

Chapter 5

AGREEMENTS

BUREAU OF LOCAL ROADS AND STREETS MANUAL

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Chapter 5
AGREEMENTS

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5-1 AGREEMENTS OF UNDERSTANDING

5-1.01 Statutory Background

Generally, highway construction by local highway authorities that is funded in whole or in part with federal funds, State funds, and Motor Fuel Tax (MFT) funds, requires Illinois Department of Transportation (IDOT) supervision and approval. However, [605 ILCS 5/5-402](#) and [605 ILCS 5/7-203.2](#) provide that counties and municipalities may enter into Agreements of Understanding (AOU) with IDOT to construct and/or maintain highways or streets using MFT funds, or other State funds administered under MFT policies and procedures, without the approval and supervision of IDOT. The local public agency (LPA), however, must show that it is adequately organized, staffed, equipped, and financed to discharge satisfactorily such statutory requirements and duties. LPAs must have an appointed full-time engineer. The district will determine if the LPA has met these requirements.

Road construction projects that are funded entirely by a county (e.g., do not receive any State or federal financing) may be performed under the supervision and approval of IDOT at the option of the county.

5-1.02 Agreement Content

An AOU between IDOT and an LPA are typically used for maintenance and construction, or maintenance only. Counties may include work done by road districts under the supervision of the county engineer. IDOT and the LPA must prepare the terms of the agreement to ensure that funds are expended consistent with the intent of the law. The following stipulations should be included in the agreement:

- The responsibilities of the LPA and IDOT must be listed.
- In the event that a vacancy occurs in the LPA's position responsible for overseeing expenditure of MFT funds (e.g., county engineer, city/public engineer), the AOU is terminated and a new AOU would need to be sought by the LPA once the vacancy is filled.
- IDOT may make periodic inspection of the jobsite and project files, as it deems necessary, to satisfy itself that the work is being done in compliance with the plans, specifications, and IDOT policies and procedures.
- The agreement must state what work is covered by the agreement.
- The provisions of the agreement do not apply to any federal or State funded projects that are not administered under the MFT policies and procedures.
- The agreement can be terminated at the discretion of either party.
- The use of MFT funds, other than specified in the agreement, will require approval by IDOT.

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- The provisions of the agreement may be tailored to the LPA.

5-1.03 LPA Responsibilities

The LPA is responsible for the following items and any other items that are pertinent to providing a clear understanding between the parties in the agreement:

1. To maintain an adequate, fully staffed organization and to keep IDOT advised of the organization and key staff changes.
2. To follow the procedures set forth by [605 ILCS 5/5-403](#) and [605 ILCS 5/6-701.3](#) for counties, and [605 ILCS 5/7-203](#) for municipalities for maintenance and construction of any highway or street.
3. To use the design criteria and to follow the policies and procedures adopted by the Bureau of Local Roads and Streets (BLRS). Modifications and deviations must be approved by IDOT.
4. For construction projects, to ensure all plans and specifications are prepared by an Illinois licensed professional engineer or by individuals under the direct supervision of an Illinois licensed professional engineer. All plans are required to have an engineer's professional and/or structural seal and signature, as applicable.
5. For LPAs to obtain the Bureau of Bridges and Structures (BBS) approval for all preliminary bridge design and hydraulic reports and all final bridge plans for bridges and culverts of NBIS length or greater and other structures identified in [Section 10-2](#).
6. To obtain all necessary environmental clearances and construction permits before advertising a project for letting or constructing the project with its own forces.
7. Securing all right-of-way (ROW) prior to advertising a project for letting, unless prior approval by IDOT has been secured.
8. To obtain IDOT's approval of plans and specifications for improvements or connections to State highways and/or appurtenances prior to advertising for bids. The LPA is responsible for withholding the final payment to the contractor until written certification is received by IDOT that the project has been completed according to the plans and specifications and the work is acceptable to IDOT.
9. To advertise for bids using IDOT's Notice to Contractor Bulletin and to let contracts for maintenance or construction to the lowest responsible bidder, or to do the work itself through its officers, agents, or employees.
10. To perform, or have someone else perform, construction and material inspections required for its construction and maintenance projects using procedures in accordance with the IDOT's [Project Procedure Guide \(PPG\)](#).
11. To make available, upon request, all records for review and/or audit by IDOT. These documents must be retained for a minimum of five years after the work has been completed. LPAs operating under AOU are required to supply IDOT, if applicable to the project, with one copy of the various documents for record purposes as specified in AOU.
12. To obtain IDOT approval prior to any use of MFT funds, other than those specified in the agreement. For approvals by the LPA, the approval must be prior to any use of MFT funds.
13. To request IDOT's authorization of MFT funds on a timely basis.
14. To submit an annual report to the district listing the projects undertaken, the funds expended, and the projects' status.

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15. To furnish the district all documents required by AOU.

5-1.04 District Responsibilities

The district is responsible for the following items and any other items that are pertinent to providing a clear understanding between the parties in the agreement:

- to authorize MFT funds when requested by the LPA,
- to provide a general review of the LPA's operation under the AOU, and
- to perform a documentation review of MFT projects.

5-1.05 Processing Agreements of Understanding

A LPA desiring to operate under AOU or desiring additional information about AOU should contact the district. Sample agreements are available from the district. If the district determines that a LPA is qualified to operate under AOU, the agreement must be executed by the LPA and Central Bureau of Local Roads and Streets (CBLRS).

5-2 JURISDICTIONAL TRANSFERS

5-2.01 Jurisdictional Responsibility

Jurisdiction is the authority and obligation to administer, control, construct, maintain, and operate a highway subject to the provisions of the Illinois Highway Code. A highway is defined as any public way for vehicular travel which has been established by statute, dedication, or prescription. The term highway includes rights of way, bridges, drainage structures, signs, guardrails, and all other appurtenances necessary for vehicular travel. A highway in a rural area may be called a road. A highway in a municipality may be referred to as a street ([605 ILCS 5/2-202](#)). See [Chapter 3](#) for a discussion on jurisdiction responsibilities.

When a highway authority has jurisdiction of a highway, it has various obligations that include reconstruction, signing, maintenance, etc. All of these obligations remain with the highway authority until the jurisdiction is transferred to another highway authority. Transfer of the maintenance or any other portion of jurisdiction is not allowed. For example, a county can enter into an agreement to have another highway authority perform maintenance on a section of highway; however, this does not relieve the county from the ultimate obligation of ensuring that the maintenance is performed. The agreement for the performance of services is not an agreement for the transfer of jurisdiction. In other words, a maintenance agreement does not transfer jurisdiction.

A jurisdictional transfer will occur because it is either mandated by statute or agreed to by written contract. A municipality that annexes territory that includes a township/road district road within the annexed territory or adjacent to a township road is mandated to assume jurisdiction of the township road within the annexed area ([65 ILCS 5/7-1-1 et seq](#) and [605 ILCS 5/6-203](#)). Agreed-to jurisdictional transfers occur because of the logical need to transfer authority to another highway system. For example, relocating an existing State highway may result in decreased traffic occurring on the old State highway. Therefore, the old State highway may be better served under the jurisdiction of a county, municipality, or township/district road system.

It should also be noted a jurisdictional transfer agreement in itself does not automatically include the transfer of land rights associated with the highway. A separate process involving transfer of land rights must be performed; see Section 5-2.04.

A highway authority may provide MFT or other local funds based on the present worth of the highway or structure to the highway authority that agrees to assume jurisdiction for the facility. The present worth is determined using the life-cycle cost of keeping the highway in a serviceable condition. The highway authority assuming jurisdiction of the roadway must deposit all present worth funds, regardless of source, into their MFT account and must be expended in accordance with MFT standards, policies, and procedures.

The CBLRS should be notified of all jurisdictional transfers (both mandatory and agreed-to) for review, comment, and recordkeeping purposes. The District and/or the LPA is responsible for notifying the CBLRS of proposed and completed jurisdictional transfers, and ensuring the proper documentation is submitted to IDOT for processing and recordkeeping. See Section 5-2.03 for documentation and procedures required for agreed-to jurisdictional transfers.

5-2.02 Jurisdictional Transfers - IDOT Responsibilities

[605 ILCS 5/4-409](#) authorizes IDOT to enter into a written contract with any other highway authority for the jurisdiction of any highway or section of highway. IDOT may also, upon application of any highway authority, authorize the highway authority to enter into a written contract with any other highway authority for the jurisdiction of any highway or section of highway. IDOT is therefore required to be a party to all agreements involving the transfer of jurisdiction of a highway from one highway authority to another. If the transfer involves the State highway system, IDOT is one of the executors of the agreement. If the transfer is between two highway authorities, IDOT approval of the jurisdictional transfer agreement is required. The Director of Planning and Programming approves all jurisdictional transfers between two local highway authorities and shall be coordinated through the District BLRS office.

Jurisdictional transfers involving marked or unmarked state highways may require additional review by Office of Planning and Programming, Bureau of Operations, and the IDOT Route Marking and Signing Committee prior to execution of the agreement by IDOT. If the changes involve a U.S. Route, then IDOT must seek federal approval from the AASHTO Special Committee on U.S. Route Numbering. The department will review LPA proposals for jurisdictional transfers of state highways on a case-by-case basis. Jurisdictional transfers mandated by the Illinois Compiled Statutes (ILCS) do not require IDOT approval. However, a municipality is required to notify a township regarding an annexed township road that automatically becomes the municipality's jurisdiction ([65 ILCS 5/7-1-1](#)). The municipality should also notify IDOT and the county engineer. Agreed-to jurisdictional transfers between two highway authorities will require IDOT approval.

The CBLRS is responsible for maintaining records of jurisdictional transfers (electronic and microfilm/microfiche). The original hard copies of jurisdictional transfer agreements are retained at the Illinois State Archives. To improve communication and maintain a complete record of jurisdiction changes for a given key route, any joint agreements, state contracts, or other documents submitted to or prepared by the District affecting the jurisdiction of a highway shall be transmitted to and coordinated with CBLRS for recordkeeping. The CBLRS will be responsible for coordinating jurisdiction changes to IRIS through the Office of Planning and Programming Highway Data Manager.

The Highway Systems Manager in the CBLRS serves as the clearinghouse for jurisdictional matters. In this capacity, the Highway Systems Manager reviews documents requiring IDOT approval, maintains records/documentation of highway jurisdiction, and review of jurisdictional matters requiring clarification. Records involving annexation and land rights shall be maintained and managed by the District. To streamline and improve these records, the District may at their discretion, utilize electronic records such as county GIS where available. For further guidance on annexation requirements and documentation, contact the District office.

5-2.03 Jurisdictional Transfers - Procedures and Documentation

Transfers of jurisdiction shall be accomplished in accordance with the BLRS publication, [Highway Jurisdiction Guidelines for Highway and Street Systems](#). Although these guidelines shall be used as a general guide to develop documentation, each proposed transfer shall be evaluated on a

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case-by-case basis. The Highway Systems Manager of the CBLRS is responsible for reviewing documents involving jurisdictional transfers. To avoid delays in the review and execution of jurisdictional transfer agreements, it is strongly recommended that draft agreements for all proposed jurisdictional transfers be submitted to the CBLRS for review prior to execution.

Any jurisdictional transfer agreement involving a local highway authority will require documentation by a written jurisdictional transfer agreement. The district staff or LPA developing the agreement should use the standard jurisdictional transfer agreements developed by the department in order to provide compliance with the Illinois Compiled Statutes, to maintain records of all jurisdictional transfers, and to approve those transfers requiring departmental approval. These transfer documents are maintained by the department and are considered official legal documents for establishing jurisdiction.

One of the two Bureau of Local Roads (BLR) forms listed below shall be used for agreed-to jurisdictional transfers. The first one is for jurisdictional transfers between the state and a local highway authority. The second form is for jurisdictional transfers between two local highway authorities only. Each form lists the additional documents required for jurisdictional transfers involving municipalities, counties, or townships. The BLR forms shall not be altered.

The following standard agreement forms are provided by CBLRS:

- Form [BLR 05210](#) – Local Public Agency - State Jurisdictional Transfer
Applicability: State and Local Highway Authority Transfers with Improvement or when a Present Worth transfer involves the exchange of MFT funds.
- Form [BLR 05212](#) – Local Public Agency Agreement for Jurisdictional Transfer
Applicability: Local to Local Highway Authority Transfers only

At a minimum, the jurisdictional transfer agreements should contain the following items and any other items pertinent (intergovernmental agreements, plans, plats, letters of intent, correspondence, present worth, etc.) to providing a clear understanding and legal representation between the parties in the transfer:

1. Conveyor/Recipient. The document should clearly indicate the highway authority conveying and the highway authority receiving the segment of highway involved.
2. Termini Description. Provide a clear description of the highway and the beginning and ending points involved in the transfer. Use route numbers and local highway names. Include federal route numbers when available.
3. Length. Accurately measure the length of highway to be transferred to the nearest hundredth of a mile (hundredth of a kilometer).
4. Key Route. The inventoried key route number for the highway shall be provide. Highways may have multiple key route segments. IDOT prefers one form per key route segment be provided.
5. Structures. Indicate and identify all National Bridge Inspection Standards (NBIS) structures to either be included or excluded in the transfer by their structure number(s). Any structure(s) not excluded is considered a part of the jurisdictional transfer.
6. Illinois Statutes. The jurisdictional transfer should identify the State law that authorizes the legality of the transfer.

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7. Other Information. Include any additional information that may assist in identifying the transfer. Jurisdictional transfers involving an improvement should include the applicable project number, State section number, LPA section number, contract number, etc. Plan sheets, location maps, and plats may be necessary if the highway improvement is not yet constructed.
8. Location Map. Include a map (minimum 8½" x 11") to provide the location of the affected highway involved. The map should be legible (reproducible by photocopy) and indicate the limits of the portion of highway to be transferred. This map shall clearly label and indicate all termini and show the jurisdiction of major highways adjacent to the jurisdictional transfer.
9. Resolutions and Ordinances. The State law requires that a resolution from the county and an ordinance from the municipality be executed for an agreed-to jurisdictional transfer. Examples are contained in the [Highway Jurisdiction Guidelines for Highway and Street Systems](#).
10. Effective Date of Jurisdictional Transfer. Clearly define the date and method by which a jurisdictional transfer will take place. Jurisdictional Transfers between two local highway authorities will normally be effective upon the IDOT's approval. If a construction improvement is tied to the transfer, these will normally become effective 21 days after final inspection and acceptance of the improvement.

It is strongly recommended that a draft agreement be submitted for review. Submit a minimum of three original signed and sealed documents of the final agreement to the district for final review and execution by the department.

5-2.04 Transfer of Land Rights

[605 ILCS 5/4-508](#) allows for the conveyance of any real estate interest from the State to another highway authority in conjunction with a past or present transfer of jurisdiction. The conveyance of any real estate interest from the State to another highway authority is not mandatory and must be mutually agreeable to both parties. Therefore, the State can transfer jurisdiction to another highway authority without the conveyance of any real estate interest. This conveyance can be part of the jurisdictional master agreement. For conveyance of land associated with a highway in which the jurisdiction has been previously transferred, a Letter of Intent between IDOT and the LPA is prepared to initiate the transfer; see Section 5-4. After concurrence of the concerned parties, a plat and legal description of the property to be transferred is prepared. If the transfer material is acceptable, the LPA must pass and execute the appropriate ordinances/resolutions to accept the transfer and submit five certified copies to the district. The transfer is then approved by the Secretary of Transportation.

