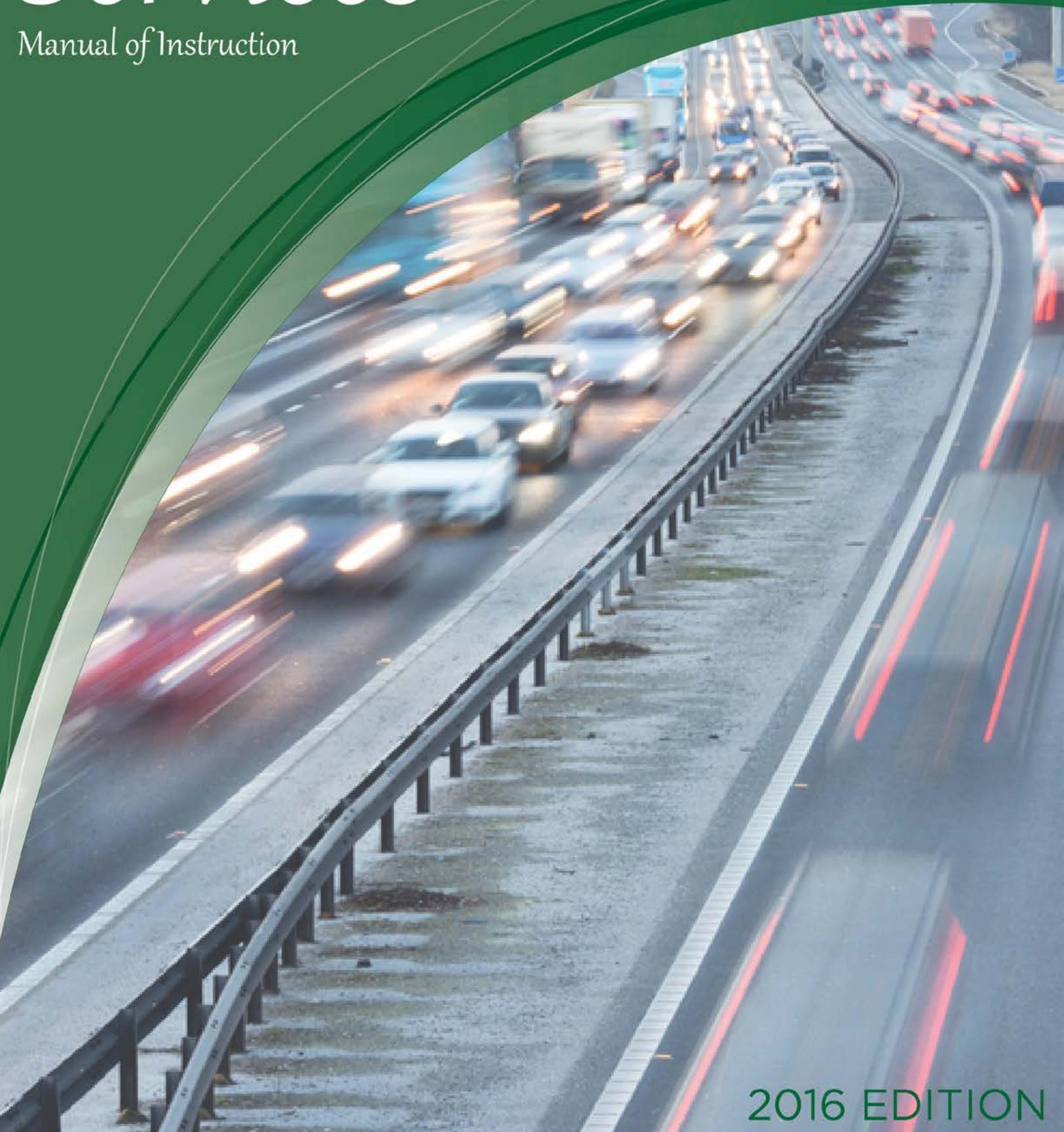


# Consultant Services

Manual of Instruction



2016 EDITION



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# FOREWORD

This Manual of Instruction is to be used by UDOT and local government staff and the consultant community as the handbook for all things related to securing consultant support. It is designed to be easy to read while at the same time complying with the required federal and state regulations. This manual is developed for all parties involved in the UDOT and Local Government project development process, which includes UDOT and local government staff, the consultant community, and the Federal Highway Administration (FHWA) which provides overall oversight.

Consultant Services is a key part of the project delivery process. UDOT and local governments need to ensure they have the best and most efficient professional services available. It is important that the consultant community, both those established in Utah and those wishing to do business here, know the process for getting under contract is fair, consistent and open, and information about it is readily available in a simple and clear format.

The involvement of Consultants provides value to UDOT and local governments in many ways:

- Allowing Staffing levels to fluctuate along with workload;
- Bringing valuable experience from similar projects in similar conditions;
- Providing well-qualified technical experts.

One of the goals of Consultant Services is to have a wide variety of firms providing services. The goal of this Manual is to make the process as clear and understandable as possible.

This Manual cannot replace the important relationships with our Consultant team members helping to ensure the best possible transportation infrastructure for the public.

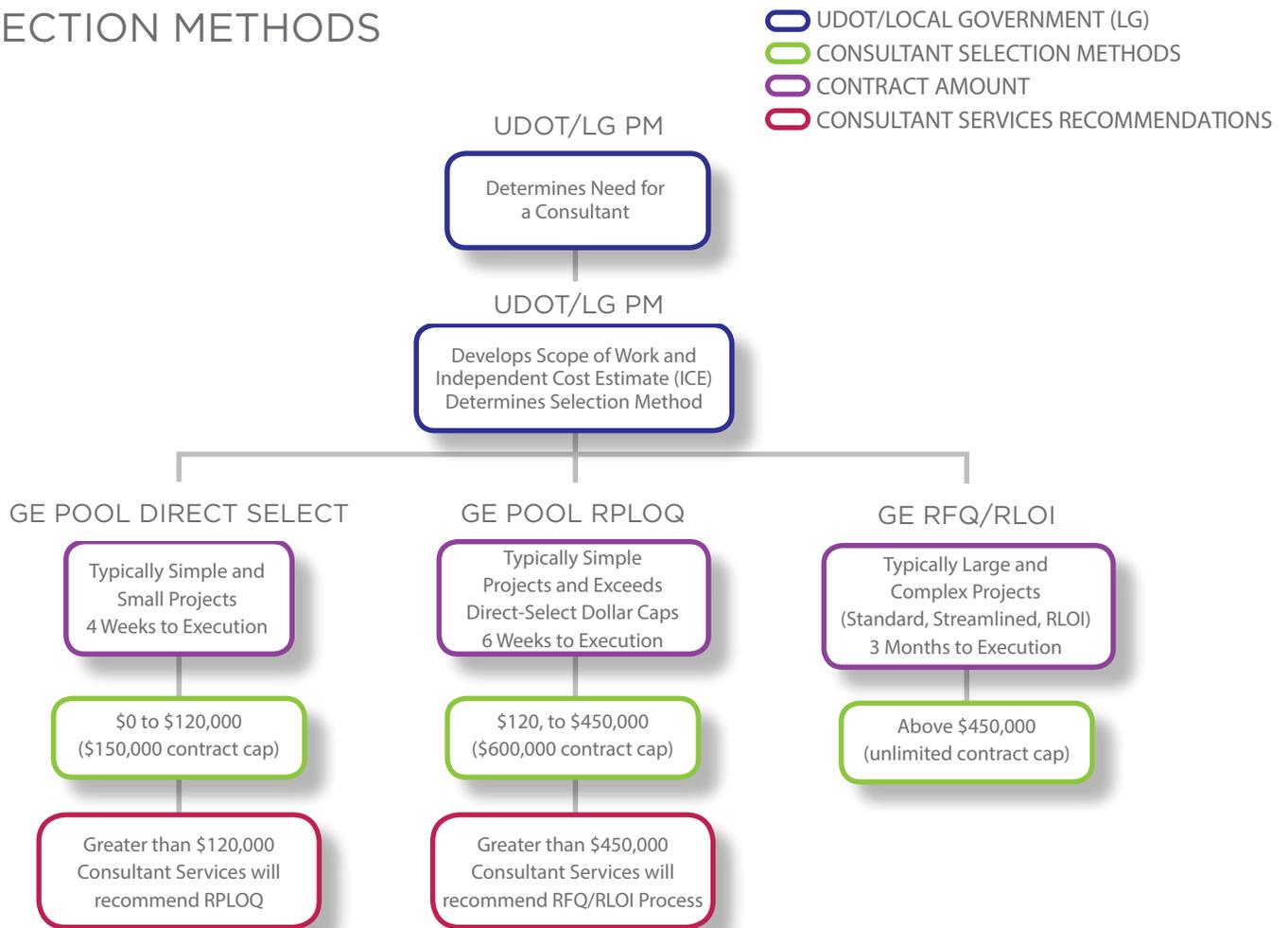


# SECTION 1: WHICH SELECTION METHOD TO CHOOSE

UDOT has several ways to select Consultants such as qualifications-based and best-value selections. All engineering and design related services solicitation and selection methods, through Consultant Services, follow the Brooks Act (USC 40 Chapter 11) and are **qualifications-based**. But what does “qualifications-based” really mean? First, this is part of the engineering lexicon and is called “QBS”, for “Qualifications-Based Selection.” At its most basic, it is about a competitive process where the owner, in this case UDOT, assesses the various firms’ qualifications to perform the work. Cost is not a consideration in ranking Consultants during selection; rather things such as previous project experience, key personnel, and the firm’s overall capability and skill set are primary criteria. UDOT is among a number of agencies using a QBS process. This is why cost proposals, sealed or otherwise, are not part of the A&E consultant selection process.

So why does UDOT follow QBS? Most projects requiring consultant services are not like a construction project, where the quantities and unit costs can be calculated and priced. Instead, consultants are needed for services requiring the highest quality and creativity. Affixing a price at the outset is counterproductive to meet those objectives. UDOT believes QBS is the best process to engage consultants to collectively meet the agency’s goals.

## SELECTION METHODS



There are three areas of solicitation and selection of a Consultant in which Consultant Services performs a best-value selection method: the Public Involvement Specific Consultant Services Pool, the Right of Way Acquisition Services Pool, and the Emergency Contract selection. UDOT determined cost should be a factor relative to awarding public involvement projects and Right of Way Acquisition Services via RFP or RPLOQ and established the **Public Involvement Specific Consultant Services Pool** and the **Right of Way Acquisition Services Pool**. If Emergency Selection of a Consultant is needed and time is limited, the qualifications-based selection process can be waived. Examples of this exception would be where delay could put public safety at risk, or immediate action could prevent further road damage to a structure due to accidents or weather incidents.

The **Emergency Contract Procurement Procedures Manual** outlines emergency declaration and consultant selection.

When a UDOT Project Manager decides to hire a Consultant, he or she coordinates with Consultant Services to determine the appropriate selection method. This decision depends on factors like project type, anticipated costs, environmental requirements, and complexity.

## BASIC STEPS PRIOR TO CONSULTANT SOLICITATION

Although UDOT Project Managers have several different options to select a Consultant, basic steps must be taken before a Consultant is selected. UDOT Project Managers are required to develop a Scope of Work and an Independent Cost Estimate (ICE). This advance work by the Project Manager helps them determine which kind of Consultant to select, which selection method to use and anticipate the level of effort required for completing the requested services.

The UDOT Project Manager works with regional and technical experts to develop the project Scope of Work. For Local Government projects, the UDOT Project Manager assists the Local Government Project Manager to clarify and define their needed services. The Scope of Work needs to include:

- Tasks to be performed (and identified with Activity number)
- Anticipated deliverables
- Equipment to be used
- Meetings to attend
- Schedule to be met
- Standards to be followed
- Any other project-specific criteria the Consultant must meet
- UDOT commitments
- Local commitments

After the UDOT Project Manager has completed the Scope of Work to identify the project needs, the next step is to develop an Independent Cost Estimate (ICE). The independent estimate documents UDOT performance of due diligence in establishing a fair estimated value for services and also gives the UDOT Project Manager an important baseline for negotiations with the Consultant. A logical and reasonable independent estimate is necessary to maintain confidence and trust in UDOT's contracting process. The ICE includes task descriptions, the skill level job classification required to complete the task and an estimate of task hours.

The UDOT Project Manager develops the ICE using the electronic Program Management System (ePM) or a spreadsheet. ePM provides a current list of estimated rates of pay for common job classifications. After the UDOT Project Manager has completed the ICE, it is submitted along with the Scope of Work to Consultant Services.

UDOT Project Managers must also complete a Request for Authorization of Funding (R-709). Consultant Services assists Project Managers in obtaining this approval from Program Finance through CMS, verifying funding is available. CMS electronically records/documents when the Authorization of Funding Request (R-709) is approved. The UDOT Project Manager also needs to complete the Project Cost Estimate (ePM Screen 505) to identify estimated project costs.

When federal-aid funds are used for project management, UDOT must receive approval from FHWA before hiring a consultant to act in a management role for UDOT. "Consultant services management support roles" is defined by FHWA and UDOT as consultants who direct scope, schedule or budget or direct a program. When a contract is for consultant services in management roles, the following must occur:

- FHWA approves the Authorization of Funding Request (R-709)
- FHWA will be offered the opportunity to serve as a non-voting member of project-specific RFQs for management role contracts to observe the selection process.
- Once the selection of the consultant in a management role is complete, FHWA will formally concur in the selection for high profile projects prior to negotiations per the FHWA/UDOT Stewardship and Oversight Agreement. High profile projects are identified within the Stewardship Agreement with an asterisk.

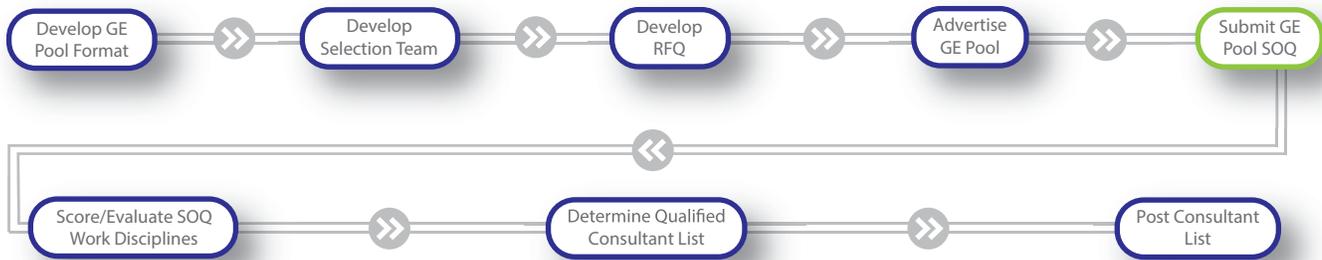
## GENERAL ENGINEERING SERVICES AND LOCAL GOVERNMENT POOL

UDOT Project Managers use the General Engineering Services and Local Government Pool (GE Pool) to hire consultants for smaller contracts. The GE Pool pre-qualification process assists UDOT and Local Government (LG) Project Managers to select the most qualified Consultant for their project.

The GE Pool is the simplest method for selecting a consultant and there are two primary avenues a UDOT Project Manager can utilize in hiring a consultant from the GE Pool: **Direct-Select** and **RPLOQ**. Below is an overview of the GE Pool pre-qualification process and the two selection methods for utilizing consultants from the GE Pool.

# GE POOL PREQUALIFICATION PROCESS

- UDOT TASKS
- CONSULTANT TASKS
- JOINT UDOT/CONSULTANT TASKS



Every three years, UDOT develops a General Engineering Services and Local Government Pool Request for Qualifications (GE Pool RFQ) for all interested Consultants to submit new Statements of Qualifications (SOQs) in specific areas which UDOT calls **Work Disciplines**. Each GE Pool period begins on July 1st and ends three years later on June 30th. In addition, UDOT has two annual interim SOQ submissions for new consultants.

Cumulative caps are established by UDOT for each GE Pool period. It is the responsibility of all parties (UDOT, Consultants, and Local Governments) to make sure each project seeking Consultant selection from the GE Pool meets the current GE Pool Project Limit. A full twenty-five percent reserve of all open contracts will be maintained as a contingency for potential modifications to those contracts in order to not exceed the Consultant Cumulative Cap. Closure of a contract releases the contingency Pool dollars and makes them available for other potential contracts.

Since the GE Pool is 3 years, Consultants are required to recertify that they are qualified to do the work and to identify changes that have occurred every 18-months through the **“Recertification Process for GE Pool”**. Since consultants in the Pools may requalify at the 18-month interval without the need to go through a new competitive procurement process, it is essential that UDOT become aware of any changes such as firm ownership, key personnel, etc., that have occurred during that interim and that may affect a consultant’s ability to perform as UDOT requires. Not every change will disqualify a firm from being included in a pre-qualified consultant Pool. Consultant Services personnel will thoroughly evaluate the material changes identified on the **RCF Form** and disqualify a firm if such action is necessary to protect the interests of UDOT and the state.

Consultants can submit qualifications in all the Work Disciplines matching their expertise. The GE Pool RFQ includes a complete description and qualification requirements for each Work Discipline, which assists Consultants in preparing their SOQ for UDOT. All Consultant submittals are evaluated and scored on the same criteria: Firm Qualifications, Key Personnel, and Project Experience. Each scoring criteria is given a maximum possible number of points. UDOT assembles teams to review and score specific Work Discipline Consultant SOQs.

UDOT posts the **GE Pool RFQ** on the UDOT website and notifies Consultants of its availability through the Consultant Services Email Update Listserve. This advertisement usually starts in February prior to the July beginning date. The deadline for submitting SOQs is identified in the GE Pool RFQ. Qualification in the GE Pool does not guarantee project work or contracts.

UDOT encourages prime consultants to use Disadvantaged Business Enterprise and/or Women Business Enterprises as sub-consultants where practicable. UDOT also encourages DBE/WBEs to respond to the GE Pool RFQ.

Prior to receiving any type of project work for UDOT (GE Pool, RFQ, or Local Government), the Consultant must be financially screened. For details on the Financial screening process, see **Section 2 How to Get a Consultant Under Contract**. If a Consultant is selected and has not been financially screened and approved within two weeks after selection, the Consultant will be disqualified unless UDOT is responsible for the delay. Financial screening can be a time-consuming process. UDOT encourages Consultants to submit their **Financial Screening Application & Questionnaire** at the same time as their Statement of Qualifications or before. A Consultant's Financial Screening status is effective for one year from the time the Consultant is approved.

