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**LOCAL PUBLIC AGENCY CONSULTANT OPERATING PROCEDURES FOR
PROFESSIONAL SERVICES**



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PROFESSIONAL SERVICES**



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1 LOCAL PUBLIC AGENCY INTRODUCTION

When the *Local Public Agency (LPA)* decides to hire a Consultant or Consultants for Architectural and Engineering (A&E) related services, or other services as indicated under the Brooks Act, for a project that is eligible for reimbursement using Federal funds and that will involve the Mississippi Department of Transportation (MDOT), the *LPA* must first decide whether to request Federal fund participation for Consultant costs. If so, the procedures described in this Standard Operating Procedure (SOP) must be followed. The selection process described in this SOP also must be followed if a Consultant is to be hired for A&E related services (or other services indicated under the Brooks Act), and the *LPA* intends to request that their expenditures for these services be allowed as part of the local funding match requirement or as Special Match Credit. If the *LPA* intends to not request any form of participation from the MDOT in paying for professional services, it may use its usual procedures, provided it complies with the applicable laws and regulations for selection of Consultants. Failure to follow these SOPs may result in a loss of eligibility of federal or state funds for reimbursement of project costs.

Chief LPA Official – The top administrative officer of the agency which is contracting with a Consultant. For a *LPA*, it may be the Mayor of a City, President of a County Board of Supervisors, Metropolitan Planning Organization Executive Director, Chief Administrative Officer, head of a state agency or other *LPA*.

Consultant Services Unit (CSU) – This term applies to the administrative unit within a *LPA* which performs the Consultant administration process. For a *LPA*, this unit may be any part(s) of the local government responsible for all aspects of accounting and evaluation of invoices from a Consultant. This function will not be performed by the same Consultant hired to do professional services. It may be an internal bookkeeping function or an outside accounting firm hired by the *LPA*. A *LPA* may use a combination of their accounting department and the Project Director for the Consultant administration process.

Contract Administration – The administration of all non-technical aspects related to the selection of a Consultant and execution of and compliance with a Contract. It includes administration of the selection process, Contract execution, invoice processing, correspondence related to the Contract, Supplemental Agreements (SA), and performance evaluations.

LPA – Any unit of government in the State of Mississippi (other than MDOT) participating in Federal-aid programs with MDOT. Examples include cities, counties, Metropolitan Planning Organizations, planning and development districts, public transit providers, Rails-to-Trails Districts, other state agencies, and tribal governments.

LPA Master Contract – A professional services Contract that is developed for multiple projects within a general scope rather than for a specific project. The purpose of this Contract is to make professional services available to a LPA, on an as-needed basis, especially when:

- a. There is a critical time and/or workload constraint for an otherwise routine project; and/or
- b. The work requires specialized skills for which there are insufficient sustained demand to warrant permanent employment and/or the cost of training employees.

LPA Work Assignment – A project that is awarded to a Consultant that holds a Master Contract with the LPA. The project must fall within the scope of the Master Contract and must not exceed the maximum amount for Contract awards under that Master Contract.

MDOT Master Services Based Selection – A method of selecting a qualified Consultant through the use of the MDOT Master Services List.

Modified Qualifications Based Selection – A method of procuring professional services through competition using Consultants' qualifications as the primary basis of selection but allowing for consideration of other factors such as proximity of the Consultant's base of operation to the project site.

Primary Consultant – The Consultant who is signatory to the primary Contract with the LPA for professional services. The primary Consultant must complete at least 40 percent of the Contract value with their own employees.

Professional Services Contract – A Contract for any non-bid professional services such as Engineering, Architectural, transportation planning, management, construction Engineering and inspection, or such other services as may be directed by the LPAs Chief LPA Official.

Project Director – *(see definition described in Chapter 2 of the Project Development Manual for Local Public Agencies (PDM)).*

Project Manager – *(see definition described in Chapter 2 of the PDM)*

Project Engineer/Architect - *(see definition described in Chapter 2 of the PDM)*

Qualifications Based Selection – *A method of procuring professional services through competition using Consultants' qualifications as the sole basis of selection.*

Small Purchase Procedures – Procuring professional services for Contracts with total costs below the Federal Simplified Acquisition Threshold for those

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services applicable to Architectural, Engineering and design related services (A&E Services). This process bypasses a competitive advertisement; however, the LPA shall consider at least three qualified firms.

Short List – A list of Consulting firms or individuals that have been selected from a larger group based on a review of their qualifications or proposals. These are the top-ranked Consultants as determined by a selection committee for the purpose of negotiating a Contract or submitting a proposal for a Contract.

Subconsultant – Any Consultant who has Contractual obligations to the primary Consultant, not directly with the *LPA*. All subconsultants collectively may not complete more than 60 percent of the total Contract value.

