Consultant Selection & Contract Administration for Certified LPAs

- Welcome! The training will begin at 9:00am.
- Please make sure your microphone is muted unless asking a question.
- Questions can be asked in chat and there will also be time for questions at the end.
- Did you complete the pre-learning activity? We will begin with a poll on what you found.



We have a lot to cover today! As we are going to record this session, please keep your microphones muted. If you have a question, please put it in the chat. We are monitoring the chat, and if a question needs answering during the flow of the training, we will get to it. Otherwise, we will handle questions at the end to help keep the recording cleaner for future use. While the formal training portion is scheduled to wrap up at 11:30 am, we are available after that to continue answering questions if necessary.

POLL QUESTION

Did you locate the following resources and documents? Select all that apply:

- LAG manual
- LPA A&E Requirements Guide
- LPA Non-A&E PSK Requirements Guide
- Statement of Work Library
- Required Templates & Forms for Certified LPAs (including RFP & contract templates)
- OAR 137-048 (Oregon Model Rules Consultant Selection (A&E))
- <u>23 CFR 172</u> (Federal regulations related to Procurement of A&E Services)
- Procurement, Management, & Administration of Engineering & Design Related Services – Questions & Answers

Launch poll while people are entering/getting settled. Note that some people have difficulty seeing the interactive poll—in that case, feel free to put your answers in the chat if you feel comfortable.

Review poll results, note that we will go over where to locate these resources during the presentation.

Also, you may have noted there was a typo in the email on the federal regulations — the correct citation is here.

HIT RECORD AFTER CHANGE TO NEXT SLIDE



HIT RECORD

Welcome to today's training on Consultant Selection & Contract Administration for Certified Local Public Agencies. I'm Hanne Eastwood, Certification Compliance Coordinator in the ODOT Certification Program Office, and with me today are Tiffany Hamilton, Certification Program Manager, and Kim Rice, from the ODOT Procurement Office.

TRAINING AGENDA AND LEARNING OBJECTIVES

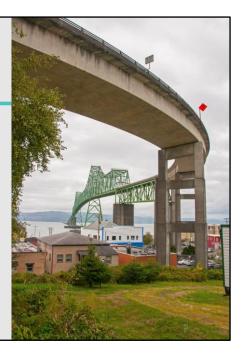
- Primary Objective: Overview of consultant selection and contract administration processes for Certified LPAs
- Gain familiarity with where to locate the guides, templates and required forms.
- Understand whether the services sought are for Architecture & Engineering (A&E) or planning and other personal services (non-A&E).
- Understand the main procurement methods (small purchase, informal/intermediate, formal).
- Gain familiarity with how to use templates and the Statement of Work Library to draft Requests for Proposals (RFPs) and contracts.

4

The primary objective of today's training is to provide an overview of consultant selection and contract administration for certified local public agencies. As our time is limited, we hope to provide you with an understanding of where to go for guidance, how identify which guidance applies to your solicitation, and an understanding of the main procurement methods and processes.

SCOPE OF CERTIFICATION

- To become a Certified LPA, agencies must demonstrate competency in the methods of consultant selection and contract administration for A&E and non-A&E services as needed to deliver the LPA's certified projects.
- Key Qualified Staff: A&E Procurement
 - Who is your agency procurement contact for federal-aid projects?



As we go through the training, keep in mind that local agency work on federal-aid projects happens in the context of the ODOT certification program requirements and guidelines.

To become a Certified LPA, agencies must demonstrate **competency** in the methods of consultant selection and contract administration for A&E and non-A&E services as needed to deliver the LPA's certified projects.

This means each agency's certification includes demonstration of the agency's ability to conduct procurements using small purchase, informal/intermediate, formal or all methods. You can find out what types of procurements are included in your agency's certification in your agency's certification agreement or by asking your agency's certification liaison.

In order to demonstrate competency, agencies complete a demonstration project for each type of procurement, with review by ODOT during the process.

Additionally, and probably most importantly, each agency must identify a staff person who is experienced and qualified in A&E or non-A&E procurement on the Key

Qualified Staff form. This is subject to ODOT approval.

The bottom line is that each agency should have at least one staff person who has federal procurement experience. If you are a project manager, or other local agency staff person who is involved in consultant selection, you should be aware of who your agency's procurement resource is and that person should be involved in all procurements for consultant services on federal-aid projects.

POLL QUESTION

Can you identify your agency's procurement resource?

Note: This may be one or multiple staff people, depending on the agency.

6

LAUNCH POLL

Do you know who your agencies procurement resource or resources are? If you are an ODOT employee or a consultant, you can select N/A for this poll.

Go over results.

If you aren't familiar with your agency's procurement staff is, we recommend finding out.



WHERE CAN I FIND THAT? A TOUR OF RESOURCES

• ODOT Local Government Page

7

In addition to your agency's procurement resources, there are a number of resources on ODOT's website that you should be familiar with. I'm going to give you a quick tour of where to locate the main resources.

I recommend bookmarking and starting from the ODOT Local Government page. Under the guidance category:

LAG manual—point out chapter 12. Note that if you are searching, recommend using the full document as some topics are covered in multiple chapters. For example, chapter 8, which covers civil rights, also has information about consultant selection.

Certified Local Agency Resources for Consultant Selection — takes you to ODOT procurement office website

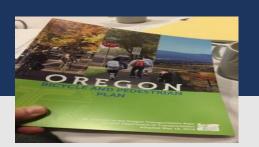
go through menu options, point out: A&E and non-A&E Requirements Guide, templates, forms.



Architecture & Engineering (A&E)

Oregon Department of Transportation: Certified Local Agency Resources for Consultant Selection:

Procurement



Planning and Personal Services (non-A&E)

8

Now that we've covered the main resources, we will cover the two types of procurement, and the primary methods and rules that apply to each.

There are two main categories of procurements that certified LPA staff will use.

Architecture & Engineering and other related services — referred to as A&E--will be the type used in the large majority of projects.

However, Metropolitan Planning Organizations (MPOs) will more typically use non-A&E planning and personal services procurements, and some cities and counties may need to use non-A&E procedures as well for certain projects.

As the rules and procedures for the two approaches vary, an early step in any consultant selection process is to determine whether A&E or non-A&E rules apply. As we covered earlier, there 2 separate guides: one used for A&E and one for non-A&E.

So how do you know whether A&E or non-A&E rules apply?

Rule of Thumb: A&E Contracting Rules Apply Unless:

The predominant purpose (more than 50% of the cost) of the prospective contract will be for non-A&E planning services or other non-A&E/non-construction services.

