in violation of the Records Retention provision of the contract.

Disqualification from SOQ Submittal may take one of the following forms:

- A. Discipline-Based Administrative Suspension Disqualification from SOQ Submittal – a temporary or permanent loss of pre-qualification within a specified discipline which would prevent the consultant from pursuing any additional work with ADOT within the particular discipline. If the suspension is temporary, a time period must be stated along with action needed by the consultant to lift the suspension.
- B. Full Administrative Suspension Disqualification from SOQ Submittal – a temporary or permanent loss of pre-qualification that would prevent the consultant from pursuing any additional work with ADOT in any discipline. If the suspension is temporary, a time period must be stated along with action needed by the consultant to lift the suspension.

ECS shall notify the consultant in writing of the Department's intention to disqualify the consultant and the reasons and time period of the disqualifications, the required solutions or remedy (if appropriate) and set a deadline for cure. If no progress is made to address the issues within the established time, the ECS Director shall notify the consultant in writing that the firm has been disqualified from responding to SOQs until such time as the firm communicates and is able to demonstrate in writing to ECS that it has cured the issues for which it was disqualified. The consultant may appeal the ECS Director's decision, in writing, to the State Engineer within 10 calendar days of the ECS notification. The State Engineer's decision shall be final.

2.03 DISADVANTAGED BUSINESS ENTERPRISES

ADOT encourages the formation and growth of new and existing Disadvantaged Business Enterprises (DBE) by providing an opportunity to compete for and participate in ADOT's engineering consultant programs.

ADOT actively assists DBE firms in their efforts to participate in the highway engineering services consultant program through the following office:

Arizona Department of Transportation
Civil Rights DBE Supportive Services Office
1135 N. 22nd Avenue, 2nd Floor Mail Drop 154A
Phoenix, Arizona
Phone (602) 712-7761

Consultants are encouraged to enlist the aid of the ADOT DBE Support Services Office to obtain assistance in partnering with DBE firms in responding to SOQs.

Consultants must also maximize DBE participation in ADOT Federal-Aid Highway funded contracts, make good faith efforts to meet any DBE goals stated in contract solicitations and must adhere to commitments made to utilize DBEs as indicated in the firm's SOQ proposal. ADOT will monitor the use of DBEs on contracts to ensure that they are performing commercially useful functions as outlined in prime consultant SOQ proposal and the contract, as well as subcontract agreements between Prime consultants and DBE firms.

2.04 PRE-ADVERTISEMENT REQUIREMENTS

The ADOT Project Manager notifies ECS of his/her intent to initiate advertisement of the project through the ECS electronic Contract Management System (eCMS). The ADOT Project Manager, the assigned ECS Contract Specialist and Contract Manager determine advertisement and selection requirements, such as, method of solicitation, selection process, contract compensation type, number of awards, advertisement timeframe, whether or not to schedule a pre-submittal meeting, use of oral interviews and other evaluation criteria. This information along with the project Scope of Work, Dictionary of Standardized Work Tasks, a sample contract and other instructions for responding to the solicitation are assembled into the Statement of Qualifications (SOQ) Package used to advertise the project.

2.05 SOLICITATION

Two official notices requesting submittal of proposals are published in a single newspaper or in multiple newspapers of general circulation within the State of Arizona with an accumulated general circulation of not less than 50,000 subscribers. The official notices are placed not less than six (6) or more than ten (10) calendar days apart. The SOQ Package containing the solicitation is available for download from the ECS website. Deadline for ADOT receipt of proposals is generally not less than two (2) weeks following the first publication of the notice, or as otherwise stated in the SOQ Package or any subsequent amendments. Courtesy advertisement notices are also distributed to all pre-qualified firms. However, firms should not solely rely on these notifications. Consultants are responsible for regularly checking the newspapers and visiting the ECS website for up-to-date information on contract solicitations. A courtesy email advertisement notification from ECS, not received by the consultant, does not constitute grounds for protest of a solicitation.

2.06 CONTACT WITH ADOT STAFF DURING SOLICITATION PERIOD

Consultants are not permitted to communicate with any ADOT staff, including project staff and/or selection panel members about an advertised project during the solicitation period. Such communication shall result in action including, but not limited to, disqualification from proposing, rejection of the proposal and/or replacement of the selection panel member. All questions shall

be directed to the assigned ECS Contract Specialist listed in the SOQ. Consultants may submit questions in writing up to five (5) business days prior to the proposal deadline. No further questions will be accepted after the time specified. All consultants will be notified of the consultant's question(s) and ADOT's response to the question(s). Communication is restricted until selection/award has been announced.

2.07 AMENDMENTS TO STATEMENT OF QUALIFICATION (SOQ) PACKAGE

When necessary, ECS provides amendments to the original solicitation to all firms listed on the proposal request log. Amendments are also posted on the ECS website. Firms submitting an SOQ proposal must acknowledge receipt of all amendments in writing or by electronic approval or their proposal will be rejected.

2.08 PRE-SUBMITTAL MEETING

If stated in the SOQ Package, a pre-submittal meeting, which is open to all consultants, is arranged at least one (1) week prior to the deadline for receipt of the proposals. Instructions shall be provided relating to the submission of the proposals, project description and selection process to be used.

ECS staff shall record the proceedings of pre-submittal meetings. A formal amendment to the SOQ may be issued as needed to answer questions not clarified at the meeting or to clarify or revise information in the SOQ Package. The amendment shall be issued to all consulting firms which requested the SOQ Package for the specific project and shall be posted on the ECS website.

Consultant questions relating to the project shall be discussed and clarified during this meeting. After the meeting, consultants may submit questions, in writing, up to five (5) business days prior to the proposal deadline. No further questions will be accepted after the specified time.

2.09 STATEMENT OF QUALIFICATIONS (SOQ) SUBMITTAL

A Statement of Qualifications proposal is submitted by a consultant in response to a solicitation and outlines the consultant's capability and experience to provide services requested in the solicitation as described in the SOQ Package. When applicable, a firm and its principal or officer submitting an SOQ to provide architectural and engineering services must be properly registered with the Arizona Board of Technical Registration or meet other licensing or certification requirements as stated in the SOQ Package at the time the SOQ is due. Firms must also be pre-qualified by ECS to submit SOQs.

Effective October 1, 2009, consultants must submit SOQs online through the electronic Contract Management System (eCMS). Hard copies of SOQs will no longer be accepted after that date. All SOQs submitted shall clearly indicate the consultant's name, address, contract number and project description. Project team members for design contracts must be employed by the firm at the date of submittal. Firms shall certify that all information and statements written in the proposal are true and accurate. ADOT reserves the right to investigate and verify, as deemed appropriate, information contained in proposals. Prime consultants shall also certify that key members of the Project Team, including subconsultants, are currently licensed to provide the required services as requested in the SOQ Package. Prime consultants shall further be required to certify that work equaling at least 51% of the contract value shall be completed by the firm unless otherwise specified in the contract. Consultants must certify to other conditions as stated in the SOQ package or their proposal will be rejected.

Information included in the Introductory Letter of the SOQ submittal shall not be considered in the scoring of the proposal. Statements made in the Introductory Letter that the consultant wishes to be considered in the evaluation should also be included in the appropriate section(s) of the SOQ.

Since ADOT awards contracts in accordance with a Qualification-Based Selection process, no work-hour estimates or price information shall be submitted by the consultants in proposal responses to requests for Statement of Qualifications.