2 LPA CONSULTANT SELECTION PROCESSES

2.1 *Competitive Selection Process*

This section outlines the process for selecting a Consultant through a competitive selection process such as a Qualifications Based Selection. All projects where the total professional services are valued over the Federal Simplified Acquisition Threshold must go through a competitive selection process. The LPAs selection process must be concurred with by MDOT **before** the LPA notifies any Consultant of their selection.

The following checklist may be used by the LPA as a guide through the selection process: [LPA Consultant selection process checklist](#). This checklist may be turned into MDOT with the “Consultant Selection Concurrence Package”.

2.1.1 Consultant Selection Committee

For the *LPA*, the *LPAs* Chief LPA Official will appoint a Consultant Selection Committee. The Project Director shall be the Committee Chair. This committee shall consist of a minimum of three (3) or a maximum of six (6) members.

2.1.2 Advertising for Consultant Services

For those Contracts requiring competitive selection, the *LPAs* Project Director/Project Manager will prepare either an advertisement to Request Expressions of Interest or an advertisement for a Request for Proposals (RFP). A project with a well-defined scope of work may be initiated with an advertisement requesting “Expressions of Interest” (EOI) alone. Other projects require a detailed project description and comprehensive scope of work to adequately convey the *LPAs* expectation of the Consultant, such as with a planning feasibility study, needs assessment, or cost-benefit analysis. These projects will generally use a RFP advertisement.

The *LPAs* Project Manager shall prepare the technical components of the advertisement in accordance with the Request for EOI or RFP guidelines. The *LPA* will write the advertisement and ensure that all of the necessary information is included, such as **the scope, evaluation factors, method(s) of payment (lump sum, cost plus a fixed fee, cost per unit of work, or specific rate(s) of compensation), Contact information, and submittal date (see link [Legal Ad Example](#))**. MDOT recommends that the advertisement describe **all three methods of payment**. In addition, the Legal Advertisement may also include a request for the Consultant to submit form SF-330, part 2 (see link [SF-330, Part II](#)) and if necessary, SF-330, Part 1. The *LPA* shall, at a minimum, list all

selection criteria in its **relative order of importance** and the LPA should include an estimated time length for the project. **The advertisement shall be inserted in a newspaper published at the seat of government in Jackson, MS, having a general circulation throughout the state.** In addition, advertisements may also be placed in local papers as well. When seeking federal funding for Consultant projects, LPAs may also submit any Legal Ads (in electronic format) to the MDOT Director of CSU to be published on the MDOT's web site for public viewing. When submitting the Consultant Legal Advertisement to the MDOT, the LPA must also indicate when and where the Legal Advertisement will be published. If utilizing MDOT's web site to post a Legal Advertisement, the LPA will also be responsible for submitting any additional information (i.e. Addendums, Q & A, etc.) to the MDOT Director of CSU for posting on the MDOT's website.

When advertising for LPA Master Service Contracts, the LPA shall define a maximum length of no more than three (3) years of Contract and a maximum dollar amount for these services. The procedures for award of task orders among the selected firms, as defined in Section 2.1.6 of these SOPs, must also be defined in the Solicitation.

The *LPA* will distribute the RFP to requestors. During the period between the advertisement and the due date for proposals, Consultants may contact the *LPAs* CSU, the Project Director, or the Project Manager for inquiries regarding the RFP. The *LPAs* CSU will address administrative questions concerning the RFP. The Chairman of the selection committee will designate, in writing, those personnel to whom questions of a technical nature concerning the RFP may be directed. The points of contact for technical questions must include the *LPAs* Project Manager(s), and may include other members of the Consultant Selection Committee.

If a Consultant poses a technical question to the *LPAs* CSU, the Consultant will be referred to the *LPAs* Project Manager. The Project Manager may dispose of the question personally or refer the question to one of the personnel designated by the Chairman. Disposition of a technical question may take one of the following forms:

- A request for minor clarification of the RFP may be answered directly. The person answering the question will provide, in writing, (by e-mail or memorandum) to the *LPAs* Project Manager, the Project Director, and the CSU, the source of the question (individuals name and firm), the question, and the response given to the Consultant. The *LPAs* CSU will send these responses to all Consultants that requested copies of the RFP.
- If a Consultant requests clarification of the RFP that identifies a clear deficiency in the original proposal, or the clarification would provide a competitive advantage, the Consultant will be informed that an amendment to the RFP will be provided in writing. The *LPAs* Project Manager will direct the

preparation of the amendment, and the Chairman will direct whether the response date should be changed. The clarification (amendment) will be distributed to all recipients of the original RFP.

2.1.3 Evaluation and Selection Procedures

The evaluation procedures described in this section shall be followed by the *LPA* in order to evaluate the Consultant's EOI and Proposals. Factors and criteria will be developed by the *LPA*s Project Management staff prior to the advertisement for EOI and Proposals. These factors and criteria may be established by the *LPA* on the boilerplate Expressions of Interest form as seen in the PDM links section of this manual entitled **LPA-ADM-201**.