### GE POOL – DIRECT-SELECT

UDOT Project Managers and Local Government Project Managers may direct-select from the Pool for contracts up to the state and federal small purchase cap of \$150,000. UDOT Project Managers often need to modify Consultant contracts to allow for more work; therefore, \$120,000 is the maximum contract amount when initiating a direct-select contract with a Consultant. If UDOT Project Managers and/or Local Government Project Managers believe the total contract amount will be more than \$150,000 but less than \$450,000, **Request for Pool Letter of Qualifications (RPLOQ)** selection method should be used instead. Contracts will not be modified above the \$150,000 limit based on federal and state code. **No exceptions.**

### GE POOL DIRECT-SELECT PROCESS



Below is an overview of the process and the steps a UDOT Project Manager and Local Government Project Manager, if applicable would take to hire a Consultant using the direct-select method which takes approximately four weeks (from contract request to NTP).

- The UDOT (and LG) Project Manager prepares a Scope of Work and an Independent Cost Estimate (ICE) for selecting a Consultant.

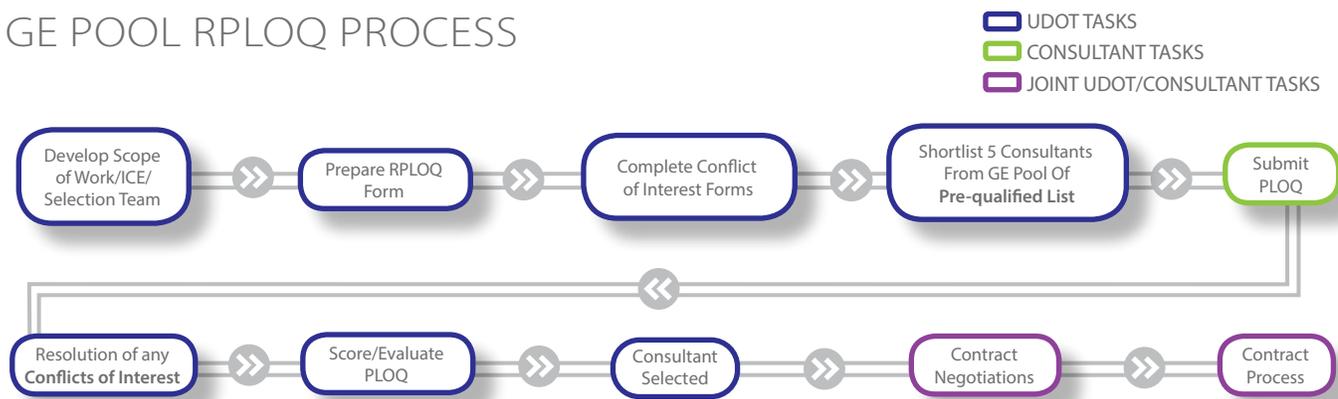
- The Project Manager (and LG) selects a Consultant listed under the Work Discipline most closely related to the Scope of Work.
- The Consultant hired by the Project Manager has to perform the percentage required by the contract, typically 60% of the total contract value. If there is any variation from this procedure, the Contract Administrator will need to be advised in order to approve and amend the contract language.
- The Project Manager needs to confirm the selected Consultant has GE Pool cumulative dollar availability prior to contacting the Consultant. This is done through CMS.
- All contract and modification costs (including subconsultant costs) will count towards the Prime Consultant's Cumulative GE Pool Dollars.
- UDOT requires standard contract and contract modification documentation. Any variation from this will require full justification in the Consultant's Work Plan and approval by the UDOT Project Manager. Contract Modification requests are required to comply with the contract-cap and consultant cumulative-cap limits.

## GE POOL – REQUEST FOR POOL LETTER OF QUALIFICATIONS (RPLOQ)

For contracts more than \$150,000 and less than \$600,000, UDOT Project Managers and the Local Government Project Managers can use the RPLOQ selection method from the GE Pool pre-qualified firms list. UDOT Project Managers often need to modify Consultant contracts to allow for more work; therefore, \$450,000 is the maximum contract amount when initiating an RPLOQ contract with a Consultant. If UDOT Project Managers and/or Local Government Project Managers anticipate the contract amount will be more than \$600,000, a [Request for Qualifications \(RFQ\)](#) or [Request for Letter of Interest \(RLOI\)](#) selection method must be used.

The RPLOQ procurement has a higher level of competition for selection from the GE Pool list of pre-qualified firms than the direct-select method as multiple firms (three to five) are shortlisted to submit qualifications for the same GE Pool project.

### GE POOL RPLOQ PROCESS



Below is an overview of the process and the steps a UDOT Project Manager and Local Government Project Manager take to hire a consultant using the RPLOQ method. The process takes **approximately six weeks** (from contract request to NTP).

- The UDOT Project Manager (and Local Government (LG) if applicable) develops a brief scope of work, sets up a GE Pool contract request in CMS, creates a Selection Team of at least three individuals, and develops an ICE in ePM.

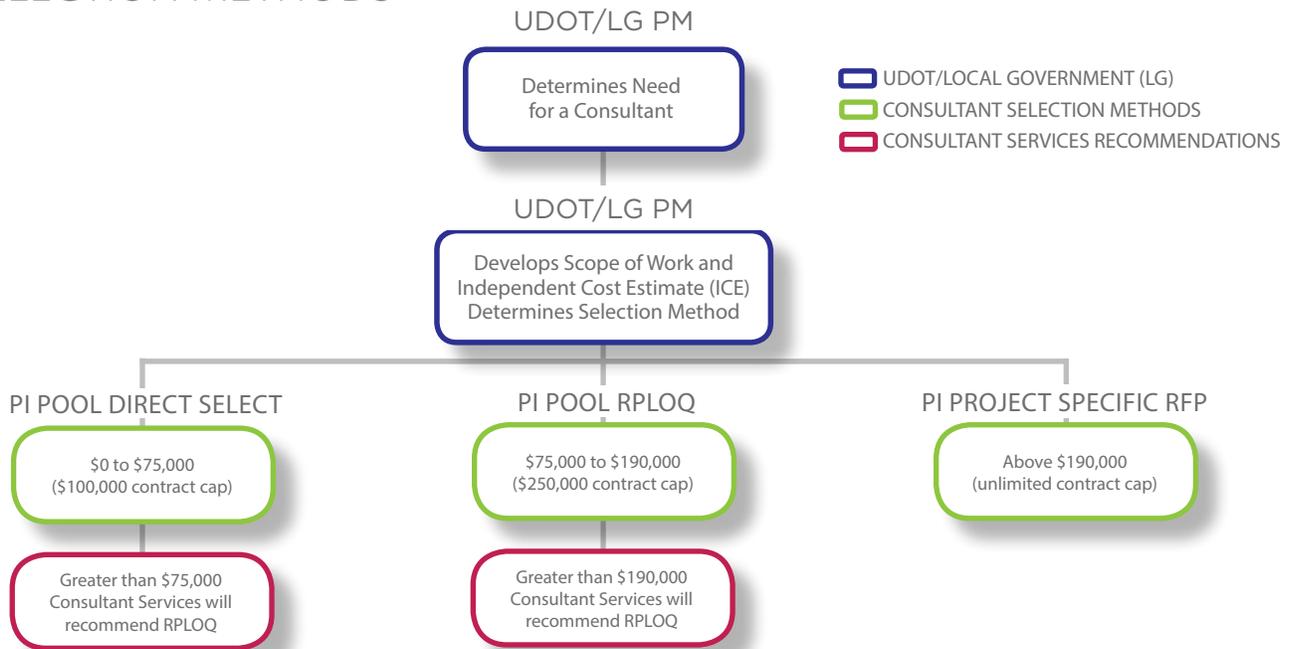
- The UDOT Project Manager and the Selection Team choose five pre-qualified firms in the GE Pool from CMS Contract/Mod Request Screen 910 (Pool/EOR New Contract) in the appropriate work discipline. Consultant Services recommends shortlisting five pre-qualified firms whenever possible but UDOT Project Managers are required to shortlist at least three firms. If the contract is for Construction Engineering Management (CEM) services, the Project Manager should confirm the chosen firms are compliant with the ***Design and CEM by Same Consultant***.
- The UDOT Project Manager completes and collects a ***Conflict of Interest and Confidentiality Certification Form*** from the Selection Team. The UDOT Project Manager emails the completed ***Conflict of Interest and Confidentiality Certification Forms*** to the Consultant Services Manager. If a potential conflict is disclosed, the UDOT Project Manager must contact the Consultant Services Manager for guidance and resolution.
- The UDOT Project Manager and the Selection Team prepare a ***Request for Pool Letter of Qualifications (RPLOQ) Form*** and email the completed RPLOQ Form to each shortlisted firm, inviting them to submit a Pool Letter of Qualifications (PLOQ). Consultant Services provides the UDOT Project Manager with a template email invitation and the UDOT Project Manager will carbon copy the Consultant Services Manager on the email to the shortlisted firms. The UDOT Project Manager will invite both the individual listed as the primary contact for the firm in the GE Pool for the appropriate work discipline and the primary contract contact in CMS (Screen 930). The email will include the number of shortlisted firms.
- Consultants should send an email to the UDOT Project Manager with a carbon copy to the Consultant Services Manager to acknowledge receipt of the RPLOQ invitation.
- Consultants should review and comply with the ***RPLOQ Format Instructions***.
- Invited Consultants prepare and submit a PLOQ to the UDOT Project Manager (and LG) with a carbon copy to the Consultant Services Manager based on instructions by the deadline given; OR, a Consultant may choose to decline in writing the invitation to submit a PLOQ. If the UDOT Project Manager (and LG) only receives one or two PLOQs after inviting at least three Consultants to submit, they may still proceed with the selection process. However, the UDOT Project Manager (and LG) must document in the file that an adequate number of firms were short-listed and one or two firm(s) capable of performing the work responded.
- Communications: Based on Utah Code 63G 6a 1503(3), Consultants may not contact or communicate with any member or potential member of a Selection Team regarding an RPLOQ once the RPLOQ invitation to submit has been received by the Consultant. The only exceptions are to acknowledge receipt of the RPLOQ invitation, submit the PLOQ, or submit a declination to the invitation. However, Consultants may communicate with the Consultant Services Manager or other Consultant Services staff regarding the selection process after the RPLOQ invitation has been received by the Consultant.
- The Conflict of Interest and Confidentiality Certification Forms were completed based on the prime consultants invited to submit a PLOQ. Therefore, the UDOT Project Manager must confirm with the Selection Team that they have no conflicts of interest to disclose with any subconsultants proposed in received PLOQs. If a Selection Team member has a potential conflict of interest with a subconsultant, they are required to disclose it at this point. If a potential conflict is disclosed, the UDOT Project Manager must contact the Consultant Services Manager for guidance and resolution prior to forwarding PLOQs to the Selection Team.

- The Consultant Services Manager or designee reviews PLOQs to determine whether PLOQs are responsive and in compliance with the [RPLOQ Format Instructions](#).
- The UDOT Project Manager forwards the responsive PLOQs to the Selection Team for review.
- The UDOT Project Manager and the Selection Team evaluate the submitted responsive PLOQs and complete the RPLOQ Ranking Sheet.
- The UDOT Project Manager submits the GE Pool consultant selection documentation to the Consultant Services Manager, using the email submission template.
- The Consultant Services Manager reviews and approves the contract request and selection documentation. If the Scope of Work is for a construction engineering management contract, the Consultant Services Manager verifies the first-ranked consultant's construction certifications (CEMT, IQP, Partnering, TTQP, and LQP) and enters the selected firm in the CMS contract request.
- Once the UDOT Project Manager receives approval from the Consultant Services Manager, the UDOT Project Manager notifies the responsive firms of rankings and justification for selecting the first-ranked firm from the RPLOQ Ranking Form.
- The UDOT Project Manager (and LG) enters negotiations with the first-ranked firm to develop consultant documents (Executive Summary, Work Plan, Staffing Plan, Schedule, Cost Proposal/Hours Derivation, and any sub-consultant information). The UDOT Project Manager (and LG) may request revisions if necessary.
- If there is a change in key personnel during negotiations, the new personnel must be equal to or better than the previously identified personnel.
- The UDOT Project Manager (and LG) may approve the final documents and submit them to the Consultant Services Contract Administrator OR if the first-ranked firm and the UDOT Project Manager (and LG) cannot come to an agreement on the contract, the UDOT Project Manager (and LG) discontinues negotiations with the first-ranked firm and contacts the Consultant Services Manager to enter negotiations with the second-ranked firm.
- The Consultant Services Contract Administrator reviews consultant final documents, requests any revisions needed, drafts the contract, routes for approval, and issues the Notice-to-Proceed.
- The Consultant Services Manager includes the selected PLOQ in the PLOQ Debrief File for public review in the Consultant Services office for a period of 12 months.

## GE POOL - PUBLIC INVOLVEMENT-SPECIFIC CONSULTANT SERVICES

UDOT has created an alternative selection method for Consultants pre-qualified under the GE Pool Public Involvement Discipline (which does not fall under the Brooks Act). This method, called the Public Involvement Specific Consultant Services Pool, is based on the framework of the existing GE Pool but adjusts the contract caps to levels more appropriate to public involvement contracting scenarios and applies cost as a factor in the majority of selections as outlined below.

### PI SELECTION METHODS



## GE POOL - CONSULTANT PROJECT MANAGER

UDOT has created a **Consultant Project Management RFQ** for the “Consultant Project Management” work discipline under the GE Pool. Firms may submit Statements of Qualifications for individuals following the guidelines of the GE Pool. The UDOT Program Manager may select and contract with a Consultant from the “Project Management” work discipline qualified consultant list. Once the qualified list of individuals is created, the selection follows the GE Pool Direct-Select or RPLOQ process. The Consultant will then act as the UDOT Consultant Project Manager on projects. Below is an overview of the Consultant Project Manager requirements.

- Consultant firms submit a separate SOQ for each employee they wish to qualify as a Consultant Project Manager. This may mean multiple submittals from a single firm.
- The contract amount of all contracts selected from the qualified list of consultants in this work discipline will accrue against the individual’s firm’s Consultant GE Pool Period Cumulative Cap of the GE Pool.
- The Consultant guarantees UDOT their proposed employees are qualified through training, experience, and appropriate certification for the tasks they will be assigned for a contract or contract modification.
- UDOT has determined non-professional technical people, who may work on projects for the Department, must meet certain certification requirements. SOQs must reflect Consultant’s staff meets the required levels of training or certification.

- If an approved Consultant Project Manager leaves a firm during a contract and the firm **does have** another approved Consultant Project Manager, the firm may propose a change in staff. If the UDOT Program Manager approves, the firm will officially add the new project manager to the staff. If the UDOT Program Manager does not approve, he/she may request a revision of the proposal or terminate the contract.
- If an approved Consultant Project Manager leaves a firm during a contract and the firm **does not have** another approved Consultant Project Manager, the contract will be cancelled and possibly initiated with another firm from the qualified GE Pool list.
- If an approved Consultant Project Manager leaves a firm during the GE Pool period and the new firm he/she joins **is already qualified** under this GE Pool, then this Consultant Project Manager is eligible for selection with the new firm for new projects under this work discipline.
- If an approved Consultant Project Manager leaves a firm during the GE Pool period and the new firm he/she joins **is not already qualified** under this GE Pool, then the new firm with this Consultant Project Manager is not eligible for selection for new projects under this work discipline. The individual with the new firm may submit a new SOQ for the GE Pool for consideration prior to the next interim submission deadline.

## UDOT PREPARATION FOR THE RFQ/RLOI

UDOT Project Managers and Consultant Services must follow certain procedures in order to use the [Request for Qualifications \(RFQ\)](#) or [Request for Letter of Interest \(RLOI\)](#) methods for selecting consultants. UDOT Project Managers and the Local Government Project Managers must use the RFQ/RLOI selection method for contracts of **\$450,000 and above**, and for all Environmental Assessment and Environmental Impact Statements.

The following section describes these tasks, and helps Consultants understand how an RFQ/RLOI develops through UDOT's internal roles and processes. The steps described here generally come after the preparation of the "Project Basics" Items: Scope of Work, ICE, and Request for Authorization of Funding (R709), and Project Cost Estimate (505).

### INITIATION OF INTERNAL REQUEST

When a UDOT Project Manager decides services of a Consultant are needed, the Project Manager submits an [electronic request for an RFQ/RLOI](#) contract through the Contract Management System (CMS) in ePM. This request includes:

- An independent Cost Estimate (ICE)
- Authorization of Funding Request (R-709)
- Confirmation the Project Cost Estimate (ePM Screen 505) is current and updated for the project, including information such as project number and description, funding source (Federal, State, Local or other )
- Anticipated contract completion date
- Brief Scope of Work
- Executed [Federal-aid Agreement](#) for Local Government projects

In addition, the UDOT Project Manager submits an email to Consultant Services with the following attachments:

- Full Scope of Work for inclusion in the RFQ/RLOI
- Proposed Selection Team members for approval by Consultant Services Manager

## SELECTION TEAM

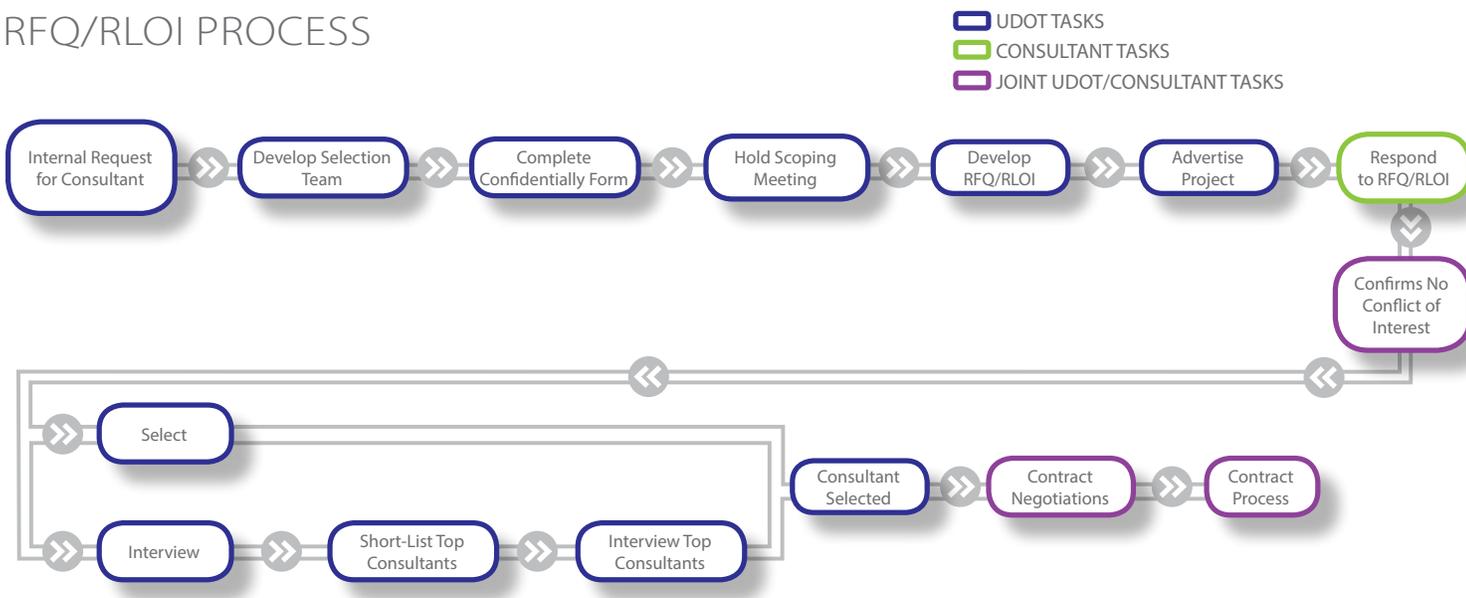
The RFQ/RLOI/RFP consultant selection method utilizes a Selection Team to identify the best qualified Consultant for the project.

