

# INSTRUCTIONAL MEMORANDUMS

## To Local Public Agencies



To: Counties and Cities	Date: July 7, 2023
From: Local Systems Bureau	I.M. No. 3.310
Subject: Federal-aid Participation in Consultant Costs	

**Contents:** This Instructional Memorandum (I.M.) includes guidelines and procedures for a Local Public Agency (LPA) to select a consultant; request Iowa Department of Transportation (Iowa DOT) approval and Federal Highway Administration (FHWA) authorization for Federal participation in consultant costs; and prepare, negotiate, and administer a consultant contract.

With the exception of discretionary federal grants or earmark projects that specifically allow such participation, Iowa DOT **does not allow** Federal-aid participation in consultant costs for LPA projects administered by the Local Systems Bureau, including the following Federal-aid Formula programs: Surface Transportation Block Grant (STBG) Program for roadway and bridge projects, Highway Bridge Programs funded through STBG or the Bridge Formula Program, and Highway Safety Improvement Program (HSIP). If the LPA has been awarded a Federal discretionary grant or earmark that allows or requires consultant costs to be Federal-aid participating or to be credited as “local match”, contact the [Iowa DOT Administering Bureau](#).

LPA projects administered by the Systems Planning Bureau (SPB), including STBG for trail projects, **will be allowed** to request participation in consultant costs. Please refer to [I.M. 1.000](#), Iowa DOT Oversight of LPA Projects, for more information regarding the Administering Bureaus.

To confirm the eligibility of consultant costs, please contact the Iowa DOT Administering Bureau prior to initiating a consultant selection process and/or incurring any expenses. Failure to adhere to the procedures in this I.M. could render such costs as ineligible for Federal-aid reimbursement or credit toward local match or non-cash contribution.

This I.M. also includes the following attachments:

- [Attachment A](#) – Federal-aid Consultant Checklist
- [Attachment B](#) – Requirements for Federal-aid Consultant Contracts
- [Attachment C](#) – Payment Methods
- [Attachment D](#) – Standard Consultant Contract ([Word](#))
- [Attachment E](#) – Errors and Omissions

### Definitions

**Construction Engineering (CE)** – Work that includes materials testing, construction inspection, and other work directly related to the administration of the construction contract (e.g., processing contractor payment requests, or preparing Change Orders, a final punch list, or project close-out paperwork). Any additional design work that occurs after the construction letting is also considered CE work.

**Extra Work** – Any additional activity or activities, level of effort, or deliverables that exceed the previously approved scope of work, but are minor changes to the consultant contract.

**Planning Work** – Work that involves planning or studies, but is not part of the development of the plans, specifications, and estimate (PS&E) necessary for a construction project. Examples include planning studies, feasibility studies, and conceptual studies. Planning work *should not* be authorized as PE. Feasibility or conceptual studies may include some engineering work, but only to the extent needed to determine if it is feasible to build the proposed project or determine what type of structure or facility should be designed. Any engineering or design work beyond the planning stage is considered PE.

**Phase of Work** – A clearly distinguishable stage in the project development process. For planning work, typical phases consist of planning studies, feasibility studies, and conceptual studies. For PE work, typical phases include preparation of environmental studies or documents, preliminary design, final design, and preparation of bid documents. CE work is usually not phased, unless the approved CE work is for multiple construction contracts. In this case, the CE work associated with each construction contract would be considered a separate phase.

*Preliminary Engineering (PE)* – Work that is part of the development of the plans, specifications, and estimate (PS&E) for a construction project. This includes environmental studies and documents, Interchange Justification Reports, preliminary design, and final design up through and including the preparation of bidding documents. PE does not include planning or other activities that are not intended to lead to a construction project. Examples of work not considered PE include planning, conceptual, and feasibility studies.

*Simplified Acquisition Threshold* – A dollar amount set by the Federal government in 48 CFR 2.101 under which consultant services may be procured using an abbreviated process.