Consultants responding to Cost Plus Fixed Fee SOQs are required to have a compliant accounting system at the time of proposal submittal as specified in the SOQ Package. Consultant shall be prepared to submit specified financial information to ADOT Office of Audit & Analysis for review within the prescribed timeframe after contract award and prior to execution of the contract.

Prime consultants and subconsultants interested in or have been awarded Cost Plus Fixed Fee and Lump Sum type contracts shall provide evidence and/or a statement attesting that the firm has a compliant accounting system. A compliant accounting system is an accounting system that conforms to the requirements of the Generally Accepted Accounting Principles (GAAP), Federal Acquisition Regulation (FAR) Part 31, applicable Cost Accounting Standards (CAS), and ADOT Cost Allowability Guidelines.

Timely receipt of the SOQ will be determined by the date and time the document is received online as specified in the SOQ package, until the deadline. Consultants are solely responsible for timely submission of SOQs and are encouraged not to wait until the last minute to submit proposals. Effective October 1, 2009, online submission shall be the only acceptable method of receipt. Submission of SOQ document by any other methods (other than online through eCMS) or on other websites, or physical locations, such as the ECS office, ADOT Mail Room or any other ADOT office shall not be acceptable.

A list of firms submitting proposals is available upon request within two (2) business days after the SOQ deadline. All materials submitted in response to the SOQ become the property of the State of Arizona and shall not be returned.

2.10 NON-RESPONSIVE STATEMENT OF QUALIFICATIONS (SOQ) SUBMITTAL

Consultants responding to advertisements must strictly adhere to the format and instructions outlined in each SOQ Package, as they may vary. ADOT shall reject SOQs that materially vary from the format and substantive requirements outlined in the SOQ. Submittals from firms that are not pre-qualified shall also be rejected. ADOT shall also reject proposals that are not received by the method of submission and by the date and time indicated in the SOQ Package. Consultants shall be notified by phone if their proposals have been rejected, followed by a written email notification.

Consultant shall have three (3) business days after receipt of written notification to protest in writing the rejected proposal detailing the reasons for the appeal to the ECS Director. The ECS Director or his/her designee shall respond in writing within three (3) business days after receiving the appeal and his/her decision shall be final.

2.11 EVALUATION OF STATEMENTS OF QUALIFICATIONS (SOQ)

The SOQs shall be confidentially evaluated by qualified selection panel members who are familiar with the contract and related project requirements. There shall be no communication

made between consultants and selection panel members or other ADOT staff, during the solicitation period and the selection process.

Selection panel members, ECS staff or any other ADOT personnel present for any panel meetings and/or deliberations must sign a Confidentiality Statement attesting that they will maintain strict confidentiality and security regarding the content of proposals and proceedings of the evaluation panel meetings before, during and after the evaluation process.

It is essential that the integrity and transparency of the selection process be maintained to:

- Ensure that the State is selecting the most qualified consultants
- Avoid public perception of favoritism or partiality in contract awards
- Ensure that each consulting firm is given fair and equal consideration

Therefore, selection panel members and reviewers must not participate in any evaluation process in which they may have actual, potential or perceived conflict of interest, either of an outside business or personal nature with the consultants involved. Selection panel members who believe there is any actual, potential or perceived conflict of interest in serving on a panel shall notify the ECS Contract Specialist immediately and remove himself/herself from the panel.

SOQ evaluation panels may include personnel other than ADOT employees, as deemed appropriate by ADOT, and shall consist of no less than three (3) members. However, in most cases, the panel shall consist of more than three (3) members as deemed appropriate by ADOT.

All selection panel members shall sign a Panel Member Participation form indicating their willingness to attend the panel meetings and participate in all aspects of the selection process, including interviews, as necessary. Failure to attend meetings, interviews or any part of the selection process, without advanced notification, shall result in elimination of that member's scores from the panel evaluation and the selection panel member shall be excluded from any further participation in the selection process. In addition, failure to complete the comment forms to justify scores shall also result in elimination of that panel member's scores from the final panel evaluation scores.

Proposal evaluation factors shall be included in the SOQ Package. Selection panel members shall not consider outside information or factors not included in the SOQ Package. Evaluation factors most often used may include, but are not limited to, the following:

- (1) Project Understanding and Approach
- (2) Project Team
- (3) Firm's Capabilities

Other considerations may include, but are not limited to, the consultant's availability, current workload status, and past performance on other ADOT contracts. Specialized evaluation criteria and an alternative selection process may be used on contracts for which the above standard criteria do not apply. The ADOT Project Manager may attend the panel kickoff meeting (if not a member of the panel) to explain the scope of work and emphasize the evaluation criteria that are most important to the project.

Each selection panel member shall conduct an independent evaluation of each firm and shall not discuss his/her evaluation with other selection panel members or other non-selection panel members during the initial phase of the process. While selection panel members will have individual areas of expertise, each member is expected to score each proposal in terms of its overall merit and how it addresses the requirements outlined in the SOQ Package.

Selection panel members shall meet to discuss the rationale for their scores once independent scores are submitted and calculated. Rationale for scores shall be documented on the comment forms. All selection panel members' scores are equally weighted and will be used unless they have been disqualified.

The assigned ECS Contract Specialist and/or other ADOT staff shall attend panel selection meetings to ensure compliance with ADOT Contract Award and Administration Rules and ECS Procedures, but do not participate in scoring. Selection panel members and any non-voting ADOT staff attending panel selection meetings shall also sign the Conflict of Interest/Confidentiality Statement form.

2.12 SELECTION PROCESS

During the evaluation process, selection panel members analyze all of the proposals individually and independently, based on the evaluation criteria stated in the SOQ Package. Consultant evaluation scores related to past performance shall be used as one evaluation criterion in the selection process. Up to five (5) points may be deducted from each consultant's score during the selection process for past performance ratings of less than three (3) (average performance) on performance factors for the last project or for projects a firm has completed for the Department over a specified period of time as outlined in the SOQ Package. This evaluation criteria is scored by ECS based on the consultant's evaluation history.

Top ranked consultants may be short-listed and requested to participate in an oral interview process. If an interview is required, all short-listed consultants shall be notified by letter after the proposal review of the date, time, location, and format of the interview. Interviews shall be conducted by the same selection panel members who conducted the original SOQ evaluation. Short-listed consultants shall be interviewed in random order at an ADOT office or facility.

Individual SOQ scores of selection panel members and other criteria scores such as past performance are combined to arrive at a selection panel member composite score for each consultant. When interviews are required, interview scores are also included in the selection panel member composite score for each consultant. The selection panel member composite scores of each consultant are totaled and averaged by the total number of selection panel members to arrive at an average score for each consultant.

After scores are compiled, the selection panel shall meet to discuss the scoring. Any selection panel member may elect to amend his or her score based on the discussion. A firm shall not be qualified for award if its score is less than 70% of the maximum available points. Scores are recompiled, if necessary, and the firms are then ranked based on the highest to the lowest average scores.

The listing, in ranked order, of the consultants recommended for selection is signed by all selection panel members and forwarded to the ECS Director for review and final approval. The ECS Director shall review the rankings and scores and approve the award to be made to the top ranked consultant(s) as determined by the panel unless conditions existed that could have affected the fairness and integrity of the selection process such as, panel conflict of interest, consultant contact with selection panel members, or other extenuating circumstances.