- The UDOT Project Manager identifies the Selection Team and sends approval requests to Consultant Services and the Engineer for Preconstruction. **Seeking approval early in the process ensures that adjustments can be made without affecting the selection schedule. All selection team members will be required to disclose any potential conflicts of interest via the [Conflict-of-Interest and Confidentiality Form](#).**
- Usually the Selection Team consists of three to seven UDOT employees (for contracts estimated over \$1 mil, at least seven members) including the UDOT Project Manager, and includes any required technical people who bring necessary expertise to the project, across regional boundaries, and at least two members from Central.
- On Local Government projects, there will be at least one Local Government Representative from the sponsoring agency. In addition, the Federal Highway Administration (FHWA) will be invited as a non-voting member; however, FHWA has the option of declining membership.
- FHWA staff may be invited to participate on selection teams as a non-voting member. This occurs on some UDOT and Local Government projects, when UDOT is seeking a Consultant (firm or individual representing a firm) for a UDOT program management role. This role could include providing oversight of a program element on behalf of UDOT or serving as a program management Consultant to manage and provide oversight of a major project, series of projects and/or the work of other consultants and contractors on behalf of UDOT. FHWA does not have to be on the selection panel when selecting a Consultant for a management role; however, FHWA does need to approve the selection prior to procuring a Consultant to act in a management role.
- The Consultant Services Manager then reviews and approves the Selection Team, may recommend additional technical experts for a broader perspective in the selection process.
- Each Selection Team Member, including voting, non-voting, or observer members, will be required to sign a Conflict-of-Interest and Confidentiality Form (except FHWA which follows their own established confidentiality procedures) and return it to Consultant Services to be kept on file.
- The Selection Team members participate in the Scoping Meeting, consultant evaluation, selection process, and sometimes negotiation of the contract.
- After consultants submit Statement of Qualifications/Letters of Interest, UDOT Consultants Services will reconfirm there are no conflicts of interest. All information in the SOQs/LOIs/RFPs and the discussions in the selection process are CONFIDENTIAL. Selection Team members are not to discuss any information with anyone outside of the evaluation process.

The UDOT Project Manager should arrange for a Scoping Meeting with the Selection Team. At this meeting, the UDOT Project Manager, together with the Selection Team, will:

- Refine the Scope of Work.
- Determine which selection method is best suited to the project.
- Prepare the Request for Qualifications (RFQ) or Request for Letter of Interest (RLOI) for advertising.
- Identify the selection criteria and weights for scoring responses to the RFQ.
- Ensure the Selection Team understands the Scope of Work and the qualifications needed in a Consultant.
- Develop short-list criteria and interview format for RLOIs.

## RFQ/RLOI PROCESS



## RFQ TYPES - STANDARD, STREAMLINED AND REQUEST FOR LETTER OF INTEREST (RLOI)

UDOT Project Managers and the Local Government Project Managers must use the RFQ/RLOI selection method for contracts of **\$450,000** and above, and for all Environmental Assessment and Environmental Impact Statements. While contract cost parameters are the same, there are other factors the UDOT Project Manager must consider before choosing the appropriate method of RFQ or RLOI. Each of the selection methods allow the UDOT Project Manager and the Local Government to select a Consultant based on the needs of the project, predefined by a Selection Team; to score and rank the Consultant; and can provide an opportunity to interview Consultants prior to selection. There are four different types of RFQ selection methods: Standard Request for Qualifications, Streamlined Request for Qualifications, Request for Letter of Interest, and Request for Proposal.

**Standard RFQ** is used for less-defined, more complex projects. The Standard RFQ provides the Consultant opportunity for more in-depth discussion of the RFQ criteria; project approach, qualifications and capabilities of the team, and relevant project experience. The Selection Team scores the SOQ and selects the highest ranked SOQ. The Selection Team may interview consultants based on the process spelled out in the RFQ.

**Streamlined RFQ** is used for simple, well-defined projects. The Streamlined RFQ provides the Consultant opportunity to outline the RFQ criteria in a short-concise manner specific enough to be selected from the SOQ. The Selection Team scores the SOQ and selects from the highest ranked SOQ without an interview (except for a tie score for first-rank).

**Request for Letter of Interest (RLOI)** is used for less-defined, more complex projects. The RLOI provides the Consultant opportunity to address key components of the project, but must be specific enough to be short-listed for an interview. The Selection Team reviews LOIs, short-lists the firms based on pre-determined criteria, and interviews the short-listed consultant teams. Consultants are scored on interview presentation and discussion as determined in the interview format planning in the Scoping Meeting, prior to the RLOI being advertised.

**Request for Proposal (RFP)** is used for Public-Involvement and Right of Way Acquisition Services and factors in cost as a criteria for Selection. The Selection Team scores the technical proposal. The Consultant Services Contract Administrator then incorporates the cost criteria score for a best-value selection. Or the Selection Team may then choose to move to an interview for continued vetting of the consultant teams.

Below is an overview of the process and the steps a UDOT Project Manager or Local Government Project Manager would take to hire a consultant using the RFQ/RLOI/RFP method. The process can take up to **three months** to complete (from contract request to NTP).

				<h2>STEPS</h2>
STANDARD RFQ	STREAMLINED RFQ	RLOI	RFP	
●	●	●	●	UDOT Project Manager prepares a Scope of Work and Independent Cost Estimate for selecting a Consultant.
●	●	●	●	UDOT Project Manager initiates an internal request for the services of a Consultant.
●	●	●	●	UDOT Project Manager and Consultant Services assemble a Selection Team based on the Scope of Work. The UDOT Project Manager is a member of the Selection Team.
●	●	●	●	Consultant Services submits an Authorization of Funding Request (Form R-709) to UDOT Program Finance in order to obtain approval for funding of the project.
●	●	●	●	Consultant Services and the Selection Team hold a Scoping Meeting to develop a Request for Qualifications (RFQ) or Request for Letter of Interest (RLOI) and the criteria for evaluation. (Detailed description of the Internal Request process introduced in the above steps). At the beginning of this meeting, Consultant Services collects the Conflict of Interest statements.
●	●	●	●	Consultant Services posts the RFQ/RLOI on the web and sends an email out through the Consultant Services email update list serve. At this stage, it is inappropriate for a Consultant to contact a UDOT selection team member except as scheduled by Consultant Services during the selection process. Consultants may contact Consultant Services at any time.
●	●	●	●	Consultant Services collects Statements of Qualifications (SOQs) or Letters of Interest (LOI) submitted by Consultants and evaluates them based on the minimum requirements of the RFQ/RLOI.
●	●	●	●	Consultant Services reconfirms the Conflict of Interest and Confidentiality Certification forms.
●	●	●	●	Consultant Services then distributes Evaluation Packets to the Selection Team.
●	●	●	●	Selection Team reviews and scores SOQ/LOIs and meets with Consultant Services for discussion at a Selection Team Meeting.
		●		Based on consent, the Selection Team and Consultant Services rank the Consultants and develop a short-list of Consultants to be interviewed.
	●			Based only on a tie for first-place ranking, an interview may be required.
●			●	Based on the scores, the Selection Team and Consultant Services rank the Consultants and determine whether to enter negotiations with the first-ranked firm or develop a short-list of Consultants to be interviewed.
●	●	●	●	If the Selection Team and Consultant Services determine interviews are needed, Consultant Services facilitates consultant interviews with the short-listed Consultants and the Selection Team.
●	●	●	●	Selection Team interviews Consultants and ranks the firms.
●	●	●	●	The first-ranked Consultant, UDOT Project Manager and other UDOT technical experts negotiate contract terms, as needed, and finalize the contract. The first-ranked Consultant is informally referred to as the Selected Consultant. If there is a change in key personnel during negotiations, the personnel must be equal to or better than previously identified personnel.
●	●	●	●	If the selected or first-ranked Consultant and UDOT Project Manager cannot come to an agreement, negotiations are then terminated and the UDOT Project Manager and negotiation team enter into negotiations with the second-ranked firm.

## ADDITIONAL ROLES AND RESPONSIBILITIES FOR THE RFQ/RLOI PROCESS

UDOT staff and Selection Team members have a range of roles and responsibilities when it comes to evaluating Consultant submittals, in addition to the steps listed above for RFQs and RLOIs. For instance, Consultant Services also:

1. Determines whether Consultants have met the minimum requirements of the RFQ/RLOI by completing the summary evaluation form. In rare cases, Consultants may not meet the minimum and will be disqualified.
2. Determines and applies the point deductions as outlined in the RFQ/RLOI, if any, for non-conformance to RFQ/RLOI requirements prior to determining the rankings for each firm.
3. Provides the non-conflicted Selection Team members with all required documentation, including a copy of the RFQ, a worksheet for consultant evaluations, a summary sheet, and electronic spreadsheet file to all voting members, and a memo to each reviewer identifying the meeting schedule.

In addition to the roles already described, the Selection Team also:

4. Reviews the RFQ/RLOI before evaluating SOQs/LOIs to be aware of the specifics relating to the project. This review is critical to the evaluation process.
5. Evaluates and scores each SOQ independently, based on the criteria in the RFQ, guidance from Consultant Services, and information in this instruction manual prior to the Selection Team Meeting.
6. Evaluates each LOI independently compared to the short-listing criteria and the Scope of Work in the RLOI, guidance from Consultant Services, and information in this instruction manual prior to the Selection Team Meeting.
7. Provides specific comments on the strengths and weaknesses on each Consultant's SOQ/LOI.
8. Submits the evaluation and comment sheets to Consultant Services by the due date.

Consultant Services will:

Combine and average the point scores and comments given by each Selection Team member on each SOQ, then rank the Consultants based on the averages from highest to lowest.

If UDOT receives less than the prescribed minimum of three responsive SOQs or LOIs, Consultant Services will determine whether to pursue a waiver to proceed with the consultant selection under the current RFQ/RLOI based on the following:

- If only one responsive SOQ/LOI is received, the current RFQ selection process in most cases will be canceled and the RFQ for the project may be re-advertised. Only in unusual circumstances would Consultant Services determine it is appropriate to pursue a waiver in this case.
- If two responsive SOQs/LOIs are received, Consultant Services will consider the following when determining whether to pursue a waiver;
  - Did UDOT adequately advertise the project?
  - Did UDOT advertise for a long enough period of time?
  - Did UDOT do anything that would discourage competition such as scoping the project in a way that would limit competition?
  - Did the potentially interested firms team with each other to reduce the number of SOQs submitted?
- If the project is for less than \$1,000,000 based on the ICE, Consultant Services will request a waiver from the Engineer of Preconstruction or designee prior to proceeding with the consultant selection process.
- If the project is a federal-aid project and is for more than \$1,000,000 based on the ICE, Consultant Services will request a waiver from the FHWA Project Delivery Team Leader or designee and FHWA Area Engineer prior to proceeding with the consultant selection process. If the project is for \$1,000,000 or more and is a State-funded project, Consultant Services will request a waiver from the Engineer of Preconstruction.

## INTERVIEW OF SHORT-LISTED CONSULTANTS AND FINAL RANKING PROCESS

Based on the requirements outlined in the RFQ, sometimes Selection Teams find it necessary to interview potential Consultants prior to making a selection and in the case of an RLOI, it is required. When necessary, the Selection Team and Consultant Services short list typically a minimum of two and a maximum of five Consultants to be interviewed. Consultant Services then notifies the short-listed Consultants, advises them of the format of the interviews, and schedules them for an interview with the Selection Team. Consultant Services also notifies non-short-listed Consultants.

The format of the consultant selection interviews is determined in the Selection Team Meeting based on the [Consultant Selection - Interview Format Worksheet](#). The Worksheet allows the Selection Team to determine if Consultants should prepare a short presentation, time lengths of each segment and the sequence of the interview, and level of visual aids allowed. The Worksheet also assists the Selection Team in determining weights of each segment of the interview and of each of the questions; and whether to release SOQ debriefing information to Consultants prior to the interviews.

In the case of an RLOI, the Interview Format, questions and weights are determined in the Scoping Meeting before the RLOI is advertised.

Once the interview format is determined, the Selection Team and Consultant Services interview each short-listed Consultant on the date advertised in the RFQ/RLOI. The Selection Team and Consultant Services rank the interviewed Consultants using the “Selecting by Consent” (SBC) process to score the consultants’ interviews and determine a final ranking. Consultant Services notifies the Consultants and posts the results on the website.

### “SELECTING BY CONSENT” INTERVIEW PROCESS

The “Selecting by Consent” (SBC) process aids the Selection Team in ranking Consultants through a collaborative process.

Consent is defined as the willingness of all Selection Team members to accept a decision reached by a collaborative process. Each segment and question in the interview is weighted in advance during the Selection Team Meeting. After the interviews are conducted, the Selection Team determines by consent the strengths and weaknesses the Selection Team observed in each Consultant's interview. Scores are assigned based on the Qualitative Assessment Guidelines advertised in the RFQ. The final selection ranking of Consultants is based on the final scores developed by the Selection Team using the Interview Scores spreadsheet.

## CONSULTANT DEBRIEFING ON SELECTION PROCESS

Consultant Services provides information from the Selection Team to each Consultant regarding the selection process, known as debriefing.

## FINANCIAL SCREENING OF CONSULTANT

If a Consultant is selected and has not been financially screened and approved within two weeks after selection, the Consultant will be disqualified unless UDOT is responsible for the delay. Financial screening can be a time-consuming process. UDOT encourages Consultants to submit their [Financial Screening Application and Questionnaire](#) at the same time as their SOQ/LOI or before. A Consultant's Financial Screening status is effective for one year from the time the Consultant is approved.

## STRUCTURAL DESIGN AND MANAGEMENT SUPPORT SERVICES POOL

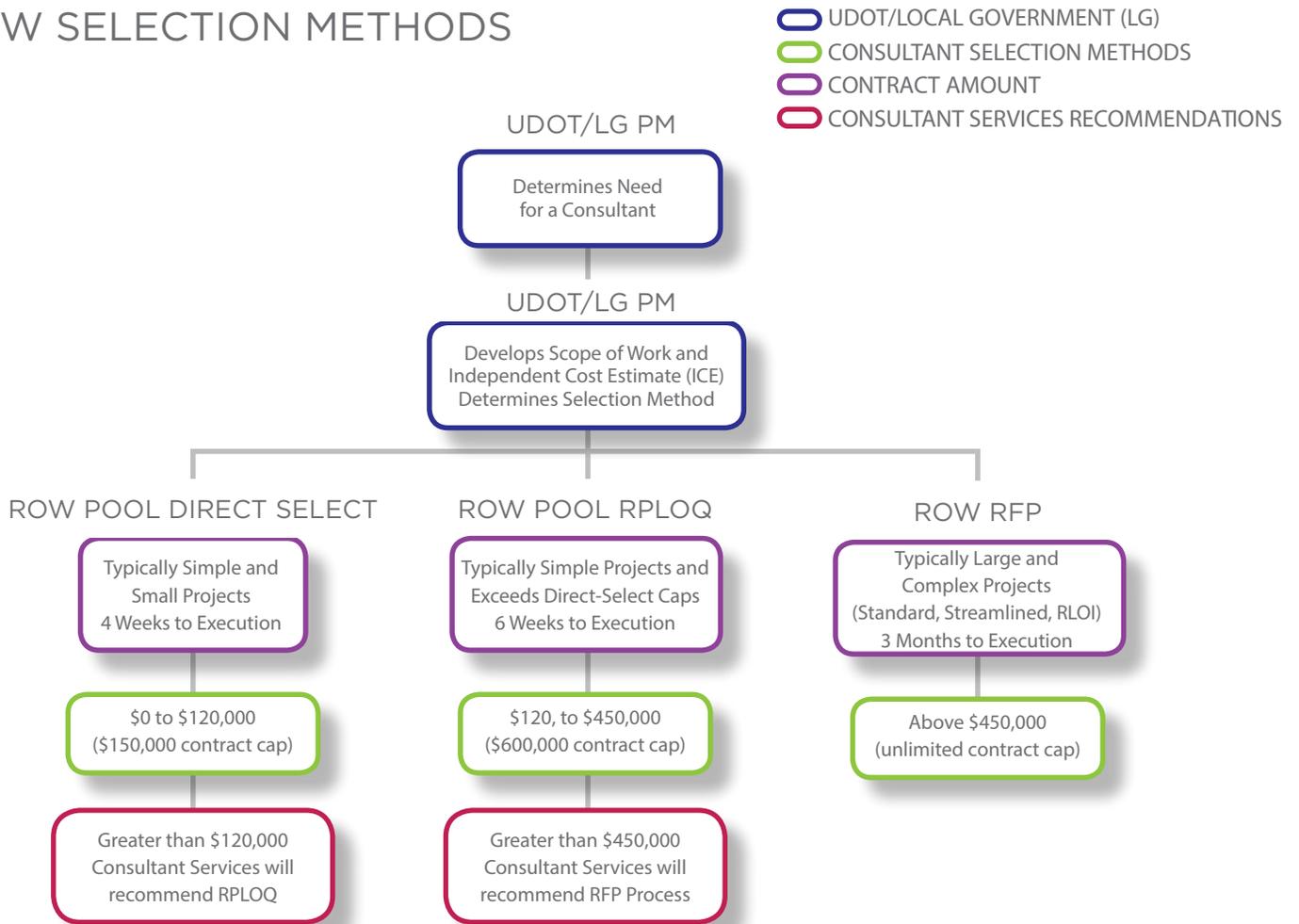
The Structural Design and Management Support Services Pool is for the augmentation of UDOT Structures Division design staff with consultant structural design and management support services.

