RESOLUTION

RESOLUTION APPROVING THE REPEAL OF THE COUNTY'S CONSULTANT SELECTION POLICY FOR THE DIVISION OF TRANSPORTATION TO BE REPLACED WITH THE ILLINOIS DEPARTMENT OF TRANSPORTATION'S QUALIFICATIONS BASED SELECTION FOR ENGINEERING AND PROFESSIONAL SERVICES POLICY

WHEREAS, it is necessary for the County of McHenry to procure consultant services from time to time in order to meet the needs of the Division of Transportation in completing planning, surveying, engineering and other projects that require professional services from qualified consultants; and

WHEREAS, the Federal Highway Administration (FHWA) has required that all local public agencies in receipt of federal funding adhere to the rules and regulations set forth for procurement of consultant services; and

WHEREAS, consultant services funded in whole, or in part, with Federal-aid highway program funds shall be procured and administered in accordance with the requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200); and

WHEREAS, contracts for engineering and design related services which utilize Federal-aid highway program funds and are directly related to a planned construction project must also comply with the requirements established in 23 U.S.C. §112 and 23 CFR 172; and

WHEREAS, engineering and design related services are defined as "program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping or architectural related services" (as specified in 23 U.S.C. §112(b)(2)(A) and 23 CFR §172.3); and

WHEREAS, many additional Federal laws and regulations apply to the procurement and administration of engineering and design related services; and

WHEREAS, the Illinois Department of Transportation (IDOT) has adopted and implemented a Qualifications Based Selection for Engineering and Professional Services policy for Local Public Agencies, as established in Chapter 5 of the Bureau of Local Roads and Streets Manual; and

WHEREAS, in order for the County of McHenry to retain eligibility for federal funding, the Division of Transportation shall use the current and any subsequent updates to IDOT's Qualification Based Selection for Engineering and Professional Services policy for Local Public Agencies; and

NOW, THEREFORE BE IT RESOLVED, by this County Board of McHenry County, Illinois, that IDOT's Qualifications Based Selection for Engineering and Professional Services is hereby adopted for the Division of Transportation said policy and associated documents are attached herein; and

BE IT FURTHER RESOLVED, that Resolution R-9911-82-329 "Resolution Approving a Consultant Selection Policy" is hereby repealed; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby authorized to distribute a certified copy of this Resolution to the County Administrator, Director of Transportation/County Engineer, Director of Purchasing, and the State's Attorney.

DATED at Woodstock, Illinois, this 15th day of August, A.D., 2017.

Jack D. Franks, Chairman
McHenry County Board

ATTEST:

Mary E. McClellan, County Clerk

ATTACHMENTS:

- R-9911-82-329_ConsultantSelectionPolicy_19991116 (PDF)
- CL-2016-21 QBS (PDF)
- IDOT_BLRS-Chapter5_20170628 (PDF)

Agenda Item# 14.2.I (6)

R-9911-82-329

RESOLUTION APPROVING A CONSULTANT SELECTION POLICY

WHEREAS it is necessary for the Highway Department to obtain consultant engineering services from time to time in order to meet the needs of the department in completing engineering projects; and

WHEREAS to make this procurement procedure uniform in its process, a policy is proposed, attached hereto and made a part hereof, that addresses all issues involved with said engineering consultant selection process; and

WHEREAS this policy has been reviewed approved by the Transportation Committee of the McHenry County Board and the McHenry County State's Attorney's Office.

NOW THEREFORE BE IT RESOLVED by the County Board of McHenry County that said McHenry County Highway Department Consultant Selection Policy is hereby approved in the form as attached; and

BE IT FURTHER RESOLVED that the County Clerk is hereby directed to transmit a certified copy of this resolution to the County Administrator, County Engineer, Director of Purchasing and State's Attorney.

DATED at Woodstock, Illinois this 16th day of November, A.D., 1999.

MICHAEL W. TRYON, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

Attachment: R-9911-82-329_ConsultantSelectionPolicy_19991116 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

McHENRY COUNTY HIGHWAY DEPARTMENT
CONSULTANT SELECTION POLICY

Purpose and Intent

In order to meet the demand for the planning, engineering, and construction of transportation improvements, the McHenry County Highway Department often utilizes the services of engineering and transportation planning consultants to assist in various aspects and stages of a project. The need to retain only those consultants that produce the highest quality of work, in a timely, professional manner, and to maximize to the fullest extent practical the value of the Highway Department's funds, McHenry County has formulated this policy to provide the County Engineer and the McHenry County Highway Department the necessary guidelines and procedures for selecting and recommending a consultant.

It is the policy of McHenry County and the McHenry County Highway Department to select consultants on the basis of demonstrated competence and qualifications and to provide for the fair and equitable treatment of all qualified persons and firms involved in, or interested in providing professional services to McHenry County. It is the intent of this policy to supplement and refine the policies and procedures for the retention of professional services as outlined in the McHenry County Purchasing Ordinance, and to conform to the requirements of the Local Government Professional Services Selection Act (50 ILCS 510/0.01).

Authority

The County Engineer ~~has been~~ may be delegated the authority to pursue engineering and land surveying services pursuant to McHenry County Purchasing Ordinance Article 2-S2-102 (~~2~~).

Procedures

When the County Engineer and the Transportation Committee of the McHenry County Board determine that there is a need to retain a consultant for the purpose of providing the Highway Department with professional transportation services, *a Request for Qualification (RFQ)* procedure shall be used. The requirements for, and extent of, the RFQ process is outlined below:

Minimum Requirements for Participation in the RFQ Process

Any person or firm who is interested in providing professional engineering services to McHenry County must, at a minimum, be currently prequalified with the Illinois Department of Transportation (IDOT). While IDOT prequalification is desirable, it is not necessarily required for the procurement of all planning or land surveying services. In these instances it shall be the determination of the County Engineer whether a firm or individual is qualified to provide said services.