*Scope of Work* – The statement of services to be provided, as written in the contract between the local agency and the consultant. This includes the specific work activities, deliverables, and timeframes to perform the work for the specified price.

## **General Considerations**

All consultant contracts which will be reimbursed with Federal funds shall comply with the Title 23 of the Code of Federal Regulations (CFR), Part 172 (23 CFR 172). Among other things, these regulations stipulate when consultant services must be acquired through a qualifications-based selection process. When using a qualifications-based process, price may not be considered when determining which consultant is most qualified. Price is negotiated only after the most qualified consultant has been identified.

### Conflicts of Interest

The LPA and the consultant shall comply with the conflict of interest requirements in Iowa Code Chapters [68B](#), [362](#), 193C Iowa Administrative Code (IAC), [Chapter 8](#), and 23 CFR 1.33. Situations that create conflicts of interest include, but may not be limited to, the following:

1. An LPA employee who participates in the procurement, management, or administration of the consultant contract has a direct or indirect financial or other personal interest in the contract or related subcontracts. For example, a city engineer may not participate in the selection of a consulting firm that employs a close relative.
2. The consultant has a direct or indirect financial or other personal interest, other than employment or retention by the LPA, in any contract or related subcontracts in connection with the project. For example, when a consultant is acting as the project engineer for a construction project, that consultant's firm may not also provide construction staking services to the contractor for the same project. Another example is if the consultant is serving as city engineer, the consultant may not participate in any aspect of the selection process if his or her own firm is being considered to perform those services.
3. The consultant has a direct or indirect financial or other personal interest in any real property acquired for the project, unless such interest is openly disclosed in public records, and the consultant has not participated in such acquisition for and in behalf of the LPA. For example, a consultant may not participate or assist in the acquisition of property owned by the consultant or a close relative.

### LPA Staff Responsibilities

Federal regulations require the LPA to have a person in responsible charge of the Federal-aid project. These duties include supervision and oversight of consultant activities. Refer to Section 2.6 of the [Federal-aid Project Development Guide](#) for additional details concerning this requirement.

The LPA shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of consultant services to be reimbursed with Federal funds in accordance with State and Federal laws, regulations, and the policies outlined in this I.M.

### Consultants Acting in a Management Role

In accordance with 23 CFR 172.7(b)(5), Federal funds may not be used for a consultant to act in a management role for the LPA, unless this has been approved in advance by the Iowa DOT and FHWA.

A consultant is acting in a management role when the firm or individual representatives of the firm act on the LPA's behalf to perform inherently governmental functions or fulfill a program or project administrative role typically performed by an LPA employee. Examples of consultants acting in management roles include: being responsible for managing a major project or series of projects; being responsible for overseeing the work of other consultants; and being responsible for reviewing or approving permits or applications on the LPA's behalf.

Use of consultants in a management role should be limited to large projects or circumstances where unusual cost or time constraints exist, unique technical or managerial expertise is required, and/or an increase in contracting agency staff is not a viable option.

To request approval for a consultant acting in a management role, contact the Administering Bureau for assistance.

### Errors and Omissions

In accordance with 23 CFR 172.9(c)(1)(x), the written procedures for Federal-aid consultant contracts shall include procedures to address errors and omissions. These procedures are provided in [Attachment E](#) to this I.M.

### Final Design Activities and the NEPA process

The National Environmental Policy Act (NEPA) and its implementing regulations require that certain procedures be followed in the process of selecting the location of Federal-aid project. Until this process has been completed and accepted by the Iowa DOT and the FHWA, final design activities may not begin, as required by 23 CFR 771.113.

Environmental and related engineering studies, agency coordination, public involvement activities, and preliminary design work are not considered final design. Therefore, if FHWA authorization for these costs has been obtained, these activities may proceed prior to completing the NEPA process. However, work directly associated with preparation of construction documents is considered final design. For Federal-aid projects let at the Iowa DOT, work associated with preparation, review, or submittal of Check Plans or Final Plans is considered final design.