No part of the transferred land can be vacated or disposed of without the approval of IDOT that may require compensation for non-public use. For additional guidance on real estate transfers, see the Section 6 of the IDOT [Land Acquisition Policies and Procedures Manual](#).

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5-3 JOINT AGREEMENTS

Certain state and federal funds are required to follow [30 ILCS 708/](#), the Grant Accountability and Transparency Act (GATA). Additional information and requirements of state agencies and/or grantees (LPAs and others) may be found at the State of Illinois website for grants.

GATA will provide a uniform, effective, and efficient method of providing notice of funding opportunities, selection of recipients, and monitoring of funds provided. For projects using funds covered by GATA additional requirements and procedures may be required in addition to those in Section 5-3.

Website: <https://grants.illinois.gov>

Procedures and policies for other projects not required to follow GATA procedures are discussed in this Section.

5-3.01 Joint Agreements Between State and LPAs

5-3.01(a) Requirements for a Joint Agreement

IDOT may enter into a joint agreement for maintenance, engineering, administration, or improvement of a highway with any other highway agency. A local-State agreement is required when LPAs are involved in projects financed in part with State and/or federal funds. A joint agreement is required for a project when one or more of the following conditions apply:

- The project involves planned improvements on the local highway system for which construction, engineering, utility relocation, and/or ROW acquisition will be paid totally, or in part, with State or federal funds.
- The project involves planned improvements on the State highway system for which the LPA is participating in the cost and/or any subsequent maintenance thereof on any phase of the improvement or in energy and/or maintenance costs of traffic signals or street lighting. If a highway is constructed to a greater width or of a different type than is required by IDOT, the LPA will be responsible for the excess cost ([605 ILCS 5/4-404](#)).
- The project involves planned improvements on the State or local highway system involving a jurisdictional transfer between the State and the LPA.

5-3.01(b) Agreement Content

For most LPA projects involving Federal-aid and/or State funds, standard agreement forms ([BLR 05310](#) or [BLR 05311](#)) should be used. These forms cannot be used if there are three or more parties to the agreement. Multiple parties may be included on standard agreements if one agency is designated as the lead agency. All transactions with IDOT will be with the lead agency. A separate Intergovernmental Agreement (IGA) should be prepared to specify payment and other responsibilities between the lead and additional LPAs, this is not required to be submitted to IDOT.

If an individual joint agreement is required to be written, the agreement must clearly identify the responsibilities of each party. The agreement should incorporate the following items and any other items pertinent to providing a clear understanding between the parties relative to the project:

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- Include the LPA name, MFT section number for each agency that is a party to the agreement, federal project number (for Federal-aid projects), and State job number.
- Provide a description of the work to be accomplished.
- Include a location description and location map.
- Identify who is responsible for the surveys, plan preparation, letting and awarding of the contract, and construction supervision of the work.
- Specify the method of construction (e.g., State-let contract, local-let contract, LPA day-labor forces).
- Note if a separate concurrence in the award of the contract is required.
- Separate the division of cost by showing the funding responsibilities and the type of funds being used. Clearly identify any limiting amounts. Attach any supporting documentation (e.g., resolutions).
- Identify the method of payment and/or reimbursement by each party.
- Identify the specific Disadvantaged Business Enterprise (DBE) program being followed by the LPA.
- Identify who is responsible for any utility adjustments and disposition of encroachments.
- Note any parking restriction applicable to the project.
- Specify jurisdiction of the facility, both before and after construction.
- Specify who is responsible for maintenance after the project is completed.
- Specify who is responsible for maintenance and energy costs for traffic signals and/or street lighting.
- If a transfer of jurisdiction is involved, identify limits of the roadway included in the jurisdictional transfer and attach all necessary transfer documents in accordance with the BLRS publication, [Highway Jurisdiction Guidelines for Highway and Street Systems](#).
- Identify who is responsible for record retention during and after the project completion.
- Note the agreement expiration date and any other special conditions.

When the LPA desires to use one or more lump-sum amounts before the federal percentage is calculated, specify the order in which it should be used and the “not to exceed” amount. The following provides an example of the wording that should be used on Form [BLR 05310](#) with regards to State Match Assistance (SMA) or other funds:

- Lump-sum \$60,000 TARP funds not to exceed 50% of final cost of project credited to the project to be utilized first.
- Lump-sum to be utilized second not to exceed \$20,000 EDP funds.
- Lump-sum to be utilized third not to exceed \$40,000 SMA funds.

These specified amounts will be used in sequence, with the federal and local percentages calculated after they are deducted.

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When the LPA desires to use a percent “not to exceed” commitment, the federal and State funds will be used concurrently at the specified percentages up to the “not to exceed” amount (e.g., 20% not to exceed \$40,000 SMA Funds).

Be advised that the “not to exceed” amount specified under a percentage commitment will be tied up and unavailable for programming until the project is closed out and a documentation review has been complete by IDOT or the Federal Highway Administration (FHWA), if required.

5-3.01(c) Draft Agreement

Draft joint agreements should be prepared for all projects. They will be reviewed by both the district and CBLRS for those projects involving special funding or conditions that are not adequately addressed in the standard agreement format. The purpose of this review is to ensure that the improvement is compatible with the State highway system, the work is included in the State’s Annual Construction Program and ROW and other provisions in the proposed agreement are adequate to permit federal and/or State participation in the project. Comments and recommendations on the draft agreement will be provided for incorporation into the final agreement.

5-3.01(d) Final Agreement

A minimum of three original agreements by the appropriate LPA official(s) must be furnished to the district. Provide one additional original agreement for each LPA that is a party to the agreement.

If the improvement is on the State highway system, the joint agreement will be processed through Bureau of Design & Environment (BDE) unless the project is being funded with Federal-aid funds allocated for improvements selected by LPAs. Agreements for these projects, as well as improvements on the local highway system, will be processed through BLRS.

There may be special cases where these procedures will need to be modified. Contact the appropriate bureau office for guidance.

The agreements should be signed by the chairman of the county board, mayor, or village president. If the agreement is signed by an appointed local official, the local official signing the agreement must be authorized to do so by resolution of the local governing body. This resolution should also be on file in the district office. See [Section 2-3.05\(b\)](#) on signature requirements.

Since the highway commissioner has jurisdiction of its highways, the highway commissioner must also approve the expenditure of township road district funds, and the construction, repair, and maintenance of township roads within the road district.

A copy of the executed agreement is furnished to the LPA upon execution by IDOT. Copies are also sent to the district and all bureaus and agencies affected by the project.

5-3.01(e) Amendment to Federal-Aid Agreement

If a revision to the Division of Cost of the original joint agreement (Form [BLR 05310](#)) or any subsequent amendments is required, the LPA should use Form [BLR 05311](#). Form [BLR 05310](#) was not designed to function as an amendatory document.

All requirements of Section 5-3.01(c) and 5-3.01(d) should be addressed.

5-3.02 Agreement for County Engineer's Salary

When a county elects to transfer part of its Surface Transportation Program (STP) funds to IDOT in return for State funds to be used to pay a portion of its county engineer's salary, a joint agreement is needed. Form [BLR 09220](#) can be used for this type of agreement.

This agreement will remain in force and effect for a period of six years from the date of execution unless terminated by either party upon 30 days written notification by either party. The agreement will be temporarily suspended during any period for which the county does not have sufficient STP funds available to be transferred.

5-3.03 Joint Agreements Between LPAs

[605 ILCS 5/4-409](#) allows IDOT to authorize a highway authority to enter into a contract with another highway authority for the jurisdiction, maintenance, administration, engineering, or improvement of any highway.

5-3.03(a) Guidelines for an Agreement

When two LPAs are jointly constructing a highway improvement, a joint agreement between the LPAs is always advisable. In some circumstances, IDOT requires this joint agreement to be submitted for approval. In all other cases, one copy of an executed joint agreement should be submitted to IDOT for informational purposes. A joint agreement is required for a project when any of the following conditions apply:

- A municipality proposes to improve a municipal street extension that extends into another municipality ([605 ILCS 5/7-202.3](#)).
- A county proposes to improve a street (not a county highway) within a municipality with a population exceeding 500 persons to connect or complete a county highway within a municipality ([605 ILCS 5/5-408](#)).
- A municipality and a township propose a joint improvement ([65 ILCS 5/11-85](#)).
- A county elects to surrender its jurisdiction over the ROW and improvement of a county highway ([65 ILCS 5/11-91.2](#) and [605 ILCS 5/5-410.1](#)).
- When a county(ies) deems it necessary to make improvements of county line roads ([605 ILCS 5/5-405](#)) or to make improvements with adjacent counties ([605 ILCS 5/5-406](#) and [407](#)).
- LPAs in adjacent States.
- When a municipality maintains a county highway within a municipality ([605 ILCS 5/5-410](#)).

5-3.03(b) Format

Clearly identify the responsibilities of each party. Address in the agreement any applicable items listed in Section 5-3.01(b). Also, address in the agreement any additional items that might be pertinent to ensure a clear understanding between the agencies executing the agreement.

5-3.03(c) Draft Agreement

Furnish a draft copy of the joint agreement to the district for review and comment if IDOT approval of the agreement is required. The purpose of this review is to ensure the agreement is compatible with statutory requirements.

5-3.03(d) Signatures

The agreement should be signed by the chairman of the county board, mayor or village president, or highway commissioner, as appropriate. If an appointed local official signs the agreement, then the official must be authorized to do so by resolution of the local governing body. This resolution should also be on file in the district. See [Section 2-3.05\(b\)](#) on signature requirements.

5-3.03(e) Distribution

When IDOT approval of the joint agreement is required, a minimum of four original agreements by the appropriate LPA official(s) must be furnished to the district. Provide additional original agreement if more than two LPAs are a party to the agreement.

A copy of the executed agreement is furnished to each LPA upon approval by IDOT. Copies are also furnished to the CBLRS and all agencies affected by the project. When IDOT requires copies of the agreement for informational purposes only one copy of the executed agreement needs to be provided to the district.

5-3.04 Interagency Cooperative Agreements

The *Intergovernmental Agency Act*, [5 ILCS 220](#) allows any power, privilege, function, or authority that may be exercised by a public agency to be exercised, combined, transferred, or exercised jointly with another public agency. These contracts must be approved by the governing bodies of each participating agency. These agreements should reflect a sustaining working relationship between the agencies. It should emphasize the mutual benefits and costs and should not focus on one particular project. When the agreement involves functions that affect roads and streets, the agreement should be sent to IDOT for review.

5-4 LETTERS OF INTENT / LETTERS OF UNDERSTANDING

Jurisdictional transfers are usually initiated by IDOT or a LPA that identifies a need for an improvement of a specific roadway or structure on a State unmarked route; however, certain transfers of jurisdiction can occur without an improvement. Negotiations for a jurisdictional transfer of State unmarked routes should begin when an improvement is being formulated and should be documented with a letter of intent (LOI) (accepting or refusing the jurisdictional transfer) and signed by the LPA. Subsequently, a Joint Agreement with all affected agencies (State, county, and/or municipality) must be executed before the jurisdictional transfer occurs. Section 5-2 discusses jurisdictional transfers.

State improvements that do not involve local financial participation may at times be covered by Letters of Understanding (LOU). The LOU can also cover local improvements with no State or federal participation. A LOU may be used to delineate maintenance responsibilities (e.g., parking lanes, curbs and gutter flags, sidewalks, manholes, catch basins, storm sewers, traffic signals, utilities, appurtenances). Many of the provisions typically included in a Joint Agreement of Understanding should also be included in a LOU (e.g., ordinances for sewer, parking, and encroachments; provisions for curb ramps and plan approval).

The district will prepare the LOU. A brief description of the proposed project and description of the responsibilities of both parties must be included in the LOU. The LOU will be signed by the Regional Engineer, and transmitted to the LPA for the local official's signature.

5-5 ENGINEERING AGREEMENTS

5-5.01 General

If a LPA elects to use a consultant for engineering services, the LPA shall enter into an agreement with a consultant meeting the requirements of [225 ILCS 325/23](#) to provide engineering services financed in whole or in part with Federal, State, Motor Fuel Tax (MFT), or Township Bridge Program (TBP) funds.

Funds will be limited to the amount of compensation called for in the agreement. These funds cannot be expended for payment of engineering services until an agreement has been submitted to, and approved by, the IDOT.

The term consultant refers to a professional design firm (private firm) or sole proprietorship (individual) for engineering services. Services provided for land surveying or architectural design meeting the requirements of [225 ILCS 330](#), [225 ILCS 305](#), or [225 ILCS 315](#); respectively, will be referred as professional services, when they are not included with the engineering services agreement.

5-5.02 Types of Services

1. Project Specific. A contract between the LPA for the performance of services and defined scope of work related to a specific project.
2. Multiphase. A project-specific contract where the defined scope of work is divided into phases which may be negotiated and authorized individually as the project progresses.
3. Master Task Order. A contract for the performance of services On Call or Indefinite Delivery/Indefinite Quantity (IDIQ) under task or work orders issued on an as-needed or on-call basis, for an established contract period. The solicitation and contract provisions shall:
 - Specify a reasonable maximum length of contract period, including the number and period of any allowable contract extensions.
 - Specify a maximum total contract dollar amount which may be awarded under contract;
 - Include a statement of work, requirements, specifications, or other description to define the general scope, complexity, and professional nature of the services.
 - Individual task orders or work orders shall be assigned to the Master Task Order. Once assigned, the LPA should negotiate with the consultant according to Section 5-5.06(c). If negotiations are unsuccessful, the LPA may use a different Master Task Order or may follow the Qualifications Based Selection (QBS) procedures for selecting a different consultant.

5-5.03 Length of Services

The maximum term including extensions of the engineering services contract may not exceed 10 years for contracts using non-federal funds or for project specific using federal funds. If federal funds are used for an IDIQ the maximum term length is five years and all work orders must be issued during the term of the contract. The total time from execution of an IDIQ contract to the completion of all work orders issued cannot exceed 10 years. However, the length of the contract should be determined based on the scope of work. The LPA shall comply with any established Illinois statutory or local ordinance that further limits the length of a contract.

5-5.04 Conflict of Interests

It is important to understand that conflicts of interest may be direct or indirect when securing engineering services (e.g., as result of a personal or business relationship). Additionally, the appearance of a conflict of interest should be avoided, as an apparent conflict may undermine public trust if not sufficiently mitigated.

Conflict of interest requirements include but are not limited to the following:

1. The requirement that no LPA elected official, officer, or employee who participates in the procurement, management, or administration of engineering services contracts or subcontracts shall have, directly or indirectly, any financial or other interest in connection with such engineering contracts or subcontracts. For instance, a county may not enter into a contract with a professional design firm if the county engineer is also a member of that professional design firm.
2. The requirement that no person or entity performing services for a LPA shall have, directly or indirectly, any financial or other interest in any real property acquired for the project.
3. The person or entity performing services for a LPA may perform design and construction engineering/management and/or inspection on the same project provided the LPA has established the necessary controls and provides sufficient oversight to ensure that a conflict of interest does not exist, or has approved procedures to mitigate any conflict or potential for a conflict. Prior to allowing a person or entity to provide engineering services on multiple phases of a project, the LPA shall evaluate that their policies, procedures, and practices associated with the procurement, management, and administration of engineering consultant services comply with Federal and State laws and FHWA requirements.

A person or entity performing construction engineering/management and/or inspection services on the same project on which the person or entity also performed design services provides the person or entity an opportunity to influence or affect project decisions on scope changes, design changes, construction revisions, contract change orders, and other related issues. This may result in project delivery efficiencies, as the person or entity that designed the project is well-suited to verify that the project is being constructed in accordance with the design and may resolve issues related to the design on behalf of the contracting agency. However, procuring a different person or entity other than the consultant to provide the necessary construction engineering/management and/or inspection services provides another level of review and reduces the potential for a conflict of interest.