Notice of Interest

All persons or firms expressing interest in providing professional services to the McHenry County Highway Department must provide written notice to the County Engineer prior to being considered eligible for participating in the Highway Department's RFQ process. All notices of interest for professional engineering services must be accompanied with a current

Attachment: R-9911-82-329_ConsultantSelectionPolicy_19991116 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

IDOT prequalification letter and a statement of qualifications. The person or firm interested in providing professional services must update the notice of interest annually prior to the end of the calendar year. It is not the responsibility of the McHenry County Highway Department to annually remind interested firms of this requirement. The list of eligible and interested individuals or firms will be compiled and used for the purpose of soliciting qualifications. Notice of the solicitation of qualifications may also be published in a newspaper of general circulation within the County.

Consultant Recommendation Committee

In order to administer this policy and to evaluate competing firms on an impartial basis, those qualifications received for a particular project will be reviewed by a Consultant Recommendation Committee consisting of the County Engineer (who shall serve as the committee chairman,) the Highway Department's senior Construction Manager, Design Manager, and other Highway Department staff that the County Engineer may deem relevant to each individual project. The Consultant Recommendation Committee shall be charged with the following duties:

- Maintain and review the list of those firms who have submitted a statement of qualifications and a notice of interest in providing consulting services to the McHenry County Highway Department.

- Determine the content of, minimum professional service requirements for, and method of payment for a particular RFQ.

- Solicit Qualifications from those persons or firms that meet the eligibility requirements of this policy, the particular RFQ eligibility requirements, and any other eligibility requirements that the Consultant Recommendation Committee may deem necessary.

- Review all qualifications as presented, conduct interviews if deemed necessary, and develop a ranked list of firms responding.

- Conduct post-project evaluations and prepare a written report rating the abilities and performance of each consultant on a project basis.

Basic Elements for Consideration During the Recommendation Process

In addition to the overall RFQ content and presentation, and the firm's proposed method and understanding of accomplishing the project's objectives, the Consultant Recommendation Committee shall review all eligible and complete RFQ's and rate each firm in the following areas:

- Performance on past McHenry County and other client projects
- Professional qualifications
- Firm's expertise as it relates to the specific project
- Expertise of proposed key personnel on similar projects
- Firm's existing workload with McHenry County and other clients
- Extent work must be subcontracted

Attachment: R-9911-82-329_ConsultantSelectionPolicy_19991116 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Receipt of Qualifications

No qualification submittal shall be handled by any member of the Consultant Recommendation Committee so as to permit the disclosure or identity of any firm or the contents of any submittal to competing firms during the selection process. A register shall be maintained by the Consultant Recommendation Committee containing a description of the services and project, the name of each firm that responded, and the number of modifications received (if any). The register of submittals shall be open for public inspection only after the contract is awarded.

Discussion with Responsible Firms

All firms shall be accorded fair and equal treatment with respect to an opportunity for discussion and clarification of issues affecting the preparation of a statement of qualifications by the firm. Any issues or clarifications discussed that are determined by the Consultant Recommendation Committee to potentially affect the submittals of other firms will be forwarded to all firms that received the RFQ, by means of an addendum. In conducting discussions or interviews, there shall be no disclosure of the identity of competing firms, or of any information derived from submittals made by competing firms.

Selection of the Successful Firm and Negotiation of Fees

Once the successful firm has been recommended to and approved by the Transportation Committee, the scope of services will be defined in detail and the method of payment and overall fee determined between the firm and the County Engineer. If no agreement can be reached with regards to scope or fee, the next highest ranked firm will be selected and the process started again. Finally, a professional services agreement shall be drafted with the successful firm and presented to the Transportation Committee, and if approved, to the County Board for its approval.

Requests for Qualifications: Solicitation Requirements Based on Estimated Fee

Upon the approval of the Transportation Committee to solicit qualifications, the Consultant Recommendation Committee shall meet and determine the requirements for, content of, and determine the number of firms to be eligible to respond to the RFQ. The minimum number of firms solicited shall be based on the estimated fee of the project as outlined below:

ESTIMATED FEE	MINIMUM NUMBER OF RFQs SOLICITED	INTERVIEW WITH TRANSP. COMMITTEE
<= $100,000	4	Optional
> $100,000	8	Required (~~Two~~ Three firms min.)

Projects with a Similar Scope of Services within a Twelve Month Period:

At the recommendation of the County Engineer and the approval of the Transportation Committee, consultants may be selected for a subsequent project with a similar scope of services without going through the Request for Qualification procedure if the required qualifications were previously submitted. The intent is to apply the qualifications as submitted on a similar project to those required for a later project. In this case, the procedure, upon

Attachment: R-9911-82-329_ConsultantSelectionPolicy_19991116 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

approval by the Transportation Committee, would be to begin at the "Selection of the Successful Firm and Negotiation of Fees," as detailed within this policy.

Services Under ~~$15,000~~ 10,000

The County recognizes that there may be a need for the County Engineer to retain a licensed surveyor or engineer to provide short-term, brief services or consultation on small projects that require immediate or urgent attention. Those services that amount to less than ~~$15,000~~ 10,000 shall be exempt from the Request for Qualifications procedures outlined in this policy. Any services that exceed $5,000 and/or require the use of special funding such as the County Motor Fuel Tax Fund, Matching Fund Tax, Bridge Fund Tax, or County Option Motor Fuel Tax Fund must also be approved by the Transportation Committee and in all cases, the County Engineer shall endeavor to obtain several estimates before selecting or recommending a particular firm or consultant.

Extension of Work/Multi-Phase Projects

Certain projects are developed on a multi-phase (i.e. feasibility, preliminary engineering, final engineering, construction) sequence. In these instances, it may be to the benefit of McHenry County to retain the same consultant through all phases of the project to maintain continuity, prevent redundant work and to expedite the project schedule. It shall be the policy of the Highway Department, subject to satisfactory performance on prior phases, to retain the same consultant, if desirable, through subsequent phases without proceeding through the RFQ process between phases. The decision to retain the same consultant through subsequent phases shall be made by recommendation of the County Engineer, with final approval by the Transportation Committee.