The event that marks the completion of the NEPA process depends on the type of NEPA document that is required for the project:

- For projects that are classified as a Categorical Exclusion (CE), the NEPA process is complete as of the effective date of FHWA Environmental Concurrence. This date is specified in the written notice the LPA will receive from the Iowa DOT Location and Environment Bureau.
- For projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) document, the NEPA process is considered complete as of the date that the FHWA signs these documents, referred to respectively as a Finding of No Significant Impact (FONSI) and Record of Decision (ROD).

### **Estimate of Consultant Costs**

Prior to beginning the consultant selection process, the LPA shall prepare its own estimate of consultant costs. This estimate should include all phases of work that the consultant will be expected to perform, even if the initial contract will not encompass all phases of work. In other words, the estimate should reflect the total anticipated cost of all services that will eventually be provided by the consultant.

For the purpose of determining which type of selection process to follow (i.e., abbreviated or full process), the LPA may prepare a simplified estimate based on typical consultant fees as a percentage of the total construction costs. Typical design costs for road, bridge, and trail construction range from 8 to 10 percent of the total construction cost. Typical construction inspection services for road, bridge, and trail construction range from 12 to 15 percent of the total construction cost.

If the abbreviated selection process is used, the simplified estimate may also be used for negotiation purposes.

If the full selection process is used, the LPA shall prepare its own detailed estimate for negotiation purposes. The detailed estimate shall include an appropriate breakdown of the work or labor hours, types of classifications of labor required, other direct costs, and the consultant's fixed fee for the defined scope of work.

However, the cost estimate is prepared, the primary responsibility for determining the reasonableness of the proposed consultant costs rests with the LPA. The purpose of the LPA's estimate is to assist in negotiating a consultant contract at a fair and reasonable cost. For estimating very complex or unusual consultant services, the Iowa DOT will provide assistance to the LPA upon request.

The LPA's estimate shall identify the type of services included, such as PE, CE, planning studies, etc., and provide a subtotal for each. The estimate shall also be documented so that a third party such as the Iowa DOT or FHWA can determine what services were included and how the LPA determined the estimated cost of those services.

### **Consultant Selection**

[Attachment A](#), Federal-aid Consultant Checklist, outlines the steps for selecting a consultant, requesting FHWA authorization, and requesting reimbursement of consultant costs. The LPA should be careful to follow the steps outlined in this Attachment. If the selection process used does not comply with these procedures, the consultant costs may not be eligible for Federal reimbursement. In addition, the cost of any consultant work done prior to FHWA authorization will not be eligible for Federal reimbursement.

#### Scope of Selection

The basis of selection must be based on the complete scope of services the consultant will be expected to provide; even if the initial contract will not include all those services. If an LPA desires to select a consultant for services not included in the original scope of selection, another selection process must be used.

The LPA making the selection must review the qualifications of any prime consultant and sub-consultant to determine if the firms possess qualifications suitable for the work being considered. Any qualified engineering consultant, who meets the Minimum Qualifications Standards (MQS) requirements of the specified work categories defined in the [Iowa DOT's Policy and Procedure Manual \(PPM\) No. 300.04](#) at the time of the contract's execution, may be selected. The selected consultant must continue to meet the MQS requirements for the duration of the contract. If no work category exists for a particular service, normal methods of acceptance shall be used, such as experience, typical licensure, certification or registration, or seals of approval by others. A statement of qualifications may be requested from a firm at the same time a proposal is requested.

#### Abbreviated Process

The abbreviated process, following the process for Small Purchases defined in 23 CFR 172.7(a)(2), may be used if the cost of all phases of the proposed consultant work is estimated to be less than the Simplified Acquisition Process threshold, as defined in 48 CFR 2.101, currently set at \$250,000. The abbreviated process does not require use of a selection committee, distribution of a Request for Proposal (RFP), or use of written evaluation criteria and a scoring matrix. However, the LPA must consider at least 3 qualified firms and document their selection process.