2.13 SELECTION/AWARD NOTIFICATION

After the ECS Director's review and approval of the panel recommendation, the selected firm shall be notified by the ECS Contract Specialist by phone and in writing within five (5) business

days of the final approval that it has been awarded the contract. All proposers/unsuccessful firms shall also be notified in writing of the results of the award within five (5) business days of the award.

2.14 DEBRIEFING SESSIONS

After the written selection notification, firms that submitted SOQs are provided their scores upon request and may schedule an appointment with ECS to review the scores and proposals of the selected firm(s). This information may also be available for review online.

2.15 PROTESTS AND DISPUTE RESOLUTION

Any consultant submitting a proposal on a solicitation issued by ECS may protest the award of the contract in accordance with the ADOT policy entitled Filing a Consultant Protest Policy – MGT 03-02 (see ECS website for most current version of this policy). Consultant shall file a protest in writing to the ECS Director within ten (10) calendar days of the award. The ECS Director shall issue a written decision within fourteen (14) calendar days after the protest is received. An appeal to the ECS Director's decision can be made to the State Engineer within five (5) business days from the date of the ECS Director's written decision. The State Engineer shall issue a written decision within fourteen (14) calendar days after the date the appeal has been received. The decision of the State Engineer is final.

2.16 DEPARTMENT'S RIGHTS

During the selection process ADOT reserves the right to:

- a. Cancel the solicitation;
- b. Reject any or all SOQ Proposal submittals;
- c. Select the consultant's SOQ that, in its judgment, will best meet the Department's needs according to the criteria outlined in the SOQ Package.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION III

Negotiation through Notice to Proceed

3.01 PRE-NEGOTIATION

In preparation for cost negotiation, selected firms shall complete and submit a Consultant Audit Questionnaire or other information specified in the SOQ to ADOT Office of Audit & Analysis within the timeframe specified in the award letter or as outlined in the SOQ Package. Failure to submit this information within the prescribed time may result in ADOT declaring a failed cost negotiation as outlined in Section 3.04 of these Rules and proceeding to negotiate with the next highest ranked firm.

After award notification, the selected consultant may attend a Pre-Negotiation meeting, as needed, with the ECS Contract Specialist and the ADOT Project Manager, depending on the complexity of the project. The objectives of the Pre-Negotiation meeting are: (1) to achieve a clear and mutual understanding of all contract requirements; (2) to identify and resolve potential problems; and (3) to define negotiation parameters. Items of discussion include, but are not limited to, derivation of cost format, justification of costs, audit information, scope of work, etc.

Following agreement on the level of work effort at the Pre-Negotiation meeting, the consultant is requested to submit a detailed cost proposal for the work to be performed, in eCMS or other format specified by ECS, including a Cost Derivation for each proposed subconsultant within 21 calendar days from the date of the Pre-Negotiation meeting or other time agreed to at the Pre-Negotiation meeting. Failure to submit a cost proposal within agreed upon parameters and time may result in ADOT declaring a failed cost negotiation, as outlined in Section 3.04 of these Rules and proceeding to negotiate with the next highest ranked firm.

3.02 FIXED FEE

The fixed fee dollar value of the consultant's compensation for rendering professional engineering services is a percentage of Direct Labor and Overhead only, and is based on the contract schedule, size, duration and complexity of the project. The overall final cost of a project reflects the complexity of the work, the degree of risk and fixed fee (profit).

3.03 COST ACCOUNTING

The criteria used to determine allowability of contract costs are governed by the ADOT Cost Allowability Guidelines and ADOT Consultant Audit Guidelines (see ECS website for most current version of these guidelines) which contain information on pre-award audit requirements. The criteria used to determine allowability of contract costs are also governed by 48 CFR 31, 23 USC 112(b) (2) (B-C), 23 CFR 172.7, 49 CFR 18.22(b), and AASHTO Uniform Audit and Accounting Guide (see ECS website for most current version of these guidelines) when Federal-Aid funds are involved.

Consultants requiring additional information on the application of ADOT Audit Guidelines and Cost Allowability Guidelines may contact: ADOT Office of Audit & Analysis, 1739 W. Jackson Street, Modular C, Mail Drop 158A, Phoenix, Arizona, 85017 or by calling (602) 712-7734.

3.04 COST PROPOSAL REVIEW

In determining fairness and reasonableness, ADOT shall consider scope, complexity, professional nature and estimated value of the services to be rendered as specified in 40 USC 1104(a).

When Federal-Aid funds are involved, ADOT will use the indirect cost rate (overhead rate), established by a cognizant audit that has been reviewed for reasonableness in accordance with the FAR cost principles contained in 48 CFR 31 for contract negotiation, administration, and payment as specified in 23 USC 112(b)(2)(B-D) and 23 CFR 172.7. Indirect cost rate shall not be negotiated.

ADOT, at its discretion, may request additional financial information and may also require a pre-award review. Selected consultant(s) must have a compliant accounting system and submit specified financial information to ADOT Office of Audit & Analysis for a pre-award review within the prescribed time prior to submission of the cost proposal and execution of the contract, as outlined in the SOQ Package. At the discretion of ADOT Office of Audit & Analysis, the pre-award review shall require an examination of the consultant's records, in accordance with generally accepted government auditing standards. Failure, on the part of the consultant, to provide this information within the prescribed time may lead to ADOT declaring a failed negotiation at which time ADOT reserves the right to reject the Cost Proposal of the selected firm and proceed to negotiate with the next highest ranked firm in accordance with 40 USC § 1104.

3.05 UNSUCCESSFUL COST NEGOTIATIONS

Unsuccessful or failed cost negotiation may occur for a number of reasons including; but not limited to:

- (1) Failure to submit cost proposal in the required format
- (2) Failure to submit cost proposal within the prescribed timeframe
- (3) If irreconcilable differences occur between ADOT and consultant in agreeing on a cost for the project over a protracted period of time (after the second revision or more than ninety (90) calendar days after the initial submittal of the cost proposal), ADOT may declare that there is an impasse.
- (4) Failure to come to an agreement on person-hours for the tasks to be performed, the level/classification of the staff required to complete the tasks, other miscellaneous direct costs, or the final cost of the project in accordance with 40 USC § 1104.
- (5) Failure to submit or respond timely and appropriately to requests for information from any related ADOT offices (ECS, ADOT Audit & Analysis, ADOT Project Manager)

If any of the above cases exist, ADOT reserves the right to reject the Cost Proposal of the selected firm and proceeding to negotiate with the next highest ranked firm in accordance with 40 UCS 1104.

If ADOT and the consultant cannot negotiate a cost for the project that is fair and reasonable to both parties over a protracted period of time (no more than ninety (90) calendar days after the initial submittal of the cost proposal), ECS shall present the firm with the written "Best and Final"

offer. The firm shall have up to ten (10) business days to accept or reject the offer, as indicated in the letter. If the offer is accepted by the firm, ADOT shall move toward final execution of the contract. If the offer is rejected by the consultant, ADOT reserves the right to negotiate with the next highest ranked firm or re-advertise the contract. Non-response to the written "Best and Final" offer after the time indicated in the letter shall be regarded as a rejection of the offer. Reasons for negotiating and/or awarding the contract to a firm other than the originally selected consultant shall be documented in the contract file.

ADOT also reserves the right to terminate cost negotiations for administrative reasons such as lack of funding, termination or invalidation of an Intergovernmental Agreement or other extenuating circumstances.