The *LPA* may include any of the following criteria or other criteria as deemed necessary by the Chair of the selection committee and based on the information required in the EOI and/or the RFP advertisements:

1. Qualification of the principal members assigned to the project (Consultant project manager);
2. Qualifications of the firm's staff;
3. Company infrastructure and staffing resources;
4. Understanding of the project as indicated in their work plan;
5. Experience of the Consultant with similar work completed during the past five years;
6. Past performance of the Consultant; and/or
7. Proximity to the project location.

A small locality criterion for local office presence of no more than ten (10) percent of the total evaluation may be used. This criterion cannot be based on political boundaries. **The total of all allowable non-qualifications based evaluation criterion (such as location/proximity and DBE participation) shall not exceed ten (10) percent of the total evaluation criteria.**

The *LPA*s CSU will receive all proposals and EOI and will identify those Consultants that clearly fail to meet the established criteria, such as a proposal not submitted on time. Disqualification will be approved by the Chair of the selection committee. Those that are disqualified will be returned to the Consultant with a written explanation from the *LPA*s Chief LPA Official. This information will also be clearly reflected in the "LPA Selection Committee Meeting Minutes" established by the *LPA* throughout the selection process. An example template of some typical "LPA Selection Committee Meeting Minutes" may be found as followed at the link: [LPA Selection Committee Meeting Minutes](#).

Following selection committee discussion and Consultant ranking on the *LPA*s Selection Evaluation Form, the proposing Consultants will be ranked in order of

qualification, based on the selection criteria. At this point, the Selection Committee may choose the most qualified Consultant or select a short list of the most qualified Consultants from which more information will be requested.

The “LPA Selection Committee Meeting Minutes” (which summarize all activities leading up to the committee’s recommendation) of the Consultant selection committee meetings will be prepared by the *LPA*s CSU and submitted to the Chairman of the committee for approval. In addition, these minutes must also list the names of the *LPA*s Project Director, *LPA*s Project Manager, selection committee members, and any firm’s proposals submitted for the advertised project. The Chairman of the Committee shall forward the selection committee’s recommendations to the *LPA*s Chief *LPA* Official for signature. These signatures authenticate the recommendations made by the Consultant selection committee.

In the case of *LPA* Master Contracts, the selection committee will select one or more of the most qualified Consultants, based on their ranking. The committee will document their rationale for choosing that number of Consultants. These selected Consultants will be recommended to the *LPA*s Chief *LPA* Official.

2.1.4 Mississippi Department of Transportation Concurrence of Selection Procedures

The *LPA* shall receive concurrence from the MDOT for the selection of any Consultant before notifying any proposing Consultants of the *LPA*s selection. The *LPA* shall email the “Consultant Selection Concurrence Package” to the MDOT District *LPA* Engineer. The MDOT District *LPA* Engineer will deliver a package to the MDOT CSU Director in order to receive a recommendation for concurrence. All “Consultant Selection Concurrence Packages” submitted by the *LPA* shall consist of the following:

- A copy of the advertisement posted in a newspaper at the seat of Government with statewide distribution including any additional information associated with the advertisement. (please make sure that the dates the advertisement that the Advertisement was posted are listed);
- Any addenda and/or clarifications that may have been issued during the selection process;
- All score sheets provided by the selection committee used in the selection process which indicate the most qualified Consultant;
- An approved signed copy of the “LPA Selection Committee Meeting Minutes” of the selection process; and
- Copy of the selected Consultant’s *LPA* Certification.

If the package is appropriate, the MDOT CSU Director shall forward a letter to the MDOT District *LPA* Engineer recommending concurrence. The MDOT District *LPA* Engineer will then forward a letter to the *LPA* indicating that that

MDOT concurs with the *LPA*s Consultant selection procedures. **MDOT's concurrence for the selection of a Consultant will not be necessary for any projects services that qualify as Small Purchase (see section 2.2.1).**

No *LPA* personnel are allowed to divulge any information relating to the recommendations of the selection committee prior to the mailing of the notification letter advising all proposing Consultants of the Consultant Selection Committee results. This letter is prepared by the *LPA*s CSU and signed by the *LPA*s Chief *LPA* Official.

2.1.5 Selecting from the Short List

Consultants that are selected for the short list will be asked to provide the selection committee with additional information such as a project proposal or a presentation. At this point, all inquiries from the short listed firms should be submitted to the *LPA*s CSU. All inquiries will be forwarded to the *LPA*s Project Manager for a written response. The *LPA*s CSU will send a copy of all written responses to all short listed Consultants.

Using additional materials and resources, along with the documentation from the short listing process, the selection committee will again rank the Consultants in order of qualification according to criteria in the Legal Advertisement. The committee will recommend the top-ranked consultant to the *LPA*s Chief *LPA* Official for Contract negotiation.