If the estimated cost of all phases of the proposed consultant work is close to the \$250,000 threshold, the LPA should use the full process. The full amount of any contract modifications that exceed this threshold will not be eligible for Federal participation. If the abbreviated process is used to select a consultant for multiple phases of work and the same consultant is chosen for more than one phase of work on the same project, the \$250,000 threshold applies to the total amount of work performed on the different phases of work. In addition, if it appears the full selection process was intentionally circumvented, the entire cost of the consultant services may be ineligible for Federal participation.

#### Full Process

If the cost of all phases of the proposed consultant work is estimated to be \$250,000 or more, the full selection process shall be used. In summary, the full process includes forming a selection committee, preparation and distribution of an RFP, and evaluation of proposals received based on established criteria.

A key aspect of the full selection process is preparing a well written RFP. The Iowa DOT does not require a standard format; however, the RFP prepared by the LPA shall contain the following as a minimum:

1. A clear, accurate, and detailed description of the scope of services, technical requirements, and qualifications of consultants for the proposed work. To the extent practicable, the scope should describe the purpose of the project, services to be performed, deliverables to be provided, an estimated schedule for performance of the work, any special provisions, and applicable standards, specifications, and policies.
2. If discussions, interviews, or presentations with or by the most highly qualified consultants are desired following submission and evaluation of proposals, specify what will be required. These are not required,

but may be helpful in preparing the final ranking of consultants, depending on the size, scope, and complexity of the services to be provided.

3. The evaluation criteria used and the relative weight for each factor.
  - The criteria may include, but is not limited to, such things as technical approach, work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.
  - The criteria shall **not** include a factor for estimated contract cost.
  - The criteria may include a factor for Disadvantaged Business Enterprise (DBE) involvement.\* Scoring of this criterion should be based on a firm's proposed DBE involvement. Proposals that meet or exceed the goal should get full credit for this criterion. If the proposed DBE involvement is less than the DBE goal, the scoring should be based on the firm's documented good faith efforts to involve DBE firms.
  - The criteria may include a factor for local presence.\* Use of this criterion is subject to the following conditions:
    - a. A local presence will add value to the quality and efficiency of the project.
    - b. Application of this criterion would not result in less than 3 qualified firms.
    - c. Application of this criterion would not disqualify firms that are not within a particular State or local jurisdiction. Firms that propose to establish a temporary local office shall be considered to have met this criterion.
- \* The combined weight of the DBE and local presence criteria, if used, may not exceed 10% of the total.
4. The preferred contract type (see the Contract Preparation section below for acceptable types).
5. The preferred method of payment (see [Attachment C](#), Payment Methods, for acceptable methods).
6. The proposed DBE goal.
  - If a goal is set, the RFP shall specify that proposals that do not meet the DBE goal or provide sufficient documentation of a good faith effort to meet the goal will not be considered.
  - Regardless of whether a goal is set or not, the RFP should encourage use of DBE firms and include a reference and link to the [Iowa Directory of Certified Disadvantaged Business Enterprises](#), which is available on the Iowa DOT Civil Rights Bureau [DBE Program website](#).
  - If no DBE goal is proposed for contracts estimated to be greater than \$250,000, the LPA shall document the reasons why no DBE goal is proposed. If contract is less than \$250,000, the LPA shall state whether there are meaningful DBE opportunities.
  - For additional guidance in setting DBE goals, refer to [I.M. 5.010](#), DBE Guidelines.
7. The deadline date for receiving proposals and an estimated schedule for completion of the selection process. Sufficient time shall be provided for consultants to receive notice, and prepare and submit a proposal, which except in unusual cases, shall not be less than 14 calendar days from the issuance of the RFP.

If inexperienced in preparing RFPs, the LPA should review the Iowa DOT current list of RFPs for examples of typical format and content. These are available on the [Iowa DOT Consultant Resources website](#), as shown on the [Open Requests for Proposals](#) page. (Note: most of the Iowa DOT consultant contracts are not Federally funded, so they do not typically include a statement about a DBE goal.)