3.06 ANTI-LOBBYING/DISCLOSURE

Federal Acquisition Regulation (FAR) prohibits the expenditure of Federal-Aid Highway Program funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any Federal-Aid Highway Program funded contract, grant, loan or cooperative agreement. The consultant is required to sign a statement certifying that to the best of its knowledge and belief that no Federal-Aid Highway Program funds have been paid or will be paid, by or on behalf of its firm for the purpose of lobbying.

If the consultant should report lobbying activities, the consultant is required to submit Anti-Lobbying/Disclosure Forms. These forms are supplied to the consultant by the ECS Contract Specialist and must be completed and received by ECS prior to execution of the contract. The above regulations also apply to subconsultants and their subconsultants (lower tier) whose contracts exceed \$100,000.00.

3.07 INSURANCE AND INDEMNIFICATION REQUIREMENTS

In order for ADOT to enter into a contract with a consultant for services, the consultant shall have the capability and experience to perform and to be responsible for negligent acts which may occur in the course and scope of the consultant's performance under the contract.

All contracts contain an insurance requirement and indemnification provision. The consultant shall furnish ADOT with required Certificate(s) of Insurance as outlined in the SOQ Package prior to the commencement of the contract.

Certificates of Insurance are designed to certify that: (1) a person or company (consultant) has the type of insurance needed to protect both itself and the State of Arizona against loss resulting from the particular work or service being performed; (2) the policy limits meet the limits of liability required in the contract; (3) the policy is currently in effect and has not expired; (4) the insurance company is a recognized and approved insurer; and (5) special conditions required by the contract are endorsed onto the policy.

Contracts shall require the insurance to name the State of Arizona and ADOT as additional insureds as outlined in the SOQ Package or contract in accordance with ADOT Insurance policy (see ECS website for most current version of this policy). Any variations to the required insurance certificates as outlined in the SOQ shall be reviewed by ADOT and may be rejected by ADOT in its sole discretion.

An "Indemnification or Hold Harmless" clause may be included in the contract which will be signed by the consultant, to protect the Department and its employees.

The approved insurance and indemnification provisions in the contract shall not be changed without approval from ADOT.

3.08 IMMIGRATION REQUIREMENTS

All prime consultants and subconsultants are required to certify their compliance with all Federal, State and local immigration laws prior to the execution of a contract.

All ECS contracts will include contract language requiring consultants and subconsultants to comply with Federal, State and local immigration law and regulations, allowing ADOT the right to inspect records and giving ADOT the right to take necessary action if violations occur.

Failure of the consultants or subconsultants to comply with the immigration laws with respect to any activity under the contract or any personnel performing or managing work under the contract shall be regarded as a material breach of the contract as outlined in Section 4.17 of these Rules.

3.09 FINAL CONTRACT APPROVAL

The final contract is assembled by the ECS Contract Specialist, reviewed by the ECS Contract Manager for accuracy and completeness and transmitted to the consultant for signature. Once signed by the consultant and ADOT, the contract is considered fully executed. A copy of the executed contract, along with a Notice to Proceed (NTP) letter, will be mailed or electronically transmitted to the consultant and distributed to appropriate ADOT personnel.

3.10 NOTICE TO PROCEED (STATE-FUNDED CONTRACTS)

After the contract is signed by the consultant and the designated ADOT signatory authority, a written Notice to Proceed (NTP) is prepared by the ECS Contract Specialist, approved and signed by the ECS Director and issued to the consultant. The NTP date is determined by the ADOT Project Manager and the ECS Contract Specialist after considering what is in the best interest of the State. This date may vary from the date the contract is signed as determined by ADOT. ADOT will not be responsible for any cost incurred prior to the NTP date. The signed contract shall be retained by ECS in the electronic Contract Management System (eCMS).

3.11 ADVANCE NOTICE TO PROCEED

ADOT has the discretion to issue an Advance Notice to Proceed (ANTP) for work on state-funded projects, under certain circumstances with the concurrence of the consultant and ADOT, prior to execution of the contract. These authorizations may include, but are not limited to, an ANTP prior to execution of the contract or an ANTP with the work of a specific Contract Modification. These notices may be issued in emergency situations or when time constraints dictate. The ANTP is approved by the ADOT Group Manager and appropriate Deputy State Engineer. After the ANTP has been approved, the ANTP letter is prepared by the ECS Contract Specialist, signed by the ECS Director and issued to the consultant.

ADOT will not be responsible for any cost incurred prior to the ANTP date, and the consultant cannot exceed the estimated cost agreed to by the Department in the ANTP authorization letter. An ANTP is only valid if signed by a Deputy State Engineer and ADOT is under no obligations to pay for work not receiving proper authorization. If a contract is subsequently signed/executed by the parties, the consultant shall be paid as provided for in the contract. If the parties fail to successfully negotiate and sign a contract, the consultant shall be paid for cost incurred after the ANTP date pursuant to ADOT Cost Allowability Guidelines.

3.12 FEDERAL-AID HIGHWAY PROGRAM FUNDED CONTRACTS

Work on projects funded with Federal-Aid Highway Program funds must be authorized by the Federal Highway Administration (FHWA) prior to execution of a new contract or project. No NTP or ANTP shall be given until FHWA authorization is received. Consultant costs are not reimbursable if there is no written FHWA authorization or if costs are incurred prior to the FHWA authorization date.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION IV

Contract Administration

4.01 POST-AWARD INSTRUCTIONS

After the Notice to Proceed (NTP) is issued, a Post-Award Instruction Package (PAIP) is prepared by the ECS Contract Specialist assigned to the contract to provide the consultant with information and forms needed to successfully fulfill the terms of the contract. The PAIP includes information on topics such as:

- 1) Payment Reports & Monthly Progress Reports
- 2) Contract Modifications & Time Extensions
- 3) Evaluation Schedule/Consultant Evaluation Program
- 4) Changes in Key Personnel
- 5) Address Changes
- 6) Audits
- 7) Post-Design Services
- 8) DBE Commitment
- 9) Contract Close Out Process
- 10) Record Retention

The PAIP can be emailed or picked up by the consultant at the ECS Office. A Post-Award meeting can be scheduled by the ECS Contract Specialist to review the information with consultants and subconsultants involved with the contract. A Post-Award meeting may be held but is not required for every contract. It is most often scheduled with consultants who are new to doing business with ADOT or to review new processes, forms or procedures. The Post-Award meeting is conducted to help facilitate a clear and mutual understanding by all parties involved in the contract of the forms and procedures needed to comply with the terms of the contract. The content of the meeting does not amend the contract, nor does it relieve the consultant of its duties under the contract unless the parties make a written modification to the contract.

4.02 VENDOR REGISTRATION (CONSULTANTS)

The State of Arizona utilizes an accounting system which makes all payments based on a master vendor file. Consultants awarded a contract for the first time must complete and return a Vendor Registration Form and Federal Form W-9 (Taxpayer Identification Number and Certification) to ECS before any payments can be processed. The forms are supplied to the consultant by the ECS Contract Specialist upon execution of the contract. Upon receipt of the completed forms, they are forwarded to the Arizona Department of Administration, Finance Division, for inclusion in the master vendor file.