4. IDOT employees shall not participate in the procurement, management, and administration of engineering and design related consultant services on behalf of the LPA.

5-5.05 Retainage

The LPA may withhold retainage on state, MFT, or TBP funded engineering services agreements. However, withholding retainage provides no substantial benefits to the LPA. The LPA shall not withhold retainage on federally funded engineering agreements.

5-5.06 Qualifications Based Selection for Engineering and Professional Services

5-5.06(a) Introduction

The principal objective of the QBS procedures is to allow a LPA to locate a qualified consultant to undertake the project; then, through negotiations, engage the consultant to provide the creative and technical work required at a fair and reasonable cost. The area and magnitude of responsibility in the process can vary widely according to project type.

5-5.06(b) Applicability

The value of \$40,000 used throughout Section 5-5 is based on [50 ILCS 510/8](#) and will be adjusted annually by a BLRS Circular Letter, typically issued in February. The procurement procedures outlined in Section 5-5.06(c) and (e) apply to the selection of all engineering and professional services based on the following funding type parameters:

1. State, MFT or TBP Funded Engineering and Professional Services. QBS procedures for public notice, evaluation, selection, and contract negotiations shall be used whenever a project requiring architectural, engineering, or land surveying services is proposed for a LPA of fewer than 3,000,000 inhabitants, except home rule units, unless the LPA has a satisfactory relationship for services with one or more firms ([50 ILCS 510](#)).

A LPA may also waive the requirements of public notice, evaluation and selection if the LPA determines, by resolution, that an emergency situation exists and a consultant must be selected in an emergency manner, or if the total cost of services from a consultant is estimated to be less than \$40,000 ([50 ILCS 510/8](#)). If the LPA estimates the total cost of services within the contract will be less than \$40,000, IDOT will not approve any agreement or supplemental that exceeds the \$40,000 threshold; unless the LPA followed state statutes.

2. Federally Funded Engineering Services. LPAs shall use QBS in accordance with The Brooks Act, (40 USC 11) and the FHWA's requirements for Procurement, Management, and Administration of Engineering and Design related Services (23 CFR 172) to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications for the type of engineering and design related services being procured, and at a fair and reasonable price.

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If a consultant is selected to work on multiple phases of a project, the dollar limits apply to the total combined cost of all included phases. If the LPA included an option to perform one or more other phases as part of the original solicitation, the LPA is then not required to conduct another QBS unless the LPA elects to select a different consultant for subsequent phases.

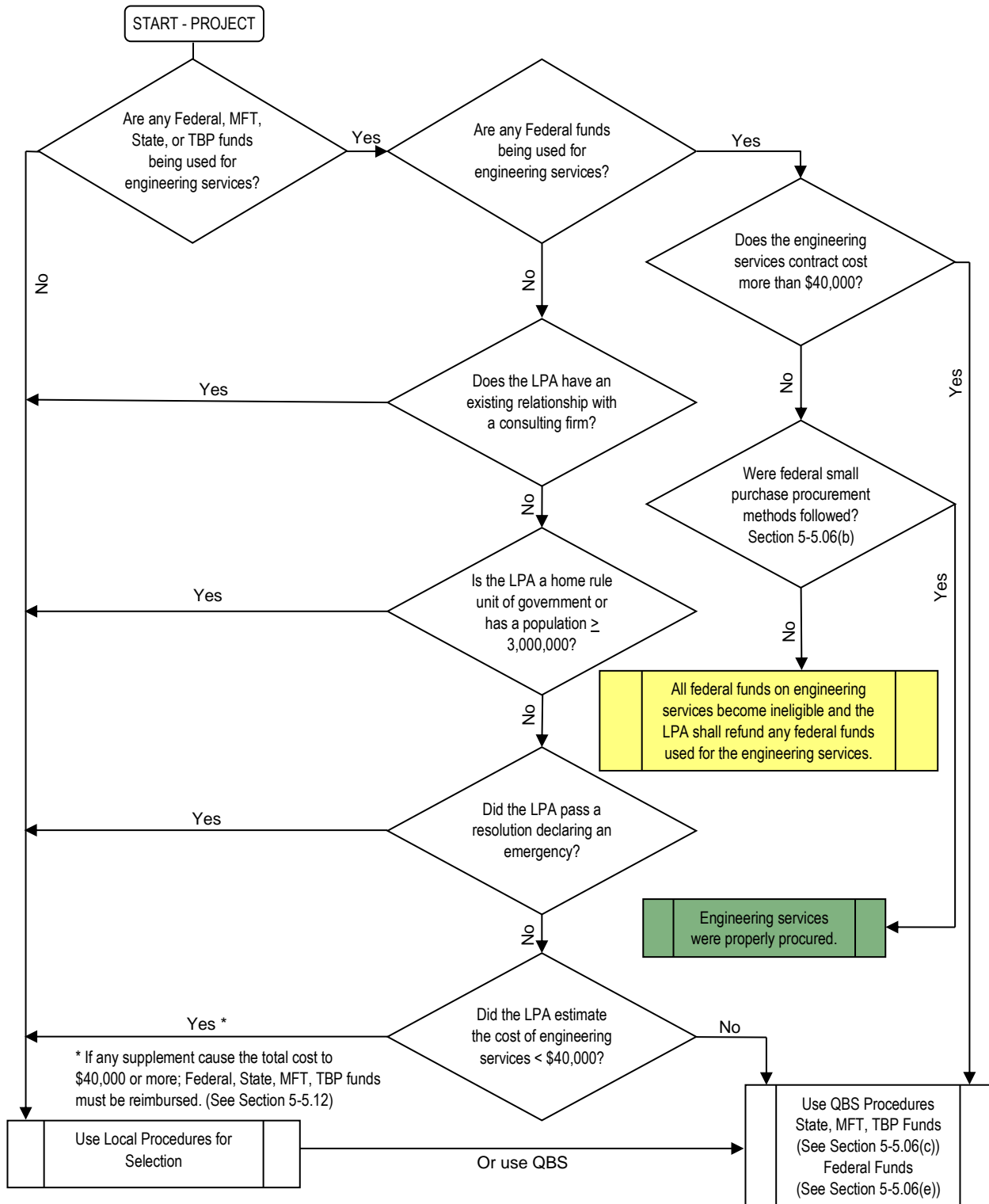
3. Small Purchases for Federally Funded Engineering Services. If the cost of any individual contract for engineering services (Phase I, II, III, etc.) will be less than \$40,000, then the small purchase procurement method may be used (23 CFR 172.7(a)(2)). The following additional requirements shall apply to the small purchase procurement method:
 - a. The scope of work, within one project phase shall not be broken down into smaller components merely to permit the use of small purchase procedures.
 - b. A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed. In instances where less than three qualified consultants respond to the solicitation, the LPA shall contact the District LR&S office for verification of the LPA's solicitation to determine the solicitation did not contain conditions or requirements which arbitrarily limited competition.
 - c. Contract costs may be negotiated in accordance with State small purchase procedures; however, the allowability of costs shall be determined in accordance with the Federal cost principles.
 - d. If the cost of any supplemental changes to the contract for the engineering services exceeds \$40,000 and federal QBS procedures were not followed, federal funds become ineligible above the \$40,000 on engineering services.
4. Locally Funded Engineering Services. IDOT does not have oversight over contracts for engineering services funded entirely with local funds. However, the LPA is still required to comply with [50 ILCS 510](#).

The procurement method used for selection of engineering services will not impact funding for the construction of a project.

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REQUIREMENTS FOR QBS

Figure 5-5A

5-5.06(c) State Required QBS Procedures using State, MFT or TBP Funds

The procedure for State required QBS procurement consists of the following five basic steps:

1. Define the Project. Clearly define the scope of the services desired. Depending on the amount of data, this may be on one or more pages. This information should include the following:
 - describe in general terms the need, purpose, and objective of the project;
 - identify the various project components;
 - establish the desired timetable for the effort;
 - identify any expected problems; and
 - determine the total project budget.

A comprehensive evaluation of the problem or need that resulted in the project is essential to the procurement process. The solution, approach, and eventual design for the project will evolve out of the expertise offered by the consultant responding to the request for technical proposals. To ensure that the respondents address the project properly and effectively, clearly articulate all known parameters of the project.

The LPA may skip to Step 5 when both of the following criteria are met.

- The LPA elects to select a consultant that has a satisfactory working relationship with the LPA; and
 - The engineering services contract is not being paid for using federal funds.
2. Public Notice. Whenever a project requiring engineering services is proposed, the LPA shall post a public notice requesting a statement of interest along with the qualifications and performance data from consultants. This may be accomplished through an advertisement in a local newspaper, posting on the LPA's website, or through various trade magazines or websites.

Consider the following sources when preparing a list of potential firms:

- identification of consultants from the LPA's or IDOT's prequalification list;
 - a directory or source list identifying small, minority, and women owned businesses with capabilities relevant to the project;
 - discussions with other persons or agencies who have accomplished similar work;
 - lists of consultants secured from professional societies; and/or
 - lists of consultants secured from the agency's own experience of consultants.
3. Evaluation. The LPA shall evaluate the consultant submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the consultant, and such other qualifications-based factors.

The first objective of evaluation is the elimination of all respondents who are not qualified or who do not have the experience for the required work. The LPA may conduct discussions with and require presentations by consultants deemed to be the most qualified based on their qualifications, approach to the project, and ability to furnish the required services. When conducted, interviews shall occur separately with a minimum of three consultants, or all qualified consultants if less than three qualified consultants respond. If the LPA decides to conduct discussions with and/or require presentations by consultants deemed to be the most qualified, this should be included in the public notice.

In no case shall the LPA, prior to selecting a consultant for negotiation, seek formal or informal submission of verbal, written, or sealed estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

4. Selection. On the basis of evaluations, discussions and presentations, the LPA shall select no less than three consultants which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The LPA shall then contact the consultant ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. Typical criteria for evaluating and ranking consultants are included in Figure 5-5B. If fewer than three qualified consultants submit letters of interest and the LPA determines that one or both are so qualified, the LPA may proceed to negotiate a contract.
5. Contract Negotiation. The LPA shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified consultant at compensation that the LPA determines in writing to be fair and reasonable. In making this decision, the LPA shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered.

An important objective of the negotiation process is to reach a complete and mutual understanding of the scope of professional services to be provided and the degree of performance desired. The general scope of professional services developed in the procurement process should be broad in order to serve as the basis for negotiation. The negotiation process offers the opportunity for refinement, amendment, and complete definition of the services to be rendered, as well as the areas of responsibility and liability for those services. Mutual understanding on these points at the negotiation stage can minimize the possibility of misunderstanding as the project progresses.

Special elements of the engineering portion of the project to be established during negotiation include:

- project schedule,
- manpower requirement and timing,
- level of engineering effort,
- avenues of research, and
- areas of responsibility/liability.

Any percentage fee contract should be fully supported by an acceptable estimate of man-hours, anticipated hourly payroll rates by classification of employee for the project, and applicable overhead and burden rates. These rates should be evaluated and, if determined to be acceptable, the percentage fee may be approved by the district.

The consultant's method of dividing the project into work units and calculating related time units are to be such that the estimate can be readily reviewed. The consultant will use its own estimates of man-hours, rates of pay, overhead, profit, and itemized non-salary costs based on the consultant's work force and past job experience.

When the prime consultant requires the services of another consultant to provide expertise, advice, or information to the prime consultant, the prime consultant will complete an analysis of fee for engineering services (including a breakdown of direct salary and direct non-salary costs) or supply specific rate for services (e.g. testing). The prime consultant is responsible for ensuring that Disadvantage Business Enterprises (DBEs) will have an equitable opportunity to compete for subcontracts. See [Chapters 8](#) and [24](#) for information on DBEs for LPAs.

Contracts between LPAs and consultants must be set forth in fully executed agreements. If there is an agreement with the consultant, and if the fee is within range of the budget, then proceed to finalize an agreement. If problems arise with the scope of the project or the fee, further discussion and clarification may be required.

Selection of a consultant by qualification provides no guarantee that the LPA and the consultant will come to an agreeable fee. For that reason, the ranking process provides, in addition to the first preference, at least two alternative qualified consultant. If agreement cannot be reached on the scope and fee, the LPA may drop negotiations with the top-ranked consultant and continue the process with the second ranked consultant at Step 5.

6. Summary. Ranking and negotiations involve a considerable amount of subjective judgment. Engineering projects involve a large expenditure of public funds, accountability for decisions, and value judgments is most important. To ensure adequate accountability:
 - involve more than one knowledgeable person in the evaluation process,
 - be consistent in reviewing each applicant,
 - keep accurate and complete records of all correspondence, memoranda, evaluations, and decisions.

The primary purpose of undertaking the QBS process is to locate the most qualified consultant to do the work and negotiate a fair and equitable agreement. Federal and Illinois law prohibits selecting consultants based on cost for any project exceeding \$40,000. The selection shall be based on the consultant's experience and expertise in projects of the same type as proposed.

5-5.06(d) Development of Selection Criteria and Weighting

These criteria and weightings are suggested for all projects regardless of funding. The criteria "must assess the demonstrated competence and qualifications for the type of professional services solicited". LPAs must determine and publish selection criteria and weightings for projects requiring federal QBS. The total of all weights must equal 100%. Factors may include but are not limited to the following and Figure 5-5B:

- Technical Approach (10 - 30%)

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- e.g., project understanding,
- innovative concepts,
- quality control procedures, or
- other items
- Firm Experience (10 - 30%)
- Specialized Expertise (10 - 30%)
- Staff Capabilities (Prime/Sub) (10 - 30%)
- Work Load Capacity (10 - 30%)
- Past performance (10 - 30%)

In addition, there are two nominal non-qualifications-based criteria for evaluation. They are limited to a combined weight of 10% or less*:

- *In-State or Local Presence
 - not based on political or jurisdictional boundaries and may be applied on a project by project basis,
 - used where a need to provide a local presence has been established, a local presence will add value to quality and efficiency of the contract and application of the criteria results in an appropriate number of qualified consultants, and/or
 - if the consultant indicates in the proposal that a local project office will be established the criteria is satisfied.
- *Participation of Qualified and Certified DBE Sub-consultants

The following shall not be used as a factor in the evaluation, ranking and selection:

- All price and cost related items.
 - This includes: cost proposals, direct salaries/wage rates; indirect costs (overhead), and other direct costs.
- In-State or Local Preference (other than as explained above).

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The weight given to each evaluation criterion in the ranking process may vary from project to project, with more weight towards the criteria that are critical to the success of the project. Typical technical criteria for both evaluating and ranking entities should include but not be limited to the following:

- (1) The education, experience, and expertise of the entity's principals and key employees.
- (2) The entity's general experience, stability, and history of performance on projects similar to the one under consideration.
- (3) Availability of adequate personnel, equipment, and facilities to do the required work expeditiously.
- (4) The name, or names, of individuals in the entity who will be assigned key project responsibilities, with particular attention to their qualification, competence, and past performance.
- (5) The entity's approach to the planning, organizing, and management of a project effort, including communication procedures, approach to problem solving, data gathering methods, evaluation techniques, and similar factors.
- (6) Facilities and equipment owned by the entity, including computer capability, reproduction and communication equipment, laboratory and testing equipment, or other specialized equipment applicable to the project under consideration.
- (7) Present workload with attention to current and future commitments of available personnel, particularly those key persons expected to be assigned to your project.
- (8) Financial stability, with particular attention to avoiding a situation in which the entity is solely dependent on income from the project at hand for its existence.
- (9) Recommendations and opinions of each entity's previous clients as to its ability to meet deadlines and remain within budget. Prior clients may also be able to advise you as to each entity's sense of responsibility; attitudes of key personnel; concern for economy, efficiency, and environment; and quality of service.
- (10) If practical, observation of each entity's facility and the sites of current and/or completed projects.
- (11) The reputation and integrity of the engineering entity within the professional field and the community.
- (12) Awards received by the entity and technical papers authored by employees.
- (13) Special considerations for some projects might include staff conversant in foreign languages.