For additional guidance in conducting the full selection process using qualifications-based procedures, refer to the [Qualifications-Based Selection: A Guide for Selecting an Architect, Engineer, or Land Surveyor for Public Owners](#), published by the [American Council of Engineering Companies of Iowa](#).

#### Noncompetitive selections

Under the abbreviated selection process, in 23 CFR 172.7(a)(3), if less than 3 firms were considered, the selection process is not considered competitive. Noncompetitive selections may be approved, but only if at least one of the following criteria is met:

1. The desired services are available from only one firm.



2. There is an emergency situation which does not allow sufficient time for a regular selection process.
3. The consideration did not contain conditions or requirements that arbitrarily limited competition.

Under the full selection process, if less than 3 proposals were received, the selection process is not considered competitive. Noncompetitive selections may be approved if at least one of the following criteria is met:

1. The desired services are available from only one firm.
2. There is an emergency situation which does not allow sufficient time for a regular selection process.
3. Additional solicitations are unlikely to generate any additional proposals, and the solicitation did not contain requirements that arbitrarily limited competition.

Requests for approval of a noncompetitive selection shall be submitted with appropriate justification and / or documentation to the Administering Bureau. The Administering Bureau will review the request and confer with the Local Systems Bureau. The Administering Bureau will then notify the LPA of the decision. For services related to the planning, design or construction of a project on the [National Highway System](#) (NHS), concurrence by FHWA is also required.

#### Suspended or Debarred Firms

Firms that are presently suspended or debarred by the Federal government are prohibited from providing services that exceed \$25,000 on any Federal-aid contract. The Standard Consultant Contract contains provisions requiring the consultant to certify the suspension or debarment status of their firm. The LPA shall also verify the firm is not presently suspended or debarred using the System for Award Management (SAM) [web site](#) before proceeding with contract negotiations. The status of a firm can be determined using the SAM web site.

#### **Contract Negotiation**

After receiving Iowa DOT approval, the LPA shall initiate negotiations with the consultant deemed to be the most qualified. The LPA shall provide the consultant with necessary information and request the consultant to submit its proposal with supporting cost and pricing data. Negotiations are intended to lead to the development of a contract mutually satisfactory to the LPA and the selected consultant. The goals of the negotiation process are to:

- Make certain that the consultant has a clear understanding of the scope of services.
- It is strongly recommended all CE Consultant Contracts include scope provisions to complete project close-out activities.
- Determine that the consultant will make available the necessary personnel and facilities to accomplish the scope of services within the required time.
- Reach agreement with the consultant on the provisions of the contract, including equitable compensation for the required services and the most suitable and appropriate method of payment. This should include review of an itemized estimate of consulting fees, including tasks, estimated hours, hourly rates, and expenses (both direct and indirect, such as overhead).
- Determine, where applicable, whether the consultant can provide a design that will permit construction within established project costs.
- Verify that the project manager and the project team are the same as those in the proposal submitted to the selection committee (applicable only if the full process was used).

If a mutually satisfactory contract cannot be negotiated upon receiving a best and final offer in writing, the LPA shall formally terminate the negotiations and notify the consultant in writing. Termination of negotiations shall be made without prejudice. The substance of terminated negotiations is confidential. The LPA shall then initiate negotiations with the consultant given second preference, and this procedure shall be continued until a mutually satisfactory contract has been negotiated.

#### **Contract Preparation**

In accordance with 23 CFR 172.9(a), contracts shall be one of the following types:

1. Project specific – A contract where the scope of services is related to one or more specific projects.
2. Multiphase – A project specific contract where the services are divided into phases and the scope and fees for each phase of work are negotiated separately as the project progresses.

The following attachments to this I.M. are provided to assist the LPA and consultant in preparing an acceptable contract:

[Attachment B](#) – Requirements for Federal-aid Consultant Contracts, provides guidance for preparing a consultant contract. The Iowa DOT requires that certain provisions be included in all contracts which will be reimbursed with Federal-aid. The Iowa DOT also recommends that certain other contract provisions be included for the mutual benefit of both the LPA and the consultant. This Attachment identifies both the required and recommended contract provisions.