But what does that mean?!

- See the <u>LPA Non-A&E PSK Requirements</u> <u>Guide</u>, page 1 under "Applicability," for a description and examples of non-A&E planning services.
- Typically, if the contract requires the services of a licensed engineer or architect and are for a specific public improvement project, A&E contracting rules apply.
- Classify the procurement as A&E if the estimate indicates it is likely more than 40% of the costs (not tasks) will be for A&E related services.
- Still unsure? Contact your agency procurement specialist or ODOT Procurement before proceeding.

S

Rule of thumb, particularly for cities and counties, is that A&E contracting rules typically apply.

Non-A&E rules apply if the predominant purpose of the contract is for non-A&E planning services, such as developing a Regional Transportation System Plan. If the prospective contract requires the services of a licensed engineer or architect and are for a specific public improvement project, A&E contracting rules apply.

However, if the estimates indicate it is likely that more than 40% of the costs will be for A&E related services, it is recommended to use A&E contracting rules as those costs could increase during negotiation or due to a contract amendment as this would trigger the requirement to follow A&E rules.

If you refer to the LPA A&E or non-A&E requirements guides and are still unsure whether A&E or non-A&E contracting rules apply, please discuss with your local procurement specialist or ODOT procurement BEFORE proceeding.

POLL QUESTION:
Based on the
project description
provided, is the
project likely to
use A&E or nonA&E rules?

PROJECT 1

Project Description/Scope: The purpose of the Multimodal Plan is to identify a continuous route extending from the City of Brooks in Cost County eastward to the City of Profit in Time County.

The route will provide an alternative to automobile travel between those communities, as well as recreational opportunities for local residents and tourists. The total distance is approximately six miles. The completed route will be a part of the larger Brooks River Greenway.

The Plan will be adopted as part of the Transportation System Plan of the City of Brooks, the City of Profit, Cost County, and Time County, and amended into the Regional Transportation Plan (RTP).

It is estimated that 30% of contract work will be for planning services, 40% for survey, 15% for mapping, 5% for public involvement and 10% for project management.

1

There are several project scenarios that we will be referring to throughout the training. To make it easier for you to reference, we have provided the scenarios as a separate handout that provides the full scenario. A summary of the information is on the slide.

Handout link:

https://www.oregon.gov/odot/LocalGov/Documents/CU G%20Consultant%20Selection%20Training-Project%20Scenarios.pdf

Read project scenario 1, launch poll.

Correct answer: A&E, will cover why in next slide.

POLL QUESTION: What elements of the project description factored into your decision to apply A&E or non-A&E rules?

PROJECT 1

Project Description/Scope: The purpose of the Multimodal Plan is to identify a continuous route extending from the City of Brooks in Cost County eastward to the City of Profit in Time County.

The route will provide an alternative to automobile travel between those communities, as well as recreational opportunities for local residents and tourists. The total distance is approximately six miles. The completed route will be a part of the larger Brooks River Greenway.

The Plan will be adopted as part of the Transportation System Plan of the City of Brooks, the City of Profit, Cost County, and Time County, and amended into the RTP.

It is estimated that 30% of contract work will be for planning services, 40% for survey, 15% for mapping, 5% for public involvement and 10% for project management.

1

Based on the same fact scenario, what elements of the project description factored into your decision to apply A&E or non-A&E rules?

Launch poll.

Go over results.

Key factors: While this is a planning heavy project, it is project specific and requires a significant amount of work that requires an engineer or architect.

POLL QUESTION:
Based on the
project description
provided, is the
project likely to
use A&E or nonA&E rules?

PROJECT 2

Project Description/Scope: The scope of this Project is limited to the scoping and survey design work included in phases 1 and 2 of a household survey for travel demand and long-range transportation planning and public policy development. Pending availability of funding, the contract may be amended to add phase 3 work: survey implementation.

Phase 1 Scoping: Identify key needs and issues, select appropriate survey strategies, and prepare a work plan for survey implementation that is sensitive to agency budgets and timelines.

Phase 2 Survey Design: Develop a plan for collecting and sampling data; prepare household recruitment strategies; develop a demographic post-stratification expansion methodology to account for important demographic characteristics such as income, age, and household size; and develop and test the final survey instrument in preparation for survey implementation.

1

Read project scenario 2.

Launch poll.

Non-A&E rules apply.

POLL QUESTION: What elements of the project description factored into your decision to apply A&E or non-A&E rules?

PROJECT 2

Project Description/Scope: The scope of this Project is limited to the scoping and survey design work included in phases 1 and 2 of a household survey for travel demand and long-range transportation planning and public policy development. Pending availability of funding, the contract may be amended to add phase 3 work: survey implementation.

Phase 1 Scoping: Identify key needs and issues, select appropriate survey strategies, and prepare a work plan for survey implementation that is sensitive to agency budgets and timelines.

Phase 2 Survey Design: Develop a plan for collecting and sampling data; prepare household recruitment strategies; develop a demographic post-stratification expansion methodology to account for important demographic characteristics such as income, age, and household size; and develop and test the final survey instrument in preparation for survey implementation.

13

Based on the same fact scenario, what elements of the project description factored into your decision to apply A&E or non-A&E rules?

Launch poll.

Go over results.

Key factors: This is a planning project, non-A&E. It does not relate to a specific public improvement project, and does not require the services of a licensed engineer or architect.

POLL QUESTION:
Based on the
project description
provided, is the
project likely to
use A&E or nonA&E rules?

PROJECT 3

Project Description/Scope: Project includes survey and geotechnical services to determine surface and subsurface conditions in an area of road pavement impacted by landslide activity and production of a slide mitigation design analysis for an emergency repair project.

14

Read project scenario 2.

Launch poll.

A&E

POLL QUESTION: What elements of the project description factored into your decision to apply A&E or non-A&E rules?

PROJECT 3

Project Description/Scope: Project includes survey and geotechnical services to determine surface and subsurface conditions in an area of road pavement impacted by landslide activity and production of a slide mitigation design analysis for an emergency repair project.

15

Based on the same fact scenario, what elements of the project description factored into your decision to apply A&E or non-A&E rules?

Launch poll.

Go over results.

For a specific project, requires licensed engineers.

POLL QUESTION:
Based on the
project description
provided, is the
project likely to
use A&E or nonA&E rules?

PROJECT 4

Project includes reconstruction of Time Drive between Profit Street and Cost Avenue including drainage, bike lanes, sidewalks, and access consolidation. The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof (note: Map not included with the training scenario documents). The scope of work includes preliminary engineering, right of way acquisition, final design and related services ("Services").