4.03 MONTHLY PROGRESS AND WORK-HOUR REPORTS

The consultant is required to submit progress reports to the ADOT Project Manager at intervals specified in the contract, usually monthly. The form and format to be utilized are provided in the

Post-Award Instruction Package, on the ECS website or in eCMS. The consultant, unless notified otherwise, is required to report work-hours expended to date on the project by labor category and design elements. These reports will follow the form and format provided by ADOT. The ADOT Project Manager or the ECS Contract Specialist may request further breakdown by personnel name and classification. Failure to meet this requirement may result in a delay in processing monthly payment to the consultant.

4.04 PROGRESS PAYMENT REPORTS

The consultant may invoice ADOT monthly, for work performed under a contract, or at another interval specified in the contract, by submitting a Progress Payment Report (PPR) form. A monthly summary of costs billed by category or subcategory shall be included with PPRs and submitted for reimbursement to the ADOT Project Manager, electronically or on forms provided by ECS. The PPR shall be formatted to permit comparison of actual to proposed costs and shall be submitted with required information and back-up documentation based on the contract type.

Repeated violation of the requirement to submit timely PPRs in accordance with the terms of the contract shall result in sanctions up to and including damages, termination of the contract, and removal of the offending party or disqualification of the offending prime consultant or subconsultant. Furthermore, ADOT shall not be obligated to pay invoices that are submitted more than sixty (60) calendar days after the end of the fiscal year in which the cost was incurred.

4.05 PROMPT PAY LEGISLATION (A.R.S. § 28-411)

In accordance with A.R.S. § 28-411 (Prompt Payment to Consultants and Subconsultants), ADOT must issue payments to prime consultants within 21 calendar days after receipt of PPR/invoice. The law also requires the consultants to pay subconsultants within seven (7) calendar days after receiving payment from ADOT, unless exceptions exist within the agreed-upon consultant/subconsultant agreement.

Prime consultants shall not withhold subconsultants' payment if ADOT has paid for the full value of services rendered. Failure by the prime consultant to invoice ADOT in accordance with the terms of the contract and/or pay subconsultants in accordance with A.R.S. § 28-411 shall be constituted as a material breach of contract and prime consultant shall be subject to disqualification in accordance with Section 2.02 of these Rules. ADOT reserves the right to request that Prime Consultants provide proof of payment to subconsultants if a complaint of non-payment is made to ADOT by the subconsultant.

Incomplete or incorrect PPRs/invoices will be returned to the submitter within seven (7) calendar days of receipt by ADOT. The 21 day calendar payment timeframe for ADOT payment will begin anew upon receipt of the corrected invoice.

4.06 CONTRACT MODIFICATIONS

Changes to the terms of the contract must be authorized by the issuance of an approved written Contract Modification (CM). The CM may be unilaterally directed by ADOT, or a bilateral supplemental agreement which requires written approval of all parties. All CMs shall be approved and signed by the ADOT designated signatory authority based on the amount of the contract.

Costs for the CM shall be negotiated based on the original cost derivation or the latest approved adjustments, as applicable. The CM is evaluated by the ADOT Project Manager, Group Manager, and ECS Contract Specialist, for both technical and cost aspects, and where applicable, is subject to review and/or approval by the ECS Director, the appropriate Deputy State Engineer. When Federal-Aid funds are used, FHWA reserves the right to review contract modifications and all other source documents on a case-by-case-basis.

ADOT is not responsible for payment of any additional work performed by the consultant prior to receipt of a fully signed/executed CM or an Advanced Notice to Proceed (ANTP). Any extra work performed by the consultant without a written agreement is done at the consultant's risk.

Contracts signed after July 1, 2006, may be allowed a Cost of Living Adjustment (COLA) when applicable and approved by ADOT, as specified in the contract. This excludes contracts/consultants using Commercial Pricing Rates. Since contract rates are established to cover a period of time, COLAs are applied only if and when a contract is eligible and funding is available. The consultant must contact the assigned ECS Contract Specialist before requesting a COLA.

4.07 CONTRACT MODIFICATION DISPUTE ESCALATION

A Contract Modification (CM) dispute escalation procedure will be utilized in the event the ADOT Project Manager, the Consultant Project Manager, and the ECS Contract Specialist are unable to agree on the scope, level of effort, or any cost listed in the proposed CM. It is the intent of the Department to resolve disputes at the lowest level possible. If agreement cannot be reached at that level, then the matter is escalated to the next higher level of management.

The following is an example of the dispute resolution escalation levels for CMs:

Level	ADOT	CONSULTANT	ECS
Level 1	Project Manager/ Resident Engineer	Project Manager	Contract Specialist
Level 2	Project Manager/ Section Manager/ District Engineer	Project Principal/ Project Manager	Contract Manager
Level 3	Group Manager/ Assistant State Engineer/ District Engineer	Project Principal	ECS Assistant Director
Level 4	Deputy State Engineer/ State Engineer	Project Principal	ECS Director

4.08 POST-DESIGN SERVICES

If Post-Design Services (PDS) are required during the construction phase of the project, the services shall be initiated by the ADOT Project Manager through a Contract Modification. The consultant shall work with the ADOT Project Manager and Resident Engineer to provide PDS as listed in Section 600 of the Dictionary of Standard Work Tasks provision of the contract and shall perform all work in accordance with the most current ADOT policies and procedures, unless otherwise directed. Failure to comply with any of the requirements outlined in the Standard Dictionary of Work or respond to request from ADOT Project Manager and Resident Engineer in a timely manner shall be considered a breach of contract and the matter shall be resolved in accordance with the Breach of Contract guidelines set forth in Section 4.17 of these Rules.

The ADOT Project Manager shall approve final payment to the consultant for PDS related to the preparation of the As-Built plans. The final payment shall only be approved by the ADOT Project Manager once all As-Built work and documents have been completed, submitted to ADOT and determined to be in compliance with the ADOT As-Built procedures. As-Built plans shall be completed within the timeframe previously agreed to by ADOT and the consultant. Corrupted electronic files shall not be accepted nor considered to be complete submission.

4.09 ADMINISTRATIVE DETERMINATION LETTERS

As set forth in the contract, changes or modifications for certain items may be executed utilizing an Administrative Determination Letter rather than a formal Contract Modification. These items may include, but are not limited to:

- Changes in key personnel
- Activation of previously allocated phases of the contract
- Addition of subconsultants to contracts
- Addition of new billing categories to contracts

ADOT Project Manager must approve the above actions prior to issuance of the Administrative Determination Letter by the ECS Contract Specialist.

4.10 CHANGE OF PROJECT TEAM/STAFF BY CONSULTANT

One of the primary factors in the selection of an engineering consultant to provide professional services to the State through a Qualification-Based Selection process is the composition and qualifications of its proposed project team including, but not limited to, the Project Principal, Project Manager, Project Engineer, subconsultants and any other key personnel deemed vital to the completion of the project.

The consultant shall provide ten (10) calendar days advance notice in writing to ADOT of any change in key personnel (any member of the project team and/or any subconsultants) listed in the SOQ proposal. The advance notice must include the name of the team member, date of departure, the proposed replacement and his/her credentials. Qualifications of any key personnel proposed in a change must be equal to or greater than those proposed in the original proposal. ADOT shall have the right to approve or reject the proposed successor. Failure to provide ADOT with advanced notification may result in termination of the contract, re-advertisement of the contract and/or loss of prequalification status.