Emergency Procedures

Notwithstanding any other provision of this policy, the County Engineer, with the approval of the Chairman of the Transportation Committee and the County Administrator, may make emergency procurements of services when there exists a threat to public health, welfare, or safety, or to prevent or minimize a serious disruption of Highway Department services. A written determination of the basis for the emergency and the selection of the particular firm shall be provided in the project file and if the procurement of services exceeds $10,000, a confirming resolution shall be submitted to the County Board.

Date Policy Approved: 11/16/99

Attachment: R-9911-82-329_ConsultantSelectionPolicy_19991116 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Illinois Department of Transportation
2300 South Dirksen Parkway / Springfield, Illinois / 62764

September 28, 2016

CIRCULAR LETTER 2016-21

REQUIREMENTS FOR PROCUREMENT, MANAGEMENT, AND ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICES USING FEDERAL FUNDS

COUNTY ENGINEERS / SUPERINTENDENTS OF HIGHWAYS
MUNICIPAL ENGINEERS / PUBLIC WORKS DIRECTORS / MAYORS
METROPOLITAN PLANNING ORGANIZATIONS - DIRECTORS
TOWNSHIP HIGHWAY COMMISSIONERS
CONSULTING ENGINEERS

On May 22, 2015 the Federal Highways Administration (FHWA) published rules regarding the procurement, management, and administration of engineering and design related services in the Federal Register. These rules were required to be implemented by June 22, 2016. FHWA has granted Illinois an extension of time to June 22, 2017 for full implementation of these rules on federally funded local public agency projects.

IDOT is in the process of updating the Bureau of Local Roads and Streets Manual. When Chapter 5 is reviewed and updated, the new requirements for procuring consulting engineering services using federal funds will be formally incorporated. Until IDOT fully implements these rules, local agencies are required to substantially comply with the following guidelines:

- Establish a selection committee.
- Publish the names and rankings for the top three firms when contracts are awarded.
- Discontinue the awarding contracts based on existing relationships for amounts equal to or greater than $25,000.
- Limit master task order contracts or indefinite delivery and indefinite quantity (IDIQ) contracts to a maximum term of five years.

Attachment: CL-2016-21 QBS (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

If you have any questions regarding this subject, please feel free to contact the local policy and technology unit by email at DOT.LocalPolicy@illinois.gov or by telephone at (217) 785 – 5048.

Maureen E. Kastl, P.E.
Acting Engineer of Local Roads and Streets

TP/

cc: Scott McGuire, FHWA – Illinois Division
Mike Staggs, FHWA – Illinois Division
Eric Seibring, Illinois Association of County Engineers
Joe Schatteman, Illinois Municipal League
Bryan Smith, Township Officials of Illinois
Christine Filbert, Township Highway Commissioners of Illinois

Attachment: CL-2016-21 QBS (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Chapter 5

AGREEMENTS

BUREAU OF LOCAL ROADS AND STREETS MANUAL

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

5-5 ENGINEERING AGREEMENTS

5-5.01 General

If a LPA elects to use a consultant for engineering services, the LPA shall enter into an agreement with a consultant meeting the requirements of 225 ILCS 325/23 to provide engineering services financed in whole or in part with Federal, State, Motor Fuel Tax (MFT), or Township Bridge Program (TBP) funds.

Funds will be limited to the amount of compensation called for in the agreement. These funds cannot be expended for payment of engineering services until an agreement has been submitted to, and approved by, the IDOT.

The term consultant refers to a professional design firm (private firm) or sole proprietorship (individual) for engineering services. Services provided for land surveying or architectural design meeting the requirements of 225 ILCS 330, 225 ILCS 305, or 225 ILCS 315; respectively, will be referred as professional services, when they are not included with the engineering services agreement.

5-5.02 Types of Services

1. Project Specific. A contract between the LPA for the performance of services and defined scope of work related to a specific project.
2. Multiphase. A project-specific contract where the defined scope of work is divided into phases which may be negotiated and authorized individually as the project progresses.
3. Master Task Order. A contract for the performance of services On Call or Indefinite Delivery/Indefinite Quantity (IDIQ) under task or work orders issued on an as-needed or on-call basis, for an established contract period. The solicitation and contract provisions shall:
   - Specify a reasonable maximum length of contract period, including the number and period of any allowable contract extensions.
   - Specify a maximum total contract dollar amount which may be awarded under contract;
   - Include a statement of work, requirements, specifications, or other description to define the general scope, complexity, and professional nature of the services.
   - Individual task orders or work orders shall be assigned to the Master Task Order. Once assigned, the LPA should negotiate with the consultant according to Section 5-5.06(c). If negotiations are unsuccessful, the LPA may use a different Master Task Order or may follow the Qualifications Based Selection (QBS) procedures for selecting a different consultant.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

5-5.03 Length of Services

The maximum term including extensions of the engineering services contract may not exceed 10 years for contracts using non-federal funds or for project specific using federal funds. If federal funds are used for an IDIQ the maximum term length is five years and all work orders must be issued during the term of the contract. The total time from execution of an IDIQ contract to the completion of all work orders issued cannot exceed 10 years. However, the length of the contract should be determined based on the scope of work. The LPA shall comply with any established Illinois statutory or local ordinance that further limits the length of a contract.

5-5.04 Conflict of Interests

It is important to understand that conflicts of interest may be direct or indirect (e.g., as result of a personal or business relationship). Additionally, the appearance of a conflict of interest should be avoided, as an apparent conflict may undermine public trust if not sufficiently mitigated.