16

Read project scenario 4.

Launch poll.

A&E

POLL QUESTION: What elements of the project description factored into your decision to apply A&E or non-A&E rules?

PROJECT 4

Project includes reconstruction of Time Drive between Profit Street and Cost Avenue including drainage, bike lanes, sidewalks, and access consolidation. The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof (note: Map not included with the training scenario documents). The scope of work includes preliminary engineering, right of way acquisition, final design and related services ("Services").

17

Based on the same fact scenario, what elements of the project description factored into your decision to apply A&E or non-A&E rules?

Launch poll.

Go over results.

For a specific project, requires licensed engineers.

TYPES OF CONSULTANT SELECTION



Small Purchase (Typically A&E only)



Informal (A&E)
or
Intermediate (non-A&E)



Formal (A&E and non-A&E)

18

Once you have determined whether A&E or non-A&E procurement rules apply, the next step is to determine which of the main procurement methods will be used for your solicitation.

There are 3 main methods.

Small Purchase--which you may also have seen referred to as direct appoint and is called direct appoint in Oregon statute. Small purchase applies primarily only to A&E contracts due to the lower dollar thresholds for non-A&E.

Informal or intermediate, depending on whether A&E or non-A&E

Formal procurement.

TYPES OF CONSULTANT SELECTION: COMPARISON OF THRESHOLDS

Type of Contract	Small Purchase	Informal or Intermediate	Formal
A&E and related services	Total contract value not to exceed \$100K	Informal: Total contract value not to exceed \$250K federal limit	Total contract value in excess of \$250K
Non-A&E planning services	Total contract value not to exceed \$10K	Intermediate: Total contract value not to exceed \$150K state limit	

CRITICAL NOTE: Your jurisdiction may have different thresholds in local rules.

- If your jurisdiction has a lower threshold, you must apply the local lower threshold.
- If you jurisdiction has a higher threshold than noted above, you must apply the lower threshold.



Transportation References: LPA A&E and Non-A&E Requirements Guide, Section 3, LAG Section C, Ch 12

This chart gives a comparison of the dollar thresholds for the main types of procurement.

It is critical to note that your jurisdiction may have different thresholds and you must be aware of any different limits that apply.

For example, while state rules allow small purchase to be used as the selection method for contracts up to \$100,000, some jurisdictions have much lower limits — for example \$15,000—which essentially eliminates the use of small purchase rules in most situations. You can also see here that the limit for small purchase for non-A&E contracts is \$10,000, which is why it is unlikely to see small purchase used for non-A&E contract.

On the other hand, your jurisdiction may have a higher threshold. In that situation, you must apply the LOWER state or federal threshold as listed on this slide.

TYPES OF CONSULTANT SELECTION: COMPARISON OF OTHER REQUIREMENTS

Applicable to both A&E and non-A&E contracts (see LPA Requirements Guides Section 3, LAG pgs B-16-17 and Section C, Ch 12):

Small Purchase	Informal or Intermediate	Formal	
Prepare contract to include DBE 'no goal' provisions	Prepare an RFP and include the appropriate DBE goal per ODOT Office of Civil Rights instructions		
Public advertising not required	Public advertising not required; distribute RFP to a minimum of 3 firms.	Publicly advertise or publish the RFP electronically	
Identify and rank a minimum of 3 qualified firms	Evaluate and rank all proposals received		
Contact firms for additional information as needed	Issue notice of intent to award to the highest ranked firm and not selected notice to all other proposers		
Negotiate contract with highest ranked firm	Negotiate contract with highest rank	ed proposer	

The LPA A&E and Non-A&E requirements guides are your primary references for the different requirements applicable to the main procurement types. This slide shows a few of the differences, but you should always consult the guides, template instructions and your agency procurement specialist to ensure you are following all applicable requirements.

Go over the table.

Small purchase: No DBE goal, but contract must include the DBE 'no goal' provisions, don't have to advertise publicly. Identify and rank a minimum of 3 qualified firms — you don't need to contact the firms necessarily, but you do need to have sufficient information AND DOCUMENT YOUR CONSIDERATION in the procurement file. Negotiate contract with highest ranked firm.

Informal — A&E or Intermediate (non-A&E) and Formal have similar requirements—the main difference is public advertising is required for formal solicitations.

Keep in mind can always choose to run a procurement as a formal selection process, even if it would qualify for small purchase or informal, but you need to consider if the

level of effort is appropriate for the proposal. In some cases, even if you are below the formal threshold, public advertisement may be the best way to obtain proposals for the project.

PROJECT 1

Project Description/Scope: The purpose of the Multimodal Plan is to identify a continuous route extending from the City of Brooks in Cost County eastward to the City of Profit in Time County.

The route will provide an alternative to automobile travel between those communities, as well as recreational opportunities for local residents and tourists. The total distance is approximately six miles. The completed route will be a part of the larger Brooks River Greenway.

The Plan will be adopted as part of the Transportation System Plan of the City of Brooks, the City of Profit, Cost County, and Time County, and amended into the RTP.

It is estimated that 30% of contract work will be for planning services, 40% for survey, 15% for mapping, 5% for public involvement and 10% for project management.

Cost Estimate: \$200,000

2:

Using the same scenarios as earlier, is this a small purchase, intermediate, informal or formal procurement?

Determined earlier that this is an A&E

Informal—under \$250,000. Remember—your jurisdiction may have a different threshold.

PROJECT 2

Project Description/Scope: The scope of this Project is limited to the scoping and survey design work included in phases 1 and 2 of a household survey for travel demand and long-range transportation planning and public policy development. Pending availability of funding, the contract may be amended to add phase 3 work: survey implementation.

Cost Estimate: \$200,000

22

Using the same scenarios as earlier, is this a small purchase, intermediate, informal or formal procurement?

Determined earlier this is Non-A&E

Formal. Even though the cost estimate is the same for Project 1 and Project 2, project 1 is A&E informal, project 2 is non-A&E formal due to the differing thresholds. Again, remember that your jurisdiction may have different thresholds.

PROJECT 3

Project Description/Scope: Project includes survey and geotechnical services to determine surface and subsurface conditions in an area of road pavement impacted by landslide activity and production of a slide mitigation design analysis for an emergency repair project.

Section B: Non-Contingency Cost and Profit Summaries					
Non-Contingency Cost Totals (Prin	ne & Sı	ubs)			
Total Non-Contingency Hours		545.00			
Total Non-Contingency Labor Costs		74,747.29	Profit Total		
Total Non-Contingency Direct Expenses	\$	8,751.00	(or Fixed Fee		
Total Non-Contingency Cost Amount:		83,498.29	Amount for CPFF):	\$	8,214.17

Using the same scenarios as earlier, is this a small purchase, intermediate, informal or formal procurement?