In cases where a firm is acquired or merged with another company, the acquiring firm shall provide ten (10) calendar days advanced notice before the new firm begins work on ADOT contracts. The acquiring firm shall be responsible for fulfilling all obligations, liabilities, terms and conditions of all ADOT contracts of the acquired firm. The acquiring firm shall provide ECS with a list of contracts that are affected by the acquisition or merger. If the acquiring firm is approved by ADOT, the contracts will be modified to include the acquiring firm's name by a Contract Modification.

If there is a key personnel change in a supplemental service contract and the selected individual is not able to complete the term of the contract, the Department may terminate the contract and may re-advertise the contract as needed. The consultant may be requested to furnish a temporary replacement until the new contract is in place. Subject to approval by the State, the temporary replacement must possess qualifications equal to or greater than the original assigned supplemental service employee. ADOT shall not be charged a higher rate for the

temporary replacement than was agreed to in the original contract. Once the new contract is in place, the old contract will be terminated.

4.11 PROPERTY OR EQUIPMENT

Except as otherwise provided in the contract, the lease, rental or purchase of property, equipment or software to perform work related to the project must have the prior written approval of the ADOT Project Manager or the ADOT authority responsible for the contract.. The control, utilization and disposition of property or equipment acquired using Federal-Aid Highway Program and State funds shall be determined by ADOT in accordance with the property management standards set forth in 49 CFR Part 18 , ADOT Manual - FIN 11.02.

4.12 ON-CALL CONTRACT TASK ORDER ASSIGNMENT

Awarding On-Call contracts does not constitute a representation that any particular amount of work, or any work will ultimately be performed.

When a project requires the services of an On-Call service contract, the ADOT Project Manager contacts the firm and provides a Task Order Number and a specific scope of work for the project. ADOT shall endeavor to distribute work as equitably as possible among all firms selected in each specific area. The first round of On-Call Task Orders shall be assigned based on the ranking of the firms, with the first contract being awarded to the highest ranked firm, followed by the second, etc., provided that firms have the required expertise to complete the assigned tasks. Thereafter, tasks will be assigned with the goal of equalizing the cumulative dollar value awarded to contracted firms. Notwithstanding the above, on occasions it may not be feasible to strictly distribute work in this manner. For example, if work on a new task order is closely related to or dependent on a previous task order, it may be deemed in the best interest of the State to assign the new task to the consultant assigned the original task. The ECS Contract Manager assigned to the On-Call contract will review task order assignments, and will periodically generate and evaluate reports of On-Call assignments in order to ensure that the work is being distributed as equitably as possible.

For State-Funded contracts, each task authorization cannot exceed \$400,000 and no contract shall exceed \$2,000,000 per year without the approval of the ECS Director. For Federal-Aid Highway Program funded, each task authorization cannot exceed \$500,000. Standard On-Call contracts are established for one (1) year but may include an option to renew the contract for an additional two (2) years at the discretion of ADOT. After the three (3) year contract limit, no additional new tasks shall be assigned without written approval by the ECS Director, except in the best interest of the State.

For Construction Administration contracts, the total related construction cost for each task shall not exceed \$10,000,000 from the 5-Year Highway Construction Program. Construction Administration contracts are established for one (1) year and may be renewed twice for an additional year, for a maximum of three (3) years, at the discretion of ADOT.

The consultant prepares a cost estimate for the project utilizing the items of cost contained in the contract. ADOT Project Manager reviews the cost estimate to ensure the proposed work-hour estimates are reasonable in comparison to his/her own estimate and that the costs are in compliance with those contained in the contract. If necessary, the work hours are negotiated to an acceptable level.

4.13 CONTRACT TIME EXTENSION

A contract Time Extension may be granted to complete unfinished tasks, to allow time for re-advertisement, Post-Design Services and for other appropriate circumstances, as determined by ADOT. At least sixty (60) calendar days prior to the expiration of a contract, the ECS Contract Specialist advises the ADOT Project Manager and Group Manager, in writing, of the impending contract expiration date, and that unless a time extension is granted, no work shall be performed beyond this date and the contract will be closed. The ADOT Project Manager is responsible for notifying the consultant of the expiration date in a timely manner and collaboratively determining if a time extension is needed to complete the project. If ECS does not receive a response from the ADOT Project Manager or Group Manager within ten (10) calendar days of the expiration of the contract, the contract will be placed in "Pending Closeout" status and no further tasks can be initiated on the contract.

A time extension is valid only if approved by the ADOT Project Manager and the ECS Director. Time extensions for projects using Federal-Aid Highway funds beyond five (5) years from the original contract completion date must be approved by FHWA.

4.14 CONTACT SUSPENSION/HOLD

Under extenuating circumstances, work on a contract maybe suspended or placed on 'Hold' when for reasons beyond the consultant's control, or beyond ADOT's control, work cannot proceed as expected. Contracts are placed 'On Hold', and released from same, at the discretion of the ADOT Project Manager. The consultant is not entitled to any compensation when a contract is placed on hold.

4.15 PERFORMANCE EVALUATIONS

The Consultant Evaluation Program is a vehicle to maintain open lines of communication between the ADOT Project Manager, ADOT staff, and the consultant. It provides a means for ADOT to monitor the quality of work done on projects. A positive approach to the program assures that project schedule, cost, and quality of design and construction are attainable, and that potential problems that may impact other projects or the 5-Year Construction Program are identified and resolved in a timely manner.

Consultant evaluations are conducted periodically throughout the life of the project by the ADOT staff involved in the project, including the ADOT Project Manager, ECS staff, etc. in accordance with the contract provisions. These evaluation scores are used as one factor or criterion in the selection process for subsequent contracts. Consultant evaluation scores related to past performance shall be used as one factor or criterion in the selection process. Up to 5 points may be deducted from consultant score during the selection process for past performance ratings of less than 3 (average performance) on performance factors for the last project or for projects a firm has completed for the Department over a specified period of time as outlined in the SOQ Package. Evaluations are also used to identify consultant performance strengths and weakness, as well as help identify, document and resolve issues that could lead to consultant disqualification (Section 2.02) or breach of contract (Section 4.17).

4.16 ERRORS AND OMISSIONS

If ADOT determines that the consultant had made any errors or omissions in the work product delivered to the Department under the terms of a contract, the consultant shall make all necessary revisions or corrections resulting from errors or omissions on the part of the consultant without additional expense to ADOT. Any claims of errors and omissions by the

consultant shall be resolved in accordance with ADOT policy MGT-002, Errors and Omissions by Consultants (see ECS website for most current version of this policy). No waiver, release or settlement of claims or potential claims against a consultant shall be valid except when made in writing by a Deputy State Engineer or the State Engineer.

4.17 BREACH OF CONTRACT

Breach of contract may occur from a consultant's failure to address a problem identified by ADOT in the performance of the contract. Breach of contract can also occur for a number of other reasons, including, but not limited to:

- Failure to perform work or satisfactorily submit deliverables as outlined in the Scope of Work
- Failure to perform work in a timely manner to meet schedule
- Unsatisfactory technical performance in accordance with ADOT, professional, safety or industry standards
- Unauthorized Key Personnel change
- Untimely notification of Key Personnel change
- Failure to submit Progress Payment Reports, Contract Modifications and other required documents in a timely manner
- Failure to pay subconsultant in a timely manner in accordance with A.R.S. § 28-411
- Failure to retain records in accordance with contract provisions
- Failure to adhere to one or more terms or conditions of the contract

The following steps shall be taken to resolve potential or actual contract breaches:

1. If working to resolve the matter with the consultant informally does not resolve the issue, the ADOT Project Manager or other appropriate ADOT employee shall notify the consultant in writing of the deficient performance or breach, identify required solutions and establish a deadline for cure.
2. If the consultant does not respond within ten (10) business days or other timeframe as specified in the letter and/or the matter is still not resolved within the deadline set for the cure, the ECS Director may notify the consultant in writing that the consultant is in breach of contract and that additional administrative remedies will be pursued by the Department. The consultant shall have five (5) business days to respond to the letter to present their case.