Non-technical criteria may not exceed 10% of the total evaluation and rank weighting. Typical non-technical criteria for both evaluating and ranking entities may include but not be limited to the following:

1. Proximity of the engineering entity to the proposed project site and/or the agency's office.
2. Qualified minority representation.
3. How DBE goals are addressed.

CONSULTANT RANKING CRITERIA

Figure 5-5B

5-5.06(e) Federal QBS Requirements

For engineering agreements \$40,000 or greater which include federal funds, LPAs are required to use QBS which is fully compliant with Federal requirements of 23 CFR 172 and the Brooks Act. As sub-grantees, LPAs must use competitive negotiation supported by qualification based selection procedures. This is the primary method of procurement for engineering and design related services using federal funding. See Figure 5-5C for specific requirements.

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The procedure for federal QBS procurement consists of the following steps. Section 5-5.07 provides an example of a LPA's QBS policies and procedures.

A box (similar to this) will indicate minimum requirements to be addressed for each step. If the LPA's QBS policies and procedures will match the existing language in any step from Section 5-5, their QBS cannot reference the *BLRS Manual* but must include the language.

1. Initial Administration. LPAs shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services.

The LPA must include in their QBS procedures the organizational structure for the procurement, management, and administration for consultant services.

2. Written Policies and Procedures. The LPA shall prepare and maintain written policies and procedures for the procurement, management, and administration of engineering and design related consultant services. All LPAs must have their own QBS procedures. If it follows the policies and procedures as outlined in Section 5-5 and specifically Section 5-5.06(e), further approval may not be required. However; if the LPA's QBS procedures has significant differences then IDOT approval is required, see Section 5-5.06(g).

An example of a significant difference would be a multi-step selection process, which would require submission to IDOT for approval.

LPAs who decide their procedures will result in significant differences from that shown in Section 5-5.06(e) must submit their QBS procedures for review and approval by IDOT.

3. Define the Project. Clearly define the scope of the services desired. Depending on the amount of data, this may be on one or more pages. This information should include the following items:
 - describe in general terms the need, purpose, and objective of the project;
 - identify the various project components;
 - establish the desired timetable for the effort;
 - identify any expected problems; and
 - determine the total project budget.

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A comprehensive evaluation of the purpose and need that resulted in the project is essential to the procurement process. The solution, approach, and eventual design for the project will evolve out of the expertise offered by the consultant responding to the request for technical proposals. To ensure that the respondents address the project properly and effectively, clearly articulate all known parameters of the project. This may be the appropriate time to prepare an independent in-house estimate of engineering costs as discussed in Step 9.

The LPA must include at a minimum the five (5) items outlined above in their QBS procedures to define the scope and services desired for the project.

4. **Public Notice.** Whenever a project requiring engineering services is proposed, the LPA shall post a public notice for a Request for Proposal (RFP) along with the qualifications and performance data expected of consultants. This may be accomplished through an advertisement in a local newspaper, posting on the LPA's website, or through various trade magazines or websites. The notice shall provide no less than 14 calendar days from the last date of acceptance of proposals.

As a minimum, the following must be included in the LPA's QBS procedures:

- if an interview will or will not be required;
- where the public notice will be published;
- the time periods the public notice will be published.

Consider the following sources when preparing a list of potential firms:

- identification of consultants from the LPA's or IDOT's file;
- a directory or source list identifying small, minority, and women owned businesses with capabilities relevant to the project;
- discussions with other persons or agencies who have accomplished similar work;
- lists of consultants secured from professional societies; and/or
- lists of consultants secured from the agency's own experience of consultants.

If the LPA plans to use a multi-step process to minimize the efforts of the LPA in narrowing the list of qualified and interested consultants, this must be described in their QBS procedures and submitted to IDOT for approval. The process must also be described in the initial public notice.

As a minimum, the following must be included in the LPA's QBS procedures:

- if an interview will or will not be required;
- where the public notice will be published;
- the time periods the public notice will be published.

5. Conflicts of Interest. See Section 5-5.04.

As a minimum, the LPA must include Section 5-5.04, when determining a conflict of interest for engineering services. The LPA may also require the consultants to submit a disclosure statement with their SOI or RFP. IDOT uses the [BDE DISC 2 Template](#), which provides an example of a consultant's disclosure statement. A copy of the LPA's consultant's disclosure statement shall be included in their QBS procedures, if required by their QBS procedures.

6. Suspension and Debarment. Verify any suspension or debarment actions and eligibility of consultants as specified in 2 CFR Part 1200 and 2 CFR Part 180. This may be accomplished by checking the System for Award Management Exclusions (SAM Exclusions); obtaining a disclosure statement; or adding a clause or condition to the covered transaction with the consultant. A LPA may want to also verify by checking the [Chief Procurement Office's \(IDOT\) \(CPO\) website](#), including the other three associated CPOs (Capital Development Board, General Services, and Higher Education), the Illinois Department of Labor and the Illinois Department of Human Rights. Hyperlinks to these other websites can be found on the [CPO IDOT website](#).

As a minimum, the LPA must include the procedure to verify consultant suspension or debarment. The LPA may also require the consultants to submit a disclosure statement with their SOI or RFP. IDOT uses the [BDE DISC 2 Template](#), which provides an example of a consultant's disclosure statement. A copy of the LPA's consultant's disclosure statement shall be included in their QBS procedures, if required by their QBS procedures.

7. Evaluation. The LPA shall evaluate the consultant submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, workload of the consultant, and other qualifications-based factors.

The first objective of evaluation is the elimination of all respondents who are not qualified or who do not have the experience for the required work. The LPA may conduct discussions with and require presentations by consultants deemed to be the most qualified based on their qualifications, approach to the project, and ability to furnish the required services. When conducted, interviews shall occur separately with a minimum of three consultants, or all qualified consultants if less than three qualified consultants respond. If the LPA decides to conduct discussions with and/or require presentations by consultants deemed to be the most qualified, this must be included in the public notice.

Criterion and weighting for the evaluation is discussed further in Section 5-5.06(d) and Figure 5-5B.

In no case shall the LPA, prior to selecting a consultant for negotiation, seek formal or informal submission of verbal, written, or sealed estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

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If the LPA plans to use a multi-step process to minimize the efforts of the LPA in narrowing the list of qualified and interested consultants, this must be described in their QBS procedures. This is discussed in Step 4 – Public Notice above.

The criterion and weighting for evaluation and selection is discussed in Section 5-5.06(d) and Figure 5-5B. If there is a possibility of additional discussions or presentations being required, this must be described in their QBS procedures. The criterion and weighting need to be included in all RFPs.

If a form will be used during the evaluation, a copy of a typical form must be included in their QBS procedures.

8. Selection. The selection committee is typically composed of individuals, who have some knowledge of the project and procedures. This could be the county / city engineer, public works director, LPA staff, an elected official, municipal manager, private citizen, etc. On the basis of evaluations (Step 7), discussions and presentations, the LPA shall select no less than three consultants which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The LPA shall contact the consultant ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered.

If fewer than three qualified consultants submit letters of interest and the LPA determines that one or both are so qualified, IDOT approval is required. After IDOT approval is received, the LPA may proceed to negotiate a contract.

The LPA must include who (titles) will serve on the selection committee. Procedures for selecting must also be described, an example of IDOT's selection procedures may be found in [Section 8-2.05](#) of the *BDE Manual*.

9. Estimate of Cost for Engineering. The LPA must prepare an independent in-house estimate for the cost of engineering prior to the start of negotiations. This will be used during the contract negotiation process.

The LPA must prepare an independent in-house estimate for the cost of engineering prior to the start of negotiations. This should be prepared early in the process, but must be completed before starting contract negotiations.

10. Contract Negotiation. The LPA shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations. The LPA shall negotiate a contract with the highest qualified consultant at compensation that the LPA determines in writing to be fair and reasonable. In making this decision, the LPA shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

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An important objective of the negotiation process is to reach a complete and mutual understanding of the scope of professional services to be provided and the degree of performance desired. The general scope of professional services developed in the procurement process should be broad in order to serve as the basis for negotiation. The negotiation process offers the opportunity for refinement, amendment, and complete definition of the services to be rendered, as well as the areas of responsibility and liability for those services. Mutual understanding on these points at the negotiation stage can minimize the possibility of misunderstanding as the project progresses.

Special elements of the engineering portion of the project to be established during negotiation include:

- project schedule,
- manpower requirement and timing,
- level of engineering effort,
- avenues of research, and
- areas of responsibility/liability.

Any percentage fee contract should be fully supported by an acceptable estimate of man-hours, anticipated hourly payroll rates by classification of employee for the project, and applicable overhead and burden rates. These rates should be evaluated and, if determined to be acceptable, the percentage fee may be approved by the district.

The consultant's method of dividing the project into work units and calculating related time units are to be such that the estimate can be readily reviewed. The consultant will use its own estimates of man-hours, rates of pay, overhead, profit, and itemized non-salary costs based on the consultant's work force and past job experience.

When the prime consultant requires the services of another consultant to provide expertise, advice, or information to the prime consultant, the prime consultant will complete an analysis of fee for engineering services (including a breakdown of direct salary and direct non-salary costs) or supply specific rate for services (e.g. testing). The consultant is responsible for ensuring that DBEs will have an equitable opportunity to compete for subcontracts. See [Chapters 8](#) and [24](#) for information on DBEs for LPAs.

Contracts between LPAs and consultants must be set forth in fully executed agreements. See Section 5-5.08 for the BLR forms, which must be used for the agreement between the LPA and the consultant when federal funds are used for professional services. If there is an agreement with the consultant, and if the fee is within range of the budget, proceed to finalize an agreement. If problems arise with the scope of the project or the fee, further discussion and clarification may be required.

Selection of a consultant by qualification provides no guarantee that the LPA and the consultant will come to an agreeable fee. For that reason, the ranking process provides at least two alternative qualified consultants, in addition to the first preference. If agreement cannot be reached on the scope and fee, the LPA may drop negotiations with the top-ranked consultant and continue the process with the second ranked consultant at Step 9. The LPA shall develop procedures for proper disposal of concealed cost proposals of unsuccessful bidders.

The LPA must describe their procedures for contract negotiations, including procedures if a contract cannot be negotiated with the selected consultant along with the proper disposal of sealed cost proposals.

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11. Acceptable Costs. IDOT will review and approve the engineering agreement to verify elements of contract costs, acceptable indirect cost rate(s) for application to contracts and assuring consultant compliance with the Federal cost principles.

The LPA must describe their process for review, if one exists; before forwarding the engineering agreement to IDOT for further review and approval.

12. Invoice Processing. See Section 5-10.

The LPA must describe their process for review and approving for payment; before forwarding the request for reimbursement to IDOT for further review and approval.

13. Ongoing and Finalizing Administration. The following are ongoing and finalizing requirements:

- Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
- 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;
- Closing-out a contract;
- Retaining supporting programmatic and contract records;
- Determining the extent to which the consultant, who 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;
- 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
- Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

This is a compilation of items 12 through 18 as shown in Figure 5-5C and further discussed in Sections 5-5.13 and 5-5.14. The LPA must describe their process for these items.

In summary, the ranking and negotiations involve a considerable amount of subjective judgment. Because engineering projects involve a large expenditure of public funds, accountability for decisions and value judgments is most important. To ensure adequate accountability:

- involve more than one knowledgeable person in the evaluation process,
- be consistent in reviewing each applicant,
- keep accurate and complete records of all correspondence, memoranda, evaluations, and decisions.

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The primary purpose of undertaking the QBS process is to locate the most qualified consultant to do the work and negotiate a fair and equitable agreement. Current federal regulations limit contracts in the amount to the lesser of \$150,000 or the state limits ([50 ILCS 510/8](#)), which is currently less than \$40,000 contracts without following federal QBS requirements in the selection of a consultant (see Section 5-5.06(b) Item 3). The selection shall be based on the consultant's experience and expertise in projects of the same type as being solicited.

Per 23 CFR 172.5 - Program management and oversight.

- (a) **STA responsibilities.** STAs or other recipients ... (*i.e.* STA State Transportation Agency – IDOT)
- (b) **Subrecipient responsibilities.** Subrecipients shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services, reimbursed in whole or in part with FAHP funding as specified in 23 U.S.C. 106(g)(4)(A). Responsibilities shall include the following:
 - (1) Adopting written policies and procedures prescribed by the awarding STA or other recipient for the procurement, management, and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations; or when not prescribed, shall include:
 - (i) Preparing and maintaining its own written policies and procedures in accordance with paragraph (c) of this section; or
 - (ii) Submitting documentation associated with each procurement and subsequent contract to the awarding STA or other grantee for review to assess compliance with applicable Federal and State laws, regulations, and the requirements of this part;
 - (2) Procuring, managing, and administering engineering and design related consultant services in accordance with applicable Federal and State laws, regulations, and approved policies and procedures, as specified in 23 CFR 1.9(a).
- (c) **Written policies and procedures.** 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 FHWA shall approve the written policies and procedures, including all revisions to such policies and procedures, of the 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 and procedures, of a subrecipient 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;
 - 2. Soliciting interests, qualifications, or proposals from prospective consultants;

FEDERAL QBS REQUIREMENTS

Figure 5-5C

(Sheet 1 of 2)

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3. Preventing, identifying, and mitigating conflicts of interest for employees of both the contracting agency and consultants and promptly disclosing in writing any potential conflict to the STA and FHWA, as specified in 2 CFR 200.112 and 23 CFR 1.33, and the requirements of this part.
4. Verifying suspension and debarment actions and eligibility of consultants, as specified in 2 CFR part 1200 and 2 CFR part 180;
5. Evaluating interests, qualifications, or proposals and the ranking/selection of a consultant;
6. Determining, based upon State procedures and the size and complexity of a project, the need for additional discussions following RFP submission and evaluation;
7. Preparing an independent agency estimate for use in negotiation with the selected consultant;
8. Selecting appropriate contract type, payment method, and terms and incorporating required contract provisions, assurances, and certifications in accordance with § 172.9;
9. Negotiating a contract with the selected consultant including instructions for proper disposal of concealed cost proposals of unsuccessful bidders;
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;
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;
12. Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
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;
14. Closing-out a contract;
15. Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;
16. Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;
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
18. Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

FEDERAL QBS REQUIREMENTS

Figure 5-5C

(Sheet 2 of 2)

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5-5.06(f) Major Differences between Federal and State Requirements

The major differences between federal and state requirements are:

- The existing relationship and home rule requirements permitted with state, MFT, and TBP QBS are not allowed for federal QBS.
- IDIQ contracts are limited to a maximum term length of five years for federal QBS and ten years for non-federal.
- A maximum of 10% of the evaluation criteria can be assigned to local presence and DBE participation for federal QBS.
- Notification must be provided to responding applicants of the final ranking of the three most highly qualified applicants for federal QBS.
- Preparing a consultant's performance evaluation when services are completed and using such performance data and ranking of the consultant with regard to providing similar services in the future is required for federal QBS.
- Additional work which was not included in the scope of services and evaluation criteria may not be allowed to be added to contracts for federal QBS.
- If non-competitive procurement (sole source, emergency, or less than three consultants) is used; it must be approved by IDOT in advance for federal QBS.
- LPAs are responsible for ensuring a consultant's costs billed are allowable in accordance with the federal cost principles and consistent with the contract terms for federal QBS.