Conflict of interest requirements include but are not limited to the following:

1. The requirement that no LPA elected official, officer, or employee who participates in the procurement, management, or administration of engineering services contracts or subcontracts shall have, directly or indirectly, any financial or other interest in connection with such engineering contracts or subcontracts. For instance, a county may not enter into a contract with a professional design firm if the county engineer is also a member of that professional design firm.
2. The requirement that no person or entity performing services for a LPA shall have, directly or indirectly, any financial or other interest in any real property acquired for the project.
3. The person or entity performing services for a LPA may perform design and construction engineering/management and/or inspection on the same project provided the LPA has established the necessary controls and provides sufficient oversight to ensure that a conflict of interest does not exist, or has approved procedures to mitigate any conflict or potential for a conflict. Prior to allowing a person or entity to provide engineering services on multiple phases of a project, the LPA shall evaluate that their policies, procedures, and practices associated with the procurement, management, and administration of engineering consultant services comply with Federal and State laws and FHWA requirements.

   A person or entity performing construction engineering/management and/or inspection services on the same project on which the person or entity also performed design services provides the person or entity an opportunity to influence or affect project decisions on scope changes, design changes, construction revisions, contract change orders, and other related issues. This may result in project delivery efficiencies, as the person or entity that designed the project is well-suited to verify that the project is being constructed in accordance with the design and may resolve issues related to the design on behalf of the contracting agency. However, procuring a different person or entity other than the consultant to provide the necessary construction engineering/management and/or inspection services provides another level of review and reduces the potential for a conflict of interest.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

5-5.05 Retainage

The LPA may withhold retainage on state, MFT, or TBP funded engineering services agreements. However, withholding retainage provides no substantial benefits to the LPA. The LPA shall not withhold retainage on federally funded engineering agreements.

5-5.06 Qualifications Based Selection for Engineering and Professional Services

5-5.06(a) Introduction

The principal objective of the QBS procedures is to allow a LPA to locate a qualified consultant to undertake the project; then, through negotiations, engage the consultant to provide the creative and technical work required at a fair and reasonable cost. The area and magnitude of responsibility in the process can vary widely according to project type.

5-5.06(b) Applicability

The procurement procedures outlined in Section 5-5.06(c) and (e) apply to the selection of all engineering and professional services based on the following funding type parameters:

1. State, MFT or TBP Funded Engineering and Professional Services. QBS procedures for public notice, evaluation, selection, and contract negotiations shall be used whenever a project requiring architectural, engineering, or land surveying services is proposed for a LPA of fewer than 3,000,000 inhabitants, except home rule units, unless the LPA has a satisfactory relationship for services with one or more firms (50 ILCS 510).

   A LPA may also waive the requirements of public notice, evaluation and selection if the LPA determines, by resolution, that an emergency situation exists and a consultant must be selected in an emergency manner, or if the total cost of services from a consultant is estimated to be less than $25,000 (50 ILCS 510/8). If the LPA estimates the total cost of services within the contract will be less than $25,000, IDOT will not approve any agreement or supplemental that exceeds the $25,000 threshold; unless the LPA followed state statutes.

2. Federally Funded Engineering Services. LPAs shall use QBS in accordance with The Brooks Act, (40 USC 11) and the FHWA's requirements for Procurement, Management, and Administration of Engineering and Design related Services (23 CFR 172) to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications for the type of engineering and design related services being procured, and at a fair and reasonable price.

   If the cost of any individual contract for engineering services (Phase I, II, III, etc.) will be less than $25,000, then the small purchase procurement method may be used. The following additional requirements shall apply to the small purchase procurement method:

   a. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.

   b. A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed. In instances where only two qualified consultants

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

respond to the solicitation, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements which arbitrarily limited competition. If only one qualified consultant responds to the solicitation, the LPA shall contact the District LR&S office.

c. Contract costs may be negotiated in accordance with State small purchase procedures; however, the allowability of costs shall be determined in accordance with the Federal cost principles.

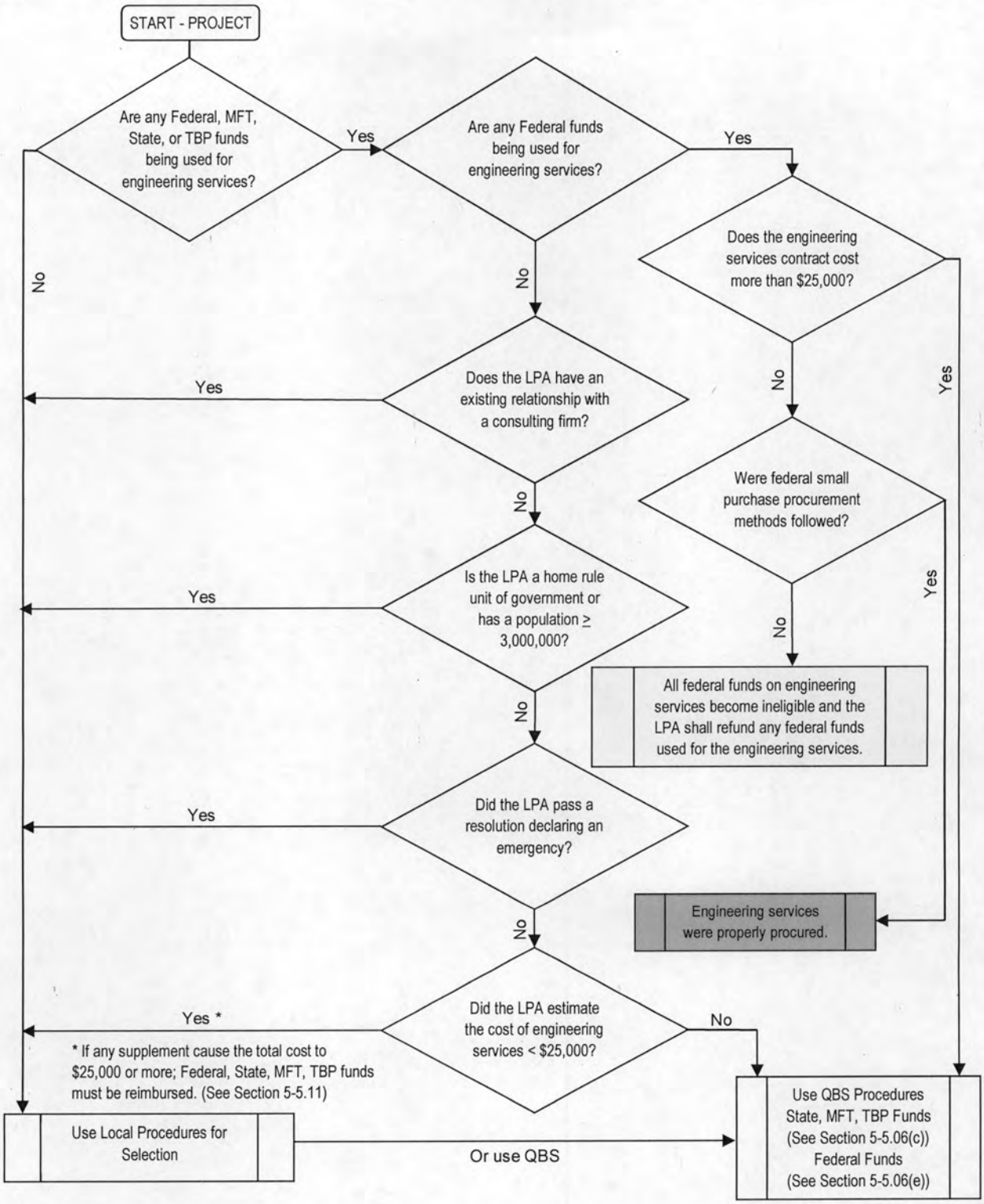
d. If the cost of any supplemental changes to the contract for the engineering services exceeds $25,000 and federal QBS procedures were not followed, federal funds become ineligible above the $25,000 on engineering services. The LPA may be required to refund any and all federal funds used for the engineering services.