[Attachment C](#) – Payment Methods, outlines several types of payment options that are acceptable for consultant contracts with Federal-aid participation. In accordance with 23 CFR 172.9(b), the method of payment used shall conform to one or more of the options described in this Attachment.

[Attachment D \(word\)](#) – Standard Consultant Contract, provides a model contract for the LPA and its consultant. Use of this document is required for consultant contracts with Federal participation. For consultant contracts that do not have Federal participation where use of the Standard Consultant Contract is not required, it is recommended that the LPA pay particular attention to the limit of liability clause in Article 4.9 of the Standard Consultant Contract and make sure the limit is equal to the amount of Federal-aid funding that will be lost if the consultant doesn't follow through on their contract obligations.

The Standard Consultant Contract indicates the areas that are intended for modification by using blue text with grey highlighting. Explanatory text is shown with yellow highlighting and is for information only. The explanatory text shall be removed when drafting of the agreement is complete. If additional modifications to the text of the Standard Consultant Contract are made, the Consultant shall advise the LPA and the Iowa DOT Administering Bureau when the draft contract is submitted for review and specifically identify those parts of the Standard Consultant Contract that have been modified. All additional changes shall be shown using red underline and strikeout, highlighting, or other similar formatting so that any changes to the standard text are clearly visible.

Note: The Iowa DOT requires use of the Standard Consultant Contract because it contains all the required Federal contract provisions. This helps ensure compliance with the Federal regulations and considerably reduces the time required for review by the Iowa DOT.

## **FHWA Authorization**

FHWA authorization must be obtained before incurring any costs for which Federal reimbursement will be requested. The LPA shall submit a written request for authorization to the Administering Bureau along with a draft consultant contract and other supporting documentation, as described in Attachment A. The LPA shall not give the consultant notice to proceed until after receiving written notification from the Iowa DOT that the requested consultant services have received FHWA authorization.

The process for requesting FHWA authorization for PE costs is different than CE costs, as described below:

### PE Costs

When requesting FHWA authorization for PE costs, the estimated cost shall include all phases of PE work, even if the scope of the initial consultant contract does not include all phases. If the initial contract does not include all phases of PE work, the LPA shall provide the best estimate available for all phases of PE work. This amount can be adjusted later as supplemental contracts for additional PE work are reviewed and approved. Requesting authorization for all phases of work up-front is an important safeguard that helps avoiding incurring costs prior to FHWA authorization.

### CE Costs

Unlike PE costs, FHWA authorization of CE costs may not be requested well in advance of authorizing construction costs. Ordinarily, authorization for CE costs will be requested at the same time authorization for construction is requested.

However, authorization of CE may be requested 1-2 months prior to requesting authorization for construction, if it includes work that must be done prior to beginning construction, such as construction survey or conducting a pre-construction meeting.

LPA's should use the following guidelines to determine when to submit their request for FHWA authorization of CE costs to the Administering Bureau:

1. If the CE services are being added as a supplemental contract to an existing Federal-aid consultant contract which has already been reviewed and approved by the Iowa DOT, including a pre-audit if necessary, submit a detailed scope of services and a corresponding estimate of CE costs to the Iowa DOT Administering Bureau with the final letting plans, as per [I.M. 3.010](#), Project Development Submittal Dates and Information.
2. If the consultant contract has not yet been approved by the Iowa DOT, contact the Administering Bureau to determine the appropriate amount of lead time required for their review and approval of the consultant selection process, consultant contract, and FHWA authorization.

Following the above guidelines should allow enough time for the CE authorization request to be reviewed by the Iowa DOT and authorized by FHWA at the same time construction is authorized. If some CE work needs to begin before construction is authorized, the above timeframes should be adjusted accordingly. The LPA is responsible for notifying the Iowa DOT Administering Bureau of any CE work that needs to occur prior to authorization of construction.