5-5.06(g) Approval of LPA's Federal QBS Procedures

When federal funds are used to fund a portion of engineering and design related services, LPAs must have their own QBS procedures. If it follows the policies and procedures as outlined in Section 5-5 and specifically Section 5-5.06(e), further approval may not be required. However; if the LPA's QBS procedures has significant differences then IDOT approval is required.

An example of a significant difference would be a multi-step selection process, which would require submission to IDOT for approval.

The LPA's QBS procedures should address items discussed in Section 5-5.06, along with:

- Purpose and applicability.
- Definitions.
- Program management and oversight.
- Procurement methods and procedures.
- Contracts and administration.
- Allowable costs and oversight.

The above topics are expanded in 23 CFR 172 – *Procurement, Management, And Administration of Engineering and Design Related Services*.

5-5.07 Federal QBS Examples

In order to assist LPAs in implementing Federal QBS requirements two examples are provided with a) written policies and procedures and b) project specific information. Either example can be modified by LPAs to meet their individual organization structures and needs or project specific details. Contact the appropriate District LR&S office for further questions or a QBS requiring IDOT approval.

5-5.07(a) Written Policies and Procedures Example

[LPA Name] receives federal funds, which may be used to fund the engineering and design related consultants' services. Our written policies and procedures as describe herein for QBS will meet the requirements of 23 CFR 172 and the Brooks Act.

1. Initial Administration – [LPA Name] QBS policy and procedures assigns responsibilities to the following [**describe the titles and/or other departments**] within [LPA Name] organization for the procurement, management, and administration for consultant services.
2. Written Policies and Procedures – [LPA Name] believes their adopted QBS written policies and procedures substantially follows Section 5-5 of the *BLRS Manual* and specifically Section 5-5.06(e), therefore; approval from IDOT is not required.
3. Project Description – [LPA Name] will use the following five items when developing the project description and may include additional items when unique circumstances exist.
 - Describe in general terms the need, purpose, and objective of the project;
 - Identify the various project components;
 - Establish the desired timetable for the effort;
 - Identify any expected problems
 - Determine the total project budget.
4. Public Notice – [LPA Name] will post an announcement on our website [**website address**] and/or publish an ad in a newspaper with appropriate circulation. The item will be advertised for at least 14 days prior to the acceptance of proposals, and at least twice in the newspaper and/or on continuous display on our website.
5. Conflict of Interest – [LPA Name] require consultants to submit a disclosure statement with their procedures. [LPA Name] require the use of the IDOT BDE DISC 2 Template as their conflict of interest form.
6. Suspension and Debarment – [LPA Name] will use of SAM Exclusions, IDOT's CPO's website and the three other state CPO's websites to verify suspensions and debarments actions to ensure the eligibility of firms short listed and selected for projects.
7. Evaluation Factors – [LPA Name] allows the following [**specify title**] to set the evaluation factors for each project but must include a minimum of [**number**] criterion and stay within the established weighting range. The maximum of DBE and local presence combined will not be more that 10% on projects where federal funds are used. Project specific

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evaluation factors will be included at a minimum in the Request for Proposals. **[List the criterion and weighting range]**.

8. **Selection** – **[LPA Name]** require a **[number]** person selection committee. Typically the selection committee members include **[specify title 1, title 2 ..., title x]**. The selection committee members must certify that they do not have a conflict of interest. Selection committee members are chosen by the **[specify title]** for **[each project or a specific period of time]**. **[LPA Name]** require each member of the selection committee to provide an independent score for each proposal using the form below prior to the selection committee meeting.

Criteria	Weighting	Points	Firm 1	Firm 2 ...	Firm x
<i>Criterion 1</i>					
<i>Criterion 2 ...</i>					
<i>Criterion x</i>					
<i>Total</i>	<i>100%</i>				

The selection committee members' scores are averaged for a committee score which is used to establish a short list of three firms. The committee score is adjusted by the committee based on group discussion and information gained from presentations and interviews to develop a final ranking. If there are other firms within **[xx%]** of the minimum score, the **[specify title]** may choose to expand the short list to include more than three firms.

9. **Independent Estimate** – **[LPA Name]** will prepare an independent in-house estimate for the project prior to contract negotiation. The estimate is used in the negotiation.
10. **Contract Negotiation** – **[LPA Name]** require a **[number]** person team to negotiate with firms. The team consists of **[specify title 1, title 2 ..., title x]**. Members of the negotiation team **[may / may not]** delegate this responsibility to staff members.
11. **Acceptable Costs** – **[LPA Name]** require the **[specify title]** to review the contract costs and the indirect cost rates to assure they are compliant with Federal cost principles prior to submission to IDOT.
12. **Invoice Processing** – **[LPA Name]** require the **[specify title]** assigned to any project using federal funds to review and approve all invoices prior to payment and submission to IDOT for reimbursement.
13. **Project Administration** – **[LPA Name]** require the assigned **[specify title]** to monitor work on the project in accordance with the contract and to file reports with the **[specify title]**. The **[LPA Name]** procedures require an evaluation of the consultant's work at the end of each project. These reports are maintained in **[LPA Name]** consultant information database. **[LPA Name]** follows IDOT's requirements and the required submission of Form [BLR 05613](#) to the IDOT district at contract close-out along with the final invoice.

5-5.07(b) Project Specific Information Example

The City of Giant Springs plans to reconstruct Main Street and improve their sidewalks along the street to comply with ADA requirements. In order to proceed with Phase I and II engineering, the city decided to hire an engineering consultant to handle the design. The city has federal funds available to help fund the design of the project and realizes the total engineering costs will exceed \$40,000. The city knew they were required to use written QBS procedures which complied with state and federal guidelines. Their QBS procedures and example forms are included along with discussion in this example.

City of Giant Springs Qualification Based Selection Procedure (*Project Specific Information is italicized*)

1. Initial Administration – Giant Springs has a City Engineer. The City Engineer’s office has two junior engineers and a technician and an administrative assistant, who will handle the day-today management and administration. The City Engineer’s office will work with the City Purchasing office in procurement.
2. Written Policies and Procedures – Giant Springs believes their written procedures substantially follows Section 5-5 of the *BLRS Manual* and specifically Section 5-5.06(e), therefore; approval from FHWA is not required.
3. Project Description – Giant Springs will use the following five items when developing the project description and may include additional items under unique circumstances.
 - Describe in general terms the need, purpose, and objective of the project;
 - Identify the various project components;
 - Establish the desired timetable for the effort;
 - Identify any expected problems
 - Determine the total project budget.

Project Description:

The scope of services desired is to have Phase I and II engineering provided for the reconstruction of Main Street between Price Street and Oak Street. Main Street is the primary transportation corridor through the city. This reconstruction is necessary because the existing street and sidewalks are older and in poor condition. The major components of the design are roadway and pavement design, parking and traffic control, sidewalks, and drainage. Phase I is expected to last 18 months and Phase II is expected to last another 12 months. Providing detours for both vehicular traffic and pedestrians will be challenging because there are both businesses and the elementary school located along this section of Main Street. Minimizing impacts to both the school and businesses is an important consideration in the design of this project. Because both a school and part of the city’s business district are located within the limits of the project compliance with ADA requirements is also critical. The total budget for this project \$1,540,000.

4. Public Notice – Giant Spring’s procedures requires the city to post an announcement on the city’s website (www.giantsprings.com) and publish an ad in the Big City Telegraph, a newspaper with appropriate circulation. The item will be advertised at least 14 days prior

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to the acceptance of proposals and at least twice in the newspaper and will be on continuous display on the city's website for.

The ad for this project was placed on the city's website and in the newspaper on two consecutive Mondays. Here is the example advertisement.

"Giant Springs is accepting proposals from consultants for Phase I and Phase II engineering design of Main Street between Price and Oak Street. The evaluation criteria and weighting for this project is as follows: technical approach - 30%, firm experience - 20%, staff capabilities - 20%, work load capacity - 20%, and local presence - 10%.

Consultants should request a proposal packet from the city. The packet contains a detailed description of the project, conflict of interest forms, and specific requirements for the format and content of their submission.

Proposal responses are due October 18th, 2017 at 2:00 pm at City Hall, 205 W. Main Street, Room 205, Giant Springs, IL 62764. The technical proposal must not contain any cost information. All proposals shall include a conflict of interest form.

Proposals will be evaluated and at least three consultants will be selected to interview for this project. Interviews of consultants for this project will be held the week of November 1, 2017."

5. Conflict of Interest – Giant Spring's procedures require consultants to submit a disclosure statement with their procedures. The city uses the IDOT BDE DISC 2 Template as their conflict of interest form.

All three firms included a disclosure statement with their submittal; no conflicts of interest were discovered.

6. Suspension and Debarment – Giant Spring's procedures require verification of suspension and debarment actions to ensure the eligibility of firms short listed and selected for projects. The city uses the SAM Exclusions, IDOT's CPO's website and the three other state CPO's websites to verify suspensions and debarments.

All three firms were checked and verified not to be suspended or debarred.

7. Evaluation Factors – Giant Spring's procedures for QBS allow the City Engineer to set the evaluation factors for each project but will include a minimum of five criterion and stay within the established range. The maximum of DBE and local presence requirements combined cannot be more that 10% on projects where federal funds are being used. Project specific evaluation factors will be included at a minimum in the Request for Proposals.

Criteria and weighting per the city's QBS procedures

- Technical Approach (10 - 30%)
- Firm Experience (10 - 30%)
- Specialized Expertise (10 - 30%)
- Staff Capabilities (Prime/Sub) (10 - 30%)

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Work Load Capacity (10 - 30%)
Past Performance (10 - 30%)
In-State or Local Presence*
Participation of Qualified and Certified DBE Sub-consultants*
(* The combined total of these two items cannot exceed 10%)

For this project the City Engineer set the following selection criteria and weighting.

<i>Technical Approach</i>	<i>30%</i>
<i>Firm Experience</i>	<i>20%</i>
<i>Staff Capabilities</i>	<i>20%</i>
<i>Work Load Capacity</i>	<i>20%</i>
<i>Local Presence</i>	<i>10%</i>

The city is requiring interviews with the top three firms. The interviews will be used to adjust the preliminary scores selection committee members individually develop based on the proposal.

8. Selection – Giant Spring’s procedures require a five-person selection committee. Typically, the selection committee members include the director of public works, the city engineer, and at least one of the other public works staff members. Usually the city has at least one member, but not more than two members from outside the public works department. These outside members may be public works directors or engineers from nearby communities, their county engineer, council members, or members of the community. The selection committee members will certify that they do not have a conflict of interest. Selection committee members are chosen by the director of public works for each project. The selection committee members individually review and score each proposal prior to the selection committee meeting. Their scores are averaged for a committee score which is used to establish a short list of three firms. If there are other firms within 10% of the minimum score, the public works director may choose to expand the short list to include more than three firms. The committee score is adjusted by the committee based on group discussion and information gained from presentations and interviews to develop a final ranking.

For this project the city’s selection committee was composed of the public works director, the city engineer, two staff engineers from the public works department and their county engineer.

The city’s procedure requires the use of this basic form to score the submissions. Each member of the selection committee is to provide an independent score for each proposal using the form below prior to the selection committee meeting.

Their scores are averaged for a committee score which is used to establish a short list of three firms. The committee score is adjusted by the committee based on group discussion and information gained from presentations and interviews to develop a final ranking. If there are other firms within [10%] of the minimum score, the public works director may choose to expand the short list to include more than three firms.

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Criteria	Weighting	Points	Firm 1	Firm 2	Firm 3
<i>Technical Approach</i>	<i>30%</i>	<i>30</i>			
<i>Firm Experience</i>	<i>20%</i>	<i>20</i>			
<i>Staff Capabilities</i>	<i>20%</i>	<i>20</i>			
<i>Work Load Capacity</i>	<i>20%</i>	<i>20</i>			
<i>Local Presence</i>	<i>10%</i>	<i>10</i>			
<i>Total</i>	<i>100%</i>	<i>100</i>			

9. Independent Estimate – Giant Spring’s staff will prepare an independent in-house estimate for the project prior to contract negotiation. The estimate is to be used in the negotiation.

The City Engineer prepared a detailed estimate for the Phase I and II engineering for this project. His estimate was \$231,000.

10. Contract Negotiation – Giant Spring’s procedures require a two-person team to negotiate with firms. The team consists of the public works director and the city’s manager. When necessary either the public works director or the city manager may delegate this responsibility to staff members.

For this project, the city engineer and city manager began negotiations with the highest ranked firm. The firm’s cost exceeded the engineer’s estimate by 40% and the firm did not believe they could adjust their scope or staffing in any way to reduce costs. The team moved to negotiation with the second ranked firm. The costs were slightly below the city’s estimate and their project scope covered all the city’s requirements. Negotiations with the second ranked firm were successful. A sealed cost proposal from the third ranked firm was returned to the firm unopened. The proposal from the first ranked firm was disposed of by shredding.

11. Acceptable Costs – Giant Spring’s procedures require the city manager to review the contract costs and the indirect cost rates to assure they are compliant with Federal cost principles prior to submission to IDOT.

For this project, the city manager reviewed the costs and found no issues and forwarded to IDOT for final review and approval.

12. Invoice Processing – Giant Spring’s procedures require the project manager assigned to any project using federal funds to review and approve all invoices prior to payment and submission to IDOT for reimbursement.

13. Project Administration – Giant Spring’s procedures require the assigned project manager to monitor work on the project in accordance with the contract and to file reports with the public works director. The city’s procedures require an evaluation of the consultant’s work at the end of each project. These reports are maintained in the city’s consultant information database. The city follows IDOT’s requirements and they require submission of Form [BLR 05613](#) to the IDOT district at contract close-out along with the final invoice.

When submitting Form [BLR 05510](#), the completion of Exhibit C (Figure 5-5D) is required. See Section 5-5.08 for information concerning the BLR forms for engineering agreements.

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**Exhibit C
Federal Qualification Based Selection (QBS) Checklist**

Local Public Agency City of Giant Springs
 Section Number 17-00123-00-PV
 Project Number _____
 Job Number _____

The LPA must complete Exhibit C, if federal funds are used for this engineering agreement and the value will exceed \$40,000. The LPA must follow federal small purchase procedures, if federal funds are used and the engineering agreement has a value less than \$40,000. The value of \$40,000 is based on 50 ILCS 510/8 and will be adjusted annually by a BLRS Circular Letter, typically issued in February.