If a consultant is selected to work on multiple phases of a project, the dollar limits apply to the total combined cost of all included phases. If the LPA included an option to perform one or more other phases as part of the original solicitation, the LPA is then not required to conduct another QBS unless the LPA elects to select a different consultant for subsequent phases.

3. Locally Funded Engineering Services. The IDOT does not have oversight over contracts for engineering services funded entirely with local funds. However, the LPA is still required to comply with 50 ILCS 510.

The procurement method used for selection of engineering services will not impact funding for the construction of a project.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)



REQUIREMENTS FOR QBS

Figure 5-5A

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

5-5.06(c) State Required QBS Procedures using State, MFT or TBP Funds

The procedure for State required QBS procurement consists of the following five basic steps:

1. Define the Project. Clearly define the scope of the services desired. Depending on the amount of data, this may be on one or more pages. This information should include the following:
   - describe in general terms the need, purpose, and objective of the project;
   - identify the various project components;
   - establish the desired timetable for the effort;
   - identify any expected problems; and
   - determine the total project budget.

   A comprehensive evaluation of the problem or need that resulted in the project is essential to the procurement process. The solution, approach, and eventual design for the project will evolve out of the expertise offered by the consultant responding to the request for technical proposals. To ensure that the respondents address the project properly and effectively, clearly articulate all known parameters of the project.

   The LPA may skip to Step 5 when both of the following criteria are met.
   - The LPA elects to select a consultant that has a satisfactory working relationship with the LPA; and
   - The engineering services contract is being paid for using State, MFT, or TBP funds.

2. Public Notice. Whenever a project requiring engineering services is proposed, the LPA shall post a public notice requesting a statement of interest along with the qualifications and performance data from consultants. This may be accomplished through an advertisement in a local newspaper, posting on the LPA's website, or through various trade magazines or websites.

   Consider the following sources when preparing a list of potential firms:
   - identification of consultants from the LPA's or IDOT's file;
   - a directory or source list identifying small, minority, and women owned businesses with capabilities relevant to the project;
   - discussions with other persons or agencies who have accomplished similar work;
   - lists of consultants secured from professional societies; and/or
   - lists of consultants secured from the agency's own experience of consultants.

3. Evaluation. The LPA shall evaluate the consultant submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the consultant, and such other qualifications-based factors.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

The first objective of evaluation is the elimination of all respondents who are not qualified or who do not have the experience for the required work. The LPA may conduct discussions with and require presentations by consultants deemed to be the most qualified based on their qualifications, approach to the project, and ability to furnish the required services. When conducted, interviews shall occur separately with a minimum of three consultants, or all qualified consultants if less than three qualified consultants respond. If the LPA decides to conduct discussions with and/or require presentations by consultants deemed to be the most qualified, this should be included in the public notice.

In no case shall the LPA, prior to selecting a consultant for negotiation, seek formal or informal submission of verbal, written, or sealed estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

4. Selection. On the basis of evaluations, discussions and presentations, the LPA shall select no less than three consultants which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The LPA shall then contact the consultant ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. Typical criteria for evaluating and ranking consultants are included in Figure 5-5B. If fewer than three qualified consultants submit letters of interest and the LPA determines that one or both are so qualified, the LPA may proceed to negotiate a contract.

5. Contract Negotiation. The LPA shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified consultant at compensation that the political subdivision determines in writing to be fair and reasonable. In making this decision, the political subdivision shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

An important objective of the negotiation process is to reach a complete and mutual understanding of the scope of professional services to be provided and the degree of performance desired. The general scope of professional services developed in the procurement process should be broad in order to serve as the basis for negotiation. The negotiation process offers the opportunity for refinement, amendment, and complete definition of the services to be rendered, as well as the areas of responsibility and liability for those services. Mutual understanding on these points at the negotiation stage can minimize the possibility of misunderstanding as the project progresses.

