

HIDALGO COUNTY

PROCEDURES FOR SELECTING AND CONTRACTING PROFESSIONAL SERVICE PROVIDERS FOR FEDERALLY FUNDED PROJECTS

Hidalgo County (County) the contracting agency has used 23 CFR Part 172 (Code of Federal Regulations) in conjunction with the Texas Administrative Code (TAC) in the preparation of these procurement procedures for professional services through a Competitive Negotiation (qualifications-based selection) 23 CFR 172.7(a)(1). 23 CFR 172.5(c) states that the contracting agency (LG) shall prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related consultant services. These policies and procedures, including all revisions, must be reviewed and approved by the Texas Department of Transportation (TxDOT) for compliance with applicable requirements.

In accordance with 23 CFR 172.5(c) these policies and procedures shall address the following items to ensure compliance with Federal and State laws and regulations:

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

In accordance with 23 CFR 172.7(a)(1)(ii) the County, with assistance provided by a licensed engineer on staff with Hidalgo County Drainage District No. 1, will prepare a Request for Proposal (RFP) that provides a clear, accurate, and detailed description of the scope of work and evaluation factors including their relative weight of importance. The scope of work will communicate exactly what the County wants to accomplish and the instructions for completing the work in an exact measurable manner by the identified deadlines. The scope of work will include;

- a. Purpose and description of the project(s);
- b. Services to be performed;
- c. Deliverables to be provided;
- d. Estimated schedule for performance of the work;
- e. Applicable standards, specifications, and policies;
- f. Type of contract

The criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services will assess the demonstrated competence and qualifications for the type of professional services solicited. The qualification based evaluation factors may include, but are not limited to the following:

- a. Project understanding and approach including quality control procedures

- b. Past Performance
- c. Workload Capacity
- d. Staff Capabilities
- e. Work Experience
- f. Professional Licensure

The RFP, as well as any forms or referenced exhibits, will be submitted to TxDOT for Concurrence prior to advertising. If additional scope of work is added or modified (not in the original RFP), the County will verify and check for compliance with the procurement procedures under the Brooks Act (qualification based selection). The County will submit changes and/or modifications to TxDOT for concurrence prior to revising the original scope per 23 CFR 172.9(e).

2. Soliciting interests, qualifications, or proposals from prospective consultants;

The County will issue a public advertisement of a Request for Proposal (RFP) through a single step process, seeking proposals from all interested consultants in at least one newspaper of general circulation for a minimum of two (2) consecutive weeks. The advertisement will also be posted on the County's website to assure that qualified in-state and out-of-state consultants are given a fair opportunity to submit a proposal for the project.

The advertisement period will be a minimum of fourteen (14) calendar days and will include:

- a. County Website with the location of where the RFP packet may be obtained;
- b. RFP number;
- c. Type of contract;
- d. General description of the project and work to be done;
- e. The due date and location for providers to submit proposals; and
- f. Name, address, phone number, and email address of the County point of contact.

The assigned contract specialist for the County Purchasing Department will be the single point of contact throughout the procurement process. Once the process is complete, and a contract is secured, approved, executed, and available for reference and viewing, the designated Responsible Person in Charge (RPIC) will be the point of contact through the completion and closeout of the project.

When specification interpretations, amendments, corrections or changes are made regarding the solicitation, the Hidalgo County Purchasing Department will issue an Addendum addressing the nature of the change. All released Addenda will be e-mailed to all point of contact(s) who are known to have received or requested a copy of the

procurement packet directly from the Hidalgo County Purchasing Department prior to the deadline.

Any proposal received after the submittal deadline will not be accepted and will be returned unopened to the sender.