A&E

Small purchase—under \$100,000. But check your local jurisdiction rules!

PROJECT 4

Project includes reconstruction of Time Drive between Profit Street and Cost Avenue including drainage, bike lanes, sidewalks, and access consolidation. The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof (note: Map not included with the training scenario documents). The scope of work includes preliminary engineering, right of way acquisition, final design and related services ("Services").

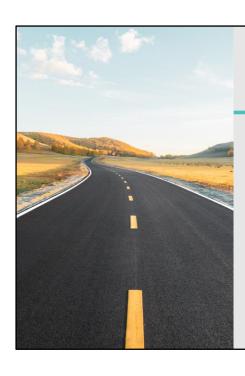
Cost Estimate: \$590,000

24

Using the same scenarios as earlier, is this a small purchase, intermediate, informal or formal procurement?

A&E

Formal: over \$250,000.



NEEDS ANALYSIS

- See LPA A&E Requirements Guide 3.2.1 for discussion of Needs Analysis.
- Helps determine whether A&E or non-A&E rules apply.
- Is used to analyze whether capacity exist to complete work in-house or if need to outsource and hire a consultant.

25

Now that we have covered the distinction between A&E and non-A&E and the basics of the different procurement methods, lets step through the procurement process.

Completing a "Needs analysis" occurs early in of the procurement process.

For A&E procurement, this generally means:

- conducting analysis of the LPA's planned/budgeted public improvement projects,
- determining and documenting which elements of the needed A&E and Related Services the LPA has capacity and expertise to perform in-house within the needed delivery schedule.
- determining which design projects, or elements thereof, will need to be outsourced for each project, and
- developing a procurement plan/schedule with sufficient lead time to allow for conducting needed procurements

Part of the needs analysis is doing a breakdown of the cost elements (for A&E vs non-A&E) and analyzing whether capacity exists to do the work internally or if need to outsource.

After the needs analysis, a project scope and statement of work is prepared.

SCOPE OF WORK VS STATEMENT OF WORK

1.2 PROJECT BACKGROUND/SCOPEIN

Lane County seeks a qualified consultant to prothe Lane County 30th Avenue Active Transportal prepare a Corridor Plan to support Active Transpagate Street and McVay Highway, an area where safe and comfortable infrastructure. A secondary pedestrian network connectivity between Hilyard City of Springfield. This corridor requires a conteand safety on what is otherwise a high-speed (5 corridor is an essential connection for the region

- Scope of Work: The range of services that are to be performed and the limit to which the services can be changed.
- Tip: Draft Scope of Work broadly, to encompass where a project might go, including amendments.

STATEMENT of WORK and DEI

30th Avenue Active Trans

ncy's Project Manager ("APM") ontract Administrator ("CA")

Statement of Work: Describes the work to be performed in detail and communicates performance expectations and objectives related to the cost and schedule for completion of services.

See ODOT A&E SOW Writing Guide, Section 3

26

What is a scope of work and what is a statement of work?

The ODOT SOW Writing Guide describes the differences between scope of work and statement of work. Generally, the scope of work is broader and more general, where the statement of work is more detailed and specific.

A good tip to keep in mind is to draft the Scope of Work as broad as possible. Imagine where the contract might go, including potential amendments. During the project, you can amend in work that was NOT included in statement of work AS LONG AS IT WAS WITHIN THE SCOPE OF WORK. If not included in the scope of work, you would need to go out and do a new solicitation for the added work.

PREPARE STATEMENT OF WORK

- Use Statement of Work Writing Guide
- Use <u>Statement of Work Library</u>, Task Language Templates for Certified Local Agency Projects
 - Each template has instructions that must be followed to tailor the template to a specific project.
- Use tip sheet on how to <u>automate SOW reviews</u>.
- Note: For disciplines where ODOT retains oversight (such as environmental and right of way), ODOT may require LPA to use specified task language and submit draft SOW for technical review. Work with your LAL to coordinate reviews.



ODOT has several resources available to assist in drafting a statement of work.

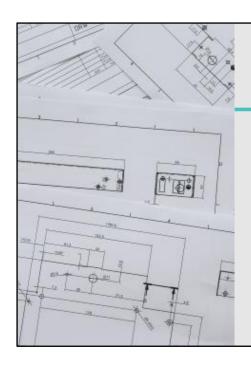
The Statement of Work writing guide provides an overview and specific guidance on writing standards—such as using clear language and drafting in active voice.

The language in the Statement of Work Library templates should already be consistent with the guidance Statement of Work Writing Guide, but if you are adding language to a template (which will be the case for all non-A&E statements of work) be sure to check the SOW writing guide.

The Statement of Work library will be covered in more depth in an upcoming training session.

The tip sheet on automated review of statements of work is another resource to help you check for consistency and common issues in your statement of work once it is drafted.

Keep in mind that you may need to work with ODOT technical resources on parts of the SOW—this review must be built into your schedule.



PREPARE RFP

- Use the approved <u>A&E RFP Template</u> or <u>Non-A&E Template</u> and follow the instructions
- Identify DBE Goal
- Prepare <u>sample contract</u> (same template for A&E and non-A&E)
- Obtain applicable RFP and sample contract reviews as required

28

Once you have drafted your statement of work, you can prepare your RFP if you are conducting an intermediate/informal or formal procurement.

Use the applicable RFP template and make sure to follow the specific instructions that are embedded throughout the template — not just the instructions at the top of the template

During this process, you will also identify the DBE goal, which we will cover in the next slide.

Part of the RFP preparation is to prepare a sample contract and obtain any applicable reviews of the RFP and sample contact as required by your agency.



PREPARE RFP: DBE GOALS

- Identify and include DBE Goal
 - See <u>LPA A&E Requirements Guide</u>, Section 3.4.1
 - For A&E procurements, standard goals apply based on the dollar value and how many disciplines are involved.
- If requesting a goal different from the standard goals, submit <u>DBE Goal</u> <u>Calculation Worksheet</u> (A&E)
- DBE goal MUST BE INCLUDED in the RFP, even if 'no goal.'

29

Part of preparing the RFP will be to identify the DBE goal.

In contrast to DBE goals on construction contracts where you submit a goal request to ODOT Office of Civil Rights to assign a goal, for consultant contracts you identify the applicable DBE goal based on the criteria in LPA A&E or non-A&E requirements guide section 3.4.1.