Special elements of the engineering portion of the project to be established during negotiation include:

- project schedule,
- manpower requirement and timing,
- level of engineering effort,
- avenues of research, and
- areas of responsibility/liability.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Any percentage fee contract should be fully supported by an acceptable estimate of man-hours, anticipated hourly payroll rates by classification of employee for the project, and applicable overhead and burden rates. These rates should be evaluated and, if determined to be acceptable, the percentage fee may be approved by the district.

The consultant's method of dividing the project into work units and calculating related time units are to be such that the estimate can be readily reviewed. The consultant will use its own estimates of man-hours, rates of pay, overhead, profit, and itemized non-salary costs based on the consultant's work force and past job experience.

When the prime consultant requires the services of another consultant to provide expertise, advice, or information to the prime consultant, the prime consultant will complete an analysis of fee for engineering services (including a breakdown of direct salary and direct non-salary costs) or supply specific rate for services (e.g. testing). The consultant is responsible for ensuring that Disadvantage Business Enterprises (DBEs) will have an equitable opportunity to compete for subcontracts. See Chapters 8 and 24 for information on DBEs for LPAs.

Contracts between LPAs and consultants must be set forth in fully executed agreements. If there is an agreement with the consultant, and if the fee is within range of the budget, proceed to finalize an agreement. If problems arise with the scope of the project or the fee, further discussion and clarification may be required.

Selection of a consultant by qualification provides no guarantee that the LPA and the consultant will come to an agreeable fee. For that reason, the ranking process provides, in addition to the first preference, at least two alternative qualified consultant. If agreement cannot be reached on the scope and fee, the LPA may drop negotiations with the top-ranked consultant and continue the process with the second ranked consultant at Step 5.

6. Summary. Ranking and negotiations involve a considerable amount of subjective judgment. Because engineering projects involve a large expenditure of public funds, accountability for decisions and value judgments is most important. To ensure adequate accountability:
   - involve more than one knowledgeable person in the evaluation process,
   - be consistent in reviewing each applicant,
   - keep accurate and complete records of all correspondence, memoranda, evaluations, and decisions.

The primary purpose of undertaking the QBS process is to locate the most qualified consultant to do the work and negotiate a fair and equitable agreement. Federal and Illinois law limits the selection of consultant by using cost except for up to $25,000 contracts. The selection shall be based on the consultant's experience and expertise in projects of the same type as proposed.

5-5.06(d) Development of Selection Criteria and Weighting

LPAs must determine and publish selection criteria and weightings for projects requiring federal QBS. These criteria and weightings are also suggested for all projects. The criteria "must assess the demonstrated competence and qualifications for the type of professional services solicited". The total of all weights must equal 100%. Factors may include (but are not limited to):

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

- Technical Approach (10 - 30%)
  - e.g., project understanding,
  - innovative concepts,
  - quality control procedures, or
  - other items
- Firm Experience (10 - 30%)
- Specialized Expertise (10 - 30%)
- Staff Capabilities (Prime/Sub) (10 - 30%)
- Work Load Capacity (10 - 30%)
- Past performance (10 - 30%)

In addition there are two nominal non-qualifications based criteria for evaluation. They are limited to a weight of 10% combined*:

- In-State or Local Presence (0 - 10%)*
  - not based on political or jurisdictional boundaries and may be applied on a project by project basis,
  - used where a need to provide a local presence has been established, a local presence will add value to quality and efficiency of the contract and application of the criteria leaves an appropriate number of qualified consultants, and/or
  - if the consultant indicates in the proposal that a local project office will be established the criteria is satisfied.
- Participation of Qualified and Certified DBE Sub-consultants (0 - 10%)*

The following shall <u>not</u> be used as a factor in the evaluation, ranking and selection:

- All price and cost related items.
  - This includes: cost proposals, direct salaries/wage rates; indirect costs (overhead), and other direct costs.
- In-State or Local Preference (other than as explained above).

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

The weight given to each evaluation criterion in the ranking process may vary from project to project, with more weight towards the criteria that are critical to the success of the project. Typical technical criteria for both evaluating and ranking entities should include but not be limited to the following:

(1) The education, experience, and expertise of the entity's principals and key employees.

(2) The entity's general experience, stability, and history of performance on projects similar to the one under consideration.

(3) Availability of adequate personnel, equipment, and facilities to do the required work expeditiously.

(4) The name, or names, of individuals in the entity who will be assigned key project responsibilities, with particular attention to their qualification, competence, and past performance.

(5) The entity's approach to the planning, organizing, and management of a project effort, including communication procedures, approach to problem solving, data gathering methods, evaluation techniques, and similar factors.

(6) Facilities and equipment owned by the entity, including computer capability, reproduction and communication equipment, laboratory and testing equipment, or other specialized equipment applicable to the project under consideration.

(7) Present workload with attention to current and future commitments of available personnel, particularly those key persons expected to be assigned to your project.

(8) Financial stability, with particular attention to avoiding a situation in which the entity is solely dependent on income from the project at hand for its existence.

(9) Recommendations and opinions of each entity's previous clients as to its ability to meet deadlines and remain within budget. Prior clients may also be able to advise you as to each entity's sense of responsibility; attitudes of key personnel; concern for economy, efficiency, and environment; and quality of service.

(10) If practical, observation of each entity's facility and the sites of current and/or completed projects.

(11) The reputation and integrity of the engineering entity within the professional field and the community.

(12) Awards received by the entity and technical papers authored by employees.

(13) Special considerations for some projects might include staff conversant in foreign languages.

Non-technical criteria may not exceed 10% of the total evaluation and rank weighting. Typical non-technical criteria for both evaluating and ranking entities may include but not be limited to the following:

1. Proximity of the engineering entity to the proposed project site and/or the agency's office.
2. Qualified minority representation.
3. How DBE goals are addressed.