3. Preventing, identifying and mitigating conflicts of interest for employees of both the contracting agency and consultants and promptly disclosing in writing any potential conflict to the State Transportation Agency (STA) and Federal Highway Administration (FHWA), as specified in 2 CFR 200.112 and 23 CFR 1.33, and the provisions of 23 CFR 172.7(b)(4);

Pursuant to Texas Local Government Code Chapter 176, consultants will be required to disclose in the "Conflict of Interest Questionnaire (CIQ), attached as an exhibit to the RFP, items that might cause a conflict of interest in accordance with 2 CFR 200.112. The County may declare a contract void if it determines that a consultant failed to file a conflict of interest questionnaire required by Texas Local Government Code Chapter 176.006. All communications by the consultant to the County, its officials, and department heads regarding the procurement shall be done through the Hidalgo County Purchasing Department. It is the policy of Hidalgo County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County to perform procurement services. Commission and County employees will conduct themselves in such a manner as to foster public confidence in the integrity of the County in order to guard against any misappropriation of assets and to ensure fairness and transparency and to protect against fraud, waste, and abuse of taxpayer resources.

It shall be a breach of ethics to offer, give or agree to give any employee or former employee of Hidalgo County, or for any employee or former employee of Hidalgo County to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal, therefore, pending before this government.

No officer or employee of the County shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the project, as specified in 23 CFR 1.33. It shall be a breach of ethics to attempt to realize personal gain through public employment with Hidalgo County by any conduct inconsistent with the proper discharge of the employee's duties.

No official or employee of the County who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract as specified in 23 CFR 1.33.

No engineer, attorney, appraiser, inspector or other person performing services for the County in connection with a project shall have, directly or indirectly, a financial or other personal interest other than his employment or retention by the County in any contract or subcontract in connection with such project as specified in 23 CFR 1.33.

To identify the potential conflict of interest for County employees, employees who participate in the procurement, management, or administration of Federal-Aid Highway Program (FAHP) funded contracts or subcontracts will execute a purchasing inner-office No Conflict Disclosure Form that will be made a part of the permanent procurement file. If a conflict is identified the employee will not be allowed to participate in the procurement process.

In accordance with 2 CFR 200.319a, and to eliminate potential conflict of interest, ensure objective contractor performance, and eliminate unfair competitive advantage, engineers, engineering firms, and/or a subsidiary, affiliate, or a consultant of engineer or engineering firm who has received compensation from the County, that assist in the development of, or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals, will be excluded from competing for such procurements (i.e. subsequent construction engineering/management and/or inspection/testing) for all other phases of the project.

To comply with House Bill 1295 issued in 2015 that added Section §2252.908 of the Texas Government Code, the awarded firm(s) must complete and file Form 1295-Certificate of Interested Parties with the Texas Ethics Committee. The County cannot enter into a contract until the Form 1295 has been executed and filed with the Texas Ethics Commission.

A participant who becomes aware of facts that require the conflict of interest (CIQ) form to be filed must do so with the Hidalgo County Clerk's Office within seven (7) days after becoming aware of the necessity to file the form. Failure to comply may result in the termination of services.

No public official shall have an interest in a contract awarded hereunder except in accordance with Texas Local Government Code 171.

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

Consultants and their principals (i.e. sub-consultants) are not allowed to participate in Federally Funded projects if they are presently suspended or debarred or have been convicted within the past three (3) years of certain types of offenses or had a civil judgement rendered within the past three (3) years for certain types of offenses. In accordance with 2 CFR 1200 and 2 CFR Part 180; the County will verify the suspension and debarment actions and eligibility of consultants by;

- a. Including a Certification Regarding Debarment, Suspension, and Ineligibility Form as an exhibit included in the RFP acknowledging that Consultant or vendor is free from suspension or debarment.
- b. Require each respondent submit a copy of their status with SAM.gov, if not a current member, they must register and submit a copy of the registration form with their submittal; and
- c. Designated County contract specialist will verify through a search for consultant status at System for Award Management and the Texas Comptroller debarred vendor list and attach a printed copy of search results;

As an exhibit in the RFP packet, the Certification Regarding Debarment, Suspension, and Ineligibility Form will be submitted to TxDOT for file documentation.