2.1.6 Awarding a Work Assignment under a *LPA* Master Contract

If more than one Consultant has a Master Contract with the *LPA* covering the Work Assignment scope, the following factors should be considered when selecting Master Contract Consultant(s) for a *LPA* Work Assignment:

- a. The Consultant(s) selected from the list of Master Contract Consultants has sufficient staff and qualifications to accomplish the work on a timely basis; and
- b. There is a balance of work among all Consultants under a qualifying Master Contract.

The *LPA* can either select a single Consultant or can ask for proposals from more than one Consultant. If proposals are solicited, the *LPA* will review and select a Consultant using an additional qualification based procedure.

2.1.7 Modified Qualification Based Selection Approach

A Modified Qualifications Based Selection approach may be used for non-architectural, non-Engineering, or non-design professional services Contracts. Other factors in addition to qualifications, such as cost or proximity, may be considered at any point in the selection process.

Consultants hired by a LPA to complete Right of Way Acquisition work should refer back to the Right of Way section of the PDM. LPAs should follow the applicable statutes regarding the hiring of professionals to perform acquisition work. LPAs that do not follow the Uniform Acquisition and Relocation act and all other applicable statutes are warned that these activities may not be reimbursable.

2.2 Other Consultant Selection Process

This section outlines the processes for selecting a Consultant through a “non-competitive” selection process.

2.2.1 Small Purchase Procedures

This approach bypasses the standard competitive negotiation/qualification based selection (Brooks Act) process involving contracts where the total professional services involving federal funds are valued under the Federal Simplified Acquisition Threshold for A&E Services. Project phases and contract requirements should not be broken down into smaller components merely to permit the use of small purchase procedures. However, when using this approach, the LPA shall consider at least three (3) qualified firms. **The LPAs Chief LPA Official must submit a written letter to the MDOT District LPA Engineer stating that the total costs of the contract utilizing federal funds for the Consultant selected is estimated to be less than the Federal Simplified Acquisition Threshold for A&E Services. The LPA shall also list the three (3) firms considered.** The MDOT District LPA Engineer will forward a copy of this letter to the MDOT CSU Director. An example template may be found as followed by the link: [Small Purchase Letter Example](#). Once MDOT has acknowledged receipt of an acceptable Small Purchase letter from the LPA, the LPA may proceed to Section 3 of these SOPs.

2.2.2 Utilization of MDOT Master Contracts for Selection

LPAs may request services be provided from Consultants who have been previously selected based on qualifications under an existing MDOT Master Contract. In order to initiate this process, the LPA shall provide a written request

for selection of a Consultant from an MDOT approved Master Contract to the MDOT District LPA Engineer. This written request shall define the services to be performed by the Consultant and the projected estimated cost for these services. The MDOT District LPA Engineer will then forward that request to the MDOT CSU Director for review. If appropriate, the MDOT CSU Director will then respond to the LPA and the MDOT District LPA Engineer with a written response stating which Master Contract would be applicable to the services requested, and the names of all Consulting firms that were selected by the MDOT for the current Master Contract. The LPA will review this list of Consulting firms. The LPAs Chief LPA Official will then provide a written request to the MDOT District LPA Engineer for no less than three (3) Consulting firms' qualification proposals. The MDOT District LPA Engineer will then transmit the request to the MDOT CSU Director. The MDOT CSU Director will then provide the LPA and MDOT District LPA Engineer with the requested qualifications proposals of the three (3) Consulting firms selected. The LPA will then review the qualifications and select a Consulting firm from that list based on qualifications that meet the project specific requirements. The LPA shall document the qualifications based selection process by which the Consultant was selected. The LPAs Chief LPA Official will then provide written notification to the MDOT District LPA Engineer of the LPAs selected Consulting firm. The MDOT District LPA Engineer shall forward the written documentation to the MDOT CSU Director. If appropriate, the MDOT CSU Director will then provide the LPA and the MDOT District LPA Engineer with written concurrence of the LPAs selection of that Consulting firm. The LPA may then initiate negotiations with the selected Consulting firm.

Selection of a Consulting firm from an existing MDOT Master List may be limited to a Contract that does not exceed \$500,000 for those services provided under the appropriate MDOT Master Contract.

Once MDOT approves the LPAs selection of a Consultant from the MDOT Master Services List, the LPA may develop a PE or CE&I services agreement in accordance with Section 3 of these SOPs.

2.3 Non-Federal Funded Projects

If the *LPA* intends to not request any form of Federal participation in paying for professional services, it may use its usual selection procedure, provided it complies with state laws and regulations for selection of Consultants.

2.4 Notification

All Consultants will be notified of the results of the selection process by letter from the *LPAs* Chief LPA Official.