CONSULTANT RANKING CRITERIA

Figure 5-5B

5-5.06(e) Federal QBS Requirements

For engineering agreements $25,000 or greater which include federal funds, LPAs are required to use QBS which is fully compliant with Federal requirements of 23 CFR 172 and the Brooks Act. As sub-grantees LPAs must use competitive negotiation based on qualifications based selection procedures and is the primary method of procurement for engineering and design related services using federal funding. See Figure 5-5C for specific requirements.

The procedure for federal QBS procurement consists of the following steps:

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

1. Initial Administration. LPAs shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services.

2. Written Policies and Procedures. The LPA shall prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related consultant services. If the LPA follows the policies and procedures in Section 5-5, this will sufficient, however; if the LPA decides to develop their own QBS procedures then FHWA approval is required, see Section 5-5.06(g).

3. Define the Project. Clearly define the scope of the services desired. Depending on the amount of data, this may be on one or more pages. This information should include the following:
   - describe in general terms the need, purpose, and objective of the project;
   - identify the various project components;
   - establish the desired timetable for the effort;
   - identify any expected problems; and
   - determine the total project budget.

   A comprehensive evaluation of the problem or need that resulted in the project is essential to the procurement process. The solution, approach, and eventual design for the project will evolve out of the expertise offered by the consultant responding to the request for technical proposals. To ensure that the respondents address the project properly and effectively, clearly articulate all known parameters of the project.

4. Public Notice. Whenever a project requiring engineering services is proposed, the LPA shall post a public notice requesting a statement of interest along with the qualifications and performance data from consultants. This may be accomplished through an advertisement in a local newspaper, posting on the LPA's website, or through various trade magazines or websites.

   Consider the following sources when preparing a list of potential firms:
   - identification of consultants from the LPA's or IDOT's file;
   - a directory or source list identifying small, minority, and women owned businesses with capabilities relevant to the project;
   - discussions with other persons or agencies who have accomplished similar work;
   - lists of consultants secured from professional societies; and/or
   - lists of consultants secured from the agency's own experience of consultants.

5. Conflicts of Interest. See Section 5-5.04.

6. Suspension And Debarment. Verify any suspension and debarment actions and eligibility of consultants.

7. Evaluation. The LPA shall evaluate the consultant submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, workload of the consultant, and other qualifications-based factors.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

The first objective of evaluation is the elimination of all respondents who are not qualified or who do not have the experience for the required work. The LPA may conduct discussions with and require presentations by consultants deemed to be the most qualified based on their qualifications, approach to the project, and ability to furnish the required services. When conducted, interviews shall occur separately with a minimum of three consultants, or all qualified consultants if less than three qualified consultants respond. If the LPA decides to conduct discussions with and/or require presentations by consultants deemed to be the most qualified, this must be included in the public notice.

In no case shall the LPA, prior to selecting a consultant for negotiation, seek formal or informal submission of verbal, written, or sealed estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

8. Selection. On the basis of evaluations, discussions and presentations, the LPA shall select no less than three consultants which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The LPA shall then contact the consultant ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. Typical criteria for evaluating and ranking consultants are included in Figure 5-5B. If fewer than three qualified consultants submit letters of interest and the LPA determines that one or both are so qualified, the LPA may proceed to negotiate a contract.

9. Contract Negotiation. The LPA shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified consultant at compensation that the political subdivision determines in writing to be fair and reasonable. In making this decision, the political subdivision shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

An important objective of the negotiation process is to reach a complete and mutual understanding of the scope of professional services to be provided and the degree of performance desired. The general scope of professional services developed in the procurement process should be broad in order to serve as the basis for negotiation. The negotiation process offers the opportunity for refinement, amendment, and complete definition of the services to be rendered, as well as the areas of responsibility and liability for those services. Mutual understanding on these points at the negotiation stage can minimize the possibility of misunderstanding as the project progresses.

Special elements of the engineering portion of the project to be established during negotiation include:

- project schedule,
- manpower requirement and timing,
- level of engineering effort,
- avenues of research, and
- areas of responsibility/liability.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Any percentage fee contract should be fully supported by an acceptable estimate of man-hours, anticipated hourly payroll rates by classification of employee for the project, and applicable overhead and burden rates. These rates should be evaluated and, if determined to be acceptable, the percentage fee may be approved by the district.

The consultant's method of dividing the project into work units and calculating related time units are to be such that the estimate can be readily reviewed. The consultant will use its own estimates of man-hours, rates of pay, overhead, profit, and itemized non-salary costs based on the consultant's work force and past job experience.

When the prime consultant requires the services of another consultant to provide expertise, advice, or information to the prime consultant, the prime consultant will complete an analysis of fee for engineering services (including a breakdown of direct salary and direct non-salary costs) or supply specific rate for services (e.g. testing). The consultant is responsible for ensuring that DBEs will have an equitable opportunity to compete for subcontracts. See Chapters 8 and 24 for information on DBEs for LPAs.

Contracts between LPAs and consultants must be set forth in fully executed agreements. If there is an agreement with the consultant, and if the fee is within range of the budget, proceed to finalize an agreement. If problems arise with the scope of the project or the fee, further discussion and clarification may be required.

Selection of a consultant by qualification provides no guarantee that the LPA and the consultant will come to an agreeable fee. For that reason, the ranking process provides, in addition to the first preference, at least two alternative qualified consultants. If agreement cannot be reached on the scope and fee, the LPA may drop negotiations with the top-ranked consultant and continue the process with the second ranked consultant at Step 9. The LPA shall develop procedures for proper disposal of concealed cost proposals of unsuccessful bidders.

10. Acceptable Costs. IDOT will review and approve the engineering agreement to verify elements of contract costs, acceptable indirect cost rate(s) for application to contracts, and assuring consultant compliance with the Federal cost principles.