Form Not Applicable (engineering services less than \$40,000)

1.	Do the written QBS policies and procedures discuss the initial administration (procurement, management, and administration) concerning engineering and design related consultant services?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
2.	Do the written QBS policies and procedures follow the requirements as outlined in Section 5-5 and specifically Section 5-5.06(e) of the <i>BLRS Manual</i> ? If no, IDOT's approval date: _____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
3.	Was the scope of services for this project clearly defined?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
4.	Was public notice given for this project? Method(s) used for advertisement and dates of advertisement: <u>City's website (www.giantsprings.com) beginning on 10/02/2017 and Big City Telegraph on 10/02/2017 and 10/09/2017.</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
5.	Do the written QBS policies and procedures cover conflicts of interest?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
6.	Do the written QBS policies and procedures use covered methods of verification for suspension and debarment?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
7.	Do the written QBS policies and procedures discuss the method of evaluation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
	<table border="0"> <tr> <td>Criteria for this project</td> <td>Weighting</td> <td>Criteria for this project</td> <td>Weighting</td> </tr> <tr> <td><u>Technical Approach</u></td> <td><u>30 %</u></td> <td><u>Local Presences</u></td> <td><u>10 %</u></td> </tr> <tr> <td><u>Firm Experience</u></td> <td><u>20 %</u></td> <td>_____</td> <td>_____ %</td> </tr> <tr> <td><u>Staff Capabilities</u></td> <td><u>20 %</u></td> <td>_____</td> <td>_____ %</td> </tr> <tr> <td><u>Work Load Capacity</u></td> <td><u>20 %</u></td> <td>_____</td> <td>_____ %</td> </tr> </table>	Criteria for this project	Weighting	Criteria for this project	Weighting	<u>Technical Approach</u>	<u>30 %</u>	<u>Local Presences</u>	<u>10 %</u>	<u>Firm Experience</u>	<u>20 %</u>	_____	_____ %	<u>Staff Capabilities</u>	<u>20 %</u>	_____	_____ %	<u>Work Load Capacity</u>	<u>20 %</u>	_____	_____ %		
Criteria for this project	Weighting	Criteria for this project	Weighting																				
<u>Technical Approach</u>	<u>30 %</u>	<u>Local Presences</u>	<u>10 %</u>																				
<u>Firm Experience</u>	<u>20 %</u>	_____	_____ %																				
<u>Staff Capabilities</u>	<u>20 %</u>	_____	_____ %																				
<u>Work Load Capacity</u>	<u>20 %</u>	_____	_____ %																				
8.	Do the written QBS policies and procedures discuss the method of selection? Selection committee (titles) for this project: <u>Public Works Director, City Engineer, two staff engineers from the Public Works Department, and the County Engineer.</u> Top three consultants selected for this project in order: 1) <u>Firm 2</u> 2) <u>Firm 1</u> 3) <u>Firm 3</u> If less than 3 responses were received, IDOT's approval date: _____	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
9.	Was an estimated cost of engineering for this project developed in-house prior to contract negotiation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
10.	Were negotiations for this project performed in accordance with federal requirements?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
11.	Were acceptable costs for this project verified? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> LPA will rely on IDOT review and approval of costs.																						
12.	Do the written QBS policies and procedures cover review and approving for payment, before forwarding the request for reimbursement to IDOT for further review and approval?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				
13.	Do the written QBS policies and procedures cover ongoing and finalizing administration of the project (monitoring, evaluation, closing-out a contract, record retention, responsibility, remedies to violations or breaches to a contract, and resolution of disputes)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																				

EXHIBIT C – FORM BLR 05510 (EXAMPLE)

Figure 5-5D

5-5.08 Standard Engineering Services Agreements

While use of standard engineering agreement forms is not required, the LPA should use the standard engineering agreements developed by the department in order to ensure compliance with all federal and state requirements. If a standard engineering agreement form is modified, the department logo, form number, and any other department identifier shall be removed. Separate engineering agreements are required for preliminary and construction engineering services.

The following standard agreement forms are provided by CBLRS:

- Form [BLR 05510](#) – Engineering Services Agreement
- Form [BLR 05520](#) – Maintenance Engineering to Be Performed by a Consulting Engineer
- Form [BLR 05530](#) – Request for Engineering Services Performed by Local Forces

5-5.08(a) Form [BLR 05510](#)

Form [BLR 05510](#) provides a standard agreement form for preliminary engineering and construction engineering using federal, state, MFT, or TBP funds. Form [BLR 05510](#) is used to compensate the consultant for all work based on methods of payment outlined in Section 5-5.10. The agreement must contain a maximum amount payable, which cannot be exceeded without modification of the agreement.

1. Preliminary Engineering. Preliminary engineering is divided into two phases. Phase I includes preparation of the environment documents, project development or design report, bridge condition reports, and preliminary bridge design and hydraulic report (with Type, Size, & Location (TS&L) as required). Phase II includes preparation of the plans, specifications, and estimates. The work covered by Phase II shall not begin until Phase I has been completed and design approval has been given by IDOT.

For federally funded preliminary engineering services agreements, the LPA shall award a construction contract or acquire ROW within 10 years of the federal authorization date of the preliminary engineering services agreement unless an extension has been granted by FHWA. The IDOT Bureau responsible for individual federal program categories may have more stringent requirements; therefore, the LPA should review all program requirements when requesting funds.

2. Construction Engineering. Construction engineering by the consultant may include the duties of the Resident Construction Supervisor and/or construction inspection. The LPA shall remain in responsible charge. Requirements for construction supervision and in responsible charge are contained in [Section 13-2.01](#) and [Section 25-1.02](#).

5-5.08(b) Form [BLR 05520](#)

LPAs may enter into an agreement with a consultant to provide engineering services for maintenance work funded in whole or in part with MFT funds. Formal agreements may include preliminary engineering and/or engineering inspection.

Typically, the consultant is responsible for the following duties during preliminary engineering:

- investigation of the condition of the streets and/or structures;

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- determination, in consultation with the local officials, of the maintenance operations to be included in the maintenance program;
- preparation of the maintenance resolution, estimate, and proposal;
- attendance at meetings of the governing body as may reasonably be required;
- attendance at the public letting and preparation of the contract or acceptance of proposal forms; and
- preparation of the maintenance expenditure statement.

For engineering inspection projects, the consultant is usually responsible for the following:

- furnishing the engineering field supervision of maintenance operations requiring professional on-site inspection;
- checking materials invoices for payment; and/or
- preparing the payment estimate for contract maintenance, including any necessary changes-in-plans, and providing a final estimate of the contract maintenance cost.

Form [BLR 05520](#) may be used for maintenance preliminary engineering and/or engineering inspection agreements. The agreement requires the signature and seal of the licensed professional engineer, or structural engineer as applicable, and the signature and title of the local official. Attach the formal agreement to the maintenance documents submitted to the district for approval showing the estimated cost of maintenance and the operations requiring engineering inspection.

5-5.08(c) Form [BLR 05530](#)

If federal funds will be requested to pay for engineering services provided by the LPA, CBLRS approval is required. The department is required to pre-audit all projects receiving federal funding in accordance with applicable federal regulations. Any services performed prior to the approval from the department may jeopardize the eligibility of federal funding reimbursement. Any invoices submitted for reimbursement for services performed by a LPA will not be processed for payment until a request for a pre-audit and approval is submitted to the CBLRS.

5-5.09 Other Engineering Services Agreements

5-5.09(a) Road District Engineering and Administration

[605 ILCS 5/6-701.3](#) allows a County to be paid administrative and engineering costs for road district MFT construction and maintenance. Engineering and administrative work may be performed on either an actual cost or a fixed-percentage basis, or a combination of these methods. The following will apply:

1. Work Force. This work may be done by one, or an approved combination, of the following:
 - a. by the county with its own forces, with payments to be made directly from MFT funds on an actual cost basis;
 - b. by the county with its own forces, with payments to be made on a percentage basis, as determined and agreed on by and between the county and the road district and approved by IDOT; and/or

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- c. by a consulting engineer under agreement with the county and approved by IDOT.
2. Resolution. The county board will adopt a resolution informing IDOT of the method or methods it proposes to use. The resolution must include the following:
 - a. Identify the method or methods of performing the work and the program(s) to which it is applicable (e.g., MFT Construction, MFT Maintenance, Township Bridge Program);
 - b. if method 1(b) above is used, include the rate of compensation to be applied to each application;
 - c. provide the effective date of the resolution; and/or
 - d. note the supersedes of any preceding resolution.
3. Approval. Submit two originals of the resolution to the Regional Engineer for approval.
4. Renewal. Annual formal agreements are required for road district maintenance where the county is not performing the engineering services with its own forces; see Section 5-5.08(b).

5-5.09(b) Inspection and Testing Services

LPAs may enter into an agreement with a consultant, or a testing company authorized to do business in the State of Illinois as a "Testing Laboratory" to provide inspection services for projects financed in whole or in part with MFT funds provided the costs will be assigned to the MFT project for which the testing is being done. The consultant or a testing company shall have the appropriate prequalification and training.

Formal agreements may include the following:

1. Scope of Services. This may include:
 - a. obtaining samples for inspection;
 - b. material testing;
 - c. reporting results;
 - d. obtaining material certification; and/or
 - e. providing proof that the materials concerned meet the requirements of the appropriate specifications.

This work should be performed in accordance with IDOT's [PPG](#) and with IDOT's Quality Control/Quality Assurance (QC/QA) Program, where applicable.

2. Method of Measurement. The method of measurement will be based on the services to be performed. Methods of measurement will be in accordance with standard test methods, IDOT's [Manual of Test Procedures for Materials](#), and good engineering practices. Pay rates may be based on units of measurement. The following are some units that may be used:
 - a. plant proportioning control, ton or yd³ (metric ton or m³);
 - b. in-place density determination, hourly rate;
 - c. flexural strength tests, each;
 - d. Marshall tests, each;
 - e. mix design, each;
 - f. core drilling, ft (m);

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- g. soil reports, per hour laboratory time;
- h. structural steel shop inspection and testing, hourly rate.

5-5.09(c) Non-Standard Engineering Services Agreement Required Clauses

The following clauses shall be included in all non-standard engineering services agreement for preliminary and/or construction engineering:

1. Services. Define the services to be performed.
2. Contract Length. Identify the section or time period covered by the agreement.
3. Compensation. Include the amount and type of compensation to be paid to the consultant. Where the major portion of services is to be provided on a cost-plus basis, provide a list of personnel by occupational title or professional class and the rate of pay for each. If the principal engineer or other consultant's employee perform routine services (e.g., field material inspection, detailed inspection, standard design, drafting work) that could be performed by lesser salaried personnel, the wage rate billed directly for these services cannot exceed those rates paid to the consultant's salaried personnel performing the same or similar work.
4. Payment. Identify the time schedule at which payments are to be made.
5. Non-discrimination. Include the standard clauses for non-discrimination and fair employment practices.

For federally funded engineering services agreements, all required clauses contained in 23 CFR Part 172 shall be included.

5-5.09(d) Municipal Engineer

If a municipality decides to use a consultant to perform the duties of the municipal engineer; using MFT funds, the municipality shall use the State QBS according to Section 5-5.06. However, if the original scope of work does not include all the work needed to be performed by the municipal engineer, the municipality shall perform another selection while avoiding any direct, indirect, or appearance of conflict of interests.

For example, a municipality hires the consultant as their municipal engineer using MFT funds. Since the municipality has a satisfactory relationship with the consultant and state funds are being used, the municipality is not required to provide public notice, evaluate multiple firms, and select highest rated firm. The scope of work includes providing preliminary and construction engineering for the municipality's annual MFT maintenance program and street resurfacing program; and to apply for federal funding through the metropolitan planning organization (MPO) and special department programs.

- If the municipality decides to replace a bridge and plans to use MFT funds for the engineering, the municipality would need to perform another State QBS to complete this engineering work, since it was not included in the original scope of work of the municipal engineer.
- The consultant, who is acting as the municipal engineer, applies for and the municipality receives federal funds for a complete reconstruction of Main Street through the downtown business district. The federal funding includes preliminary engineering, construction, and

construction engineering. The estimated engineering cost for the project is \$75,000. The municipality would need to perform a federal QBS to complete this engineering work. Since the estimated cost is \$40,000 or greater and the engineering contains federal funds, the existing satisfactory relationship process is not allowed.

5-5.10 Method of Payment

5-5.10(a) Compensation Formulas

The following costs are used in one or more of the compensation formulas:

- Direct Labor - the consultant's direct salary cost, which is the salary expense for professional and technical personnel and principals for time that they are productively engaged in work necessary to fulfill the terms of the agreement;
- In-House Direct Costs - the consultant's non-labor costs identified with a particular project. Form [BDE 436](#) shall be used to submit eligible items;
- Overhead - The consultant's actual overhead factor (including payroll additives) or a negotiated overhead factor;
Note(s):
 1. A negotiated overhead factor may only be used on MFT, state, and TBP funded projects. The maximum negotiated overhead factor is 1.4.
 2. Field Rates shall be used for construction engineering projects expected to exceed one year in duration or if the construction engineering contract exceeds \$1,000,000.00 for any duration.
- Outside Direct Costs – the consultant's outside project costs performed by vendors (i.e. outside printing costs, etc.)
- Service By Others – the consultant's services performed by a sub-consultant (i.e. another engineering firm, lab testing firm, landscape architect, etc.)

The engineering agreement will be negotiated based on one of the following methods of compensation. The compensation method selected for the prime consultant shall be used by any sub-consultant, with the exception of construction engineering agreements, when a specific rate is allowed for testing services.

1. Lump-Sum. Lump-sum compensation may be used for engineering services contracts less than \$20,000. For federally funded engineering services agreement, the lump sum shall be developed using CPFF formula (see Item 3 below).
2. Specific Rate. Specific rate compensation may be used only for small engineering services contracts less than \$40,000 and where the work can be clearly defined (e.g., testing). The rate includes payroll, overhead, and profit.
3. Cost-Plus-a-Fixed-Fee Amount (CPFF). CPFF compensation is used when the estimate of the work, labor, and other expenses required for its execution cannot be accurately estimated by LPA's personnel in advance.

The fixed fee allows for the consultant's profit and other miscellaneous amounts. The fixed fee is based on the initial contract estimate.

Note: The fixed fee may be renegotiated when significant changes in the scope, complexity, character, or duration of work are warranted.

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One of the following fixed fee formulas shall be used:

$$FF = 0.145[DL + R(DL) + OH(DL) + IHDC]$$

$$FF = 0.145[DL + R(DL) + 1.4(DL) + IHDC]$$

$$FF = 0.145[(2.3 + R)DL + IHDC]$$

Where:

DL = Direct Labor
IHDC = In-House Direct Costs
OH = Overhead
R = Complexity Factor

The total compensation of the consultant shall use the following formula:

$$CPFF = DL + IHDC + OH(DL) + FF + ODC + SBO$$

Where:

DL = Direct Labor
IHDC = In-House Direct Costs
OH = Overhead
FF = Fixed Fee
ODC = Outside Direct Costs
SBO = Service by Others

Lump Sum, Specific Rate, CPFF or the following compensation formulas may also be used for State, MFT, or TBP funded engineering services contracts:

1. Direct Labor Multiplier (DLM). The DLM method of compensation allows every consultant a different percentage of profit depending on the level of a firm's overhead. The DLM formula is:

$$DLM = [(2.80 + R) \times DL] + IHDC$$

See CPFF for definitions of DLM pay factors.

2. Actual Costs. The actual costs of services plus a specified percentage for overhead.

For MFT funded engineering service contracts on LPA maintenance projects, the compensation may be as shown in Figure 5-5E.

Note: If Lump Sum or Actual Costs is used, the total engineering cost cannot exceed the amount determined under Base Fee.

Preliminary engineering fees for MFT maintenance projects are applied to the total approved estimated cost of each MFT maintenance operation included in the MFT maintenance estimate except MFT maintenance engineering. The MFT engineering inspection fee is applied to the final cost of those MFT maintenance operations inspected by the engineer. If retainage is used on MFT maintenance engineering, 10% of the total fee is withheld until the final cost of inspected items is known and the final payment estimate and/or final documents and the MFT maintenance expenditure statement have been submitted.