All engineers on a Structural Design and Management Support Services Pool contract are required to be a licensed professional engineer in the State of Utah and listed as qualified in this Pool. Other supporting staff such as an engineer in training, administrative or CADD support are not required to be listed as qualified in this Pool. Overview of the Structural Design and Management Support Services Pool process is outlined below.

- SOQs will be evaluated annually. Each consultant should submit a separate Statement of Qualifications for each individual engineer they are proposing as a "Structural Design and Management Support Engineer". Interested Consultants are to submit an SOQ summarizing their abilities and strengths.
- An On-Call contract is developed for the "as-needed" services. All contracts selected through the Structural Design and Management Support Services Pool will be on call contracts and each contract is capped at the on-call contract limit, currently **\$150,000**. However, if UDOT determines at a future date other methods would be more effective, these methods may be changed.
- The structural design contract employee's point of contact will be identified in the RFQ and will typically be a representative of UDOT Structures Division.
- Every attempt will be made to submit requests and schedule at least one week prior to the need for personnel, but UDOT expects requests will be fulfilled within a 48-hour period.
- If the individual is unable to fulfill the request, UDOT Structures Division may utilize a secondary team of individuals for the services.
- Services will be required as directed by the project manager and durations of time will be established at the time of request.

# RIGHT OF WAY ACQUISITION SERVICES AND LOCAL GOVERNMENT POOL

## ROW SELECTION METHODS



UDOT (and Local Governments) may use a variety of avenues to select consultants for right of way acquisition and acquisition related service contracts. The **Right of Way Acquisition Services and Local Government Pool** is a Pool of pre-qualified individuals and consultants in various work disciplines. This selection process may be used by UDOT to select consultants for small and non-complex right of way service contracts **under \$600,000** from start to completion, similar to the GE Pool. Consultants interested in being listed as qualified in the Pool may submit work discipline specific Statements of Qualifications.

Once the decision is made to utilize a Consultant, the UDOT Right of Way Division, and/or UDOT Project Manager in coordination with Consultant Services, determines the procurement method. This decision is based on the nature of the project and related factors such as anticipated costs, land values, and complexity.

Consultants (firms or individuals) may be selected to cover each area of service (Work Disciplines) UDOT deems necessary for upcoming projects. UDOT Right of Way and/or the UDOT Project Manager may select qualified Consultants from the appropriate Work Discipline. Consultants interested in being listed as qualified in the Pool submit work discipline specific Statements of Qualifications (SOQ's).

The Pool work disciplines are listed below. Full descriptions of the disciplines can be found in the [Right of Way Acquisition Services Pool RFQ](#).

- |  |   |
|--|---|
| 1 Acquisition Services                 | 6 Appraisal Review Services                 |
| 2 Relocation Services, Non-Residential | 7 Lead Agent Services, Complex Projects     |
| 3 Relocation Services, Residential     | 8 Lead Agent Services, Non-Complex Projects |
| 4 Complex Appraisal Services           | 9 Title and Closing Services                |
| 5 Residential Appraisal Services       | 10 Inspection Services                      |

## UDOT BRIDGE COLLISION AND EMERGENCY REPAIRS POOL

UDOT has created the [UDOT Bridge Collision and Emergency Repairs Pool](#) to provide general and/or specific construction services for bridge collisions and emergency repairs to structures. Contractors will be selected from the Bridge Collision and Emergency Repairs Pool by the UDOT Structures Division based on project specific bids. Services may range from a phase of needed work to the entire project. The ability to provide design engineering, fabrication, traffic control and other related work is expected for pre-qualified individuals and firms.

Types of emergencies may include but are not limited to:

- Collisions
- Natural disasters (floods, earthquakes, wind storms, landslides, etc.)
- Structural emergencies (shoring, deck repairs, etc.)

Types of structures may include bridges, retaining walls, tunnels, culverts, and sign structures.

Common types of work may include, but are not limited to:

- |                               |  |
|-------------------------------|--|
| • Reinforced concrete repairs | • Replacement of major components (beams, decks, etc.) |
| • Structural shoring          | • Temporary bridges                                    |
| • Structural steel repairs    | • Bridge replacements                                  |

Individual contracts will be prepared and negotiated for each project, including the Scope of Work, Schedule, Quality Control Plan, and Cost Estimate. In some cases, “Innovative Contracting” concepts may be used where the contractor prepares engineering design and drawings, develops repair techniques, and/or performs their own quality control/quality assurance. The selection method will be determined on a project by project basis dependent on the emergency status and level of risk of each situation.

# ENGINEER OF RECORD REQUEST FOR QUALIFICATIONS

The UDOT Engineer of Record (EOR) selection process provides for a Local Government (LG) to establish a relationship with one or more engineering firms to provide professional services for federal-aid transportation projects through an Engineer of Record Request for Qualifications (EOR RFQ). The selection process takes a minimum of six weeks with additional time required for the LG to adopt a resolution establishing the EOR relationship with the Local Government. Consultant Services has prepared [Engineer of Record Selection Guidelines](#) to assist Local Governments in the EOR selection.

## EOR SELECTION METHOD

- UDOT/LOCAL GOVERNMENT (LG)
- CONSULTANT SELECTION METHODS
- CONTRACT AMOUNT

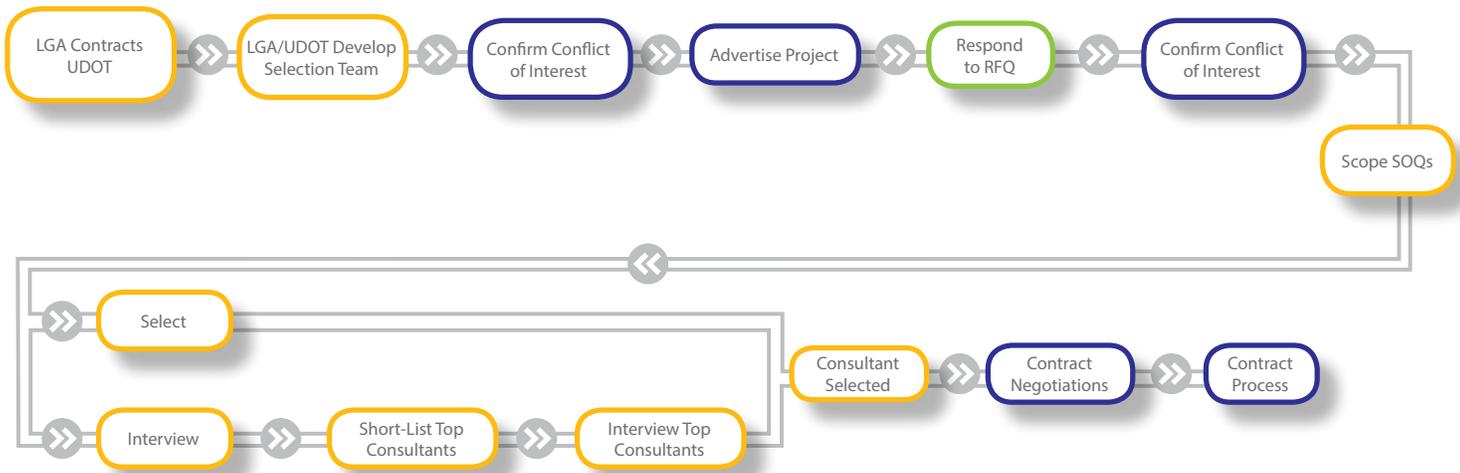


The Local Government is not required to utilize the selected firm for all projects in which they receive federal-aid. The LG may select any firm fitting their project needs through other UDOT selection methods, such as the General Engineering and Local Government Pool, Standard RFQ, Streamlined RFQ or Request for Letter of Interest (RLOI). If the LG has any environmental assessment or environmental impact statement projects funded, a separate RFQ/RLOI will be required.

The Local Government may select an EOR for non-Federal-aid or municipally funded projects through any selection process established through their own procurement policies.

# ENGINEER OF RECORD PROCESS

- UDOT TASKS
- CONSULTANT TASKS
- JOINT UDOT/LGA TASKS
- JOINT UDOT/CONSULTANT /LGA TASKS



SELECTING

## OVERVIEW & SUMMARY OF STEPS FOR THE EOR SELECTION PROCESS

- Consultant Services will facilitate the EOR selection process as an EOR RFQ.
- The Local Government will work with a UDOT Project Manager throughout the EOR RFQ selection process.
- The EOR RFQ selection team will consist of technical experts from UDOT and a Local Government representative(s).
- EOR Areas of Expertise are Bridge Design, Environmental Engineering, Construction Engineering Management and Preliminary Engineering Services.
- If the LG elects to advertise for one firm, the first ranked firm may not be selected for all disciplines if they cannot demonstrate qualification for one or more Area of Expertise in the selection process.
- An EOR RFQ will be posted on the UDOT website, and may be posted on the Local Government website, as requested by the LG.
- The Local Government may elect to select one or more firms to provide services as EOR (limit of one firm per area of expertise) and may elect to establish their EOR for a period of 1 year to 5 years.
- Contracts may be issued during the following project phases; environmental (Categorical Exclusion only), preliminary engineering, and construction.
- EOR contracts will meet the same criteria as GE Pool contracts and have the same contract caps as the GE Pool RPLOQ. Contracts expected to exceed this cap will require advertisement as an RFQ or RLOI.
- The LG is advised additional time will be required to negotiate, write and execute contracts and to prepare and execute Federal-aid Agreements for federal-aid projects, after EOR selection has been completed.

## DESCRIPTION OF AREAS OF EXPERTISE FOR THE ENGINEER OF RECORD

### STRUCTURES AREA OF EXPERTISE

This category of work is defined as the production of competently engineered structure designs and plans (bridges and minor structures) that conform to UDOT's design processes, procedures, standards, requirements and guidelines as defined in the UDOT Structures Design and Detailing Manual (SDDM), the Bridge Management Manual (BMM), and those of AASHTO and the FHWA.

Consultants will demonstrate the ability to provide engineering services to design, study, analyze or review complex structures and minor structures of various types that may be required on a roadway project or engineering study. This may include but not be limited to the complete design of bridges and other complex structures or any minor structure. Minor structures include but are not limited to box culverts, other culvert types, retaining walls, overhead sign structures, and structures required for ITS functions.

Consultants will demonstrate knowledge to analyze, design and load rate structures with the applicable UDOT, Local Government, AASHTO, State and Federal requirements. Consultants will demonstrate an understanding of UDOT Project Delivery Network for structures and required Quality Control/Quality Assurance Procedures for all projects. Consultants will demonstrate understanding of Accelerated Bridge Construction, AASHTO LRFD Design Specifications, and AASHTO Guide Specification for LRFD Seismic Bridge Design.

Consultants will demonstrate knowledge and experience associated with bridge management and bridge operations and demonstrate knowledge of load rating requirements for structures and experience with the AASHTO Manual for Bridge Evaluation.

### ENVIRONMENTAL SERVICES – CATEGORICAL EXCLUSIONS AREA OF EXPERTISE

This category of work provides services relative to environmental conditions on local facilities, property proposed for local acquisition or on a highway construction site for any federally funded transportation project.

Consultants preparing Environmental Compliance documents for Local Government federal aid projects must have expert knowledge on the following regulatory documents: the National Environmental Policy Act of 1969 (40 CFR 1500-1508) (NEPA) as it applies to the Federal Highway Administration in 23 CFR Parts 771 and 774 (Federal Register August 28, 1987), FHWA Technical Advisory T6640.8A (October 30, 1987), Section 4(f) and 6(f) of the Department of Transportation (DOT) Act of 1966 and UDOT's State Environmental Policy. In addition, Consultants must be proficient with UDOT's Design Process, the UDOT Environmental Process Manual of Instruction, the Memorandum of Understanding for State Assumption of Responsibility for Categorical Exclusions (6004 MOU) and other applicable Federal, State, and local laws, regulations, Executive Orders, and guidance pertaining to environmental resources and compliance.

Consultants preparing Environmental Documents must be able to write clear and succinct purpose and need statements and project descriptions. Additionally, Consultants must have the capability to perform or oversee sub-consultants performing analyses/conducting activities for the following: right-of-way impacts/relocations, invasive species, storm water, flood plains, hazardous waste, prime and unique farmlands, land use, public involvement, cultural resources (archaeological and architectural), paleontological resources, threatened and endangered species, wildlife, noise, wetlands and waters of the U.S., wetland mitigation and stream alteration permitting issues, air quality, and Section 4(f) resources.

Consultants are expected to provide detailed studies for all of these resources; however detailed studies will not be needed for every document. Consultants selected must be capable of performing, or sub-consulting, all of these analyses if needed.

If the environmental document requires any of these analyses and the Consultant lacks the ability to perform or obtain the analysis, the firm would be expected to contract with an approved consultant from the UDOT General Engineering Services and Local Government Pool for the particular Technical Analysis Support Work Discipline. Preference will be given in the Environmental Document Preparation evaluation to firms that have the ability to perform all or most of these resource analyses.

Consultants must be able to use UDOT's Electronic Program Management (ePM) software to complete Environmental Documents. Preference will be given to consultants with previous satisfactory experience performing Environmental Documents with UDOT.

Local government agencies are required to use Consultant Services project specific qualifications based selection process for all Environmental Impact Statements (EIS) or Environmental Assessments (EA).

### **HAZARDOUS MATERIALS / WASTE ASSESSMENT AND REMEDIATION AREA OF EXPERTISE**

The EOR RFQ does not select a Consultant for Hazardous Materials or Waste Assessment and Remediation. In the event there is a need for assistance for Hazardous Materials or Waste Assessment and Remediation, local government agencies will select a qualified consultant from the GE Pool.

### **PRECONSTRUCTION ENGINEERING MANAGEMENT AREA OF EXPERTISE**

Consultants must document their ability to successfully provide preconstruction services at the high level of expertise required for federally funded transportation projects. Consultants must include a QC/QA plan or show they have the ability to provide a quality product. In addition to knowledge and application of general transportation industry engineering standards (AASHTO, MUTCD, etc.), consultants must show successful experience to apply and meet federal and state engineering requirements to:

- Manage personnel, resources, equipment and materials required to prepare contract plans, specifications, and estimates
- Manage design services using UDOT's Project Delivery Network (PDN)
- Create and maintain a design schedule using MS Project

If services include a study or environmental document, include the 'Environmental Document Preparation' area requirements. If services include geotechnical or bridge design, include the 'Bridge and Asset Management' area requirements. If services include traffic signal or lighting design, include the 'Traffic Signal and Roadway Lighting' design area requirements.

## TRAFFIC SIGNAL AND ROADWAY LIGHTING DESIGN AREA OF EXPERTISE

This category of work provides services for design of traffic signal and roadway lighting projects including design of new traffic signals or modification to existing traffic signals, and design of roadway lighting systems for intersections, interchanges, expressways, and freeways. Provide engineering services to design warranted traffic signal and roadway lighting for new, modified, and upgraded locations. Design activities include:

- Site investigation
- Underground and overhead utility location
- Survey mapping
- Utility design and coordination with Region Utility Engineer
- Geotechnical analysis when necessary for pole foundations, or when specifying high
- Mast lighting foundations
- Context sensitive solutions
- Lighting analysis using AGI32 or equivalent lighting software
- Lighting design plans, circuit schematics, control details, and schedules
- Signal design plans, circuit schematics, roadway plans, striping plans, interconnect plans, and schedules
- Traffic analysis as needed using simulation and capacity analysis software
- Cost/benefit approach to design solutions

## EMERGENCY SELECTION

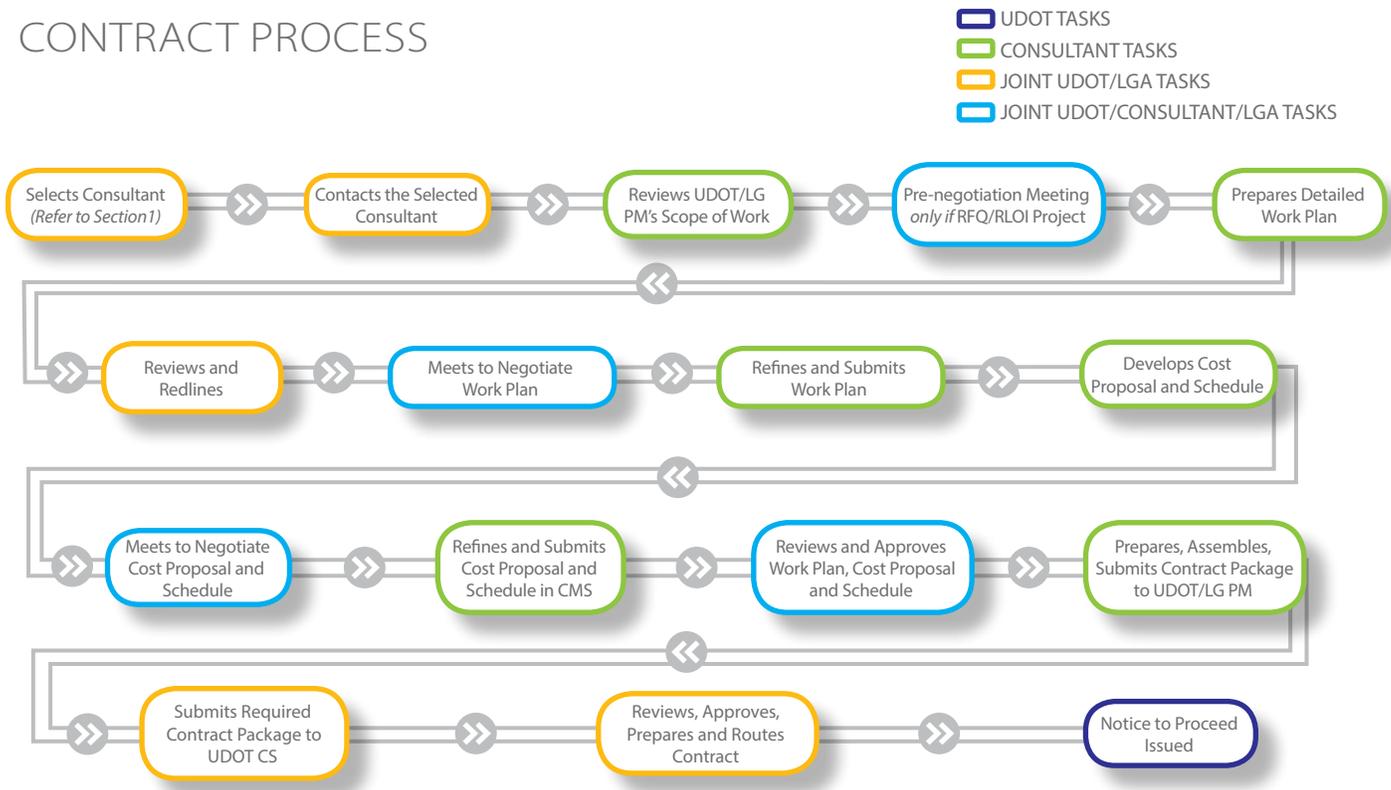
UDOT reserves the right to contract with Consultants where there is a threat to public health, welfare, or safety as delineated in the UDOT Emergency Operations Plan – events deemed an emergency (serious and immediate need for services which cannot be met through normal Consultant Services procurement avenues). The Chief Structural Engineer or Region Director contacts the UDOT Deputy Director or UDOT Operations Director and requests the event be declared a State or UDOT Emergency. The Deputy Director (or one of the delegates) may declare an emergency. In the event the situation is a U.S. President or Governor declared emergency, federal funding may be available. UDOT may then request federal Emergency Response (ER) funding. FHWA must concur in the use of noncompetitive procurement.