- For non-A&E contracts, 'no goal' is the standard DBE goal.
- For A&E contracts, the goal depends on the anticipated dollar value of the contract and the number of disciplines involved.
 - To determine the number of disciplines, consider whether there are multiple areas of opportunity for the prime contractor to use subcontractors.
 - Can also use the DBE Goal Calculation worksheet as a tool for determining and documenting how you came to the determination on what level of goal applies to the contract. This is not a required worksheet, unless you are requesting a non-standard goal, but can be a useful tool to determine and document how many disciplines are involved.



Let's take a 10-minute break, returning at TIME.

POLL QUESTION

 Based on the following scenarios, what DBE goal applies?

3.4.1 Standard Goals

The following standard goals apply to any contract that includes \$1 or more of FHWA funding:

- No goal if any of the following applies:
 - Under \$100,000 (including any anticipated amendments)
 - o Single discipline contracts, regardless of dollar amount
 - Emergency Repair (ER) contracts that are necessary to immediately restore essential travel, minimize the extent of damage, or protect the remaining facilities
- 3% goal \$100,000 or more AND includes 2-4 disciplines
- 8.5% goal \$100,000 or more AND includes 5 or more disciplines
- Goal exception request For phased projects, contact <u>OCR Personal Services Contracts</u>. To request a different goal, complete and attach the <u>DBE Goal Calculation Worksheet</u>.

3:

Before the break, we covered how to identify DBE goals, so now let's practice. If you have the A&E requirements guide open, you may find it helpful to navigate to section 3.4.1 as a reference, as on the next slides will show the scenarios.

POLL QUESTION
Based on the
scenario, what
DBE goal applies
to the project?

PROJECT 1

Cost Estimate: \$200,000

Typical A&E and Related Services Disciplines used on Transportation Projects (Select disciplines with closest fit. Tasks/disciplines in statement of work do not need to match naming conventions below)	Roughly Estimate% of contract work for discipline categories (bold headings). Enter "X" in sub-disciplines that apply (potential areas for subcontracting)	Estimated % of contract work that Prime should do (core tasks that normally would not be sub-contracted)
Project Management		10.00%
Planning Services		
Bike/Ped studies	30.00%	
Economist/Market studies		
Modeling		
Parking Studies		
Land Use Policy/Code Development		
Sustainability		
System Development Charges (SDC)		
Transit studies		
Other:		
Survey	40.00%	
Mapping	15.00%	
Photogrammetry		
Environmental Services		
Public Involvement -	5.00%	

Now we are going to practice identifying DBE goals. If you have the A&E requirements guide open, you may find it helpful to navigate to section 3.4.1 now to reference, as on the next slides will show the scenarios.

Project 1, as a reminder, is to identify a continuous route extending from the City of Brooks in Cost County eastward to the City of Profit in Time County, providing a pedestrian and bike route as part of a larger greenway trail. We previously identified this project is A&E and will be using the informal selection process as the cost estimate is \$200,000. For this project, the project manager used the DBE goal calculation worksheet to help determine the number of disciplines.

What DBE goal would you apply to this project?

Answer: 3%--over \$100,000, 2-4 disciplines.

POLL QUESTION Based on the scenario, what DBE goal applies to the project?

PROJECT 2

Cost Estimate: \$200,000

Typical A&E and Related Services Disciplines used on Transportation Projects (Select disciplines with closest fit. Tasks/disciplines in statement of work do not need to match naming conventions below)	Roughly Estimate% of contract work for discipline categories (bold headings). Enter "X" in sub-disciplines that apply (potential areas for subcontracting)	Estimated % of contract work that Prime should do (core tasks that normally would not be sub-contracted)
Project Management		10.00%
Planning Services		
Bike/Ped studies		
Economist/Market studies	90.00%	
Modeling		
Parking Studies		
Land Use Policy/Code Development		
Sustainability		
System Development Charges (SDC)		
Transit studies		
Other:		
Survey		
Mapping		
Photogrammetry		
Environmental Services		
Archaeology		
Cultural/Historic Resources		
Air Quality		
Biology		
Noise Studies		
Water Resources Studies/Analysis		

Project 2, as a reminder, is to a project to develop a household survey for travel demand and long-range transportation planning. We previously identified this project is non-A&E, and will be using the formal selection process as the cost estimate is \$200,000.

What DBE goal would you apply to this project?

Answer: No dbe goal, which is the default for non-A&E solicitations.

POLL QUESTION
Based on the
scenario, what
DBE goal applies
to the project?

PROJECT 3

Cost Estimate: \$83,498.29

Typical A&E and Related Services Disciplines used on Transportation Projects (Select disciplines with closest fit. Tasks/disciplines in statement of work do not need to match naming conventions below)	Roughly Estimate% of contract work for discipline categories (bold headings). Enter "X" in sub-disciplines that apply (potential areas for subcontracting)	Estimated % of contract work that Prime should do (core tasks that normally would not be sub-contracted)
Project Management		10.00%
Planning Services		
Geotechnical/Geologic Services	90.00%	
Hydraulics - Water Resources Design		
Storm water/Drainage		
Storm water/Drainage Fish Passage		

Project 3, is an emergency repair project and involves survey and geotechnical services to develop a slide mitigation design analysis.

What DBE goal would you apply to this project?

Answer: No goal. Under \$100,000, single discipline, and ER.

POLL QUESTION
Based on the
scenario, what
DBE goal applies
to the project?