5. Preparing an independent agency estimate for use in negotiation with the selected consultant per 23 CFR 172.7(a)(1)(v);

Prior to receipt or review of the most highly qualified consultant's proposal, the County, with the assistance of the designated licensed engineer, will prepare a detailed independent estimate. The estimate will include but is not limited to;

- a. An appropriate breakdown of the work or labor hours;
- b. Types or classifications of labor required; and
- c. Other direct costs and consultants fixed fee for the defined scope of work.

The independent estimate will serve as the basis for negotiation of a contract with the highest ranked qualified firm. The County will retain supporting documentation of negotiation activities and resources used in the analysis of fair and reasonable costs in accordance with federal cost principles. The documentation shall include the original cost proposal, subsequent submittals, final cost proposals, pre-negotiation audit, audit reports, and responses to the pre-negotiation audit.

The independent agency estimate will be submitted to TxDOT for concurrence prior to deadline of proposals.

6. Evaluating interest, qualifications, or proposals and the ranking/selection of a consultant per 23 CFR 172.7(a)(1)(iii-iv);

The evaluation/grading/scoring committee will be comprised of at least one (1) licensed engineer on staff with Hidalgo County Drainage District No. 1. The licensed engineer will assist the County in preparing a clear, accurate, and detailed scope of work as well as the evaluation criteria. The designated engineer will serve as the Evaluation Committee Liaison and will coordinate the grading/evaluating/scoring schedule as well as determine

if interviews of respondents will be required. If the designated engineer is not available, the County will notify TxDOT of the engineer's replacement for concurrence. The remaining members of the Evaluation Committee will be comprised of two representatives appointed by the project precinct Commissioner. The evaluation committee will evaluate all submitted proposals and rank in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria. The consultant will not be awarded a contract based on competitive bids.

In the instances where only two (2) qualified consultants respond to the solicitation, the County will proceed according to the rules and regulations of 23 CFR 172.7(a)(1)(iv)(D). The County will review the solicitation process and determine if there was any limited competition. If the County found that no conditions and requirements limited competition then the County will proceed with the evaluation and selection process. Alternatively when only one (1) qualified consultant responds to the solicitation the County may pursue procurement following the noncompetitive method when competition is determined to be inadequate and it is determined to not be feasible or practical to re-compete under a new solicitation as specified in 23 CFR 172.7(a)(3)(iii)(C).

Should the evaluation committee request interviews with respondents, the Evaluation Committee Liaison will prepare a list of questions and issue the respondents an interview and contract guide.

Each respondent will be allotted equal time and each appointed evaluator must be in attendance at each interview.

The final score/grade of the Proposal by the evaluation committee will be presented by the Purchasing Department to the Commissioners' Court for ranking and approval to begin negotiations with the highest ranked respondent.

Evaluations/scores/grades/ranking documents will be submitted to TxDOT for concurrence prior to formal award of the contract by Commissioners' Court.

7. Determining based on State Procedures and the size and complexity of a project, the need for additional discussions following submission and evaluation of the RFP;

Consultants may be required to participate in an interview. The interview can be held in person or as a video teleconference. The Evaluation Committee Liaison will determine whether an interview will be required based on whether there are follow up questions for respondents.

All interviews shall be conducted in accordance with the following principles:

- a. Be conducted uniformly for all consultants
- b. Be based only on criteria published in the RFP
- c. Fairness and equal treatment of all respondents

- d. Transparency and consistency in evaluation
- e. Avoidance of conflicts of interest
- f. Compliance with applicable procurement laws and regulations

The consultants that will participate in an interview will be issued an Interview and Contract Guide (ICG) containing instructions for the interview. The Interview and Contract Guide will include but not limited to the following information:

- a. Interview date, time, and location/format
- b. Allowed number and roles of attendees
- c. Presentation requirements (if any)

Each consultant will be interviewed using the same structure. The structure format will include but not limited to the following order:

- a. Opening and Introductions
- b. Respondent Presentation (if any)
- c. Standardized questions
- d. Follow-up questions (clarification only)
- e. Closing

The criteria used for evaluating the interviews may include, but is not limited to the following:

- a. Technical approach
- b. Project manager's relevant experience
- c. Project management planning
- d. Key staff's relevant experience

Prior to the distribution of the interview and contract guide to the consultants, the guide will be submitted to TxDOT for concurrence.

