

## LOCAL AGENCY PROGRAM CHECKLIST FOR CONSTRUCTION CONTRACTS (Phase 58) – FEDERAL AND STATE REQUIREMENTS

Project Title: \_\_\_\_\_  
 Financial Management Number: \_\_\_\_\_  
 Federal-Aid Project Number: \_\_\_\_\_  
 Local Agency Name: \_\_\_\_\_  
 Scheduled Advertisement Date: \_\_\_\_\_

LAP Agreement Amount (\$): \_\_\_\_\_  
 LAP Project Classification: A  B  C  D   
 Specifications Used: FDOT  LAP Big Four  Local Agency   
 Materials Testing Requirements: FDOT-MAC  Local Agency

Requirement	Reference	Local Agency Responsibilities	District Monitoring Responsibilities	Requirement Location
1. Plan, Specification & Estimates (PS&E) Submittal	23 CFR 635.309  LAP Agreement – Section 16  LAP Manual  National Environmental Policy Act (NEPA)  Contract Administration Core Curriculum Manual, FHWA HIPA-30, October 2014	<p>Submit PS&amp;E package to FDOT for approval. Provide assurance that all:</p> <p>Right-of-way (ROW) clearances, NEPA compliance have been completed, and appropriate permits have been obtained. Utility and railroad work arrangements and coordination must be made and properly noticed in the bid proposal.</p> <p>LAP Classification A, B &amp; C projects: Local Agency will use FDOT’s Design Manual and FDOT’s Division II and III Specifications when the construction project is on the SHS, NHS, greater than \$10 million in total costs, or projects with bridges or box culverts as defined in the <a href="#">LAP Manual Ch. 19 &amp; 20</a>.</p> <p>LAP Classification D projects will be designed in accordance with the Florida Greenbook and Local Agency will use FDOT’s pre-approved <a href="#">Big 4 specifications</a> for earthwork, concrete, asphalt, and landscaping items, or will seek FDOT approval for local agency specifications.</p> <p>Local Agency uses its own Division 1 Specifications for all project types, but includes FDOT’s Division 1 Specifications for Local Agencies in the bid document located on the Department’s <a href="#">Specs on the Web</a> page.</p>	<p>Review/approve signed and sealed PS&amp;E package</p> <p>ROW Form# 575-095-05 date: _____</p> <p>Executed Status of Environmental Certification and Determination received from DEMO. date: _____</p> <p>Project Commitments Record FDOT Form# 650-000-01 required:                      Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Clear Letters received dates: _____</p> <p>Utilities                      _____</p> <p>Railroad                      _____</p> <p>No Permits                      _____</p> <p>Permits Req.                      _____</p>	<p>Signed and sealed PS&amp;E Package and all Certifications must be uploaded to LAPIT prior to executing this Checklist.</p> <p>Copies of permits and the Project Commitments Record Form must be incorporated into the PS&amp;E Package.</p>
2. Advertisement	23 USC 112  23 CFR 635.112  23 CFR 635.605  255.20 F.S. 255.0525 F.S.	<p>Local Agency may not advertise until Authorization has been received from FDOT. Advertisement must be a minimum of 21 days, or a minimum of 30 days for construction projects estimated to cost more than \$500,000. The project must be advertised in a manner that reaches all interested bidders and must reach a regional audience at a minimum. Addenda must receive FDOT concurrence prior to publication.</p>	<p>Review bid documents and verify minimum advertisement period and minimum regional publication.</p>	