PROJECT 4

Cost Estimate: \$590,000

List of Pr	oject Assumptions		
Task	Description	Assumptions	
1.1	Administration and Record Keeping	Assume Each Monthly	
1.2	Coordination	PM will coordinate cor	
1.3	Project Meetings	PM and Senior Engines	
3.3	Historic Resources	Based on averages fro	
3.4	Hazardous Materials	Based on averages fro	
3.5	Biological Resources Compliance and Permitting	Based on averages fro	
4.2	Public Involvement Meetings	Assume each meeting	
5.1	Utility Location and Coordination	Assume total of 32 hor	
5.2	Utility Report	Deleted from SOW	
5.3	Utility Coordination Meetings	Assume 2 group meet	
5.4	Utility Relocations	Assume Total 80 hours	
5.6	Utility Certification	Assume total of 10 hor	
6.1	Data Review/Reconnaisance	Assume 2 hours by Pro	
6.2	Exploration and Testing Work Plan	Assume 2 hours by Co	
6.3	Geotechnical and Pavement Explorations	Assume 2 hours by Co	
6.4	Laboratory Testing	Assume 8 hours by Co	
6.5	Pavement Design Report	Assume 2 hours by Co	
6.6	Geotechnical Report	Assume 2 hours by Co	
7.5	Stormwater Management Design	Assume 8 hours by Se	
7.6	Stormwater Design Report	Assume 4 hours by Se	
8.1	Traffic Analysis	Assume 8 hours by Se	
8.2	Traffic Signal Design	Assume 10 hours by S	
8.3	Permanent Signing	Assume 10 hours by S	
8.4	Permanent Pavement Markings	Assume 10 hours by Se	
8.8	Traffic Control Plans	Assume 20 hours by S	
10.1	Design Criteria	Assume 2 Hours by Se	
13	Design Acceptance Package	Assume 14 hours for e	
14.1	Obtain Right-of-Entry Agreements	For each of 6 parcels a	
14.2	Title Reports and Document Requests	Sr. Title Specialist at 2	
14.3	Right-of-Way Engineering Maps and Descriptions	Each file assume 2 hou	
14.4	Right-of-Way Programming Estimate	Assume 16 hours R/W	

35

The scope of work for project 4 is preliminary engineer, right of way acquisition and final design for the reconstruction of Time Drive. Previously identified this as A&E, using formal procurement method. The project manager for this project used a list of project assumptions with tasks to help determine the number of disciplines.

What DBE goal would you apply to this project?

Answer: 8.5%--over \$100,000 and more than 5 disciplines. I know the details are hard to see, but the intent is to show there are quite a few different disciplines on this project—well over 5. We also wanted to illustrate that you can use different approaches to determining the number of disciplines, but it is good to have some sort of mechanism to help you determine and document the conclusion.

Once the RFP is drafted, the DBE goal is identified and all applicable RFP reviews are completed, it is time to advertise.

ADVERTISE RFP

- For formal solicitations, LPA's procurement coordinator must publicly advertise the RFP and sample contract.
 - Advertisement must be for a reasonable time, not less than 14 calendar days
- Consider whether to require or offer an optional pre-proposal conference as a best practice.
- Proposers may submit questions, requests for change and protests.
 - · LPA must respond in writing
 - Period for questions/protests ends 7 calendar days before the proposal due date



For formal solicitations, the RFP must be advertised. The advertisement methods are set out in LPA A&E and non-A&E requirements guide, and whichever advertisement method is used, it must assure that qualified in-state AND out-of state consultants have a fair opportunity to be considered for award.

The RFP must be advertised for a reasonable amount of time. What qualifies as a reasonable amount of time depends on complexity, so it could be more than 14 calendar days if a complicated project or if you are planning to hold a pre-proposal conference.

Pre-proposal conferences can be useful for complex projects. You should balance the cost and expense of holding a pre-proposal conference with the benefits. Non-A&E planning contracts may be more appropriate for pre-proposal conference because they tend to be less 'cookie cutter.' You can also consider virtual conferences and whether or not to make the conference mandatory or not.

In general, the advertising portion of the process should be completed by an experienced procurement specialist at your agency.



ADMINISTRATIVE REVIEW OF PROPOSALS

- LPA procurement coordinator reviews for:
 - Pass/fail review: Was the proposal received before the deadline?
 - Responsiveness: Did the proposal substantially comply in all material respects with applicable solicitation requirements, including submittal of all required documents?
- What if you receive one--or no-responsive proposals?

3

Once the proposal period closes, it is time for the procurement coordinator to complete an administrative review of the proposals.

The administrative review looks at two items:

- 1. Pass/fail review: For example, was the proposal received before the deadline? If not, the proposal fails without any further review.
- 2. Responsiveness review: Does the proposal substantially comply with the solicitation requirements?

At this point, hopefully you have multiple responsive proposals to move on to the next stage of evaluation. But what if none of the proposals are responsive, or what if only one or 2 of the proposals are responsive?

First, document this in the procurement file.

If you received no proposals, reissue the RFP after doing some market research, such as contacting firms you would have expected to submit a proposal and ask why they did not propose.

If only one proposal, determine whether it is appropriate to continue as a sole source

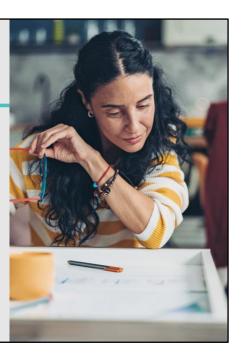
solicitation and document the file. Consult your agency procurement specialist. If you have only 2 responsive proposals, proceed with solicitation, assuming proposals are sufficient.

You may be able to avoid this type of scenario entirely by being proactive during the solicitation period.

If you have not received very many proposals on the last day, you can call firms to find out why not. Often, not submitting a proposal is due to lack of time. If that is the case, you can issue an addendum to extend the timeline for the proposal rather than having to start the solicitation anew.

EVALUATE PROPOSALS

- A minimum of 3 evaluators must complete an independent review & scoring of all responsive proposals received.
- Each evaluator must sign a <u>COI Disclosure for Proposal Evaluators</u> (required ODOT form).
- Evaluators must follow the <u>Evaluation</u> Committee Instructions.
- Each independent evaluation must be documented on the procurement file.
 - ODOT sample forms: <u>Evaluator Scoresheet for Formal & Informal RFPs</u>, <u>Evaluation Score Matrix</u>
 - Evaluation notes are public documents that proposers may request to see after the selection process
 - Scores must be supported with comments on the evaluation



Once you have the slate of responsive proposals, a minimum of 3 evaluators must complete an independent review & scoring of the proposals.

There are procedures to follow to evaluate the proposals, including completing a conflict of interest disclosure.

The biggest issue we see when a proposer elects to protest a non-selection is that the evaluators comments did not support the score given. You must have notes to support the score, whether it be low or high. Documentation is critical. Evaluation notes are public documents, so it is important to keep notes professional.



ISSUE NOTICE OF INTENT TO AWARD

- Issue Notice of Intent to Award to highest ranked firm
- Issue 'not selected' notice to all other proposers.
- Request submittal of Award Submittal Requirements listed in Section 4 of RFP.

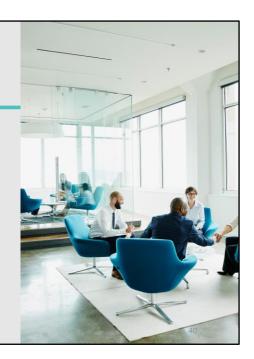
39

Once you have selected a proposer, issue notice of intent to award to the selected proposer and not selected notices to the other proposers.

Ask the selected proposer to gather and submit all documents and requirements listed in section 4 of the RFP.