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BASE FEE		
Value of Program ≤ \$20,000		Negotiated (\$1,250 Maximum)
Value of Program > \$20,000		\$1,250
PLUS		
Engineering Categories*	Preliminary Engineering (Maximum Fee (%))	Engineering Inspection (Maximum Fee (%))
I	N/A	N/A
II-A	2%	1%**
II-B	3%	3%
III	4%	4%
IV	5%	6%

* *Engineering Category Definitions:*

Category I. Services purchased without a proposal such as electrical energy or materials purchased from Central Management Services' Joint Purchasing Program (www.purchase.state.il.us) or another joint purchasing program that has been approved by the District BLRS or CBLRS.

Category II-A. Maintenance items that are not included in Category I or do not require competitive sealed bids according to [Section 12-1.02\(a\)](#) or a local ordinance/resolution.

Category II-B. Routine maintenance items that require competitive sealed bids according to [Section 12-1.02\(a\)](#) or a local ordinance/ resolution. Routine maintenance includes all items in the following work categories: snow removal, street sweeping, lighting and traffic signal maintenance, cleaning ditches or drainage structures, tree trimming or removal, mowing, crack sealing, pavement marking, shoulder maintenance, limited amounts of concrete curb and gutter repair, scour mitigation, pavement patching, and minor drainage repairs.

Category III. Maintenance items that are not covered by Category IIB and require competitive bidding with a material proposal or a deliver and install proposal.

Category IV. Maintenance items that are not covered by Category IIB and require competitive bidding with a contract proposal.

** *An Engineering Inspection Fee for Category IIA is only allowed for items that require inspection and/or acceptance testing.*

FEE FOR MAINTENANCE ENGINEERING

Figure 5-5E

5-5.10(b) Efficiency Factor

The consultant may also opt to include an efficiency factor. When provided in an agreement, the consultant has the opportunity to share in any direct labor cost savings achieved by the efficiencies of the consultant from the original direct labor estimate. Upon submission and approval of the final bill, when the negotiated direct labor cost upper limit is not reached, the consultant will be entitled to 1% of the remaining funds.

An efficiency factor may also be applied to those contracts using the cost plus fixed fee method. When the contract's direct labor cost upper limit is not reached, the consultant will receive 1% of the difference between negotiated and actual direct labor plus overhead.

5-5.10(c) Complexity Factor

Figure 5-5F presents a description for the various levels on the complexity of work.

R Value	Complexity of Work
CPFF = 0.0 DLM = 0.0	Low complexity projects that involve such work as project surveys, routine drafting functions, minor simple span bridges, small rural projects, project reports, and simple environmental assessments.
CPFF = 0.035 DLM = 0.003	Complex jobs that involve such work as small urban projects, freeway interchanges, projects on new alignment, freeways, multi-span continuous bridges, complex environmental assessments, and design reports.
CPFF = 0.070 DLM = 0.008	Very complex work that involves such work as multi-level interchanges, movable bridges, complex major bridges, major urban freeways, complex design reports, environmental impact statements, and major engineering studies requiring special expertise.

COMPLEXITY FACTOR

Figure 5-5F

5-5.11 Agreement Processing

Once the LPA and the consultant have agreed on scope, terms, and compensation, the engineering agreement shall be submitted to the District BLRS for review.

1. MFT, State, and TBP Funded Engineering Services Agreements. The District BLRS will provide approval to the LPA.

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2. Federally Funded Engineering Services Agreements. The District BLRS will provide an initial review and then submit to the CBLRS for processing.

CBLRS will conduct a financial review of the agreement to ensure acceptability.

For construction engineering services agreements, the Form [BC 775](#) (and Form [BC 776](#) if required) shall be completed by the LPA and approved by the IDOT District prior to pre-construction meeting. Failure to attach these forms to the federally funded construction engineering services agreements may result in delay in IDOT approval.

After all internal IDOT sign offs have been received, the CBLRS will request federal authorization. Once federal authorization is received, the CBLRS will issue a notice to proceed. If the LPA allows the consultant to perform any work and/or costs to be incurred prior to federal authorization and approval by the IDOT, the work and/or costs will not be eligible for federal reimbursement and will not be allowed as a match to the federal funds. The LPA proceeds at their own risk with the understanding that if the IDOT approval is not obtained, federal, State, MFT, and/or TBP funds will not be allowed for the engineering services contract.

5-5.12 Supplements to the Agreements

When the consultant is requested to complete work outside the scope of the original agreement, or other material contract changes (i.e. the addition or substitution of a sub-consultant); the LPA must provide a written supplement to the original agreement. This may be done by a letter supplement. Where applicable, the LPA should:

- Review the original agreement prior to negotiation of any proposed supplemental agreement.
- Provide a statement to the district explaining the reasons that the original agreement will be supplemented to add/change/amend conditions.
- Describe the scope of work in sufficient detail to clearly outline the additional work that the consultant is to do. The scope of work must meet the definition of the project (see Sections 5-5.06(c) or 5-5.06(e)).

Example: If it is discovered on a proposed resurfacing project, work off of the ROW is needed and the supplemental is to provide environmental and plat work; this would be eligible. However, if under this same proposed project, it is discovered the bridge must be replaced; this would not be eligible and a new selection for engineering services would be required.

- Include the mode of payment (e.g., cost plus a fixed fee, specified hourly rate, daily rate, any indirect cost). This mode of payment must be the same as the original agreement. Always include a maximum amount payable.
- Specify a time for beginning and completion of the contract. Be specific (e.g., calendar days, specified day of the year).
- Specify if subletting is authorized; if so, specify to whom, for what, and the amount payable.

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- Attach, as exhibits, a finance summary of estimated costs of the supplement(s). Include only the costs to be incurred by the additional scope of work.

Provide spaces for the consultant and the LPA to sign the letter supplement. Ensure that both parties to the agreement have the authority to act and the supplement does not exceed any dollar threshold contained in Section 5-5.06(b). The supplement will require IDOT approval.

5-5.13 Administration of the Agreement

5-5.13(a) Project Administrator

The LPA is responsible for assigning one of its personnel as project administrator to work with the consultant. The project administrator will conduct the following:

- Prepare supplements and letter supplements to existing consultant agreements for additional services or services beyond the scope of the work of the original agreement and include the LPA's estimate of the costs for the work involved.
- Perform as liaison between the LPA and the consultant to ensure compliance with the terms of the agreement and with regard to the work performed by the consultant.
- Monitor the consultant's progress reports to ensure that problem areas are reported, and corrective action is taken.
- Establish controls to monitor time for completion of each agreement to ensure that the time limitations are not exceeded.
- Ensure the accuracy of bills presented by the consultant and submit the bills to the district for reimbursement.
- Maintain cumulative cost records for each agreement.
- Establish controls to prevent payment in excess of contract limitations.
- Monitor the consultant to ensure compliance with any and all Equal Employment Opportunity provisions of the agreement.

5-5.13(b) Final Check

Upon completion of the work under the engineering agreement, the LPA will ensure that all terms and conditions of the agreement have been complied with and that all services to be performed under the agreement have been completed prior to final release of the consultant.

The agreement will be terminated in writing by the LPA. A copy of any termination should be sent to the district.

5-5.13(c) Project Closeout

The LPA is responsible for ensuring that all terms and conditions of the engineering agreement have been fulfilled and that all services to be performed under the agreement have been completed. For state let projects with construction engineering services contracts, all project closeout documentation required by the Bureau of Construction Procedure Memorandum 12-79 shall be submitted to the District Bureau of Construction prior to the construction engineering services contract being closed out by the District.

Documentation (e.g., itemized cost lists, time cards, payroll ledgers, related bills, cancelled checks) to support invoiced engineering costs shall be included in all invoice submissions. The LPA shall comply with all required retention schedules established for LPAs by the Secretary of State. For department auditing purposes, copies (electronic copies are suitable) of all invoices and supporting documentation shall be retained for a period of 3 years after payment of the final voucher. The following applies:

1. MFT and TBP Funded Engineering Services. The LPA shall submit Form [BLR 13510](#) upon completion of the project if MFT or TBP funds are used to fund any portion of the engineering services.
2. State Funded Engineering Services. The LPA shall submit to IDOT a final invoice for the agreed compensation incurred, in accordance with the approved agreement and any supplements. Submit this invoice within 90 days following IDOT approval of the plans, specifications, and estimates (PS&E).

Upon receipt of the final invoice, the District will prepare the Form [PRO 336](#) to notify the appropriate office of the project completion.

3. Federally Funded Engineering Services. The requirements for state funded engineering services apply. IDOT will audit invoices in accordance with FHWA approved auditing procedures (see Section 5-10.04). Upon completion of the audit and resolution of any findings, IDOT will close out the Contract Obligation Document (COD) and submit a final voucher to FHWA.

The prime consultant shall complete Form [BLR 05613](#) and submit to the district at the conclusion of the contract. The district will submit this form to the CBLRS along with the final invoice.

5-5.14 Evaluation

The LPA's project administrator is responsible for evaluating the consultant's performance. Upon completion of the evaluation place a copy in the LPA's file for consideration when a consultant is to be hired for future work. If federal funds are used, then a copy of the evaluation is to be sent to IDOT.

5-6 RAILROAD AGREEMENTS

As changes take place on the railroads and local highway systems, there will be a need for crossing improvements, structure replacements, or the elimination of a crossing. Before these actions can take place, an agreement must be in place that describes the scope of work, the responsibilities of the parties involved, and the method(s) of payment.

For both upgrades to existing crossings and the construction of new crossings, contact the railroad early in the process of planning and design. Long approval times are typical for any work within railroad ROW.

5-6.01 Requirements for a Railroad Agreement

A railroad agreement is required where:

- there are proposed joint improvements between railroad(s) and LPAs involving changes in a railroad grade separation structure or grade crossing, including changes in protection that will be paid totally or in part with MFT, State, or federal funds,
- there are improvements on the local highway system that require a relocation or removal of the railroad facilities, and/or
- if there is a change in circuitry and/or traffic signal preemption.

A separate railroad agreement is not normally required when the Illinois Commerce Commission (ICC) issues an order or develops a stipulated agreement. See Section 5-6.06 covering the improvements listed above. A supplemental agreement will be required if the ICC order does not cover all of the federal requirements or fund types.

5-6.02 Agreement Format

In the agreement, specify the responsibilities of each party. The agreement should contain the following items plus any additional items applicable to the project:

1. Identify the railroad name, LPA name, and MFT section number, if applicable. For Federal-aid projects, also identify the project and job number.
2. Include a description of the work to be done.
3. Provide a location description and location map. Include the AAR DOT number and the railroad milepost.
4. For projects with federal funds, include a statement that the project is subject to FHWA requirements.
5. Identify who is responsible for the surveys, plan preparation, specifications, and estimates.
6. Include the responsibilities for special signal and pavement markings at railroad crossings.
7. Identify which agency is responsible for letting and awarding the contract and who will provide construction supervision of the work.
8. Identify the selected method of construction (e.g., State or local let contract, railroad or local forces).

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9. Note if concurrence in the award of the contract is required.
10. Provide a division of cost showing funding responsibilities and the type of funds being used.
11. Identify the method of payment and/or reimbursement by each party.
12. Note the LPA appropriation for their share of the cost.
13. For federally funded projects, include any statements regarding DBEs. Note the DBE program being followed by the LPA if it is a locally let contract.
14. Identify who is responsible for railroad adjustments and the salvage of old equipment.
15. Identify who is responsible for maintenance of the completed work (e.g., crossing surfaces, warning signals, power lines, roadway approaches).
16. If protection work is involved, the agreement must stipulate that the work conforms to the ICC Requirements for Railroad-Highway Grade Crossing Protection and to the [Illinois Manual on Uniform Traffic Control Devices \(ILMUTCD\)](#).
17. Note who is responsible for the retention of records for inspections, audits, etc. As a minimum, railroads must retain records for three years after completion of the project.
18. Identify the proposed completion date of the project.
19. Provide provisions in the agreement to allow termination of the project.
20. Include a statement that IDOT audits railroad bills for work performed by railroad forces in accordance with FHWA requirements on all projects involving the use of State or federal funds.

5-6.03 Preparation and Execution

Typically, the LPA or the LPA's consultant will prepare the railroad and LPA agreement. At the request of a LPA, the CBLRS can provide assistance to the LPA during the agreement preparation process. The draft agreement is circulated among the affected parties and is sent to the district, the LPA, the railroad, and the CBLRS for corrections/comments. Once corrected, the agreement is executed by all parties.

Upon review of the draft agreement by IDOT, the LPA arranges with the railroad to have an estimate of cost and plans submitted to the district for approval prior to execution of the agreement.

A minimum of three original agreements should be provided by the appropriate parties. Additional original agreements should be included, if more than one LPA and/or railroad is a party to the agreement.

The agreement should be signed by the authorized LPA and company representative. Usually, the LPA representative is the chairman of the county board, highway commissioner, mayor, or village president. In the case of a county or municipality, if another local official signs the agreement, the official must be authorized to do so by resolution of the county board, city council, or village board. See [Section 2-3.05\(b\)](#) on signature requirements. The railroad representative who signs the agreement is usually the company president, general manager, or chief engineer. IDOT approval of the executed agreement must be secured prior to authorizing the railroad company to proceed with the work.

Railroad agreements involving MFT funds require the approval of the district.

For guidance on coordinating with railroads, see [Section 10-2.01](#).

5-6.04 Procedure for Joint State-LPA Railroad Agreements

For joint State and LPA improvements involving railroad crossing work where the construction contract will be awarded by the State, negotiations with the railroad may be handled by IDOT or the LPA as provided in the joint agreement. If the joint agreement makes no provisions for railroad negotiations, the development of agreements and negotiations with railroad companies will be handled by the LPA. For railroad work to be performed in conjunction with a Federal-aid highway improvement, FHWA requirements and/or the provisions of [Chapter 7](#) of the *BDE Manual* will apply. When the plans are prepared by the LPA, a plan and profile of the highway adjacent to the railroad crossing is submitted to IDOT by the LPA before negotiations are started. When the LPA will award the contract for joint improvements, all negotiations with the railroad are handled by the LPA and the required documents are secured by the LPA.

5-6.05 Compensation

Compensation for railroad work is usually based on an actual cost basis.

5-6.06 Illinois Commerce Commission (ICC)

5-6.06(a) ICC Jurisdiction

Rail carriers (railroads) are corporations engaged in the transportation of passengers and/or goods for hire in the State of Illinois, as defined in [625 ILCS 5/18c](#), and come under the jurisdiction of the ICC. The State law states, in part:

No public road, highway, or street shall hereafter be constructed across the track of any rail carrier at grade, nor shall the track of any rail carrier be constructed across a public road, highway, or street at grade, without having first secured the permission of the Commission;

The Commission's rules, regulations, and requirements cover the construction, maintenance, division of cost, marking, and signaling of highway and railroad crossings in the State of Illinois.

5-6.06(b) General Procedures

When ICC is involved in a highway-railroad improvement, ICC will either approve a stipulated agreement with the railroad and LPA, then issue an ICC order, or issue an order after a petition has been filed, and a public hearing has been held.

Section 5-6.06(c) defines when a petition is required and when a stipulated agreement may be used. Petition and stipulated agreement procedures are discussed in Sections 5-6.06(d) and 5-6.06(e) respectively.