In an Emergency, only those supplies, services or construction items necessary to respond to the emergency may be acquired without the execution of a state contract. Once the emergency is ended and emergency repairs have been made, continuing work requires evaluation of the situation and a determination of the contracting method to be used for the remaining work. Detailed information on the Emergency selection and contracting is provided in the [Emergency Contracting/Procurement Procedures Manual](#).

# SECTION 2: HOW TO GET A CONSULTANT UNDER CONTRACT

The UDOT contracting process varies depending on the Consultant Solicitation and Selection Method. Not all contracts require the same action items from UDOT, the Consultant, or the Local Government Agency yet common to all contracting with UDOT is the necessity for Consultants to meet Financial Screening requirements and to acquaint themselves with UDOT's electronic Contract Management System (CMS) prior to receiving a contract with UDOT. This section provides Consultants with information on CMS, types of UDOT contracts and how they apply to different projects, the Financial Screening process, a Federal-aid Agreement, the type of fee, and how to negotiate, prepare, and execute a contract.

## CONTRACT PROCESS



CONTRACTING

## CONTRACT MANAGEMENT SYSTEM (CMS)

Consultant Services uses an electronic system called Contract Management System (CMS). CMS tracks Consultant selections, UDOT contracts and Federal-aid Agreements. UDOT Project Managers and Consultants must use CMS for all contracting. UDOT provides several [video training sessions](#) to aid users of the CMS system.

In order for a Consultant to be selected for a contract with UDOT, several items must first be provided by the Consultant via CMS. The Consultant provides firm information such as key personnel, staff titles and rates. Once the Consultant is **financially screened** and has provided a **certificate of insurance**, Consultant Services submits the information in CMS to complete the Consultant profile.

UDOT Project Managers use CMS for contract requests and negotiation with the Consultant where contract documents are developed and submitted. In addition, CMS provides status of the contract visible to both the Consultant and the UDOT Project Manager.

## CONTRACT TYPES

Consultant Services strives to reduce turnaround times on contract and modification requests. There are four different types of contracts: Project-specific, Current Expense, CMGC Preconstruction and On-Call Contracts. Each type involves a slightly different process and timeline as detailed below.

### PROJECT-SPECIFIC CONTRACTS

Project-specific Contracts typically have one funding source and are limited to work on a specific project after a Consultant is selected through one of the UDOT selection methods (i.e. RFQ, GE Pool or EOR). Project-specific contracts may have limitations depending on the selection method. Consultants prepare the required contract items and submit this information to the UDOT Project Manager via CMS for review and approval.

Project-specific contracts generally take Consultant Services two weeks to prepare and route for approval once all contract documents are in CMS and depending on the volume of contracts in the office and the schedule of those who are involved in the review process.

### CURRENT EXPENSE CONTRACTS

Current Expense contracts are typically written with one funding source after a Consultant is selected through one of the UDOT selection methods (i.e. RFQ, GE Pool). Current Expense contracts are based on the needs of the UDOT Project Manager and limited based on the selection type. Consultants prepare the required contract items and submit the information to the UDOT Project Manager via CMS for review and approval.

Current Expense contracts generally take Consultant Services one week to prepare and route for approval once all contract documents are in CMS and depending on the volume of contracts in the office and the schedule of those who are involved in the review process.

### CMGC PRECONSTRUCTION CONTRACTS

CMGC Preconstruction Contracts have one project-specific funding source and are already approved through a UDOT selection method not covered in this Manual (i.e. Innovative Contracting). CMGC contracts may have limitations depending on Scope of Work. CMGC contracts are an initial step in the process of selecting a Contractor to build a project through the CMGC process. These contracts are unique in that rather than contracting with a Consultant for Professional Services, UDOT is contracting with a Contractor to provide Professional Services. There is no limitation on dollar value or duration for a CMGC Preconstruction contract.

Contractors prepare the required contract information and submit this information to the UDOT Project Manager via CMS for review and approval. CMGC Preconstruction contracts generally take Consultant Services two weeks to prepare and route for approval once all contract documents are in CMS and depending on the volume of contracts in the office and the schedule of those who are involved in the review process. For more information on the CMGC process, please refer to the

## ON-CALL CONTRACTS

**On-call contracts** allow for Consultants to perform professional/engineering services on specific tasks to supplement UDOT Staff for peak periods or for a particular expertise currently unavailable within UDOT. These tasks may fall under one contract and may be billed to various projects. An On-Call contract generally takes Consultant Services two weeks to prepare and route for approval once all contract documents are in CMS and depending on the volume of contracts in the office and the schedule of those who are involved in the review process.

The On-call process will be utilized for two types of situations with various contract maintenance processes:

- **On-Call** - Packaging of several small projects in one contract. These projects are undetermined at the time of the contract but the need is anticipated. **On-Call Work Task Orders** must be prepared by the Consultant and entered in CMS for each project assigned (one PIN per WTO).
- **On-Call Exception** - Augmentation of UDOT staff and a spreadsheet will be maintained by the UDOT Project Manager to track charges against projects.

On-Call contracts typically have more than one funding source. Consultants are selected through one of the UDOT selection methods (i.e. RFQ, GE Pool, Right Of Way Acquisition Services Pool). The Consultant prepares the required contract items and submits this information to the UDOT Project Manager via CMS for review and approval. On-Call contracts have the following limitations:

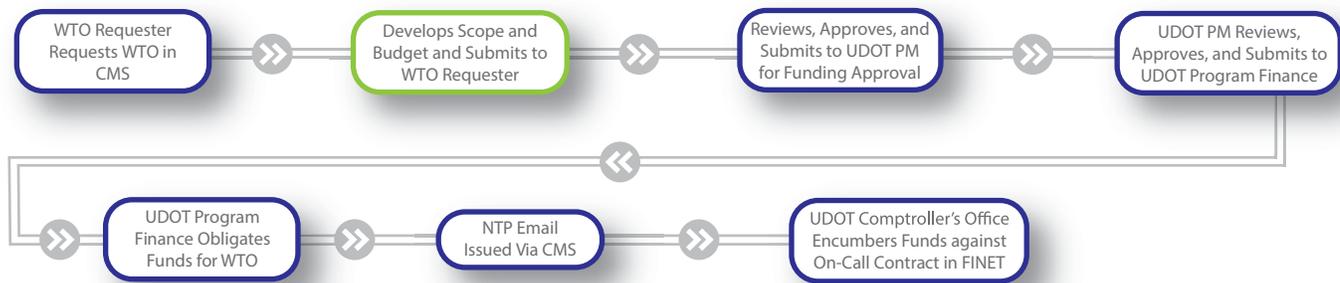
- **Unit-Price Fee Type** – The On-call contract utilizes the Unit-Price fee type. The Unit-Price contract will include other rates if applicable in addition to loaded labor rates. A Unit-Price rate of pay will allow the consultant's overhead rate (or lower) and a fixed fee rate of 10% (basis for this is due to the short schedule, size, duration, and complexity of the On-call contract). Additionally, no salary rate increases will be allowed during the duration of the On-call contract.
- **Duration** – Contract duration is 15 months or less to preserve competition. The first year will be for work on various Work Task Orders with the final 3 months to complete any outstanding Work Task Orders, submitting payment requests, and issuing final payments. No date extensions are allowed beyond the 15 month period. Work Task Orders can only be granted within the 12-month time frame on an On-Call contract.
- **Pool Rules Apply** – If consultant selection is through a Pool, the contract must comply within the parameters of the Pool such as Pool caps/limits and appropriate work discipline in which the Consultant is listed as qualified.
- **Maximum Amount per Contract** – The maximum contract amount is \$150,000 for the base contract and all modifications.
- **Maximum Amount per Project** – The maximum cumulative amount per project for any On-Call contract per Consultant is \$40,000. The intent is to allow for multiple-project contracting but not replace the traditional Engineering Services project-specific contracting process.
- **No Local Government projects** – On-call contracts may not be used for Local Government Projects except for On-call Exception (augmentation of UDOT Staff).

## WORK TASK ORDER (WTO) PROCESS

A UDOT staff member requests a WTO (WTO Requester) within CMS against the base On-Call contract under a PIN. The Consultant develops the scope and budget and submits to the WTO Requestor. The WTO Requestor reviews/approves and submits to the UDOT Project Manager for funding approval for his/her PIN. The UDOT Project Manager reviews/approves and submits to UDOT Program Finance for obligation. UDOT Program Finance obligates funds for the WTO against the PIN and approves. CMS issues an NTP email to all concerned parties and to the UDOT Comptroller's Office. The UDOT Comptroller's Office encumbers funds against the On-Call Contract in FINET, the State of Utah's financial system.

### WORK TASK ORDER (WTO) PROCESS

UDOT TASKS  
CONSULTANT TASKS



## FINANCIAL SCREENING/PRE-QUALIFICATION

Consultants must be financially screened and insured prior to contracting for any type of project work with UDOT. Consultant Services establishes an overhead rate based on the evaluation of the firm's financial information contained in the application. The financial screening may be submitted at any time and approved for one year.

After a Consultant is selected for a project, the Consultant has 14 calendar days to become financially screened and approved. Otherwise, the Consultant will be disqualified, unless the delay is due to problems or delays by UDOT. Becoming financially screened does NOT guarantee project work. Contracts will not be written if a Consultant has not completed the financial screening process.

The [Financial Screening Application & Questionnaire](#) certifies the consulting firm's accounting system complies with 2 CFR Part 200 and the firm's indirect cost rates (labor additives, overhead, etc.) comply with 2 CFR Part 200 Subpart E Cost Principles (formerly known as FAR 48 CFR Part 31). Consultants may refer to the [AASHTO Audit and Accounting Guide](#) to assist with auditing and reporting on the indirect cost and resultant overhead rates for engineering and engineering-related work for State Highway Agencies. The guide assists Consultants in understanding terminology, policies, audit techniques, and sources for regulations and specific procedures.

The application is intended to be simple and inexpensive and requires submittal to Consultant Services either electronically or in an unbound format on 8 ½ by 11" **single-sided paper**.

As part of the financial screening process, the Consultant (and subconsultants with contracts over \$25,000) must complete and submit the following for review (Detailed information on the below can be found in the [Financial Screening Packet](#)):

- Submit a completed Financial Screening Application.
- Submit a form W-9 with Federal Tax I.D. number, signature and date. (Social Security numbers are not accepted.)
- Provide a sample copy of a labor time sheet.
- Complete the AASHTO Uniform Auditing & Accounting Guide (2012) Internal Control Questionnaire for Consulting Engineers (Questionnaire). The Questionnaire may be downloaded from [www.udot.utah.gov/go/csforms](http://www.udot.utah.gov/go/csforms). The Questionnaire is labeled as “Financial Screening Questionnaire”.
- Complete the Allocation of Expenses Table included in the Financial Screening Packet.
- Complete the National Compensation Matrix (with the appropriate year). The National Compensation Matrix may be downloaded from [www.udot.utah.gov/go/csforms](http://www.udot.utah.gov/go/csforms).
- Furnish an overhead rate (Schedule of Indirect Costs) schedule, developed in accordance with 2 CFR 200 Subpart E Cost Principles.
- Provide a certified copy of an independent Schedule of Indirect Costs (Overhead Rate) audit report from a Certified Public Accountant or an independent accounting firm. **Note: The audit report is not required if desiring contracts for less than \$250,000. In addition, new Consultants establishing their business with Consultant Services will have a maximum of two years before being required to provide actual financial data to establish the firm’s actual overhead rate. The annual review will still be required during this two year period.**
- Submit a copy of the firm’s chart of accounts from the accounting system.
- Submit the most recent annual financial statements (balance sheet and income statement) to provide support in the calculation of the overhead rate. Complete the current Executive Compensation Matrix as outlined in FAR 31.205-6.
- Furnish your firm’s Certificate of Insurance.
- Submit the Health Insurance Coverage Requirements (required for contracts \$2,000,000 and above; \$1,000,000 and above for Subconsultant contracts).
- Submit the FHWA Form 4470, Certification of Final Indirect Costs signed by an officer of the firm

**NOTE: For subconsultants with contracts less than \$25,000,** Consultant Services allows an abbreviated process whereby a [Financial Screening Application \(short form\)](#) is submitted including a copy of the firm’s W-9 and contact information. The Prime adds the subconsultant to the contract as an ODC (other direct cost) for “contracted labor” in CMS.

Consultant Services reviews the Financial Screening Application packet. When the review is complete and approved, Consultant Services prepares an agreement letter and sends it to the Consultant with the overhead rate verification. The Consultant's signature indicates agreement with the overhead rate. The approved overhead rate will be used for contracted work performed **during the one year period** and Consultant Services uploads the information in CMS under the firm's profile.

Consultant Services will notify the Consultant annually of their forthcoming financial screening expiration date approximately 60 days from expiration. The Consultant may either submit a new completed financial screening packet including updated financial statements and a new calculated rate or the Consultant may request their name be removed from the Consultant Pool list if they no longer desire to do project work with UDOT.

Consultants may submit acceptable documentation from a home State DOT using a cognizant agency approval. The complete Financial Screening Application in its entirety is still required to be completed along with all other documents as outlined above for the financial screening process.

## CONTRACT FEE TYPES

UDOT uses three fee types for contracting with a Consultant. The UDOT Project Manager selects the fee type based on certain aspects of each project (Consultant Services assists if needed). Below is an outline of the three types of fee methods.

### COST PLUS FIXED FEE

This fee type method is most often used between the UDOT Project Managers (or Local Government if applicable) and the Consultant when the scope of work is indeterminate or the kinds of labor, material or equipment needed are uncertain. Engineering meets this definition. The fee includes labor rate (actual and at the time the work is performed), overhead rate, the negotiated fixed fee (see [fixed fee calculations form](#)) and other direct costs. For audit efficiency, Consultants must include with their invoices a job costing summary report, labor reports and support documentation for all direct costs such as travel, subconsultants, etc. In addition, the Consultant must include with their invoices a progress report.

### UNIT PRICE

UDOT Project Managers use this fee method when buying a specific item at a set cost and when the number of units needed is not known. This fee type is required for all On-Call contracts. The unit price is a combined amount of the labor rate, overhead rate and the negotiated fixed fee percentage (profit). Consultants may bill at the unit price rate (or lower) as shown in the contract. For audit efficiency, Consultant must include with their invoices a labor report and support documentation for number of units, receipts for direct expenses, and subconsultant invoices. In addition, the Consultant must include with their invoices a progress report.

### LUMP SUM

UDOT Project Managers use this fee method when the scope of work, complexity of project, method, and duration for completion are fully defined and not likely to change. Consultants bill percentage of work completed. Lump sum contracts are not audited.

## FEDERAL-AID AGREEMENT

Federal and State funds are allocated for project specific use by Local Governments. Federal funds are administered by the Federal Highway Administration (FHWA). UDOT is required to oversee the use of the funds to ensure federal regulations are followed on each project. The Federal-aid Agreement (FAA) is initiated by the UDOT Project Manager through CMS, and includes all costs associated with the project.

Prior to initiating the FAA, the UDOT Project Manager works with the Local Government to brief them on the requirements of the agreement and Federal-aid as defined within the FAA document. They will discuss:

- Required Local Match
- UDOT roles and responsibilities
- Local Government roles and responsibilities

The Federal-aid Agreement calculates the Local Government's share of the project costs and is signed by both UDOT and the Local Government. The Federal-aid Agreement states the Local Government is responsible for 100% of any overruns that exceed the participation and any ineligible costs. The contractual agreement must be executed before a local government contract can be executed.

## CONTRACT NEGOTIATION, PREPARATION, EXECUTION AND NOTICE TO PROCEED (NTP)

Prior to negotiating a final contract, Consultants must prepare the required information below for all contracts and contract modification requests. This information must be submitted as a complete package to the UDOT Project Manager in CMS (except Work Schedule) for review and approval.

### CONTRACT PACKAGE

In order to establish a contract with UDOT, Consultants must identify within their firm a **CMS Contract Administrator** to be responsible for, and maintain, master firm information in CMS (**930 Screen**). Required firm information includes firm contacts, current firm address, security profiles, master employee list, and master ODC (other direct costs) list. Consultants must verify active financial screening and current certificates of insurance. Once the Consultant firm information is in CMS, selected Consultants may enter the required contract documents for their specific project as outlined on the following pages.

## EXECUTIVE SUMMARY

*The Executive Summary* is required for all Contracts and Contract Modifications and must include:

- A **brief description** of work being performed or brief description of why a modification is necessary
- The **project team** (subconsultants) with roles and responsibilities identified
- Identify **project assumptions** either to assure the project has been fully scoped or identify **project unknowns** with as much detail as possible so the need for a modification may be justified
- Identify the **contract phasing** and if so, why phasing is necessary to the project
- Identify the **fee type** for the contract and why best selected for the project

## WORK PLAN/HOURS DERIVATION

The Work Plan must include a description of tasks to be performed, materials to be delivered, equipment to be used, meetings to attend, and standards to be followed. Other responsibilities of the Consultant must also be outlined and Department commitments. Hours derivation must contain a list of the Consultant's key personnel with their actual rates of pay along with staff titles, licenses, and certifications with projected labor hours and rates estimated by task and individual job classification.