11. Invoice Processing. See Section 5-10.

12. Ongoing and Finalizing Administration. The following are ongoing and finalizing requirements:

- Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
- Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;
- Closing-out a contract;
- Retaining supporting programmatic and contract records;
- Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;
- Assessing administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and providing for such sanctions and penalties as may be appropriate; and

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

- Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

13. Summary. Ranking and negotiations involve a considerable amount of subjective judgment. Because engineering projects involve a large expenditure of public funds, accountability for decisions and value judgments is most important. To ensure adequate accountability:
    - involve more than one knowledgeable person in the evaluation process,
    - be consistent in reviewing each applicant,
    - keep accurate and complete records of all correspondence, memoranda, evaluations, and decisions.

The primary purpose of undertaking the QBS process is to locate the most qualified consultant to do the work and negotiate a fair and equitable agreement. Current federal regulations limit the amount to the lesser of $150,000 or state limits (50 ILCS 510/8), which is currently up to $25,000 contracts without following federal QBS requirements in the selection of a consultant. The selection shall be based on the consultant's experience and expertise in projects of the same type as proposed.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

Per 23 CFR 172.5 - Program management and oversight.

(a) ***STA responsibilities***. STAs or other recipients ... *(i.e. STA State Transportation Agency – IDOT)*

(b) ***Subrecipient responsibilities***. Subrecipients shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services, reimbursed in whole or in part with FAHP funding as specified in 23 U.S.C. 106(g)(4)(A). Responsibilities shall include the following:

(1) Adopting written policies and procedures prescribed by the awarding STA or other recipient for the procurement, management, and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations; or when not prescribed, shall include:

(i) Preparing and maintaining its own written policies and procedures in accordance with paragraph (c) of this section; or

(ii) Submitting documentation associated with each procurement and subsequent contract to the awarding STA or other grantee for review to assess compliance with applicable Federal and State laws, regulations, and the requirements of this part;

(2) Procuring, managing, and administering engineering and design related consultant services in accordance with applicable Federal and State laws, regulations, and approved policies and procedures, as specified in 23 CFR 1.9(a).

(c) Written policies and procedures. The contracting agency shall prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related consultant services. The FHWA shall approve the written policies and procedures, including all revisions to such policies and procedures, of the STA or recipient to assess compliance with applicable requirements. The STA or other recipient shall approve the written policies and procedures, including all revisions to such policies and procedures, of a subrecipient to assess compliance with applicable requirements. These policies and procedures shall address, as appropriate for each method of procurement a contracting agency proposes to use, the following items to ensure compliance with Federal and State laws, regulations, and the requirements of this part:

(1) Preparing a scope of work and evaluation factors for the ranking/selection of a consultant;

(2) Soliciting interests, qualifications, or proposals from prospective consultants;

(3) Preventing, identifying, and mitigating conflicts of interest for employees of both the contracting agency and consultants and promptly disclosing in writing any potential conflict to the STA and FHWA, as specified in 2 CFR 200.112 and 23 CFR 1.33, and the requirements of this part.

(4) Verifying suspension and debarment actions and eligibility of consultants, as specified in 2 CFR part 1200 and 2 CFR part 180;

(5) Evaluating interests, qualifications, or proposals and the ranking/selection of a consultant;

(6) Determining, based upon State procedures and the size and complexity of a project, the need for additional discussions following RFP submission and evaluation;

(7) Preparing an independent agency estimate for use in negotiation with the selected consultant;

FEDERAL QBS REQUIREMENTS
(Sheet 1 of 2)

Figure 5-5C

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

(8) Selecting appropriate contract type, payment method, and terms and incorporating required contract provisions, assurances, and certifications in accordance with § 172.9;

(9) Negotiating a contract with the selected consultant including instructions for proper disposal of concealed cost proposals of unsuccessful bidders;

(10) Establishing elements of contract costs, accepting indirect cost rate(s) for application to contracts, and assuring consultant compliance with the Federal cost principles in accordance with § 172.11;

(11) Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;

(12) Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;

(13) Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;

(14) Closing-out a contract;

(15) Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;

(16) Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;

(17) Assessing administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and providing for such sanctions and penalties as may be appropriate; and

(18) Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

FEDERAL QBS REQUIREMENTS
(Sheet 2 of 2)

Figure 5-5C

5-5.06(f) Major Differences between Federal and State Requirements

The major differences between federal and state requirements are:

- The existing relationship and home rule requirements permitted with state, MFT, and TBP QBS are not allowed for federal QBS.
- IDIQ contracts are limited to a maximum term length of five years for federal QBS.
- A maximum of 10% of the evaluation criteria can be assigned to local presence and DBE participation for federal QBS.
- Notification must be provided to responding applicants of the final ranking of the three most highly qualified applicants for federal QBS.

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)

- Preparing a consultant's performance evaluation when services are completed and using such performance data and ranking of the consultant with regard to providing similar services in the future is required for federal QBS.
- Additional work which was not included in the scope of services and evaluation criteria may not be allowed to be added to contracts for federal QBS.
- Retention of contract records is required.
- If non-competitive procurement is used; it must be approved by IDOT in advance for federal QBS.
- LPAs are responsible for ensuring a consultant's costs billed are allowable in accordance with the federal cost principles and consistent with the contract terms for federal QBS.

5-5.06(g) IDOT Approval of LPA's QBS Procedures

When federal funds are used to fund a portion of engineering and design related services, LPAs must submit their QBS procedures to IDOT, unless the LPA follows the QBS requirements in Section 5-5.06(e). CBLRS shall review the LPA's QBS procedures for compliance with state and federal regulations. CBLRS will coordinate approval of the LPA's QBS procedures with FHWA.

The LPA's QBS procedures should address items discussed in Section 5-5.06, along with:

- Purpose and applicability.
- Definitions.
- Program management and oversight.
- Procurement methods and procedures.
- Contracts and administration.
- Allowable costs and oversight.

The above topics are expanded in 23 CFR 172 – *Procurement, Management, And Administration of Engineering and Design Related Services.*

Attachment: IDOT_BLRS-Chapter5_20170628 (6164 : General - 82 - Repeal and replace Consultant Selection Policy)