NEGOTIATIONS

- Discuss project and begin negotiations of scope, schedule and costs. See LPA A&E and Non-A&E Requirements Guides Section 3.6
- Identify Billing Rates
- Refine Internal Cost Estimate
- Request Consultant's Cost Estimate
 - Breakdown of Costs (BOC) template
- Perform Cost Analysis and prepare negotiation plan
 - ODOT Pre-Negotiation Plan (sample form)
- Conduct negotiations
- Prepare Record of Negotiation (RON)



Now you are ready to begin negotiations!

This slide is an overview of the negotiation process, which we will cover in more detail in the following slides.

Requirements Guide Section 3.6 covers negotiations.

You will need to identify billing rates, prepare an internal cost estimate, request the consultant's cost estimate and perform a cost analysis to prepare a negotiation plan before conducting negotiations. During the process, you should document the progress on the Record of Negotiation.



BILLING RATES

- LPAs may request billing rate and overhead information for firms that ODOT has approved rates for on file by emailing ODOTBillingRateUpdates@odot.oregon.gov
- Consultants and their subcontractors must certify compliance with Federal Cost Principles.
 - Exception: If firm uses a fully loaded billing rate (NBR—negotiated billing rate), may not be required to comply with federal cost principles

4:

Request billing rates for firms that ODOT has approved rates for by sending an email to the billing rates team. The billing rates for the selected firm should be used to update your internal cost estimate.

Typically, consultants and their subcontractors must certify compliance with federal cost principles. There are some exceptions, such as if a firm uses a fully loaded billing rate, which is more common with smaller firms, particularly in non-A&E.

INTERNAL COST ESTIMATE & BOC

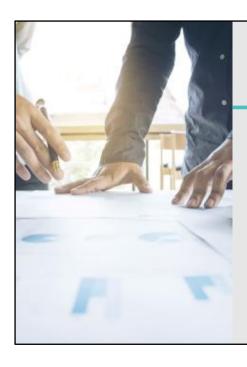
- Prepare detailed Internal Cost Estimate BEFORE receiving consultant's breakdown of estimated costs.
- Consider contingency costs and use them to your advantage.
- Receive consultant's Breakdown of Costs (BOC).
 - Consultant should use ODOT <u>BOC template</u> or a similar spreadsheet that properly calculates costs, FCCM, direct, non-labor expenses and profits.



You probably prepared a cost estimate earlier in the process, so at this stage you are likely refining the cost estimate, including using billing rates for the firm you will be negotiating with.

In the cost estimate, consider contingency costs and use them to your advantage.

The consultant should also provide you their breakdown of costs at this point. While not required, we strongly recommend use of ODOT BOC template.



COST ANALYSIS

- Cost analysis: Applying judgment to determine what a cost element of a service or good should cost to complete or produce.
 - Determine and document the reasonableness of the cost
- Can include a Price Analysis (comparison to previous prices, if those prices were reasonable based on a prior cost analysis).
- Identify areas of difference between Internal Estimate and BOC that require negotiation and note in the prenegotiation plan.

Once you have your internal cost estimate and the consultant's BOC, complete a cost analysis of the internal estimate compared to the consultant's BOC.

A cost analysis requires applying your judgement based on knowledge and experience to the separate cost elements of a good or service. You are determining and documenting the reasonableness of the costs.

A price analysis, which is a comparison to previous prices, may be included, but any prices in the price analysis must have been based on a prior cost analysis that determined the reasonableness of the prices.

The cost analysis helps you to identify areas of difference between your internal estimate and the consultant's breakdown of costs to prepare a negotiation plan.

POLL QUESTION

True or False: You can determine the reasonableness of cost based only on a price analysis.

44

LAUNCH POLL

Answer: False. A price analysis can be part of determining reasonableness. Even then, the price analysis must be based on prices that were subject to a reasonableness determination in a prior cost analysis.

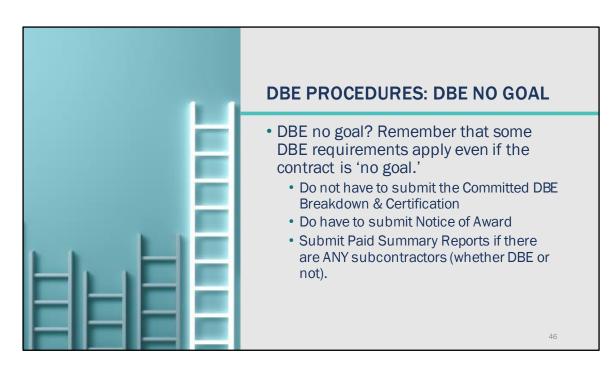
DBE PROCEDURES

- · Keep DBE goal in mind during negotiations.
- Submit Notice of Award form to OCR.
- Prior to contract execution, selected consultant must submit a <u>Committed DBE</u> <u>Breakdown & Certification Form</u> (A&E) (734-5235).
 - Follow submittal instructions for Certified LPA projects on the form.
- ODOT Office of Civil Rights reviews to determine DBE goal requirements are satisfied and sends approval to the LPA PM prior to execution of the contract.
 - Documentation of OCR approval should be saved to the procurement file.



In conjunction with the other elements of negotiation, it is important to keep DBE goal in mind throughout negotiations. If DBE is an afterthought in the process, the risk of not meeting the goal is higher.

Submit the Notice of Award form and the committed DBE breakdown & certification forms to ODOT OCR. ODOT OCR reviews the committed DBE breakdown to determine DBE goal requirements are satisfied.



Remember, there are DBE requirements even on a 'no goal' contract—you must still submit the Notice of Award to ODOT OCR and submit PSRs if there are any subcontractors.

RECORD OF NEGOTIATIONS

- A record of negotiations (RON) must be prepared for the procurement file.
- Best practice: Prepare RON as the negotiation process proceeds, not at the end of the negotiation.
- RON must identify how reasonableness of cost was determined.
- When negotiations are complete, finalize and sign the RON.
- ODOT RON sample form



The Record of Negotiations is how you document the negotiation process for the procurement file. ODOT has a sample form available for use, but it is not required.

It is a best practice to prepare the RON as the negotiation process proceeds rather than waiting until the end of the negotiation.

The Record of Negotiation must identify how the reasonableness of the cost was determined.

When negotiations are completed, but sure to finalize and sign the RON.

POLL QUESTION

True or False: You are required to complete the ODOT Record of Negotiations form for all Certified LPA federal-aid projects?

48

Launch poll.