## OTHER DIRECT COSTS

A detailed listing of approved direct expenses such as reproduction, travel, mileage reimbursement, material tests, postage must be entered in CMS (number of units times the rate per unit).

## SUB-CONSULTANT INFORMATION

If one or more sub-consultants are used, the contract package in CMS must include subconsultant information for the work plan, project labor hours and rates estimated by task and individual job classification rates and a detailed listing of direct expenses.

## CERTIFICATE OF INSURANCE

Consultants must provide certificate of insurance to UDOT prior to performing any work. Consultant Services maintains the **Certificate of Insurance** on file and notifies the Consultant on expiration of the certificate. Consultants must verify a current certificate via CMS.

## WORK SCHEDULE

Consultants must provide a work schedule including milestone dates, deliverable due dates and the Consultant midpoint evaluation date(s) and submits the electronic file directly to the UDOT Project Manager and Consultant Services Contract Administrator.

## LOCAL GOVERNMENT APPROVAL MEMO, IF APPLICABLE

The Local Government Approval Memo is a document included in the contract, indicating the Local Government has reviewed the work plan, staffing plan, schedule and cost proposal and is in agreement with what the Consultant proposes and is aware of the contract limits based on the selection method utilized.

The Consultant Services Contract Administrator, the UDOT Project Manager, and if applicable, the Local Government will review and approve the contract documents in CMS.

If federal funds are used for major projects, the UDOT/ FHWA Stewardship Oversight Agreement assists in identifying and determining if the project is a “major project”. FHWA must approve any contract, revision of a contract or settlement of a contract for design services that is expected to fall under **23 U.S.C. 106(h)**.

## ROUTING OF CONTRACT SIGNATURES

Consultant Services generates the contract and routes the contract through DocuSign for appropriate approvals. DocuSign is an electronic method of processing contracts and is compatible with any email address which is authenticated and encrypted through that email, which makes it legally binding. Consultant Services will utilize this method for contracts and contract modifications in the signature and distribution process. Routing of signatures may take up to two weeks.

The contract is routed via DocuSign, to the following for approval/signatures:

1. Consultant Services Manager
2. Director of Environmental Services, if applicable
3. Engineer for Preconstruction
4. Systems Planning & Programming/Operations, if applicable
5. Deputy Director (if contract/mod exceeds \$1,000,000)
6. Consultant
7. Local Government, if applicable
8. UDOT Comptroller’s Office

Upon contract approval, Consultant Services will e-mail a Notice to Proceed (NTP) to all parties. Executed contracts are not mailed and is the Consultant’s responsibility to print the contract or save it electronically once notification of the completed contract is received from DocuSign.

Consultant Services is the only agent authorized to give a Notice to Proceed. The UDOT Project Manager ensures the Consultant does not work or incur costs until the NTP is given.

## EARLY NTP

In rare exceptions, the UDOT Project Manager may request, in writing, an Early Notice to Proceed for the Consultant if project work must begin prior to a standard NTP and with concurrence of their Program Manager. The UDOT Project Manager submits the request in writing, along with their own justification for an Early NTP and concurrence of their Program Manager, to the Consultant Services Contract Administrator.

Consultant Services will verify the R709 has been approved and the Consultant is financially-screened with a current certificate of insurance. The standard amount for an Early NTP is \$25,000 and 30 days; however, an additional amount and/or time may be requested if justified.

Consultant Services will obtain in writing from the Consultant concurrence to the following Early NTP Terms and Conditions:

1. The Consultant will negotiate in good faith to sign the contract regardless of any issues which may arise between the time of early NTP and execution of the contract.
2. Any disputes during the work occurring during the early NTP phase will be handled pursuant to general UDOT terms and conditions and the ultimate contract.
3. Payment will not be issued until after execution of a contract or modification.
4. Limitation of services to be performed during the Early NTP.

Consultant Services will send a request to the Engineer for Preconstruction for review and approval. If the contract is anticipated to be over \$1,000,000, the Engineer for Preconstruction will obtain the Deputy Director's approval. Consultant Services will issue the Early Notice to Proceed to the Consultant via email identifying the limitations.

## CONTRACT TIME EXTENSIONS/MODIFICATIONS/ALTERNATE STAFF

The UDOT Project Manager may modify a contract when additional time, budget or alternate staff is required to complete the project due to a change in the scope of work.

Contract time extensions can be generated by the Consultant or the UDOT Project Manager in CMS. Once CMS has generated the form, additional signatures are required before submittal to Consultant Services for execution.

If a Consultant requires alternate staff to assist on a project after a contract has been executed, the Consultant performs the [Alternate Staff Transaction](#) in CMS. The UDOT Project Manager will review the alternate staff and approve in CMS.

For contract modifications, the UDOT Project Manager requests the modification in CMS. The Consultant prepares the required contract modification information (Executive Summary, Work Plan and Hours Derivation, and other items as detailed in above Contract Preparation) and submits the package to the UDOT Project Manager via CMS for approval and submittal to Consultant Services following a similar process as the base contract.

## SECTION 3: MANAGING THE CONTRACT & PROCESS

As in all business transactions that include a contract, the UDOT contract is a legal and binding document which serves as the guiding tool to ensure the project work scope is being met and in a timely, agreed-upon schedule all within the contract budget. The UDOT Project Manager (and/or the Local Government, if applicable) will oversee the Consultant's progress, payments, and performance.

The UDOT Project Manager is assigned to represent UDOT (its goals and values) to ensure that quality and commitments of the contract are met. This requires skills and judgment to independently handle decision-making with a high level of contract oversight competency. To manage Consultant contracts requires a practical knowledge of accounting, transportation project financing, federal-aid requirements, local agency stewardship, UDOT project delivery process, contract administration and UDOT's business systems. The [UDOT Project Manager Guide](#) assists UDOT Project Manager in these roles and responsibilities. An additional resource for UDOT Project Managers is the [UDOT Project Financial Management Guide](#).

Consultant Services has a set of tools for both the UDOT Project Manager and the Consultant to help with contract management oversight processes. These tools include such things as project financial management, progress reports, payment requests, consultant coaching and evaluation processes, and how to close out the project. This section below also gives guidance on the use of Consultant logos on project materials and use of firm logos on project materials.

### CONSULTANT PROGRESS REPORTS AND PAYMENT REQUESTS

Consultants must submit a monthly invoice, UDOT Payment Request Form and Progress Report to the UDOT Project Manager, and if applicable, the Local Government Project Manager. Consultants must also provide sufficient detail in their invoicing as outlined in the project contract including fee type, approved staff, and direct costs. Supporting documentation for the invoice such as labor reports, direct expenses and subconsultant expenses are also included. See examples of detailed Consultant invoices and UDOT Payment Requests linked below.

The UDOT Project Manager is responsible for and authorized to manage based on the contract language and may request additional supporting documentation if needed. As part of the invoice review process, there is a QC/QA review of the Consultant invoice to cross reference pertinent information in CMS (Invoice Verification Tab). Once the UDOT Project Manager approves the Consultant payment submittal, it is forwarded to the Comptroller's office for processing. Following is a summary of invoice specific guidance by contract type.

#### CONSULTANT FIRM INVOICE

Consultants provide a monthly invoice to include with the UDOT Payment Request Form to the UDOT Project Manager. In addition to the UDOT Project Name, PIN and Contract number, the invoice must contain the specific information for the contract's fee type; unit price, lump sum or cost-plus-fixed fee.

An [Invoice \(Cost Plus Fixed Fee\)](#) must identify individual breakdown of raw labor for each staff member and number of hours worked to calculate the total raw labor. The total raw labor is then multiplied by the overhead and added to the raw labor then the fixed fee is multiplied and added in.

An **Invoice (Unit Price)** must identify a combined rate (raw labor, negotiated overhead and fixed fee) for each staff member identified in the contract and number of hours worked. \*New employee(s) will require a modification or CMS Alternative Staff Transaction to the contract unless the new employee(s) are part of an established category rate.

An **Invoice (Lump Sum)** must identify total contract amount, percent billed to date, previous percentage billed and current billing percentage. No backup documentation for labor and reimbursable direct expenses is necessary for lump sum invoicing.

**UDOT Managers will verify for Cost-Plus-Fixed-Fee (CPFF) and Unit-Price (UP) payment requests:**

✓	Received appropriate deliverables
✓	Overall level of effort matches progress report
✓	Must contain accurate and detailed information per the contract fee type (see below for details)
✓	Staff levels are appropriate for tasks performed
✓	Invoice amount doesn't exceed maximum-not-to-exceed-amount of contract
✓	Documented any amounts for work exceeding the maximum-not-to-exceed amount on Final Invoice (Auditors may use these amounts to offset potential unallowable expenses found in audit)
✓	Is not for work performed prior to NTP nor after expiration of contract or WTO
✓	Is for work performed during the appropriate invoicing period
✓	Project information on invoice is accurate for the work performed
✓	There are no calculation errors
✓	Amounts on Payment Request Form match consultant's invoice amounts
✓	<p>Appropriate documentation is included (Examples available):</p> <ul style="list-style-type: none"> <li>• Consultant Services Payment Request Form</li> <li>• Progress Report</li> <li>• Consultant's Invoice</li> <li>• Labor report generated from the consultant's payroll system with individuals, hours, rates of pay, and dates of work</li> <li>• Supporting Documentation (if applicable)                             <ul style="list-style-type: none"> <li>- Subconsultant's invoice(s), Mileage Reports, Receipts for Direct Expenses, Vendor receipts</li> </ul> </li> <li>• UDOT Project Managers may request additional supporting documentation not listed above</li> </ul>

**Each consultant payment submittal contains correct information per the contract and UDOT staff will cross reference submittal in the CMS Invoice Verification tab:**

**Cost-Plus-Fixed-Fee (CPFF)**

- Overhead rate billed in invoice matches overhead rate set in contract
- Fixed fee rate billed in invoice matches contract and overall amount doesn't exceed maximum fixed fee amount
- Incorrectly billing in a UP model instead of CPFF
- Labor rates are billed at actual rates
- Other Direct Costs must be itemized
- ODC unit rates billed in invoice match rates in contract
  - ODCs are travel, meals, copies, mileage, etc expenses
  - Rates for ODCs are outlined by Unit Rate times number of units

**Unit Price (UP)**

- Incorrectly billing in a CPFF model instead of UP
- Individuals billed in invoice are individuals listed in contract, modification, or CMS Alternate Stagg Transaction
- Other Direct Costs must be itemized
- ODC rates billed in invoice match ODC rates in contract
  - Rates for ODCs are outlined by Unit Rate times number of units

**Lump-Sum (LS):**

- Received appropriate deliverables for progress payment
- Appropriate documentation is included
  - Payment Request Form
  - Progress Report
  - Consultant's Invoice
    - Percentage complete for billing period is shown
    - Calculation of percentage complete times percentage of contract amount equals amount billed
- Does not require additional backup documentation

## UDOT PAYMENT REQUEST FORM

Consultants provide a completed and signed [Payment Request and Progress Report for Consultant Services Form](#) with their invoice to the UDOT Project Manager. The form must be submitted electronically and identify the project and contract numbers and should include breakdown of tasks identical to those contained on the contract cost estimate. Any unresolved items can be deducted from the current invoice submittal and resubmitted in the following month's form upon the UDOT Project Managers' approval.

## UDOT ON-CALL WORK TASK ORDER PAYMENT REQUEST FORM

Consultants working under an On-Call contract provide a monthly [On Call Work Task Order Payment Request Form](#) for each WTO to the UDOT Project Manager. The form must identify the On-Call contract number, the associated Work Task Order number issued under the On-Call contract and include copies of timesheets, mileage/expense reimbursements and reference the number of hours per person and number of units on direct expenses.

## UDOT PROGRESS REPORT WITH PAY REQUEST

Consultants provide a UDOT Progress Report indicating calculations for time, funds, and work complete per task and submit it along with the [Payment Request and Progress Report for Consultant Services Form](#) to the UDOT Project Manager for review and approval.

## ELECTRONIC FUNDS TRANSFER (EFT)

All vendors of the State of Utah, including UDOT Consultants, have the option of receiving payment via electronic funds transfer (EFT). For information and application form, contact the [Division of Finance – Vendor Services](#).

## WORK SCHEDULE PROGRESS REPORTING

UDOT and the Consultant must use UDOT's business systems to manage the project's schedule.

The most common omissions or errors resulting in a delay of payment to the Consultant are:

- Incomplete breakdown of summary of work/costs such as missing or inaccurate employee titles or wages, listing loaded rates and not breakdown of labor rate and overhead (CPFF)
- Insufficient back up documentation such as failing to provide subconsultant invoices, copies of reimbursable expenses, failing to list usage and rate for items
- Inappropriate routing for signatures/approvals
- An expired contract completion date

## CONSULTANT MONITORING AND PERFORMANCE EVALUATION

UDOT recognizes the Consultant cannot improve or sustain good performance without project-specific constructive feedback and in accordance with [23 CFR 172.9\(a\)\(5\)](#), UDOT must monitor the Consultant's work. UDOT Project Managers and, if applicable, the Local Government Agency evaluate consultant performance at the midpoint of the project and at the completion of each contract, or at any stage of the project deemed necessary by the UDOT Project Manager. The purpose of the evaluation is to provide feedback to the Consultant with the opportunity for project course correction and to improve communication and the quality of project deliverables. The evaluation also provides UDOT important information for future consultant selection decisions.

UDOT encourages Consultants to be proactive about initiating and scheduling (at project intervals) the Consultant Performance Evaluations with the UDOT Project Manager. This process is designed to allow the UDOT Project Manager to provide an evaluation on the general management and specialty specific services of a project and to choose discipline areas (Environmental Services, Design, Construction Engineering Management, etc.) most applicable to the project for evaluation. The Consultant Services Manager receives notification of the completed form. Evaluations are stored for future use by Selection Teams. Consultant Services may make revisions to the evaluation if the UDOT Project Manager requests it.

UDOT expects Consultants to exercise an appropriate standard of care and to provide quality services to the UDOT. On occasion, errors and omissions are the result of negligence or gross negligence. Errors and omissions are normally identified during construction, but could also be identified during the design and advertising phases. The discovery of an error or omission triggers the gathering of information on the scope of the problem, actions and responsibilities of the various parties, and the potential validity and extent of any claims that may arise. FHWA's general policy is that each error and omissions issue should be considered on its own merits. In general, a Consultant should not be held responsible for additional construction costs resulting from such errors, so long as they are not the result of gross negligence or carelessness. For written procedures in determining errors and omissions, please refer to the [UDOT 08-07: Errors and Omissions on Projects](#).

## FINAL PAY REQUEST/CONSULTANT EVALUATION FORM

Project completion and contract closure for the Consultant occurs when a completed Consultant Evaluation Form and the final UDOT Payment Request have been submitted, approved and processed through the UDOT Comptroller's Office.

### FINAL PAY REQUEST

The Consultant completes a Final Pay Request and submits to the UDOT Project Manager for approval and submittal to the UDOT Comptroller's Office. The approval of the request for final payment verifies all work is completed. The UDOT Comptroller's Office will not process Final Pay Request unless a Consultant Evaluation has been completed.

### CONSULTANT EVALUATION FORM

The UDOT Project Manager evaluates the Consultant, and if applicable the Subconsultant, on general management and specialty specific services provided under the contract. Scores (scale of 1 to 10) are entered in UDOT's Interchange System and incorporated into the summary process and stored for future Selection Teams to use. The Consultant is then notified the evaluation is complete.

## UDOT CONTRACT CLOSURE/AUDIT REQUIREMENTS

Consultant Services requests timely closure of contracts. The UDOT Office of Internal Audit may perform an audit on **ANY** contract. Small Lump Sum projects where deliverables and costs are clearly defined may not be subject to audit. For Cost-Plus-Fixed-Fee and Unit Price contracts over \$300,000 and any other contracts of concern, an audit will be performed.

### CONTRACT CLOSEOUT

Closing a contract requires the UDOT Comptroller's Office to verify the Consultant has submitted a final payment request and that the UDOT Project Manager and the Consultant have completed a Consultant Evaluation Form. Consultant Services updates the Contract Management Systems according to closure instructions. A closed Pool contract releases the reserved contingency Pool dollar amount for the affected Pool Period.

### AUDIT REQUIREMENTS

An audit will consist of review of the negotiated overhead and/or labor rates and the direct costs established in the contract. The Office of Internal Audit conducts an audit to determine the allowable costs incurred by the Consultant, which then allows the financial closure of the contract.

For any auditing questions, please see the [Internal Audit](#) website for contact information or to submit a report.

UDOT has the right to require supporting documentation for every dollar billed. For example, labor hours and rates would require time sheets, P/R reports, job costing reports, etc. Direct costs such as travel, meals, products, and services need invoices or receipts. Subconsultant costs also require supporting documentation, including the contract with the Consultant, invoices, and payment records.

### DTS REQUIREMENTS

UDOT's Department of Technology Services (DTS) oversees procurement and contracting for all Consultants providing hardware, software and IT services to UDOT. Consultant Services staff performs a cursory review of all contract Work Plans to determine whether there are any items for hardware, software or technology purchase and if so, will direct the UDOT Project Manager to work through the designated UDOT Region IT coordinator to procure these services through UDOT DTS.

There may be some Consultant Services contracts where there could be a **perception** of overlap such as pre-qualified Consultants for Intelligent Transportation Systems (ITS) or project-specific websites (but not limited to the below examples). Consultant Services will ensure the procurement of these services comply with below DTS guidelines to continue through the standard Consultant Services procurement method and may extend the processing time of the contract.

### INTELLIGENT TRANSPORTATION SYSTEM

Consultants selected under the Intelligent Transportation Systems (ITS) work discipline under the GE Pool may install, integrate and upgrade **State furnished ITS devices or equipment only**. Consultants who create or provide ITS devices which are not State furnished must be procured through DTS and not through a Consultant Services contract.

## PROJECT WEBSITES

Consultants who provide a project website as part of a project-specific contract must agree to the following:

- Project websites will not be hosted, managed or maintained on a State server or be hosted, managed or maintained by UDOT.
- Websites do not, or will not, have any direct/real time access or interface with a UDOT project database or automated application or tool.
- Websites will not have access behind the State firewall.
- Access to the website does not require a logon/password or account.
- The website is informational only (no information will be received or entered).
- DTS resources will not be required to implement the project web site.
- There will not be an IT service or software application purchased or developed by UDOT personnel, Consultants or Contractors.