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3. Bonding	255.05 F.S.  23 CFR 635.110(b),(f)  2 CFR 200.326	Florida statute requires all contractors performing a public work for a Local Agency execute a payment and performance bond with a surety insurer prior to commencing work. Bid bonds are allowed. Bonding requirements may not be used to limit competition per federal and state laws.	Review bid document for bonding requirement(s). Local Agency uploads executed bond with final contract package to LAPIT after contract award.	
4. Buy America	23 CFR 635.410  FDOT Standard Specification 6-5.2	Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page. If a Buy America waiver was approved, provide the Federal Register publication date.	Review bid document for inclusion of the specification and certification requirement.	
5. Certification of Current Capacity	14-22.006, F.A.C.  337.14(1) F.S.	Contractor must certify they have the financial capacity to complete the project. Include <a href="#">FDOT Form # 525-010-46</a> in the bid documents per Florida Administrative Code. <b>This form is CONFIDENTIAL. Retain in the project file. Do NOT upload to LAPIT.</b> Information provided is related to the bidder's capacity assigned as a result of their FDOT prequalification application, its confidentiality is governed by Chapter 337.14(1) F.S.	Review bid documents for inclusion of provision and certification.	
6. Change Orders	23 CFR 635.120  FDOT CPAM 7.3.11  FDOT Std Spec 4-3	Develop procedures outlining the conditions under which a change order or contract change is allowed and include in bid document. May use Section 7.3.11 of FDOT CPAM as part of procedure <u>or</u> include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision.	
7. Claims	23 CFR 635.124  FDOT Std Spec 5-12  FDOT CPAM 7.5	Develop procedures outlining the conditions under which a claim is allowed and include in bid document <u>or</u> include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision.	
8. Conflict of Interest	23 CFR 1.33  LAP Agreement-Section 14.f.	Include provision as required by Section 14.f. of the <a href="#">LAP Agreement</a> (FDOT Form No. 525-010-40). Provide notice of compliance in the bid documents and include in the final contract.	Review bid document and contract for inclusion of the provision.	
9. Contractor Purchased Equipment for State or Local Ownership	23 CFR 140 2 CFR 200.313 23 U.S.C. 302	Do not allow. Exceptional cases may be considered for FDOT approval and require a public interest finding.	Review bid document to ensure exclusion of provision.	

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10. Disadvantaged Business Enterprise (DBE)  Bid Opportunity	49 CFR 26 49 CFR 26.45 23 CFR 635.107 23 CFR 635.604  LAP Manual Chapter 14  FDOT Std Spec 7-24  FDOT Contract Compliance Manual  FDOT Std Spec 9-5.6	The Local Agency shall comply with FDOT's DBE Program Plan unless the Local Agency has a DBE Program Plan approved by the USDOT. FDOT currently has a race neutral program with a 10.65% goal. Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.  Verify contractors enter their bid opportunity information in the <a href="#">Equal Opportunity Compliance (EOC) System</a> within 3 business days of submission of the bid for all subcontractors who quoted bids for FHWA-assisted projects. Use FDOT contract number for reporting. Bid opportunity instructions to contractors are included in <a href="#">FDOT Form # 275-030-11</a> .  Use DBEs certified under the Florida Unified Certification Program <a href="#">DBE Directory</a> .	Review bid document for inclusion of DBE provision and bid opportunity instructions.  Verify bidder opportunity data collection in EOC or via paper forms prior to award concurrence per LAP Manual Chapter 14.4.2.	
11. E-Verify	448.095 F.S.  Florida Governor's Executive Order 11-116  FDOT SP0072900	E-verify language. Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision.	
12. Equal Employment Opportunity	23 CFR 230  DOT 1050.2A  FDOT SP0073100  LAP Agreement Section 14.a.	Legal Requirements and Responsibility to The Public – Title VI Assurance – DOT 1050.2, <a href="#">Appendices A and E</a> . Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of this provision.	
13. Equipment Rental Rates	2 CFR 200 Subpart E 23 CFR 635.106 48 CFR 31 23 CFR 635.120	Develop procedure based on 48 CFR 31 and include in bid document.	Review bid document for inclusion of the proper payment provision for rental equipment.	
14. FHWA Form 1273	23 CFR 633  FDOT SP0070101	Must physically incorporate in all contracts and subcontracts. May not be altered from the published version that can be obtained at: <a href="http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf">http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf</a> . Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review final contracts for inclusion of FHWA Form 1273.	

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15. Foreign Contractor and Supplier Restriction	49 CFR 30	Proposal may not limit project to domestic-owned contractors only.	Review bid document to ensure compliance.	
16. Incentive/ Disincentive Clauses	23 CFR 635.127(d,f) FDOT CPAM 1.2.7	Develop procedure based on 23 CFR 635.127 and include in bid document (if Local Agency elects to use Incentive/ Disincentive). May use Section 1.2.7 of FDOT CPAM as a guide in this development.	Review bid document to ensure procedure was followed, if Local Agency elects to use Incentive/ Disincentive.	
17. Indemnification and Insurance	LAP Agreement, Section 15	<p>Include indemnification provision as required by Section 15.c. of the <a href="#">LAP Agreement</a> (FDOT Form No. 525-010-40).</p> <p>Include provisions for insurance requirements as stated in the LAP Agreement Section 15.</p> <p>Provide notice of compliance in the bid documents and include in the final contract.</p>	Review bid document and contract to ensure inclusion of the provisions.	
18. Indian Preference on Federal-Aid Projects (Labor & Employment)	23 CFR 635.117(e)	If utilized, FDOT approval of provision complying with 23 CFR 635.117 is required.	Verify provisions meet federal requirements.	
19. Inspector General	LAP Agreement Section 17.o. 20.055(5) F.S.	The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes. “(5) It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section.”	Review bid document and contract for inclusion of provision.	
20. Liquidated Damages	23 CFR 635.127 23 CFR 635.604 FDOT Std Spec 8-10.2 CPAM 5.11.5(E) & 8.6.9	Use FDOT approved rates and include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page. Or the agency may develop rates based on 23 CFR 635.127 and include with FDOT approval. Include contract language informing the contractor when and how LDs are assessed.	Review bid document and contract for inclusion of provision.	
21. Lobbying Certification	49 CFR 20 23 CFR 635.112(g)	The Local Agency shall include certification in bid documents. Local Agency may use <a href="#">FDOT Form #375-030-33</a> and <a href="#">FDOT Form #375-030-34</a> . Executed certification must also be uploaded to LAPIT with final contract package.	Review bid document for inclusion of the provision and certifications.	