### **Pre-audit Procedures**

If the estimated total consultant cost (including any planned supplemental contracts) is \$100,000 or more, the Administering Bureau will forward 1 copy of the draft contract(s) to the Finance Bureau, External Audits, and request a pre-audit. If the estimated cost is less than \$100,000, a pre-audit is usually not required, unless:

- there is insufficient knowledge of the consultant's accounting system;
- there is previous unfavorable experience regarding the reliability of the consultant's accounting system;
- the contract involves procurement of new equipment or supplies for which cost experience is lacking; or
- the Administering Bureau has concerns about any item in the proposed cost estimate; or
- the Administering Bureau has any other concerns about the proposed contract.

External Audits may waive the need for a pre-audit based on its knowledge of the consultant and its past audit history. A pre-audit typically includes:

- an analysis of the consultant's cost proposal and financial records for the method of accounting in place to assure that the consultant has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the contract; and
- an analysis of the consultant's proposed direct costing rates and indirect overhead factors to assure their propriety and eligibility for Federal reimbursement.

If there are any questions about the pre-audit procedures, the LPA or Administering Bureau may contact External Audits for assistance.

### **Contract Administration**

#### Contract officials

The LPA's person in responsible charge shall act as the Contract Administrator and be responsible for administration of the consultant contract. An Iowa DOT Administering Bureau staff person shall serve as the Contract Monitor.

#### Contract modifications

The Contract Administrator's approval and the Contract Monitor's concurrence are required on all matters regarding contract administration, including any contract modifications, such as adjustments to the contract price, approval of extra work, release of contingency, or execution of supplemental contracts. Before proceeding with work covered by a contract modification, the Contract Administrator's approval and the Contract Monitor's concurrence must be obtained in writing.

Contract modifications may not expand the scope of services beyond what was considered during the original selection process. For example, if the proposed scope of services for the original consultant selection only



included PE services, then CE services cannot be added to the contract. In this scenario, a separate selection process would be needed for the CE services.

### Adjustments to the FHWA authorization

If a contract modification changes the estimated cost of planning, PE, or CE services previously authorized, the Administering Bureau will initiate an adjustment to the FHWA authorization upon receipt of the contract modification request.

Some contract modifications may require a corresponding adjustment to FHWA authorization prior to beginning the work, others may not. In general, if the proposed work is within the same phase(s) of work included in a previous FHWA authorization for the contract, then the adjustment to the FHWA authorization may occur after the work begins. However, if the proposed work involves a new phase of work, FHWA authorization must be obtained first. *In either case, the Contract Administrator shall contact the Contract Monitor to verify whether the FHWA authorization must be adjusted in advance of proceeding with the work. While some cases may allow work to proceed prior to the adjustment of the FHWA authorization, in no case shall the costs incurred exceed the previously authorized amounts. Any costs incurred in excess of the previously authorized amount will make such work ineligible for Federal participation.*

**Note:** Proceeding with a new phase of work without an adjustment to the FHWA authorization will make such work ineligible for Federal participation.

### Pre-audits of Contract Modifications

If a pre-audit was conducted for the original contract, an additional pre-audit is not required for a contract modification, except in the following circumstances:

1. The contract modification changes or adds to the previously approved payment method(s).
2. The estimated costs are increased by \$100,000 or more.

If a pre-audit was not conducted for the original contract, a pre-audit of the contract modification will be required if the new estimated total cost of the proposed services is \$100,000 or more, or if otherwise requested by the Administering Bureau.

### Reimbursements

The LPA may request reimbursement for approved and authorized consultant costs any time after payments have been made to the consultant. Each request for reimbursement shall include:

- 1 cover letter; or for projects administered by the Systems Planning Bureau, a Claim for Reimbursement of Federal Costs ([Form 240007](#)) for Grant Program Project; or for all other projects, a Claim for Reimbursement of Project Costs ([Form 517050](#)); that identifies the project number, the type of services for which reimbursement is being requested, and the total amount claimed for reimbursement;
- 1 copy each of the prime consultant and any applicable subconsultant invoices; and
- 1 copy of the canceled check or warrant to verify that the LPA has made payment to the consultant.