8. Selecting the appropriate contract type, payment method, terms, and incorporating the required contract provision, assurances, and certification in accordance with 23 CFR §172.9;

The County will determine the contract type based on each individual project. The contract types are Project-Specific or Multiphase as defined under 23 CFR 172.9 (a)(1) & (a)(2). The type of contract will be indicated in the solicitation.

The contract award will be in effect until the contract expires, delivery and acceptance of products, or terminated by County with thirty (30) days written notice prior to cancellation.

The County may insert in the contract a clause that requires the consultant to pay each sub-consultant no later than ten (10) days after receipt of payment from the County the amount

to which the sub consultant is entitled. The consultant shall, by appropriate agreement with each sub-consultant, require each sub-consultant to make payments to their sub-consultants in a similar manner. The consultant must submit written evidence that all sub-consultants have been paid for work completed within ten (10) days of receipt of payment from the County. All payments must meet prompt payment requirements, as specified in 49 CFR 26.29. The County will ensure compliance with retainage requirements by legal means under Local, State, and Federal laws.

Payment Method

Unless otherwise specified, the County shall pay a negotiated lump sum fee at the hourly labor rates and non-labor rates specified in the contract negotiation. An exhibit detailing the contract rates will be attached to the contract document. Payments for services rendered will be made while work is in progress as authorized through a lump sum fee assigned to each work authorization. Invoices will be submitted with a monthly progress report in sufficient detail to support the progress of the work and in support of the request for payment. The RPIC will review each request for payment and the invoice will be submitted to the Purchasing Department for placement on the next available commissioner's court meeting for approval.

If other payment method is indicated other than Lump Sum, it shall conform to 23 CFR 172.9(b) (4).

The County will ensure that all contracts include 23 CFR 172.9(c) (1) (i-xii), 23 CFR 172.9(c) (2), and any other required provisions by referencing or physical incorporation as applicable.

Contracts, as well as exhibits to the contract, will be sent to TxDOT for concurrence prior to execution of the contract.

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

The County will conduct the process of negotiation in compliance with the requirements of 40 U.S.C. 1104 (b) and 23 CFR 172.7(a) (1) (v) for the order of negotiations.

The evaluation committee will evaluate all submitted proposals and rank in order of preference, at least three consultants determined most highly qualified to perform the solicited service based on the established and published criteria.

Documentation will be submitted to TxDOT for concurrence prior to presentation to Commissioners' Court.

A grid of scores/grades will be presented to the Commissioners' Court for approval for the Purchasing Department to enter into negotiations with the number one (1) ranked firm (scoring/grading documents will be submitted to TxDOT);

A cost proposal from the number one (1) ranked firm will be requested at the time of negotiating the fees.

Prior to submitting a cost proposal and fees, a scoping meeting will be conducted to ensure that the consultant understands the work. TxDOT will be notified in advance of the scheduled meeting.

The Purchasing Department will begin a fee negotiation phase with the most qualified ranked firm. The labor rates will be negotiated first prior to the labor hours and fees.

If negotiations with the number one (1) ranked firm fail, the Purchasing Department will recommend to the Commissioner's Court that negotiations cease with the number one ranked firm and commence to negotiate with the next highest ranked firm;

The negotiated contract including best and final offer with the successful firm will be presented to Commissioners' Court for consideration and approval.

TxDOT will review the contract and the negotiated fees for concurrence before execution of the contract.

