

Consultant Selection 2016

(LPA Manual, Section 2)



MaineDOT

Contract Procurement Office

CPO is responsible for the development, implementation, and oversight of MaineDOT's contractual policies, procedures, and standards for non-construction contracts.

Contact Information: 207-624-3262 or
www.maine.gov/mdot/cpo

Consultant Procurement Process

Qualifications Based Selection (QBS) –

- The method used to select consultants who provide engineering and architectural services that will lead to a construction project.
- This is pursuant to Part 172 of Title 23 of the U.S. Code of Federal Regulations.
- Selection is based solely on their **qualifications**.

Consultant Procurement Process

How do you begin?

- **Develop a detailed scope of work.**
 - This will be the basis for the consultants' proposals.
- **Generate an Independent Agency Estimate.**
 - This will assist in determining which consultant selection method will be used.
 - It will be the basis for negotiations with the consultant.
 - This information must not be shared with any consultant seeking to win the contract.
- See pages **2-1 and 2-2** in the Manual.

Independent Agency Estimate

What goes into an Independent Agency Estimate?

- Tasks - based on Scope of Work
- Consultant positions required
- Number of hours by task by position
- Overhead rate (typically 160% to 180%)
- Profit/Fee (typically ~ 8% to 10%)
- Direct expenses (travel, sub-consultants printing. ...)

- Municipalities may hire consultants to do this task, but those consultants **cannot** then submit proposals

Consultant Selection Methods

- **Simplified** selection may be used:
 - For contracts (including modifications) $\leq \$25,000$.
- **Competitive** selection must be used:
 - For contracts (including mods) $> \$25,000$ and $< \$150,000$.
- **Brooks Act** (publicly advertised) must be used:
 - For contracts (including mods) $\geq \$150,000$.



Selection Process: ≤\$25,000

(Manual, page 2-3)

1. Develop a Scope of Work and Independent Estimate.
2. Obtain MaineDOT project manager's approval to seek proposal from a single, **qualified** consultant.
3. Obtain proposal and negotiate scope of services, schedule and price with preferred consultant.
4. Send final cost proposal to MaineDOT project manager for review and **written** approval to execute contract.
5. Execute a contract and send copy to MaineDOT.
6. Document process and retain records for your files.

Selection Process: \$25,000 to \$149,999

(Manual, page 2-4)

- An adequate number of qualified sources (3-5) are reviewed and sent RFPs.
- Total contract value (including modifications) must not exceed **\$150,000**.
- Contract requirements should not be broken down into smaller components merely to permit the use of this selection method.

Selection Process: \$25,000 to \$149,999

(continued)

1. Develop a Scope of Work, Independent Estimate & scoring criteria for RFP.
2. Obtain MaineDOT PM's approval of RFP package.
3. Select 3 to 5 consultants from list of pre-qualified candidates, based on specific criteria.
4. Send RFP to consultants, for technical and a separate sealed cost proposals.
5. Review technical proposals and rank consultants. (Revise independent estimate, if necessary.)
6. Open sealed cost proposal from #1 ranked consultant and begin negotiating, using independent estimate.

Selection Process: \$25,000 to \$149,999

(continued)

7. If “fair and reasonable” price cannot be negotiated with the firm ranked #1, request “best and final offer” and terminate negotiations with written notice.
8. Open cost proposal from #2 firm and begin negotiating.
9. Once agreement is reached, notify MaineDOT project manager and submit draft contract for review and approval to proceed.
10. With approval, execute contract with selected firm and send a copy to the MaineDOT project manager.



Selection Process: Brooks Act

(Manual, page 2-5)

- Brooks Act requires an **advertised**, competitive Request for Proposals (RFP) process.
- Process shall be used if total contract value (including modifications) is **>\$150,000**.

Selection Process: Brooks Act

(Continued)

1. Develop a Scope of Work, Independent Estimate & scoring criteria for RFP.
2. Obtain MaineDOT project manager's approval of RFP.
3. Advertise the approved RFP.
4. Review technical proposals and rank consultants.
(Revise independent estimate, if necessary.)
5. Select at least 3 consultants for interviews.
6. Open sealed cost proposal from consultant ranked #1 and begin negotiating, using independent estimate.

Selection Process: Brooks Act

(Continued)

7. If “fair and reasonable” price cannot be negotiated with the #1 firm, request “best and final offer” and terminate negotiations with written notice.
8. Open cost proposal from #2 firm and begin negotiating.
9. Once agreement is reached, notify MaineDOT project manager and submit draft contract for review and approval to proceed.
10. With approval, execute contract with selected firm and send a copy to the MaineDOT project manager.



Payment Methods

- Burdened Hourly Rate (Fixed or Adjustable)
- Cost Plus Fixed Fee
- Commercial Rate (Hourly or Task)
- Lump Sum
- See pages **2-17 to 2-19** of Manual for definitions and best applications.



Consultant Cost Breakdown

(See Manual, page 2-6)

- Direct Salary
- Indirect Expenses (Overhead)
- Profit *
- Direct expenses (tolls, mileage at state rate, sub-consultant costs, printing)

*Average profit range is between 8% - 10% depending on the complexity of the project and the level of risk.

Consultant Salary Limits

- **\$50 per hour for individuals** – up to \$104,000 annually – for direct salaries actually paid.
- Requirement for MaineDOT-funded projects.
- Approved **waiver** needed to exceed the limit.
- No limit on **overhead**, but rates must be **supportable**.

Actions that may risk your funding

- Using lowest price as a selection method.
- Failing to comply with the Brooks Act, requiring competitive, qualifications-based selection.
- Starting work before executing a contract.
- Allowing extra work without an executed contract modification in place.
- Performing work past the contract expiration date.
- Exceeding the maximum amount of a contract without an executed modification in place.



Consultant General Conditions

Engineering & architectural work on Locally Administered Projects falls under MaineDOT's Consultant General Conditions. They are found on the CPO website: www.maine.gov/mdot/cpo

Key clauses:

- Accuracy and redesign responsibility for errors and omissions.
- Ownership of documents.
- Consultant's duties regarding sub-consultants.
- Flow down provisions for sub-contracts.
- Electronic exchange of CADD data (format of work).
- Indemnification and insurance requirements.
- Default, termination, or suspension.
- Copyright and licenses.
- Conflict of interest.
- Federal requirements – Form FHWA-1273.