## USE OF CONSULTANT AND/OR CORPORATE LOGOS

Consultant and/or Corporate logos or branding identification may not be displayed in public documents or products produced for UDOT such as plan sheets, environmental documents, or placement on cover pages and headers/footers. For a complete list of restrictions, refer to [Logos – Consultant/Corporate memo](#).



## SECTION 4: CONFLICT OF INTEREST

Everyone in the transportation community wants to avoid conflicts of interest, real or perceived. Not only is conflict of interest a breach of professional and personal ethics, it is also damages the reputation of UDOT and the Consultant community, speaking to the importance of addressing Conflict of Interest. To help ensure we don't have conflict of interest issues, UDOT has developed simple and direct processes all parties involved in contracts must review, comply with, and where necessary, sign. Below are several current challenges identified by UDOT. As additional situations arise, the UDOT Conflict of Interest Review Team has the authority to declare other situations as conflicts.

### UDOT POLICY AND PROCEDURE 05-30 CODE OF ETHICS AND CONFLICT OF INTEREST

The ethical conduct of UDOT employees is a primary concern of UDOT. UDOT established the [UDOT Policy and Procedure 05-30 Code of Ethics and Conflict of Interest](#) in order to protect UDOT and its employees and stress the importance of maintaining the UDOT procurement process without any appearance of conflict of interest.

### UDOT CONFLICT OF INTEREST REVIEW TEAM

UDOT Project Development Division has created a process where disclosed concerns may be reviewed and addressed on a consistent case-by-case basis by a Conflict of Interest Review Team. The disclosed concerns are forwarded to the Consultant Services Manager for screening who either makes a determination or, if there is any question at all, forwards disclosed conflict of interest issues to the Review Team to address. Consultant Services has created a project-specific [Conflict of Interest and Confidentiality Form](#) for consultant/contractor selection teams to utilize. A team member must affirm or certify they have no conflict of interest either real or potential as to any matter which is entrusted to them in their job or assignment. Additionally, they must disclose a potential conflict of interest prior to receiving consultant or contractor proposals. Individuals must certify they will maintain confidentiality.

### CONSULTANT ACTING AS UDOT PROJECT MANAGER CONFLICT OF INTEREST

UDOT retains Consultants to perform UDOT Project Management services and Consultants in this role must represent UDOT in an equitable, ethical and unbiased manner. Consultants acting as a UDOT Project Manager work under the direction of the UDOT Program Manager and must inquire and disclose potential conflicts of interest between their firm, the other consultants they manage, and the project(s).

All potential conflicts of interest must be disclosed to the UDOT Program Manager and in cases of potential conflicts of interest, together they will work out a course of action to alleviate the conflict. Additionally, Consultants must disclose any potential conflicts of interest between themselves and the Consultants they manage. In cases of potential conflict of interest between the Consultant and the projects they manage after the contract is in place, the Consultant must document the potential conflict of interest and receive approval from the UDOT Program Manager before continuing in their role.

## CONSTRUCTION ENGINEERING AND DESIGN BY SAME CONSULTANT CONFLICT OF INTEREST

UDOT may retain Consultants to perform both design and construction engineering management on the same project. UDOT recognizes there are times when having the same Consultant perform both design and construction engineering management is advantageous. However, UDOT is aware there may be a perception of negative influence when a Consultant performing construction engineering management for a project also performs the design services for the same project. FHWA outlines this potential conflict in the [Consultant Services Procurement, Management, and Administration of Engineering and Design Related Services - Questions and Answers Section VIII](#).

UDOT Project Management Teams must consider and evaluate possible conflicts of interest when selecting a Consultant Resident Engineer employed by the same design consultant team. If the UDOT Project Management Team considers selecting a Resident Engineer employed by the same design consultant team, they will be required to submit documentation with an explanation of benefits to the Director of Project Development or the Engineer for Preconstruction for approval prior to the Consultant selection. This does not apply to Local Government Projects. Local Governments will be advised of UDOT's concerns and allowed to determine their own practices.

## DESIGN/BUILD CONFLICT OF INTEREST

UDOT Conflict of Interest Review Team will review any potential conflict-of-interest in Design/Build projects. UDOT developed the below definition of a conflict of interest to preclude a Consultant from participating on the Design Build Team. However, if a situation occurs outside the definition but may still be considered a conflict, please contact the Consultant Services Manager.

Any individual (1), organization (2), or association that is directly involved in the development of selection criteria for the Design/Build RFQ/RFP or is involved in the RFQ/RFP selection process is precluded from proposing on the project (as part of a Design/Build Team).

- Example: If a key person leaves an organization that is directly involved in the development of selection criteria for the Design/Build RFQ/RFP or is involved in the RFQ/RFP selection process, and joins another organization, both organizations may be precluded from proposing on the project (as part of a Design/Build Team) based on a determination by the UDOT Conflict of Interest Review Team.
- "Organization" includes all entities existing within the same corporate umbrella.

For Program Management services, if eligible Subconsultants to the Prime Consultant choose to pursue participation on a Design Build team they, and the Program Management Consultant, will be required to submit a mitigation plan to UDOT, and receive UDOT approval of that Plan.

## ENVIRONMENTAL CONFLICT OF INTEREST

UDOT may retain a Consultant to prepare an environmental impact statement (EIS) or an environmental assessment (EA) to a project. The Consultant must affirm there is no financial or other interest in the outcome of the environmental project nor has any agreement, enforceable promise or guarantee to provide future work on the project. As part of the environmental contract package, the Consultant(s) must provide a signed [Conflict of Interest Disclosure Statement - Environmental Documents](#).

## SECTION 5: LIABILITY INSURANCE

UDOT, like all contracting agencies, requires Consultants to be covered by insurance. Consultants must furnish Consultant Services a “Certificate of Insurance” for each type of required insurance, approved by UDOT, before the Consultant begins work. The Consultant’s insurer must be authorized to do business in Utah and must meet the specified A.M. Best rating or better. Insurance must be maintained in force until all activities under contract with UDOT are completed and accepted by UDOT. The following guidelines may be changed and updated from time to time to meet the demands of the changing insurance market.

Please note these insurance guidelines do not apply to Design/Build projects. For a Design/Build project, the Consultant will need to follow the requirements outlined in the RFQ/RFP for the project.

### GUIDELINES

#### GENERAL INSURANCE REQUIREMENTS FOR ALL POLICIES

Any insurance coverage required herein written on a “claims made” form rather than on an “occurrence” form will:

- Provide full prior acts coverage or have a retroactive date effective before the date of a contract; and,
- Be maintained for a period of at least three (3) years following the end of the term of a contract or contain a comparable “extended discovery” clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination will be provided to UDOT.

All policies of insurance will be issued by insurance companies licensed to do business in the state of Utah and must be either:

- Currently rated A- or better by A.M. Best Company and have an A.M. Best Company financial size category rating of not less than VIII; OR
- Listed in the United States Treasury Department’s current Listing of Approved (Department Circular 570), as amended.

In the event any work is subcontracted, the Consultant will require its subconsultant, at no direct cost to the project, to secure and maintain all minimum insurance coverages required of the Prime Consultant.

In the event that governmental immunity limits are subsequently altered by legislation or judicial opinion, Consultants must provide a new certificate of insurance within thirty (30) days after being notified thereof in writing by UDOT certifying coverage in compliance with the modified limits or, if no limits are specified, in an amount acceptable to UDOT.

All required certificates and policies will provide that coverage there under will not be canceled or modified without providing 30 days prior written notice to UDOT in a manner approved by the Assistant Attorney General for UDOT, either by the insurance carrier or the named insured.

## STANDARD REQUIRED INSURANCE POLICIES

Consultants, at no direct cost to the project, will secure and maintain the following minimum insurance coverage:

### COMMERCIAL GENERAL LIABILITY

Consultants will secure and maintain commercial general liability (CGL) insurance in the minimum amount of **\$1,000,000 per occurrence with a \$2,000,000 general aggregate**. These limits can be covered either under a CGL insurance policy alone, or a combination of a CGL insurance policy and an umbrella insurance policy and/or a CGL insurance policy and an excess insurance policy. The policy will protect UDOT, Local Government (if applicable), the consultant, any subconsultant from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the consultant's operations under a contract, whether performed by the consultant themselves, and subconsultant, or anyone directly or indirectly employed by either of them. Such insurance will provide coverage for premises operations, acts of independent consultants, products and completed operations.

UDOT, the State of Utah, and Local Government (if applicable) should be an additional insured for CGL. See a completed [Certificate of Insurance example](#) for specific required language.

### COMMERCIAL AUTOMOBILE LIABILITY

Consultants will secure and maintain commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles in the minimum amount of **a combined single limit of \$1,000,000 per occurrence OR \$500,000 Liability per person, \$1,000,000 Liability per occurrence, and \$250,000 Property Damage**. These limits can be reached either with a commercial automobile liability insurance policy alone, or with a combination of a commercial automobile liability insurance policy and an umbrella insurance policy and/or a commercial automobile liability insurance policy and an excess insurance policy.

UDOT should not be an additional insured for commercial automobile liability insurance.

### WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY

Consultants will secure and maintain worker's compensation and employer's liability insurance sufficient to cover all of the Consultant's employees pursuant to Utah law. If covered by Workers Compensation Fund of Utah, then an A.M. Best rating is not required in this area.

- Including Coverage B. Employer's Liability
- \$100,000 limit each accident
- \$100,000 limit per disease-each employee
- \$500,000 limit per disease-policy limit

This requirement includes those who are doing business as an individual and/or as a sole proprietor as well as corporations and partnerships. In the event any work is subcontracted, the Consultant will require its subconsultant(s) similarly to provide worker's compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

UDOT should not be an additional insured for worker's compensation insurance.

## PROFESSIONAL LIABILITY

(aka: Architect & Engineers Insurance, Errors & Omissions Insurance, Malpractice Insurance) Consultants will secure and maintain professional liability insurance having an A.M. Best rating of A-class VIII or better. If this coverage is written on a claims-made basis, the certificate of insurance will so indicate. The Consultant represents that as long as commercially available the insurance will remain in effect such that claims reported up to three (3) years beyond the date of substantial completion of UDOT contracts are covered (on construction contracts or modifications for construction engineering management the insurance, will remain in effect for one (1) year after completion of projects). The required minimum limits are **\$1,000,000 per claim and \$2,000,000 aggregate.**

UDOT should not be an additional insured for professional liability insurance.

## VALUABLE PAPERS

Valuable Papers and Records Coverage and/or Electronic Data Processing (Data and Media) is coverage for the physical loss or destruction of the work product including drawings, plans, specifications and electronic data and media. The contract states that a Consultant must carry a sufficient amount of Valuable Papers coverage to “. . . protect the CONSULTANT, its sub-consultants, the Local Authority, and the DEPARTMENT from the loss of said information.”

UDOT should not be an additional insured for valuable papers insurance.

## INCREASED INSURANCE REQUIREMENT

If the minimum insurance coverage is insufficient for a specific project, UDOT may require a consultant to obtain additional insurance. The UDOT Project Manager and the Consultant will perform a **Consultant Services Professional Liability Risk Assessment.**

## INSURANCE REPORTING PROCESS

Consultants are required to submit certificates of insurance as proof of insurance to Consultant Services and the certificates will remain on file. A new Certificate of Insurance for Consultant Services contracts will not be required until the one “on file” with UDOT expires, has a change in coverage, is cancelled, or the specific project requires insurance over and above the minimum standard coverage required.

## INSURANCE REPORTING FORMS

All insurance is required to be shown on an Acord 25 Certificate of Liability Insurance Reporting Form for all coverage except worker's compensation. Worker's compensation coverage may be shown on an Acord 25 Form but may also be shown for example on Workers Compensation Fund of Utah letterhead.

Items of note on the Acord 25 Form (*Certificate of Insurance example*):

- The ADD'L INSRD box for General Liability should be checked.
- An attention line or any individual's name should not be indicated in the CERTIFICATE HOLDER's box.
- A generic description of work performed by the insured/consultant for UDOT should be included in the DESCRIPTION OF OPERATIONS box. For example, "Environmental and design services". Nothing specific to a contract should be included; i.e., contract number, project number/location, project-specific description, PIN number.
- The statement "Utah Dept. of Transportation, State of Utah, and Local Government (if applicable) additional insureds" should be included in the DESCRIPTION OF OPERATIONS box.
- A signature in the AUTHORIZED REPRESENTATIVE BOX is required.

## CONSULTANT SERVICES PROFESSIONAL LIABILITY RISK ASSESSMENT

UDOT and the Consultant should determine the appropriate Professional Liability Coverage during negotiation of the engineering services contract based on the specific project/work being negotiated. It is expected that the minimum limits will be sufficient for the majority of consultant contracts. However, occasionally the project or work being considered may involve abnormal risk components, which may justify obtaining a Project-Specific Rider, increasing the Professional Liability Insurance Coverage for the work being considered. If it is determined that a Project-Specific Rider is justified, then the cost to obtain this additional insurance will become an eligible direct expense to the project.

The following questions are intended to assist the UDOT Project Manager and Consultant to determine whether there may be abnormal risks, which would warrant further discussion concerning whether the minimum Professional Liability Coverage is adequate or not. UDOT Risk Management is a resource to the UDOT Project Manager and the Consultant.

## UDOT RISK MANAGEMENT QUESTIONS

GENERAL	<ul style="list-style-type: none"> <li>• Is the construction cost estimate over \$50,000,000?</li> <li>• Does the contract require an accelerated schedule?</li> </ul>
STRUCTURES	<ul style="list-style-type: none"> <li>• Does the design involve unusually complicated structures?               <ul style="list-style-type: none"> <li>○ Bridges with piers in water ways</li> <li>○ Complicated bridge types</li> <li>○ Complicated retaining structures</li> </ul> </li> <li>• Does the design involve Accelerated Bridge Construction?               <ul style="list-style-type: none"> <li>○ Super-structure</li> <li>○ Carrier beams</li> <li>○ Precast elements</li> </ul> </li> </ul>
GEOTECHNICAL	<ul style="list-style-type: none"> <li>• Are there unusual slope stability issues?               <ul style="list-style-type: none"> <li>○ Canyon Project</li> <li>○ Landslides</li> </ul> </li> <li>• Are there unusual foundation issues?               <ul style="list-style-type: none"> <li>○ Unusual settlement</li> </ul> </li> </ul>
HYDROLOGY/ HYDRAULICS	<ul style="list-style-type: none"> <li>• Are there unusual hydrology/hydraulic issues?               <ul style="list-style-type: none"> <li>○ River hydrology</li> <li>○ Scour</li> <li>○ Above grade canal flow line</li> </ul> </li> </ul>
OTHER ISSUES	<ul style="list-style-type: none"> <li>• Is there an unusual pavement design?</li> <li>• Are there significant hazardous materials or wastes on the project, do they include lead, asbestos, PCBs, mercury, or radioactivity and/or does the project include remediation of these hazardous materials or waste?</li> <li>• Is this a federal-aid local government project?</li> <li>• Are there any risks not identified above that could potentially cause a claim of over the minimum insurance coverage amount?</li> </ul>

## LIABILITY INSURANCE WAIVER REQUEST

If a Consultant performs work that in their opinion does not present a liability risk for UDOT, the Consultant may request a waiver to the minimum liability insurance coverage required.

The waiver request should contain the following information and be forwarded to the UDOT Project Manager and the Consultant Services Contract Administrator during negotiation of the Consultant contract:

- What liability insurance coverage(s) is the Consultant requesting a waiver for?
- If a Consultant has some liability insurance coverage, but not at the minimum required, the Consultant will need to explain and provide a Certificate of Insurance.
- The Consultant will provide a brief description of the work in the contract.
- The Consultant will explain why the services being provided do not present a risk for UDOT or why they don't present a risk that would warrant coverage at the minimum level required.
- If there will not be any vehicle operations; i.e., the Consultant will not operate a vehicle in connection with any services rendered under a contract with UDOT AND the consultant agrees not to operate a vehicle in connection with services rendered under a contract with UDOT, the Consultant may state such in a waiver request for the Commercial Automobile Liability insurance coverage requirement.

## NON-STANDARD INSURANCE POLICIES

The following insurance coverages are non-standard coverages that may be required for specific contracts on a case-by-case basis:

### UMBRELLA AND/OR EXCESS INSURANCE

These insurance policies provide additional limits on underlying insurance policies. They can be excess over as many types of insurance as the insurance company wants them to. For example, you will see an Umbrella Insurance policy over commercial general liability and commercial auto. When added to the underlying insurance policy, the limits must be at least at UDOT's requirements, and it must state that it follows the underlying insurance or follows form.

UDOT should not be an additional insured on umbrella and/or excess insurance, only on the underlying policy.

### AIRCRAFT LIABILITY

Aircraft Liability in the amount of \$1,000,000 per occurrence is required if aircraft are utilized. Aircraft Liability is required to be endorsed naming UDOT, the State of Utah, and the Local Authority as Additional Insureds and indicate they are primary and not contributing coverage.

## DATA INTEGRITY INSURANCE

Data Integrity insurance specifically covers privacy liability and network security liability for any personal information stolen from any computer or network and used against that individual in any way. The minimum amount of \$2,000,000 with UDOT as an additional insured is required.

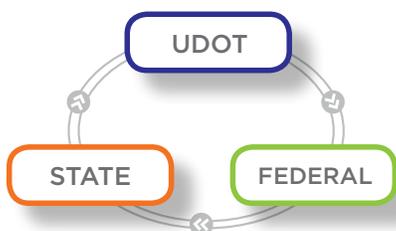
This insurance is required for any company that has access to or has on its computer system any sensitive personal or financial information regarding UDOT employees or any party doing business with UDOT.

## PRODUCT LIABILITY

Product Liability insurance in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general aggregate and UDOT as an additional insured is required when full Commercial Liability coverage is not needed but Product Liability coverage is still called for.



## Section 6: UDOT's AUTHORITY TO CONTRACT



Consultant Services facilitates the procurement of Consultants under authority and guidance of Federal and State regulations. The regulations, over many years, have resulted in several UDOT procedures, guidelines and reference documents which assist in the successful interaction between Consultants, the UDOT Project Manager, the Local Government and Consultant Services.

### THE BROOKS ACT – “QUALIFICATION BASED SELECTION”

In general, States have adopted the “*Brooks Act*” (40 USC Chapter 11) or similar procedures for contracting engineering services in their State procedures. “It is the policy of the Federal Government to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.” A complete definition of the Brooks Act and frequently asked questions regarding “Qualification Based Selection” is available at the above link.