Any concealed cost proposals submitted with the RFP will not be opened. A cost proposal for a selected consultant may be considered when the negotiations are initiated. Any concealed cost proposal from unsuccessful consultants will be filed unopened in project records.

10. Establishing elements of contract costs, accepting indirect cost rate(s) for application to contracts, and assuring consultant compliance with the Federal cost principles in accordance with 23 CFR §172.11;

The County shall establish the elements of contract costs as per 23 CFR 172.11(b) (1-4). Consultants are required to comply with Federal Cost principles in accordance with 23 CFR 172.11 and 23 CFR 172.9(c) (1) (ix). The County shall receive a certificate of final indirect costs and establish elements of costs such as those specified in 23 CFR 172.11(b) (1).

11. Ensuring consultant costs billed are allowable in accordance with the Federal cost principles as contained in 48 CFR part 31 and consistent with the contract terms as well as the acceptability and progress of the consultants' work per 23 CFR 172.9(d) and 23 CFR 172.11;

Payment will be made while work is in progress as executed through a lump sum fee assigned to each work authorization. Payment of the lump sum fee for each work authorization identified in the request for payment will be in proportion to the percent complete of the work tasks identified in the work authorization together with a detailed breakdown of the amount and the sum of all prior payments. Progress reports shall also be included in each invoice. The progress report shall describe the work performed during the period covered by the invoice. County will review each request for payment and verify that costs are consistent with the cost rates exhibit in the contract and submit to the Auditor's Office for processing.

12. Monitoring the consultants' work and compliance with the terms, conditions, and specifications of the contract;

The designated Responsible Person in Charge for the County will monitor the contract by:

- a. Administering inherently governmental activities including, but not limited to, contract negotiation, contract payment, and evaluation of compliance, performance, and quality of services provided by the consultant;
- b. Being familiar with the contract requirements, scope of services to be performed, and products/services to be produced by the consultant;
- c. Being familiar with the qualifications and responsibilities of the consultant's staff and evaluating any requested changes in key personnel;
- d. Scheduling and attending progress and project review meetings, commensurate with the magnitude, complexity, and type of work, to ensure the work is progressing in accordance with established scope of work and schedule milestones;
- e. Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;
- f. Evaluating and participating in decisions for contract modifications; and
- g. Documenting contract monitoring activities and maintaining supporting contract records, as specified in 2 CFR 200.334.

The RPIC will review and verify the work associated with monthly billing invoices and will notify the Purchasing Department. The Purchasing Department will prepare an agenda item on the next available Commissioners' Court agenda seeking approval of payment. The invoice and activity documentation is forwarded to the Auditor's Office for payment processing and the Department of Budget and Management for review and completion of reimbursement requests from TxDOT per 23 CFR 172.9 and 172.11.

A copy of all documents pertaining to monitoring of the contract and verification of invoices will be kept on file.

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

The County will prepare and conduct performance evaluations when the services are completed. These evaluations summarizing the consultants' performance shall include, but not be limited to;

- a. an assessment of the timely completion of work;
- b. adherence to contract scope and budget; and
- c. quality of the work conducted.

The County shall provide a copy of the performance evaluation to the consultant. The consultant shall be allowed the opportunity to provide written comments to be attached to their performance evaluation. The performance evaluations shall be archived by the Purchasing Department and made available to all procurement and precinct staff for

consideration as an element of past performance in the future evaluation of the consultant to provide similar services per 23 CFR 172.9(d)(2).

Consultant Performance Evaluations will be submitted to TxDOT.

14. Closeout of contract per 2 CFR 200.344;

The County will close out the contract when it determines that all applicable administrative actions and required work of the project has been completed. The County will initiate the request for final payment to be reimbursed for expenses, and the County is responsible for notifying TxDOT that the project is completed and ready for final acceptance. The final acceptance ensures that there are no outstanding claims, unfinished work, and pending issues. This confirmation will also ensure that all required documentation is in place and final payment can be reimbursed. The County will maintain and show project records that support TxDOT's decision to accept the project.