5-6.06(c) Petition and Stipulated Agreements Guidance

1. Petition. In certain instances, a petition followed by a hearing with ICC is required. The following are cases in which a petition is required:
 - the establishment of a new public at-grade railroad crossing,
 - the elimination of any existing public at-grade crossing or grade-separated structure,
 - new construction of any grade-separated structure with a cost greater than \$1,000,000,
 - the installation of automatic warning devices at a crossing with less than two trains per day, and
 - where a crossing does not meet the minimum stipulated agreement criteria for signal improvements or one of the parties involved is unwilling to execute a stipulated agreement.

2. Stipulated Agreements. Stipulated agreements are generally used under the following conditions:
 - a. Automatic Flashing Light Signals (AFLS) with Gates. AFLS with gates may be recommended by the stipulated agreement procedure when any of the following conditions are met or exceeded unless a diagnostic team finds automatic flashing lights signals and gates are not warranted and recommends the installation of an alternative active/passive warning device:
 - the product of the seasonally adjusted average daily traffic count and the average daily train movements exceeds 3,000 for the mainline or branch line tracks having two or more train movements daily,
 - the clearing sight or stopping sight distances for normal highway conditions, for actual rail and vehicular traffic speeds are restricted and the product of trains per day times vehicles per day exceeds 1,000,
 - there is an unusual highway or track geometric or vehicle/train operation that creates a hazardous condition that cannot be reasonably improved by other means, or
 - a diagnostic team recommends the improvement.

 - b. Other. The stipulated agreement procedure may also be used for the following conditions:
 - reconstruction or minor relocation of existing grade separation structures,
 - construction of new grade separations costing less than \$1,000,000,
 - upgrading control circuitry,
 - installation of cantilevered signals due to the widening of the roadway,

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- the construction of connector roads where crossing closures are involved,
- improvement, reconstruction, relocation, or realignment of the highway approaches at any existing public grade crossing, and/or
- improvement, reconstruction, relocation, or removal of track structures and railroad appurtenances that may be in the interest of public safety at an existing public grade crossing.

In any condition where the party desiring the crossing improvements is unsure which procedure to use, contact the ICC for a determination.

5-6.06(d) Petition Procedures

If the LPA can reach agreement with the railroad concerning the type of warning device needed and the division of cost for an existing crossing, it may not be necessary to hold a formal hearing before ICC. If the LPA cannot reach an agreement with the railroad, a formal hearing must be held before ICC. Either the LPA or the railroad may submit a petition requesting a hearing to ICC. Application forms are available from ICC. The petition should state the location of the crossing(s) involved, the improvements desired (including the reasons why the improvements are necessary), and that amount of financial assistance requested, if applicable. When filing a petition with ICC, also provide a copy of the petition to the railroad or LPA and IDOT.

Upon receipt and review of the petition, ICC will send out a notice of the date, time, and place of the hearing to all parties involved. The hearings are conducted in a manner similar to that of a court trial, but on a more informal basis. During the hearing, each party will have the opportunity to express their concerns regarding the proposed safety improvement.

The petitioner should present all pertinent information relative to the physical characteristics of the highway and approaches near the crossing and surrounding area. Data should be presented depicting existing and projected vehicular traffic on the crossing. The petitioner should present evidence showing why the improvements are needed. Information regarding the roadway work should be presented if there will be a highway project in connection with the crossing improvement.

Typically, the railroad company involved will have a representative present who can testify with regard to train traffic and the estimated cost of warning devices and/or crossing surface work. However, it is advised that the LPA have some knowledge of this information prior to the hearing. While it is not required, the parties may choose to have an attorney present to provide assistance at the hearing.

ICC issues an order based on findings made from evidence presented at the hearing. The order includes a description of the work to be performed, the parties responsible for ensuring that the work is performed, the division of cost between affected parties, and the date by which all work should be completed.

In contested cases, ICC issues a proposed order where all affected parties are given an opportunity to comment within a specified time frame, usually two weeks, before the final order is issued.

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5-6.06(e) Stipulated Agreement Procedures

Generally, the LPA initiates the stipulated agreement procedure by contacting ICC in writing or by phone and requesting that a meeting be scheduled. However, a railroad or IDOT may also request a meeting. Because the nature of the proposed crossing improvements may vary considerably, ICC contacts each affected party regarding the necessary preparation prior to the meeting.

On the date and time mutually agreed upon, all affected parties meet at the site and discuss the crossing needs and possible solutions. Should it be determined at the meeting that the project meets the minimum warrants under the ICC's stipulated agreement procedures and all parties are in agreement with the improvements and division of cost, ICC will prepare a stipulated agreement for signature by all parties; see Section 5-6.06(c). Prior to the circulation of a stipulated agreement, all necessary cost estimates (e.g., signals, surfaces, approaches, bridge construction) must be submitted to ICC. After all parties execute the stipulated agreement, ICC will issue an order for completion of work.

If the proposed project does not satisfy the requirements for a stipulated agreement or there is disagreement among the parties regarding the proposed work or division of cost, any affected party (e.g., LPA, railroad, IDOT) may petition ICC for a hearing; see [Section 10-2.01](#).

5-7 UTILITY AGREEMENTS

5-7.01 Requirements for Utility Agreements

A utility agreement is required when a proposed highway improvement requires relocation or adjustment of an existing utility and existing permits do not provide for moving the utility. Typically, these are projects that affect utilities located outside the existing highway ROW.

5-7.02 Agreement Format

When a project requires a utility agreement, the LPA is normally responsible for its preparation and execution in consultation with the district. Each utility agreement must specify the responsibilities of each party and contain the following items plus any additional items applicable to the project:

1. Identify the utility name, LPA name, and MFT section number, if applicable. For Federal-aid projects, also identify the project and job number.
2. Include a description of the work to be done.
3. Provide a location description and location map.
4. For projects with federal funds, include a statement that the project is subject to FHWA requirements.
5. Identify who is responsible for the surveys, plan preparation, specifications, and estimates.
6. Identify which agency is responsible for letting and awarding the contract and who will provide construction supervision of the work.
7. Identify the selected method of construction (e.g., State- or local-let contract, utility forces, or contract by utility company).
8. Note if concurrence in the award of the contract is required.
9. Provide a division of cost showing funding responsibilities and the type of funds being used.
10. Identify the method of payment and/or reimbursement by each party.
11. Note the LPA appropriation for their share of the cost.
12. For federally funded projects, include any statements regarding DBEs. Note the DBE program being followed by the LPA, if it is a locally let contract.
13. Note who is responsible for the retention of records for inspections, audits, etc. As a minimum, the utility company must retain records for three years following completion of work.
14. Identify the proposed completion date of the project.
15. Provide provisions in the agreement to allow termination of the project.
16. Include a statement that IDOT will audit utility bills for work performed by utility forces in accordance with FHWA requirements on all projects involving the use of State or federal funds.

5-7.03 Preparation and Execution

The draft agreement is circulated among the affected parties, including the district, for corrections/comments. Once corrected, the agreement is executed by the LPA and the utility company.

Upon review of the draft agreement by the district, the LPA arranges with the utility company to have an estimate of cost and plans submitted to the district for approval prior to execution of the agreement.

The agreement is signed by the authorized LPA and utility company representative. Usually, the LPA representative is the chairman of the county board, highway commissioner, mayor, or village president. In the case of a county or municipality, if another local official signs the agreement, the official must be authorized to do so by resolution of the county board, city council, or village board. See [Section 2-3.05\(b\)](#) on signature requirements. The utility representative who signs the agreement is usually the company president, general manager, or chief engineer. The agreement must be approved by the district.

Federal participation in the relocation or removal cost of a utility, required by a highway project, may be secured by following the federal procedures for project authorization/obligation of funds and obtaining the district's approval of the agreement and PS&E prior to the beginning of utility work. If the utilities are located on the public ROW, the associated cost for relocation or removal must be borne by the utility company.

For additional guidance on coordinating with utility companies, see [Section 10-4](#).

5-8 MAINTENANCE AGREEMENTS FOR STATE HIGHWAYS

5-8.01 Traffic Signal Master Agreements

For most traffic signals on State highways, the districts will select local contractors to provide maintenance. However, in some cases, municipalities may perform the signal maintenance work that is the State's responsibility under the terms of a master agreement. LPAs are reimbursed by the State for maintenance and/or energy costs associated with the signals.

The Traffic Signal Master Agreement is prepared by the district Bureau of Operations. The agreement should:

- Identify the location of each traffic signal.
- Indicate the level of maintenance that should be provided.
- Identify the party that will be responsible for the maintenance costs and energy costs. If the cost is shared between the parties, indicate the portion of the cost for which each agency is responsible.
- Indicate whether the LPA will maintain the traffic signal through the use of its own forces or through an ongoing contractual agreement with a local contractor.

The agreement is signed by the LPA and IDOT.

For additional guidance on master agreements, contact the appropriate IDOT district office.

5-8.02 Municipal-State Maintenance Agreements

IDOT is authorized to enter into contracts with any municipal corporation to maintain any State highway located within the municipal corporation ([605 ILCS 5/4-406](#)). The agreement will provide for a minimum level of maintenance, a discussion of the route included, and the amount of reimbursement for the LPA.

5-9 TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES AGREEMENTS

Illinois environmental law requires the Illinois Pollution Control Board to consider land use controls in determining risk to human health from contamination in soil and groundwater. This approach is known as the Tiered Approach to Corrective Action Objectives (TACO). As a result of IDOT's effort, IDOT has developed [Highway Authority Agreements](#) (HAA), which is the land use controls recognized in TACO; see the [HAA](#) for TACO agreements. In the agreement, IDOT or a local highway authority is responsible, depending on who signs the agreement, for the following commitments:

- The agency will not allow drinking water wells to tap groundwater in the area of the ROW that may be contaminated.
- If soil in the ROW that may be contaminated is excavated, human health and the environment will be protected.

For a highway authority willing to make these commitments, there are a number of significant benefits. These include:

- (1) Notification. A company is required to notify the agency that it has contaminated the ROW and will take responsibility. These agreements could cover nearly any type of pollutant.

Release. The company gives the agency a legal release from liability and indemnifies the agency for claims that may be made.

Reimbursement. Should the LPA excavate through contaminated soil in the ROW (e.g., release of petroleum), the company will reimburse the LPA's costs of dealing with the contamination (e.g., cost of disposing of the contaminated soil in a landfill).

A company that has contaminated the ROW has two choices:

- it can clean up the ROW, or
- it can negotiate a [Highway Authority Agreement](#) that is acceptable to the LPA.

The first choice is expensive and an unnecessary drain on the Leaking Underground Storage Tank (LUST) Fund. This fund reimburses owners for their cleanup costs of those tanks. Money for this fund comes from tax on motor fuel sold at the pump, similar to the Motor Fuel Tax. Clean up of the ROW is typically unnecessary because the cleanup is not needed to protect human health and the environment. However, the LPA still must meet its commitments made in the [Highway Authority Agreement](#).

5-10 INVOICE PROCESSING

5-10.01 General

According to the terms of the joint agreement, a LPAs may invoice IDOT for reimbursement of State and federal funds.

5-10.02 Supporting Documentation

To process an invoice, BLRS requires copies of documentation verifying LPA payments. Two copies of the invoice and supporting documentation shall be submitted to the District LRS office. Supporting documentation must include, but not limited to, the following:

- Copies of all cancelled checks paid for the project,
- Letter from recipient that payment was made if cancelled check(s) is/are not available,
- List and itemization of all direct costs and unit rates for each direct cost item,
- List of employees by classification, time spent by each employee on the project for the Invoice service period (Note: ensure the time charges are for the service dates shown on the Invoice and that they are within the period for the obligated funds.), and the hourly rate of each employee. Verify that the computations for total employee labor costs are correct.
- Low bid amount and award date, if applicable.

Proper preparation of the invoice in accordance with the above guidelines is essential to avoid delays in processing. The district shall use Form [BLR 05620](#) to forward to the proper bureau for final processing.

LPAs shall retain all invoice documentation for a minimum of three years after the project is completed to allow for State and/or LPA audits.

5-10.03 Payment Status

Once invoice payments have been processed by the BLRS, payment status may be checked on the official Illinois State Comptroller's website. Click on "Vendor Payments" and follow the instructions. A Tax Identification Number is required to access the system.

5-10.04 LPA Single Audit Requirement

If a LPA receives a significant amount of federal funding (currently \$500,000 a year or more), a single audit must be submitted to IDOT. This requirement is set forth by the U.S. Office of Management and Budget, Circular No. A-133 (2007). If an audit is required, the LPA shall identify federal funds received through IDOT. The Catalog of Federal Domestic Assistance (CFDA) number for the Federal-Aid Highway Program is 20.205 – Highway Planning and Construction.

5-10.05 Obligation Time Limit

Final invoices shall be submitted to BLRS within one year of the completion of the project. If a final invoice is not received within one year of completion of the project, the last invoice received will be considered the final and the contract obligation will be closed. If this deadline is not met, an extension of time may be requested. An extension of time request shall include justification for the delay and an estimated final invoice date.

5-11 ACRONYMS

This is a summary of the acronyms used within this chapter.

AFLS	Automatic Flashing Light Signals
AOU	Agreements of Understanding
BBS	Bureau of Bridges and Structures
BDE	Bureau of Design and Environment
BLRS	Bureau of Local Roads and Streets
CBLRS	Central Bureau of Local Roads and Streets
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
COD	Contract Obligation Document
CPFF	Cost-Plus-a-Fixed-Fee Amount
CPO	Chief Procurement Office
DBE	Disadvantaged Business Enterprise
DL	Direct Labor
DLM	Direct Labor Multiplier
FF	Fixed Fee
FHWA	Federal Highway Administration
GATA	<i>Grant Accountability and Transparency Act</i>
HAA	Highway Authority Agreements
ICC	Illinois Commerce Commission
IDIQ	Indefinite Delivery/Indefinite Quantity
IDOT	Illinois Department of Transportation
IGA	Intergovernmental Agreement
ILCS	Illinois Compiled Statutes
IHDC	In-House Direct Costs
ILMUTCD	Illinois Supplement to the Manual of Uniform Traffic Control Devices
LOI	Letter of Intent
LOU	Letter of Understanding
LPA	Local Public Agency
LUST	Leaking Underground Storage Tank
MFT	Motor Fuel Tax
MPO	Metropolitan Planning Organization
NBIS	National Bridge Inspection Standards
ODC	Outside Direct Costs
OH	Overhead
PPG	Project Procedure Guide
PS&E	Plans, Specifications, and Estimates
QC/QA	Quality Control/Quality Assurance
QBS	Qualifications Based Selection
RFP	Request for Proposals
ROW	Right-of-way
SAM	System for Award Management (Exclusions)
SBO	Service by Others

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SMA	State Match Assist
STA	State Transportation Agency (IDOT)
STP	Surface Transportation Program
TACO	Tiered Approach to Corrective Action Objectives
TBP	Township Bridge Program
TS&L	Type, Size, & Location
USC	United States Code

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5-12 REFERENCES

1. [Illinois Compiled Statutes](#)
2. Brooks Act, (40 USC 11)
3. Procurement, Management, and Administration of Engineering and Design related Services, (23 CFR 172)
4. [Project Procedure Guide](#), IDOT, June 2009
5. [Highway Jurisdiction Guidelines for Highway and Street Systems](#), IDOT, March 2006.
6. [Manual of Test Procedures for Materials](#), IDOT, February 2014.
7. [Illinois Supplement to the Manual on Uniform Traffic Control Devices \(ILMUTCD\)](#), IDOT, June 2014.
8. [Chapter 7](#) - Railroad Coordination, IDOT, *BDE Manual*
9. [Chapter 8](#) - Consultant Developed and/or Design Projects, IDOT, *BDE Manual*