Unsatisfactory or untimely response to the notice or failure of the consultant to address the deficiency shall result in ADOT taking one or more of the following remedies depending on the gravity of the breach:

- A. Negative Evaluation Points Applied to Future SOQs – a temporary or permanent penalty of having up to 5 negative points deducted from firm's score during the selection process of subsequent contracts. If the penalty is temporary, a time period must be stated along with action needed by the consultant to lift the penalty.
- B. Disqualification From SOQ Submittal – temporary or permanent prohibition from responding to SOQs for ADOT contracts in accordance with Section 2.02 of these Rules.
- C. Payment Withholding – withholding final, specific percentage of subsequent payments or all future payments until condition has been addressed.
- D. Contract Termination – termination of the contract in accordance with applicable contract termination provisions.

The consultant shall be notified in writing of the remedy by the ECS Director. The consultant may appeal the remedy in writing to the State Engineer within five (5) business days. The State Engineer shall respond to the appeal within fifteen (15) business days. The State Engineer's decision shall be final.

4.18 CONTRACT COMPLETION

When technical review establishes that all phases of the contract have been completed to the satisfaction of ADOT, a written concurrence is completed and signed by the ADOT Project Manager and Group Manager to initiate the contract closeout phase. The consultant is notified, in writing, (Initial Closeout Letter) of the final closeout procedure which may include submittal of final Progress Payment Report/invoice, deliverables and a final audit, if applicable, of the consultant's and all subconsultants' records.

The consultant shall submit all required deliverables as detailed in the contract.

4.19 FINAL/INCURRED COST AUDIT

Final/Incurred Cost Audit (ICA) of consultant's costs may be performed by ADOT Office of Audit & Analysis to determine contract costs' allowability, allocability, and reasonableness in accordance with the terms of the contract. Information related to final audits can be found in ADOT Consultant Audit Guidelines.

A CPA prepared overhead schedule or a Cognizant Audit Report that meets ADOT/AASHTO/FHWA guidelines is acceptable for establishing a given year's overhead rate with the concurrence of ADOT Office of Audit & Analysis.

Upon receipt of an ICA draft report, the consultant has fourteen (14) calendar days to respond to the Incurred Cost Auditor with any disagreements, questions, or additional supporting documentation. A time extension may be allowed, if requested in writing within the fourteen (14) day timeframe, by the appropriate parties. Disagreements related to the results of the ICA draft report should be addressed or resolved with the Incurred Cost Auditor on or before the date of the formal Exit Conference with the Incurred Cost Auditor and the consultant. Non-response to the draft audit report after the fourteen (14) day timeframe and after the Exit Conference will be deemed by ADOT as the consultant's acceptance of the findings in the draft report. The final ICA report will be issued by ECS to the consultant after ADOT Office of Audit & Analysis review and approval. Once the final audit report is issued, ADOT will not re-examine any new issues not addressed in the draft report and/or formal Exit Conference. Consultants disagreeing with the final ICA report have the option to escalate the matter in accordance with the ECS Pre Award/ICA Escalation Guidelines (see ECS website for most current version of this guideline).

ADOT or the consultant shall reimburse either party in accordance with the final ICA results. Failure of the consultant to reimburse ADOT for overbilled charges based on the results of pre-award or incurred cost audits shall result in disqualification of the consultant in accordance with Section 2.02 of these Rules.

4.20 TERMINATION FOR CONVENIENCE

Contracts may be terminated for convenience of the Department as outlined in the contract. A contract termination is effected by notifying the consultant in accordance with the Contract Termination, Postponement or Abandonment provision. The consultant will be compensated

only for work satisfactorily completed prior to termination of the contract. The consultant is not entitled to loss or profit. The amount due to the consultant is determined by ADOT.

4.21 OWNERSHIP OF MATERIALS

All documents, materials and deliverables developed, patented, copyrighted or created by consultant under contract with ADOT are property of the State of Arizona. These documents and materials which include, but not limited to, drawings, tracings, specifications, maps, survey notes, reports, photographs and computer programs, shall be delivered to ADOT prior to closeout of the contract.

4.22 RECORDS RETENTION/DESTRUCTION

The consultant and its subconsultants shall retain and maintain all books, papers, records, accounting records, files, accounts, expenditure records, reports, cost proposals with backup data and all other such materials related to the contract and other related project(s), and shall make such materials available at any reasonable time and place during the term of work on the contract related project(s) and for five (5) years from the date the Initial Closeout Letter is sent to the consultant after ADOT indicates that work on the contract has been completed to the satisfaction of the State.

In case of an audit and the consultant has failed to retain records in accordance with the applicable contract provision, it shall be presumed that the documents would not have supported the consultant's position. Therefore, failure to retain such records shall result in the consultant being required to pay the Department for liquidated damages of up to 25% of the contract budget. The consultant may also be disqualified per Section 2.02 of these Rules from submitting SOQ proposals.

Upon completion and final closeout of contracts, physical/paper or electronic contract files and any supporting materials shall be maintained in accordance with ADOT and State Record Retention Center Records Retention/Destruction Policy and Schedules.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION V

Definitions

5.01 DEFINITIONS

Administrative Determination Letter

Method used to change or modify certain aspects of the contract rather than execution of a formal contract modification, such as Key Personnel change, addition of new subconsultants or changing billing categories to the contract

ADOT

Arizona Department of Transportation and may be used interchangeably with State or the Department

ADOT Group Manager

Assistant State Engineer responsible for management of an ADOT technical function or department, such as, Roadway Design, Right of Way, Statewide Project Management or the Valley Freeway system

ADOT Project Manager (ADOT PM)

An Engineer or technical leader of a project or contract

Advance Notice to Proceed (ANTP)

An advance notice to proceed is an expedited written authorization from the State that allows the consultant to start work on a contract or any unit or element of the services to be performed specified in the contract before the contract has been signed.

Audit

A formal examination or review of accounting records and/or cost presentations, either actual or proposed

Business Day

All days in a month, excluding weekends and State holidays

Calendar Day

All days in a month, including weekends and holidays

Change of Scope

A change of scope is an addition, a reduction, a substitution or a revision in the complexity, character or duration of the services

Compensation Type

Cost reimbursement method to be paid by the Department to the consultant for services set forth in the contract

Compliant Accounting System

An accounting system that properly captures classifies and summarizes costs allowing for conformance to the ADOT Cost Allowability Guidelines and Generally Accepted Accounting

Principles (GAAP), Federal Acquisition Regulations (FAR) Part 31, and applicable Cost Accounting Standards.

Consultant

An individual, engineering firm, or other qualified specialized entity having contract(s) with / or contemplating providing services to ADOT to perform professional engineering or specialized services. This term may also refer to Prime consultant.

Contract

The written agreement between the Department and the consultant setting forth the rights and obligations of the parties, including, but not limited to, the performance of the SERVICES, the furnishing of labor and materials, and the basis of payment. The purpose of the contract is to secure the performance of professional engineering services. The term contract shall include all modifications relating to the contract.