At the completion of the contract, the County will coordinate with consultants' project manager and TxDOT to ensure that the project scope has been completed according to the Advance Funding Agreement (AFA) and the contract. Any outstanding issues or disputes will be resolved prior to final payment. The County will provide TxDOT with all necessary project documentation for review. Per 2 CFR 200.334, the County will ensure that all contract project files are complete and stored securely to protect the file of record until the legal document retention requirements are met.

15. Retaining supporting programmatic and contract records, as specified in 2 CFR 200.334 and the requirements of this part;

All supporting programmatic and contract records shall be retained in accordance with 2 CFR 200.334.

The County will retain all project records for no less than three (3) years after the final payment.

The records will be retained until all litigation, claims, or audit findings have been resolved and final action was taken.

The County shall provide accessibility to TxDOT and Federal Agencies for the purpose of audits and reviewing project records.

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

It is the County's policy to enforce its contracts with engineering, architectural, and surveying consultant's responsibility for error and omissions. Consultants are subject to these provisions before, during, and after the construction of a project, as well as before

and after contract termination. When a dispute arises under one of those contracts regarding apparent errors or omissions in the work provided to the County, every effort will be made to resolve that dispute in a way ensuring that the public receives the services for which it has paid and that the consultant is treated with respect and fairness. When an apparent error or omission is identified in work provided by a consultant, the County will;

- a. Notify the consultant of the problem in writing; and
- b. Involve the consultant in efforts to resolve the problem

These efforts must include consideration of the totality of relevant facts, including the level of services provided, the consultant's overall performance, and the cost to the County of the services provided and of the apparent error or omission, and the value of the services provided. If these efforts do not succeed, the consultant must be given an opportunity to raise the issue with Hidalgo County Commissioners' Court and Hidalgo County Administration before any effort is made by the County to institute legal proceedings to collect damages. The consultant will be given an opportunity to submit a response before any final action is taken per 23 CFR 172.9(c) (x).

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

Consultants are subject to suspension and debarment actions as specified in 2 CFR part 1200 and 2 CFR part 180, potential cause of action under False Claims Act as specified in 32 U.S.C. §§ 3729-3733, and prosecution for making a false statement as specified in 18 U.S.C. 1020.

Upon failure of the consultant to fulfill obligations set forth in the contract in a satisfactory manner as determined by the County and in the sole opinion of the County, the County will issue a written notice of such failure. The consultant will be allowed thirty (30) days to correct such failure. If the consultant does not correct the failure within thirty (30) days, the County may take over the project and prosecute the work to completion. In such case, the consultant shall be liable to the County for any additional cost occasioned by the County.

Throughout the project, consultant agrees to maintain an insurance policy listing the County as an additional insured in the amounts required by the County. Should the consultant fail to maintain an insurance policy in the minimum requirements identified by the County the consultant will be considered to be in breach of contract.

18. Resolution disputes in the procurement, management, and administration of engineering and design related consultant services;

All disputes will be brought to the attention of the RPIC as they arise. The RPIC will gather appropriate documentation regarding the alleged dispute and will schedule a

conference with all parties involved within seven (7) working days to implement corrective action. The RPIC will make every effort to resolve disputes/misinterpretations in a mutually beneficial agreement; however, if all parties cannot agree on corrective actions, the RPIC will notify the Evaluation Committee Liaison (project engineer on staff with HCDD No. 1) and all documents pertaining to the dispute will be reviewed by the engineer/ liaison. The liaison will submit in writing his opinion as to corrective action needed within five (5) working days. If these attempts to come to an agreement as to corrective action are not successful, the RPIC will then involve the Commission and legal counsel.

Hidalgo County, Texas

By: _____

Date: _____

Texas Department of Transportation

By: _____
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Date: 5/5/2026