3 CONTRACT CONCURRENCE / EXECUTION

3.1 MDOT Contract Concurrence Introduction

An LPA's Contract with a Consultant for professional services must be concurred by MDOT prior to the LPA executing that Contract.

The following checklist may be used by the LPA as a guide through setting up the Contract: **LPA P.E. Contract preparation checklist** and **LPA CE&I Contract preparation checklist**.

3.2 Overhead Rate Reviews

For all Consulting Engineering professional service Contracts, the overhead rate used in the computation of the payroll additive must be accepted by MDOT before the Contract can be executed. The MDOT Audit Division will determine the acceptance of an overhead rate which may be used for the purpose of Contract negotiations, monthly billings and, if applicable, costs estimates of SAs under the Contract.

If a Consulting Engineering services Contract exceeds \$250,000 in total value (or presumed to exceed \$250,000 in total value) or if any State or Federal agency has expressed concern about the Consultant's accounting system, the overhead rate presented in the Contracts cost proposals should be supported with the submission of the most current audit report by an independent Certified Public Accountant (CPA) to the MDOT CSU and copy the MDOT District LPA Engineer. An audit performed by another State/Federal agency may also be acceptable if the information is current and of sufficient detail. The MDOT CSU will forward the audit report to the MDOT Audit Division with the request by memorandum to determine the acceptance of the audited overhead rate. The MDOT Audit Division will review the audit report and ascertain if the audit was conducted in accordance with the latest [AASHTO's Uniform Audit and Accounting Guide for Audits of Transportation Consultants' Indirect Cost Rates](#). Upon completion of the review of the report, the MDOT Audit Division will correspond to the MDOT CSU the accepted overhead rate which may be used for the purpose of Contract negotiations, monthly billings and, if applicable, cost estimates of SAs under the Contract. The MDOT CSU will communicate to the Consultant and/or LPA (and copy the MDOT District LPA Engineer) the acceptance of an overhead rate.

If the Contract value is below the \$250,000 threshold, the overhead rate presented in the Contracts cost proposals should be supported with the submission of a Schedule of Indirect Costs and Rate Calculation for the most current fiscal year. The schedule should be submitted to the MDOT CSU and

copy the MDOT District LPA Engineer. The MDOT CSU will forward the schedule to the MDOT Audit Division with the request by memorandum to determine the acceptance of the compiled overhead rate presented in the schedule. The MDOT Audit Division will review the schedule to determine if the Consultant prepared the schedule based on the cost principles described in Part 31 of the Federal Acquisition Regulations (FARS). Upon completion of the review of the schedule, the MDOT Audit Division will correspond to the MDOT CSU the accepted overhead rate which may be used for the purpose of Contract negotiations, monthly billings and, if applicable, cost estimates of SAs under the Contract. The MDOT CSU will communicate to the Consultant and/or LPA (and copy the MDOT District LPA Engineer) the acceptance of an overhead rate.

If the Contract language asserts that final payment of the payroll additive will be adjusted to reflect the actual rates experienced by the Consultant during the course of the Contract, the Consultant should submit their overhead rate to the MDOT for review on an annual basis. The procedures outlined above will be followed in an annual review of a Consultant's overhead rate.

3.3 Contract Negotiation

The *LPA* will enter into negotiations with the most qualified consulting Engineering firm to arrive at a fair and reasonable compensation for the solicited services which considers the scope, complexity, professional nature, and estimated value of the services to be rendered.

Prior to receipt of the Consulting firm's cost proposal, the contracting agency will prepare/refine an independent estimate of the work to be performed on the Contract. This independent estimate should consider the person-hours and classifications to complete project task (which collectively result in total direct labor costs), other direct Contract costs, and fixed fee.

The most highly qualified Consulting firm will submit a complete cost proposal which proposes the firm's person-hours and classifications to complete project task, direct Contract costs, and fixed fee and applies the firm's direct salary rates and approved indirect cost rate. Overall cost or bottom line price alone are not justification to terminate negotiations with a firm, as the contracting agency must make a good faith effort to negotiate the scope, level of effort, and reasonable price with the highest rated firm. If the contracting agency and the most highly qualified firm are unable to negotiate a fair and reasonable Contract, the contracting agency may formally terminate negotiations and undertake negotiations with the next most qualified firm, continuing the process until an agreement is reached (as specified in 40 U.S.C. 1104(b)).

The Consultant may use one of the following cost fee templates or a modified version of:

1. **Cost Fee Schedule for Professional Engineering/Architectural Services; or**
2. **Cost Fee Schedule for CE&I Services**

The LPA should contact the MDOT CSU if alternate methods of payment are requested.

The LPA shall maintain records of negotiations to document negotiation activities and set forth the resources considered by the negotiator. Records shall be maintained in accordance with federal, state and local regulations. Approval of the negotiated terms and conditions of the Contract will be the responsibility of the LPAs Project Manager. The negotiated Contract will not take effect until executed by the Chief LPA Official.