Contract Award

Notification of having been selected by ADOT of the successful proposal for a contract but before the contract is negotiated or signed

Contract Execution

Signing of the contract by both ADOT and the consultant to perform services outlined in the contract

Contract Modification (CM)

A legal adjustment to a contract. CMs, once approved, become part of the contract.

Contract Manager

A manager who oversees the management of the assigned contracts from specified ADOT work units. This position supervises the Contract Specialist position.

Contract Specialist

Employee assigned to advertise and administer a specified number of contracts.

Cost Accounting System

Part of the basic accounting system that accumulates cost for use in both managerial and financial accounting.

Cost Proposal

The consultant's written submission of the project requirements and includes a narrative description of the project and proposed services together with a detailed schedule of requested compensation, for the work proposed.

Deputy State Engineer

An administrator in the State Engineer's office for ADOT Intermodal Transportation Division who reports to the State Engineer and who is designated to act on behalf of the State Engineer in some matters.

Direct Cost

Any cost (labor or non-labor) that can be attributed to a specific project.

ECS Director

The lead administrator in ADOT responsible for management of the Engineering Consultant Section and who approves contract awards, Notice to Proceed, signs contracts and approves any contract modifications.

Electronic Contract Management System (eCMS)

The automated computer system utilized by ECS to manage the engineering consultant contracts

Engineering Consultant Section (ECS)

The unit within ADOT responsible for the advertising, selection, and administration of engineering consultant contracts

FHWA

The Federal Highway Administration of the United States Department of Transportation

Fee

A negotiated percentage or dollar amount to compensate the firm for business risk associated with undertaking the contract.

Incurred Cost Audit

An audit of the consultant's or subconsultant's actual costs to ascertain the costs' allowability in accordance with the terms of the contract.

Indirect Cost (Overhead) Rate

The ratio between the total indirect costs and total direct labor costs, after excluding and or reclassifying unallowable costs and extraordinary or distorting expenditures

Key Personnel

The consultant's and subconsultant's personnel identified in the Statement of Qualifications (SOQs) and in the contract who are responsible for providing services in accordance with the contract provisions.

Liquidated Damages

Also referred to as ascertained damages; are damages whose amount the parties designate during the formation of a contract for the injured party to collect as compensation upon a specific breach of contract (e.g., late performance, untimely submission of payment reports)

Notice to Proceed (NTP)

A written authorization from the State to the consultant to start work on a contract or any unit or element of the contract to be performed as specified in the contract after the contract has been signed.

On-Call Task Order Assignments

A written authorization by the Department to the consultant to proceed with the services for each separate job issued under the miscellaneous task order agreement.

Post-Award Instruction Package (PAIP)

Instruction Package prepared by the ECS Contract Specialist assigned to the contract to provide the consultant with information and forms needed to successfully fulfill the terms of the contract.

Pre-Award Review

A review of the consultant's or subconsultant's financial information (1) to determine allowability of contract costs in accordance with Federal Acquisition Regulation (FAR, Part 31) and ADOT Cost Allowability Guidelines; and (2) to establish billing rates for negotiation purposes.

Prime Consultant

Refer to Consultant definition.

Progress and Work-Hour Report

Monthly report submitted by the consultant to the ADOT Project Manager of work-hours expended to date on the project by labor categories and design elements.

Progress Payment Report

An invoice for payment of monthly summary of costs billed by category or subcategory, as required by ADOT and submitted by the consultant to the ADOT Project Manager and ECS for approval and payment.

Project

A project is the subject or purpose of the contract between ADOT and the consultant in which the consultant is agreeing to carryout specific tasks.

Project Schedule

A tabular delineation of the consultant's agreed upon schedule of submittals to complete a task or project.

Project Team

A team of professionals proposed by the consultant to work on the project whose qualifications and experience are a primary factor in the selection of the consultant for ADOT contracts. The project team may consist of consultant's Project Principal, Project Manager, Project Engineer, Subconsultants, or other key personnel deemed vital to the completion of the project.

Post-Design Services (PDS)

A process that provides engineering services necessary to help facilitate the construction of a project after the final design has been completed.

Scope of Work

All services and actions required of the consultant by the contract.

Selection Panel Members

ADOT engineers, technical staff, managers or representatives from other public agencies responsible for reviewing and selecting consultants for advertised projects.

Services

The services are the performance by the consultant of all contractual requirements and the furnishing of all equipment, supplies and materials required to complete the contract.

State

The State of Arizona, or the Department, represented by the Director of Transportation or his/her designee.

Standard Dictionary of Work Tasks

A compiled list of work activities to be completed by the consultants during the implementation for a project

State Engineer

Chief Engineer and administrator of ADOT's Intermodal Transportation Division

Statement of Qualifications (SOQ)

The consultant's written communication expressing its desire and qualifications to be considered for selection to contract to perform services.

Statement of Qualification (SOQ Package)

Document containing project Scope of Work, a sample contract and instructions for responding to a contract solicitation use to advertise the project.

Subconsultant

A subconsultant is any person or organization to which the consultant has subcontracted, transferred, or assigned any portion of the services and contractual obligations to be performed on behalf of the consultant.

Suspension/Hold

An action taken by the State to temporarily stop all or selected services that are included in a specific contract.

Termination

An action or agreement taken by the State to stop and conclude all services related to a contract before completion

Time Extension (TE)

An extension allowed to complete unfinished tasks or projects as determined by ADOT and to end all obligation of each party to the contract.

CONTRACT AWARD AND ADMINISTRATION RULES

SECTION VI

Appendices

6.01 APPENDICES

1. AZ PROCUREMENT CODE - A.R.S. § 41-2501 (J)
<http://www.azleg.gov/ars/41/02501.htm>
2. BROOKS ACT (Public Law 92-582)
http://www.azdot.gov/Highways/ECS/pdf/The_Brooks_Act.pdf
3. Arizona Revised Statutes (A.R.S.) § 38-503-506, 508, 510
<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=38>
4. ADOT Policies and Procedures PER-6.02
http://www.azdot.gov/Highways/ECS/pdf/ADOT_Conflict_of_Interest_Officers_and_Employees_Policy.pdf
5. Consultant Participation in ADOT Contracts – MGT 02-3
<http://www.azdot.gov/Highways/ECS/pdf/mgt02-3.pdf>
6. Filing a Consultant Protest – MGT 03-2
<http://www.azdot.gov/Highways/ECS/pdf/mgt03-2.pdf>
7. ADOT Consultant Audit Guidelines
<http://www.azdot.gov/highways/ecs/PDF/Bulletins/09-04-infob.pdf>
8. ADOT Cost Allowability Guidelines
http://www.azdot.gov/inside_adot/audit/PDF/CostAllowabilityGD.pdf
9. AASHTO Uniform Audit & Accounting Guide
http://www.azdot.gov/inside_adot/audit/PDF/audguid1.pdf
10. Insurance Certificate Guidelines - ADM08-1
http://www.azdot.gov/Highways/ECS/pdf/Insurance_Certificate_Policy.pdf
11. Error & Omission by Consultant Policy – MGT 00-2
<http://www.azdot.gov/Highways/ECS/pdf/mgt00-2.pdf>
12. Pre-Award and ICA Escalation Guideline
http://www.azdot.gov/Highways/ECS/pdf/Pre_Award_ICA_Escalation_Guideline.pdf