Invoices shall include as a minimum: the Iowa DOT project number, a description of the work performed, and the dates the work was performed. If the invoice includes both PE and CE services, a separate breakdown of each shall be provided. Use the invoice format as shown in [Attachment D](#), Standard Consultant Contract.

For contracts that extend more than one year, reimbursement requests should be submitted every 6 months, but in no case less than every 12 months.

### Project Documentation

It is strongly recommended that [Attachment E to I.M. 6.110](#) be used and referenced throughout the construction project. This list will serve as a guide for documents required throughout the project and will greatly reduce time and effort required during the project closeout process.

In the case of a Consultant discontinuing services during construction, or in the case of dispute or default, Consultant shall provide all project documentation to the LPA. This includes, but is not limited to, Appia files, field calculations, field books, daily diaries, as-builts, and any other documentation necessary to close-out a project.

## **Contract Close-out**

### Final payment to the consultant

For contracts that do not include CE services and are not fixed fee with a variable overhead rate, the LPA shall make final payment to the consultant as soon as all the deliverables required by the contract have been provided.

For contracts that include CE services, the LPA shall not make final payment to the consultant until after receiving approval from the Administering Bureau to do so.

Before authorizing final payment to the consultant for CE services, the Administering Bureau will verify that all construction documentation that must be supplied by the consultant for final reimbursement of construction costs has been received. Until such documentation is provided, the Administering Bureau will not grant approval to the LPA for final payment to the consultant. If final payment is made to the consultant without the Administering Bureau's approval, such payment will be ineligible for Federal-aid reimbursement. The LPA shall not withhold retainage on CE services if the remaining documentation is not the responsibility of the consultant.

For cost plus fixed-fee contracts with variable overhead rates, the LPA shall submit the consultant's final invoice to the Administering Bureau. The Administering Bureau will forward the final invoice to the Finance Bureau, External Audits, for final review and approval. External Audits will notify the consultant and LPA if any adjustments to the final invoice are required. After the consultant has adjusted its final invoice accordingly, the LPA shall pay the final invoice.

### Final reimbursement

After all the consultant's work is complete, all deliverables have been received, and the consultant has been paid in full, the LPA shall submit a request for final reimbursement for consulting services to the Iowa DOT Administering Bureau. Upon receipt of the final reimbursement request, the Administering Bureau will process the final Federal reimbursement for consultant services.

### Final audit

Upon receipt of a request for final reimbursement of consultant costs, the Administering Bureau will also forward a request for a final audit or final review to the Iowa DOT Finance Bureau, External Audits. Lump sum contracts do not need a final audit, but may have a final review. External Audits may waive final audit requirements on contracts less than \$100,000.

If a final audit is conducted, External Audits will review all invoiced charges to assure that the charges are adequately supported and are eligible for reimbursement. After the final audit is complete, External Audits will return the audit report to the Administering Bureau, which in turn will pass the report on to the LPA and the consultant.

- If the audit report finds that a balance is due to the consultant, the consultant may invoice the LPA for the balance due and the LPA may request reimbursement for the additional payment. Upon receipt of such a request, the Iowa DOT will reimburse the LPA for the appropriate Federal share.
- If the audit report finds that the consultant has been overpaid, the Iowa DOT will invoice the LPA for the appropriate Federal share or deduct this amount from the balance of reimbursement that is due to the LPA for other project costs. Likewise, the LPA may request reimbursement from the consultant for the amount of overpayment.

### Consultant evaluations

The LPA shall complete a consultant evaluation as per [I.M. 3.320](#), Consultant Evaluations.

### Records retention

Upon FHWA approval of the final closure document, the Administering Bureau will notify the LPA and the consultant of the record retention date. The LPA and consultant shall keep all records associated with the project for at least 3 years from the record retention date. During this time, the records shall be available to Iowa DOT and FHWA staff upon request.