3.4 Preliminary Engineering and Construction Contract Preparation

The Project Director will determine the type of Contract to prepare and convey this information to the LPA CSU at the earliest possible date in order to begin the development of the Contract simultaneous to the Consultant selection process. The LPA shall use one of the following Contract boilerplates provided and approved by the MDOT and Federal Highway Administration (FHWA). The appropriate method of payment shall be selected in accordance with FHWA guidelines. These boilerplates for a PE Contract (Cost plus fixed fee method) and a CE&I Contract are linked below:

1. **Preliminary Engineering Contract Boilerplate – Cost plus Fixed fee**
2. **Construction Engineering and Inspection Contract Boilerplate**

The LPA should contact the MDOT CSU if alternate methods of payment are requested.

3.5 LPA Master Contract and LPA Work Assignment Contract Preparation

A LPA Master Contract (On Call Contract) may be utilized for up to a three (3) year term within a defined maximum dollar amount approved by the MDOT and LPA. The LPA shall utilize the LPA Master Contract template provided by MDOT. **All LPA Master Contract and LPA Work Assignments with a Consultant shall be submitted to MDOT for concurrence prior to the LPA execution.** The maximum amount available for each LPA Work Assignment shall not exceed \$500,000.

The LPA will work with the Consultant and the LPAs CSU to draft a LPA Work Assignment proposal. This LPA Work Assignment proposal will include the scope of work, work plan, proposed cost estimate, and progress schedule in a format consistent with the Master Contract specifications. The LPAs Project Manager and the LPAs CSU will review the LPA Work Assignment proposal to ensure that the scope of work is correct and that proposed cost is reasonable. All LPA Master Contracts and Work Assignments shall be submitted for concurrence to MDOT using the process outlined in section 3.6 of these SOPs.

The *LPA* may submit a written request to the MDOT District LPA Engineer requesting the use of additional/other boilerplate language for non-typical professional service work. The MDOT, Attorney General, and FHWA must approve any other boilerplate language that the Consultant may wish to incorporate in the Contract.

3.6 *Mississippi Department of Transportation Contract Concurrence*

All *LPAs* professional Engineering service Contracts shall be submitted to the MDOT for concurrence **prior** to the *LPAs* execution of the Contract.

Once the Consultant signs three (3) original Contracts, the Consultant shall submit the Contracts to the *LPA* for review. The *LPA* shall then submit three (3) original Contracts, signed only by the Consultant, to the MDOT District LPA Engineer prior to the *LPAs* execution and signature. This submission shall be accompanied by a letter signed by the Chief LPA Official requesting Contract concurrence. If the project is within the boundaries of an urbanized (UZA), the *LPA* shall furnish a copy of the proposed Contract to the Metropolitan Planning Organization (MPO). After a cursory review, the MDOT District LPA Engineer shall forward the Contracts to the MDOT CSU Director for review. The MDOT CSU Director shall review the Contract and determine whether the Contract warrants concurrence. The MDOT CSU Director and LPA Engineer will coordinate all efforts with the *LPA* and Consultant in order to resolve any discrepancies, errors, concerns, etc. If appropriate, the MDOT CSU Director shall recommend concurrence of the LPA Contract to the MDOT District LPA Engineer. A letter of Consultant Contract concurrence shall then be mailed to the *LPA* by the MDOT District LPA Engineer unless indicated otherwise by the MDOT CSU Director. The MDOT LPA Engineer will retain one of the three (3) originals for their records, and mail the other two (2) originals back to the *LPA*. Once the *LPA* receives this letter stating MDOT concurrence, the Contracts may be executed by the *LPA*. A copy of the executed Contract and Notice to Proceed letter will then be forwarded from the *LPA* to the MDOT District LPA Engineer and the MDOT CSU Director. Reimbursement to the *LPA* for the work performed shall not be granted until all executed copies of the LPA Contract has been

received by both the MDOT District LPA Engineer and the MDOT CSU Director. If the project is within the boundaries of an urbanized (UZA), the LPA shall furnish a copy of the executed Contract to the MPO.

All CE&I Contracts shall be submitted in accordance with Chapter 5 of the PDM.

3.7 Chief LPA Officials Approval

All *LPA* Contracts must be executed by the *LPA*s Chief LPA Official. Key information from the Contract will be recorded by the *LPA*, such as expiration date, budget, insurance, overhead rates, and expiration dates.