### 2 CFR PART 200 SUBPART E COST PRINCIPLES (FORMERLY KNOWN AS FAR TITLE 48, PART 31)

**2 CFR 200** is the primary regulation for use by all Federal Executive agencies in the acquisition of supplies and services with appropriated funds. Subpart E (Cost Principles) of 2CFR 200 defines contract cost principles and procedures. Definitions are available at the above link.

### TITLE 23, CFR PART 172

**Title 23 Code of Federal Regulations, Part 172** is the regulation relating to the procurement of engineering and design related service contracts using Federal-aid funds. These services are in furtherance of a construction project.

23 CFR § 172.5(c) requires UDOT “prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related services.” FHWA approves UDOT’s written policies and procedures including all revisions to such policies and procedures.

Consultant Services is responsible for preparing and maintaining the written policies and procedures, in addition to, providing guidance for all parties involved in the UDOT and Local Government engineering and design related service contracts.

The following contains excerpts from the Title 23 CFR, Part 172 regulation in *green italic font* and provides an overview of the guidelines Consultant Services has developed to comply with the regulation and links within the Manual that

directly correlate with the regulation.

- (c) *The contracting agency shall prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related consultant services. The Federal Highway Administration (FHWA) shall approve the written policies and procedures including all revisions to such policies and procedures, of the State Transportation Agency (STA) or recipient to assess compliance with applicable requirements. The STA or other recipient shall approve the written policies and procedures including all revisions to such policies to assess compliance with applicable requirements.*

*These policies and procedures shall address, as appropriate for each method of procurement a contracting agency proposes to use, the following items to ensure compliance with Federal and State laws, regulations, and the requirements of this part:*

- (1) *Preparing a scope of work and evaluation factors for the ranking/selection of a consultant;*

UDOT creates an accurate and detailed scope of work, in addition to, preparing evaluation criteria in RFQs for discussions with qualified Consultants. This ensures the best qualified Consultant is selected for the specific project efforts. Details may be found in Section 1 of this Manual, [“Which Selection Method to Choose – How to get the right consultant for the project using the right process”](#).

- (2) *Soliciting interests, qualifications or proposals from prospective consultants;*

UDOT relies on the Consultant community to support UDOT and Local Government projects. A variety of methods in which to solicit proposals from the Consultant community have been established and successfully utilized. Details may be found in Section 1 of this Manual, [“Which Selection Method to Choose – How to get the right consultant for the project using the right process”](#).

- (3) *Preventing, identifying, and mitigating conflicts of interest for employees of both the contracting agency and consultants and promptly disclosing in writing any potential conflicts to the STA and FHWA, as specified in 2 CFR 200.112 and 23 CFR 1.33, and the requirements of this part.*

To help ensure there are no conflict of interest issues, UDOT has developed simple and direct processes for all parties. Details may be found in [UDOT Policy and Procedure 05-30 Code of Ethics and Conflict of Interest](#) and in Section 4 of this Manual, [“Conflict of Interest & Confidentiality”](#).

- (4) *Verifying suspension and debarment actions and eligibility of consultants, as specified in 2 CFR part 1200 and 2 CFR part 180;*

To ensure UDOT projects are of the highest quality, Consultants must disclose any suspension or debarment actions that may make the Consultant ineligible to provide professional services to UDOT. As allowed in 2 CFR Part 180, UDOT uses a contract-based self-certification to meet the requirements for verification of suspension and debarment actions and consultant eligibility status. The standard Contract Boilerplate terms and conditions may be found on the [Consultant Services Forms](#) website.

- (5) *Evaluating interests, qualifications, or proposals and the ranking/selection of a consultant;*

UDOT conducts the evaluation of interests, qualifications, or proposals and the ranking/selection of a Consultant as a critical function to the success of project delivery and with care to following a fair and consistent process. Details may be found in Section 1 of this Manual, [“Which Selection Method to Choose – How to get the right consultant for the project using the right process”](#).

**(6) Determining, based upon State procedures and the size and complexity of a project, the need for additional discussions following RFP submission and evaluation;**

As part of the development of an RFQ, UDOT outlines the potential for future interviews in project-specific RFQs. Details may be found in Section 1 of this Manual, ***“Which Selection Method to Choose – How to get the right consultant for the project using the right process”*** and in each advertised RFQ.

**(7) Preparing an independent agency estimate for use in negotiation with the selected consultant;**

With a clear understanding of the project, UDOT prepares an Independent Cost Estimate (ICE) for each Scope of Work prior to selecting a Consultant. This provides the financial foundation for future negotiation with the selected Consultant. Details for preparation of the ICE may be found in Section 1 of this Manual, ***“Which Selection Method to Choose – How to get the right consultant for the project using the right process”*** and details for the negotiation process may be found in Section 2 of this Manual, ***“How to get a Consultant under Contract”***.

**(8) Selecting appropriate contract type, payment method, and term and incorporating required contract provisions, assurances, and certifications in accordance with 172.9;**

UDOT selects the contract type, payment method, and terms and contract provisions that are appropriate for the project goals and scope of work. Details may be found in Section 2 of this Manual, ***“How to get a Consultant under Contract”***.

**(9) Negotiating a contract with selected consultant including instructions for proper disposal of concealed cost proposal of unsuccessful bidders;**

Consultant Services does not currently solicit concealed cost proposals on design and engineering-related projects and therefore does not need to dispose of unsuccessful bidders' cost proposals. Details for negotiating a contract may be found in Section 2 of this Manual, ***“How to get a Consultant under Contract”***.

**(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 172.11;**

UDOT conducts annual financial screenings of consultants to establish elements of contract costs, accepting indirect cost rate(s) for application of contracts, and assuring consultant compliance with the Federal Cost principles. Details may be found in Section 2 of this Manual, ***“How to get a Consultant under Contract”*** and the Financial Screening Application and Questionnaire may be found on the ***Consultant Services Forms*** website.

In addition, UDOT performs post audits on contracts above a threshold agreed upon by FHWA Utah Division and UDOT and any additional contracts deemed necessary.

**(11) 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;**

UDOT Project Managers and Consultant Services review and approve consultant contracts establishing allowable pay items and then UDOT Project Managers review and approve payment requests against the contracts ensuring consultant costs billed are allowable. UDOT Project Managers review and approve the acceptability and progress of the consultant's work. Details may be found in Section 2 of this Manual, ***“How to get a Consultant under Contract”***.

In addition, UDOT performs post audits on contracts above a threshold agreed upon by FHWA Utah

Division and UDOT and any additional contracts deemed necessary.

***(12) Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;***

UDOT Project Managers monitor the Consultant's work and compliance with the terms, conditions, and specifications of the contract. Details may be found in Section 3 of this Manual, "[Managing the Contract](#)" and the Consultant Progress Report form may be found on the [Consultant Services Forms](#) website.

***(13) Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;***

UDOT Project Managers prepare the Consultant Evaluation online in the UDOT Interchange system. Evaluations are specific to the specialty of the Consultant; Prime and Subconsultant, under the contract. Final scores are incorporated into the project closure summary and stored for future Section Teams to use. Details may be found in Section 3 of this Manual, "[Managing the Contract](#)".

***(14) Closing-out a contract;***

UDOT requests timely closure of contracts. The UDOT Comptroller's office verifies the Consultant has submitted a Final Pay Request and the UDOT Project Manager has completed the Final Consultant Evaluation Form. Details may be found in Section 3 of this Manual, "[Managing the Contract](#)".

***(15) Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;***

Contracts and supporting programmatic records are saved electronically to CMS, ProjectWise, and a shared drive on UDOT's network or a combination of all three. The records are maintained for a period of time determined by 2 CFR 200.333 Retention Requirement of Records, Utah Procurement Code Section 63G-6a-2002 Records Retention, or Utah Code Section 63G-2-604 Government Records Management Act (GRAMA) Retention and disposition of Records, whichever is longer, and currently six years. "[Managing the Contract](#)".

***(16) Determining the extent to which the consultants, 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;***

UDOT expects Consultants to exercise an appropriate standard of care and to provide quality services to the UDOT. Details may be found in [UDOT Policy and Procedure 08-07: Errors and Omissions on Projects](#) and in Section 3 of this Manual, "[Managing the Contract](#)".

***(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; and***

The standard Contract Boilerplate terms and conditions outlines contractual obligations for the Consultant and details may be found on the [Consultant Services Forms](#) website.

***(18) Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.***

UDOT is open to Consultants bringing concerns forward either directly with UDOT staff or through the UDOT/ACEC Liaison Committee for resolution. However, all formal protests with respect to resolving disputes in the procurement, management, and administration must be in writing, and will follow the requirements in [Utah Procurement Code Sections §63G-6a-1602 et seq.](#)

## UTAH CODE TITLE 72 – TRANSPORTATION CODE

*Utah Code Title 72, Chapter 2* is the State transportation code relating to the transportation finances act. Section 206 of Chapter 2 outlines the Department's authority to contract and reads as follows:

The department may, upon approval of the commission:

1. Make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects in accordance with this chapter; and
2. Enter into and perform the contracts and agreements with entities concerning the planning, construction, lease, or other acquisition, installation, or financing of transportation projects.

## ADMINISTRATIVE RULES

Approximately one half of Utah's codified law is written by state agencies. Statements written by state agencies which have the effect of law are called administrative rules. Unlike statutes, which change only when the Legislature is in session, administrative rules may change throughout the year.

- *R907-66 Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects.*

Because many transportation projects that UDOT administers receive federal aid, UDOT believes it is generally most efficient also to use federal cost principles and procedures in transportation project contracts financed solely with state funds. Therefore, UDOT also adopts and incorporates 2 CFR Part 200 Subpart E Cost Principles for use in most state-financed transportation projects.

In addition as part of this Rule, UDOT has adopted a state small purchase cap that matches the federal small purchase cap.

## AASHTO UNIFORM AUDIT & ACCOUNTING GUIDE

Discussions among AASHTO members at the regional level and at annual AASHTO meetings led to the creation of the Uniform Audit & Accounting Guide, first released in March of 2001. The Guide was designed to assist engineering consultants, independent CPAs, and State DOT auditors with the preparation, and/or auditing, of Statements of Direct Labor, Fringe Benefits, and General Overhead (indirect cost rate schedules). Over the years, many people have contributed to the Guide by providing input, conducting research, attending working sessions, facilitating meetings, editing, proofreading, and providing other support. The participants included representatives from State Departments of Transportation, the FHWA, the ACEC, public accounting firms, and AASHTO. In 2012, an update edition of the *AASHTO Guide* was released in 2012. The 2012 edition incorporates several updates, refinements, and clarifications necessary to reflect changes in the statutory and regulatory framework applicable to A/E contracts.

## CONSULTANT SERVICES MANUAL OF INSTRUCTION

The Consultant Services Manual of Instruction was developed to comply with required federal regulations and at the same time provide guidance for all parties involved in the UDOT and Local Government project development process, which includes UDOT and local government staff, the consultant community, and the Federal Highway Administration (FHWA). As Federal and State regulations change, so will the Manual of Instruction.



# Section 7: Partners

## UDOT PARTNERSHIPS

One of the reasons UDOT is successful in delivering projects to the traveling public are the partnerships developed and nurtured over the years. Consultant Services internal and external partners help facilitate Consultant participation with UDOT. Internal partners are the various sections within UDOT that manage delivery of UDOT's programs and projects, and thus tend to utilize consultants. Who they are and what their roles are is outlined in this Section. The external partners also have roles in delivering projects and supporting UDOT's programs, either in an oversight role such as the Federal Highway Administration, or partners in planning and programming in the urban areas, namely the four Metropolitan Planning Organizations. Another long-time and highly successful external partnership is with the American Consulting Engineers Council (ACEC).

## INTERNAL PARTNERS

### PROJECT DEVELOPMENT

UDOT's Project Development Division was developed as a resource to support program managers, project managers and their teams to help ensure the successful management and delivery of UDOT projects to help solve today's challenges and prepare for tomorrow's changing transportation environment.

#### PROJECT DEVELOPMENT – CENTRAL PRECONSTRUCTION

The Central Preconstruction Group provides services for the management and administration of several areas. Included in Central Preconstruction are Consultant Services, Standards and Design, Risk Analysis, Project Management, Business Information Technology (BIT), Electronic Program Management, Geographic Information Systems (GIS), and Hydraulics.

#### PROJECT DEVELOPMENT – STRUCTURES

The Structures Design Division produces safe, high quality, and economical structural designs for preservation, rehabilitation and replacement projects through efficient, timely communication, innovation, technical expertise and professionalism. Structures Design provides structural engineering services, manages structure design and construction, and establishes and maintains structural design criteria and standards to ensure a safe, economical and reliable transportation system.

#### PROJECT DEVELOPMENT – CONSTRUCTION

The Construction Division provides innovative value-added construction services to UDOT customers by creating a successful partnership throughout the construction process.

## PROJECT DEVELOPMENT – RIGHT OF WAY

The **Right of Way Division's** primary responsibility is to acquire property needed for highway purposes and relocate displaced businesses or persons. This division is also responsible for the management of properties acquired, the oversight of local government highway projects using state and federal funds, utilities and railroads, access management, statewide permits, right of way plans, maps, and records.

## PROJECT DEVELOPMENT - ENVIRONMENTAL

Environmental Services provides engineering and technical expertise in the built and natural environment for transportation project development. The Environmental Section provides services and tools for successful environmental stewardship and streamlining with expertise in natural and cultural resources, landscape architecture, and NEPA documentation.

The Environmental Section has knowledgeable staff with expertise in archaeology, landscape architecture, wetlands, water quality, noise, wildlife, historic architecture, threatened and endangered species, and NEPA. Environmental Services can assist Project Managers in developing EA/EIS/SES scopes of work and cost estimates. The Environmental staff also actively participates as project team members, reviews all EA/EIS/SES documents and coordinates environmental issues with FHWA and other agencies.

## UDOT REGIONS

UDOT is divided into regional and internal district offices. Personnel in each of the Regional Offices oversee administration, construction, and maintenance of all state roads, highways, and freeways within their areas as well as manage projects.

## SYSTEMS PLANNING & PROGRAMMING

UDOT has the responsibility to plan, construct and maintain the state highway system. Vital to its success, the **Systems Planning and Programming** group supports UDOT's overall efforts through four major business areas, which are to: Monitor transportation system conditions, identify transportation needs, establish transportation plans, and determine program and project schedules.

## PROCUREMENT SERVICES

**Procurement Services** is responsible for the acquisition of all equipment, materials, supplies, and services required to fulfill the mission of the UDOT. Procurement Services provides centralized support for UDOT which works to connect all of Utah communities together with the help of a first-class transportation system.

## OFFICE OF INTERNAL AUDIT

The **Auditing Department** is responsible for auditing agency contracts. It is the responsibility of all parties in the contracting arena to maintain appropriate records to meet the UDOT's audit requirements.

## COMPTROLLER'S OFFICE

The Comptroller's Office is responsible for issuing payments, billing FHWA for reimbursement on federal projects, closing all UDOT and Federal Aid projects and performing a final accounting of all contracts. The final accounting often includes reconciliation of contract expenditures to project records and monitoring outstanding items such as final contract billings and post audit.

## EXTERNAL PARTNERS

### Federal Highway Administration (FHWA)

On a project for which the Federal Government makes funding available, the terms of Federal participation are established in an agreement between UDOT and FHWA, known as the **Stewardship Agreement**.

### LOCAL GOVERNMENT AGENCIES

Federal-aid Local Government projects have the same priority to UDOT as their own state projects. UDOT and Local Government Agencies are partners in their successful completion. While the Local Government Agency maintains and oversees the successful completion of their projects, it is UDOT's role to provide oversight to the LGA and to **assist** in the timely delivery of projects.

### AMERICAN COUNCIL OF ENGINEERING COMPANIES (ACEC) UDOT LIAISON GROUP

The core purpose of this standing committee is to provide continuous strategic and proactive dialogue between UDOT and the member firms of **ACEC-Utah**. The committee addresses issues of common interest and enhances the business and technical relationships between the engineering community and UDOT.

### METROPOLITAN PLANNING ORGANIZATION (MPO)

Every metropolitan area with a population of more than 50,000 persons must have a designated Metropolitan Planning Organization for transportation to qualify for federal highway or transit assistance. The United States Department of Transportation (USDOT) relies on the MPO to ensure that highway and transit projects using federal funds are products of a credible planning process and meet local priorities. USDOT will not approve federal funding for urban highway and transit projects unless they are on the MPO's program.

In cooperation with UDOT and other transportation providers, the MPO carries out the metropolitan transportation planning process. Currently there are four MPOs in the state of Utah:

- **Cache Metropolitan Planning Organization (CMPO)**
- **Dixie Metropolitan Planning Organization (DMPO)**
- **Mountainland Association of Governments (MAG)**
- **Wasatch Front Regional Council (WFRC)**



# ACRONYMS

Below is a list of frequently used acronyms related to Consultant Services. A comprehensive list of acronyms is provided in the UDOT Acronym and Terminology List.

AASHTO	American Association of State Highway and Transportation Officials	GES	General Engineering Services
ACEC	American Council of Engineering Companies	GSA	General Services Administration
AGC	Associated General Contractors	ICE	Independent Cost Estimate
A&E	Architectural & Engineering	ITS	Intelligent Transportation Systems
CADD	Computer Aided Drafting and Design	LGA	Local Government Agency
CBA	Choosing By Advantage	LGPM	Local Government Project Manager
CEM	Construction Engineering Management	LOI	Letter of Interest
CFR	Code of Federal Regulations	MOI	Manual of Instruction
CMGC	Construction Management/ General Contractor	NICET	National Institute for Certification in Engineering Technology
CMS	Contract Management System	NTP	Notice to Proceed
CPM	Critical Path Method	PE	Professional Engineer
CPFF	Cost Plus Fixed Fee	PM	Project Manager
D/B	Design Build	QBS	Qualifications Based Selection
DBE	Disadvantaged Business Enterprise	QC/QA	Quality Control/Quality Assurance
DTS	Department of Technology Services	R709	Authorization of Funding Request
EEO	Equal Employment Opportunity	RFP	Request for Proposal
EA	Environmental Assessment	RFQ	Request for Qualifications
EIS	Environmental Impact Statement	RPLOQ	Request for Pool Letter of Qualification
ePM	Electronic Program Management	SBC	Selection By Consent
EOR	Engineer of Record	SOQ	Statement of Qualifications
FAA	Federal-aid Agreement	STIP	Statewide Transportation Improvement Program
FAR	Federal Acquisition Regulations	UP	Unit Price
FHWA	Federal Highway Administration	WBE	Woman in Business Enterprise
FTR	Federal Travel Rates		