Answer: False, while you are required to complete a record of negotiations that documents how cost reasonableness was determined for all projects, you are not required to use the ODOT form.

DRAFT CONTRACT

- Use sample contract prepared for the RFP as the base document.
 - Check for updates to the contract template between preparing the RFP and negotiating the final contract.
- Use most current version of approved Contract Template and follow template instructions.
- Include applicable DBE exhibit, even if 'no goal.'



After negotiations are complete, draft the contract.

Use the sample contract that you prepared for the RFP, but check to make sure there are no changes to the template that are legally required.

The contract template has a change log where you can easily check to see what changes were made since you prepared the sample contract. Use the resources noted earlier, such as the automated SOW review, when you have completed the contract to make sure any additions and changes meet drafting requirements before finalizing.

Make sure to include the applicable DBE exhibit, even if a DBE no goal applies.

CONTRACT REVIEWS

- Obtain review by LPA procurement coordinator.
- Obtain review by LPA legal counsel if required by dollar threshold.
- Execute the contract!



The contract should be reviewed as required by your agency, including review by the procurement coordinator, and legal review if required. Once reviews are complete, you can execute the contract.

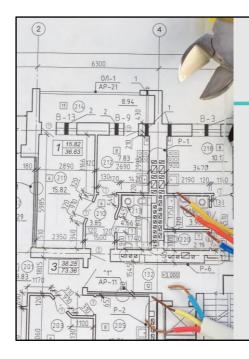


DOCUMENT FILE

- Document the file with applicable evaluation, selection and negotiation documents.
- See LPA A&E Requirements Guide, Section 4.
- Email copy of executed contract to ODOT OCR at ocr.psk@odot.oregon.gov
- Add the contract information to the next Quarterly Report.

51

The last task before moving to contract administration is to ensure the procurement file is documented as required by section 4 of the requirements guide. You should also email a copy of the executed contract to ODOT OCR and remember to add the contract information to the next quarterly report.



CONTRACT ADMINISTRATION

- Once the contract is executed, LPA must continue to administer the contract, including:
 - Ensuring consultant fulfills all terms of the contract.
 - Review invoices for compliance with federal cost principles.
 - Verify utilization of subcontractors and submit Paid Summary Report forms to OCR.
 - · Track invoices and payments.
 - · Draft and negotiate any contract amendments.
 - Prepare Consultant Performance Evaluations.
 - · Complete contract close out.
 - · Ensure file is documented.
- Refer to LPA A&E and Non-A&E Requirements Guide Section 3.7.

52

Once the contract is executed, the work is just beginning!

The LPA requirements guides also detail the contract administration responsibilities in Section 3.7.

The next slides highlight a few of the key contract administration responsibilities.

CONTRACT ADMINISTRATION: INVOICE REVIEWS

- Refer to Requirements Guide Section 3.7.2.
- Review consultant invoices for compliance with federal cost principles, conformance with approved billing rates used in BOC, and terms of the contract.
- Does the invoice include all required elements?
- Track deliverables.



Invoice reviews are a critical responsibility in contract administration.

Make sure you review invoices for all requirements, document your approval, and track the deliverables the consultant is required to submit under the contract.



CONTRACT ADMINISTRATION: PAID SUMMARY REPORTS

- Paid Summary Reports (734-2882)
- PSRs must be submitted to ODOT OCR if there are ANY subcontractors
 - Applies whether or not the subcontractors are DBE.
- Follow A&E instructions on PSR form.
 - Submit to ocr.psk@odot.oregon.gov

54

- Paid Summary Reports, PSRs, are a required submittal if there are **any** subcontractors.
 - It does not matter whether or not the subcontractor is a DBE or not.
 - Part of the purpose of PSRs is to track prompt payment requirements that apply to all subcontractors, which is why submittal of PSRs are required for all contracts with subcontractors.

POLL QUESTION

In what situations are Paid Summary Reports (PSRs) required?

- For any contract with subcontractors.
- Only when there are committed DBE subcontractors.
- Only when there are DBE subcontractors, even if there is no DBE goal.

55

LAUNCH POLL

Answer: For any contract with subcontractors.

CONTRACT AMENDMENTS

- Use <u>required template</u> and follow LPA A&E and Non-A&E Requirements Guides Section 3.7.3.
- Follow instructions on template.
- Make sure the proposed amendment fits within the advertised scope of work.
- Prepare an internal estimate, cost analysis and RON as part of negotiating a contract amendment.



The need to amend the contract may arise as work proceeds.

Use the required template and follow the instructions.

Make sure the amendment fits within the scope of work—this a reason to draft the scope of work broadly.

Contract amendments require a separate internal estimate, cost analysis and record of negotiation.

CONTRACT CLOSEOUT

- Follow LPA A&E or Non-A&E Requirements Guides 3.7.6
- Submit <u>Certified LPA Contract Closeout</u> form to Local Agency Liaison and ODOT OCR at <u>ocr.psk@odot.oregon.gov</u>
- Ensure all documentation requirements are met per Requirements Guide Section 4.



The last step, once all work under the contract and any amendments, is complete, is to close out the contract.

Submit <u>Certified LPA Contract Closeout</u> form to <u>Local Agency Liaison</u>. The ODOT Contract Closeout form is required unless LPA has an equivalent form with the required certifications.

Finally, ensure all documentation requirements are met.

THE BIG PICTURE

- The goal: Award consultant contracts fairly, without engaging in favoritism.
- Consult with your agency procurement specialist throughout the process.



To conclude, let's take a step back and look at the big picture of why all the laws, regulations and rules exist relating to how to award contracts. Ultimately, the goal is to award contracts fairly, without engaging in favoritism, when there are multiple firms qualified to provide the needed services.

Lastly, remember to use all the resources and expertise available to you. Consultant selection and contract administration is a technical and detailed process — make sure you consult with your agency procurement specialist throughout.

STOP RECORDING



THANK YOU!

- Remember to sign up for the 1-hour follow up sessions:
 - Session 1: <u>December 15</u> (SOW Library)
 - Session 2: January 19 (BOCs and Billing
 - Session 3: February 16 (Topic TBD)
 - Session 4: March 16 (Topic TBD)
 - Session 5: April 20 (Topic TBD)
 Session 6: May 18 (Topic TBD)
- If you have questions, stick around for Q&A.
- Additional feedback? Feel free to email ODOTCertification@odot.oregon.gov

Thank attendees and Tiffany and Kim

Reminder: sign up for follow up sessions!

Stick around for Q&A if you have questions.

Launch survey polls. Let us know how valuable this training was and give us input on topics for the 1 hour sessions.