3.8 Notice to Proceed Letter

The *LPA* will prepare a Notice to Proceed (NTP) letter for the Project Director's signature. Once the NTP letter has been signed, the *LPA* will mail it to the Consultant and send one copy to the MDOT District LPA Engineer and the MDOT CSU Director. **Costs shall not be incurred and no work may be performed for any phase of the Contract until the NTP has been issued.**

3.9 Disadvantaged Business Enterprise Tracking

The *LPA* will be responsible for tracking the amount of federal and state funds that are expended on Disadvantaged Business Enterprise (DBE) Consultants and subconsultants. The *LPA* shall give consideration to DBE firms in the procurement of Engineering and design related service Contracts subject to federal, state and local regulations.

3.10 Subconsultant Tracking

The *LPA* will verify and document the DBE status of subconsultants and review subcontracts as needed.

4 INVOICE PROCESSING AND AUDITING

4.1 Preliminary Engineering (PE) Invoicing

Once the MDOT CSU receives a copy of the executed Contract and the NTP (for PE Contracts only) the MDOT CSU will email the LPA-CSU-001 to the *LPA* and/or Consultant. All billing must be submitted electronically to lpainvoice@mdot.ms.gov, unless otherwise authorized by the MDOT.

When the Consultant is eligible for payment for work performed in accordance with the Contract, the Consultant will submit a signed LPA-CSU-001 to the LPA containing the following information (the “PE Invoice Package”):

- An original current Consultant invoice;
- All supporting documentation for payment of the invoice (i.e. timesheets/billing backup, hotel receipts, mileage logs and all other information indicated in the Contract); and
- Any additional information as required by the Contract.

The LPA-CSU-001 shall be populated with amounts accurately reflected on the Consultant’s invoice. All amounts shall be recorded to the nearest penny.

The Consultant’s Project Engineer/Architect will be responsible for signing the LPA-CSU-001. Consultants will be required to supply invoice data in a standard format to ensure accuracy and uniformity and to eliminate duplication of data entry effort. The *LPA* will be responsible for the accuracy of the invoice. Once the *LPA* checks all of the supporting data in accordance with the Contract and approves the “PE Invoice package”, then the *LPA* Chief LPA Official will sign the LPA-CSU-001, pay the Consultant, provide **proof of payment** in the PE Invoicing Package, and then email the “PE Invoice Package” to the MDOT for PE reimbursement at lpainvoice@mdot.ms.gov. If the “PE Invoicing Package” is appropriate, MDOT will process the invoice for reimbursement to the LPA. MDOT will email a copy of the approved invoice to the LPA.

The MDOT or FHWA is not responsible for any delinquency of payment to the Consultant from the *LPA*.

The *LPAs* matching funds percentage will be deducted from each and every **LPA** monthly invoice.

4.2 Construction Engineering & Inspection (CE&I) Invoicing

Once the MDOT LPA Division receives a copy of the executed Contract and the NTP, the MDOT LPA Division will email a LPA-CSU-001 for CE&I Contracts only and deliver the LPA-CSU-001 to the *LPA* and/or Consultant. All billing must be submitted electronically to lpainvoice@mdot.ms.gov, unless otherwise authorized by the MDOT.

When the Consultant is eligible for payment for work performed in accordance with the Contract, the Consultant will submit a signed LPA-CSU-001 to the LPA containing the following information (the “CE&I Invoice Package”):

- An original current Consultant invoice;
- All supporting documentation for payment of the invoice (i.e. timesheets/billing backup, hotel receipts, mileage logs and all other information indicated in the Contract); and
- Any additional information as required by the Contract.

The LPA-CSU-001 shall be populated with amounts accurately reflected on the Consultant’s invoice. All amounts shall be recorded to the nearest penny.

The Consultant’s Project Engineer/Architect will be responsible for signing the LPA-001. Consultants will be required to supply invoice data in a standard format to ensure accuracy and uniformity and to eliminate duplication of data entry effort. The *LPA* will be responsible for the accuracy of the invoice. Once the *LPA* checks all of the supporting data in accordance with the Contract and approves the “CE&I Invoice Package”, then the Chief LPA Official will sign the LPA-CSU-001, pay the Consultant, provide **proof of payment** in the “CE&I Invoice Package”, and email the “CE&I Invoice Package” to lpainvoice@mdot.ms.gov. If the CE&I Invoicing Package is appropriate, MDOT will process the invoice for reimbursement to the LPA. MDOT will email a copy of the approved invoice to the LPA.

The MDOT or FHWA is not responsible for any delinquency of payment to the Consultant from the *LPA*.

The *LPAs* matching funds percentage will be deducted from each and every *LPA* monthly invoice.

4.3 Retainage

The *LPA* shall withhold retainage in accordance with the Contract as approved by MDOT and FHWA.

4.4 *Interim & Final Invoice Audits*

The *LPA* will prepare and submit to the MDOT CSU any documentation necessary to perform an “Interim” or “Final” invoice audit for each project or project phase(s). At the completion of the project or if the project has been terminated, the *LPA* should email the invoice to lpainvoice@mdot.ms.gov which will be marked “FINAL”. This will indicate that the project should be processed for close-out. The *LPA* shall follow the same procedures for submitting an invoice as described in Section 4.1 for PE Contracts and 4.2 for CE&I Contracts.

The invoice audit will include a review by the MDOT Audit Division of all invoices for that phase(s) or Contract to confirm the amount of payment. This request will be made by the MDOT CSU for any Final invoices and any interim invoices, as deemed necessary by MDOT. After the request has been submitted, the MDOT Audit Division will randomly select a month or months, depending on the time period of the project, to review the project costs. The MDOT Audit Division will request that the *LPA* submit all supporting documentation for the month(s) selected. If the MDOT Audit Division denotes major discrepancies in the supporting documentation, then supporting documentation for all invoices of the project may be requested. The MDOT Audit Division will report by memorandum to the MDOT CSU Director the results of the final invoice audit and make recommendations as to the final payment. Any correspondence to the MDOT CSU will be copied to the MDOT District *LPA* Engineer.

4.5 *Random Final Invoice Site Audits*

The costs incurred under a Consulting Engineering Contract are subject to the MDOT audit process.

5 MONITORING PRODUCT DELIVERY, COSTS, AND CONTRACT EXPIRATION

5.1 *Product Delivery*

The *LPA's* Project Manager will ensure that all technical Contract deliverables are received and reviewed in a timely manner and are acceptable to the *LPA*.

5.2 *Contract Costs*

The *LPA* will monitor the maximum upset limit or Contract amount established in the Contract, and all subconsultant costs to ensure that they do not exceed, at most, 60 percent of the value of the Contract; and all DBE involvement.

5.3 *Contract Expiration*

The *LPA* will monitor the termination date of all Contracts.

6 SUPPLEMENTAL AGREEMENTS / CONTRACT ADDENDUM TIME EXTENSIONS

6.1 Supplemental Agreement Request

If any change to the Contract is proposed, a SA will be required between the Consultant and the *LPA*. The *LPA* must verify through the MDOT District LPA Engineer the availability of federal funds prior to execution of a SA. The *LPA* shall be responsible for any funds that exceed the approved federal funds. The [Supplemental Agreement Boilerplate for Professional Services](#) or the [Supplemental Agreement Boilerplate for Construction Engineering and Inspection](#) shall be used by a *LPA* as provided by the link. Contract addenda are only used when the *LPA* is requesting an extension of Contract time with no additional cost to the Contract. The Contract Addendum Boilerplate is provided at the following weblink: **Contract Addendum Boilerplate**.

When SAs are needed, the *LPA* will work with the Consultant to prepare an SA that will include a description of any changes in the work scope, cost and completion date, a justification for such changes, as well as the benefit for performing the additional work. The *LPA* will follow the same procedures described in Section 3.6 (*Mississippi Department of Transportation Contract Concurrence* of this document) when submitting an SA for MDOT concurrence. **The SA must be executed by the *LPA* and the Consultant prior to the accomplishment of any work as specified in the Contract boilerplate language. If an SA is executed after the work is accomplished, the work shall not be eligible for federal reimbursement.**

All Contract Addenda (Time extension) may be fully executed by the *LPA* and Consultant without prior MDOT authorization. A copy of the executed addendum shall be forwarded to the MDOT CSU and the MDOT District LPA Engineer. Failure to forward this document to both MDOT departments will delay or deny any further reimbursements to the *LPA*.

7 PRELIMINARY ENGINEERING - SPECIAL MATCH CREDIT PACKAGE

In order for Special Match Credit to be considered for Preliminary Engineer services, the LPA must follow the LPA Consultant Operating Procedures for Professional Services. This section outlines the process for requesting Special Match Credit for Preliminary Engineering services rendered.

To request Special Match Credit for preliminary engineering services, the LPA must submit a "Preliminary Engineering - Special Match Credit Package" (PE-SMCP) to MDOT in accordance with the procedures outlined in Section 1.3 Special Match Credit Program (Flexible Match) of the LPA PDM. The PE-SMCP must be submitted along with all the information included in the following checklist: [LPA Preliminary Engineering Special Match Credit Checklist](#). Items not included in the PE-SMCP may result in reductions or denial of Special Match Credit.

Once the LPA has submitted the PE-SMCP to MDOT in accordance with Section 1.3 of the LPA PDM, the MDOT LPA Division Director, or his or her designee, will receive the PE-SMCP and provide an overview of the package to ensure that all items are included as indicated in the checklist. The LPA Division will then forward a transmittal letter along with the PE_SMCP to the MDOT CSU Director, or his or her designee, and request an audit of the information required for Preliminary Engineering Special Match Credit. The CSU Director, or his or her designee, will audit the information in the package. The CSU Director will then draft a letter to send to the MDOT LPA Division Director, or his or her designee, which will summarize the results of the audit and recommend the amount allowable for Special Match Credit