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22. Local/State Hiring Preference	23 CFR 635.117 255.0991 F.S.  LAP Agreement, Section 17.p.  23 CFR 635.112(d)	Do not allow. Examples of preference programs include: in-state or local business; location of contractor; limitations in purchasing of materials; use of disadvantaged, minority or small business enterprises; local economic development hiring practices or programs; targeted hiring practices or programs (e.g. homeless, welfare-to-work, veterans); or exclusionary business preferences not based on federal sanctions.  Local preference must not be applied in a tie-breaking scenario in the event of identical bids.	Review bid document to ensure exclusion of any local hiring preference.	
23. Method of Construction (or Method of Bidding)	23 CFR 635.104 23 CFR 635.114(a) 23 CFR Subpart F	The method of bidding shall be included in the project specifications. Local Agency shall certify that projects will be awarded to the lowest responsive responsible bidder or per the FDOT approved alternative contracting method identified.	Review bid document to verify compliant bidding process.	
24. Non-Collusion Provision	23 CFR 635.112(f)	The Local Agency shall include certification in bid documents. Local Agency may use <a href="#">FDOT Form #575-060-13</a> . Executed certification must also be uploaded to LAPIT with final contract package.	Review bid document for inclusion of the provision and certification.	
25. Off-site Storage and Staging Areas	50 CFR § 402; 23CFR § 774; 36 CFR § 800  FDOT Std Specs 7-1.4 and 7-1.8	Local Agency must ensure compliance of the Contractor's proposed staging/storage area with the Endangered Species Act, Section 4F and Section 106 of the Code of Federal Regulations. Required Sections 7-1.4 and 7-1.8 of FDOT's Division I Standard Specification are included in FDOT's Division 1 specification package for Local Agencies on the FDOT <a href="#">Specs on the Web</a> page.	Review the bid documents for inclusion of the applicable Sections of the Standard Specifications.	
26. On the Job Training	23 CFR 230  FDOT Std Spec 7-25	OJT is required on Federal-Aid Highway Program projects 275 days or more and \$2 million. Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision as applicable.	
27. Owner Force Account/ Cost-Effective Justification	23 CFR 635 Subpart B  255.20 F.S.	Owner Force Account contracting is not allowed without first submitting a finding of cost-effectiveness. This must be approved by the District LAP Administrator.	Bid package must not include language designating any portion of the work as owner force account.	
28. Patented/ Proprietary/Sole Sourced Materials	FDOT Design Manual 110.4.1  337.02 F.S.  Std Spec 6-1	Patented, proprietary or sole sourced products or processes may be used when approved in accordance with the FDOT Design Manual (FDM) 110.4.1.	Review bid document for inclusion or exclusion of proprietary products as applicable.	

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29. Prequalification Programs for Contractors	23 CFR 635.110  337.14 F.S. 255.20 F.S.  Chapter 14-22, F.A.C.  FDOT Spec 2-1	LAP Class A, B, & C projects: Include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT Specs on the Web page, requiring use of FDOT prequalified contractors. Prequalification and work class information is found here: <a href="https://www.fdot.gov/contracts/prequal-info/prequalified.shtm">https://www.fdot.gov/contracts/prequal-info/prequalified.shtm</a>  LAP Class D projects may use Local Agency or FDOT prequalified contractors. Local Agency must use consistent qualifications and application of standards.  FDOT prequalified contractor is not required on all LAP project classifications when the contract value is under \$250,000.	Review bid document for inclusion of FDOT pre-qualification and identification of major and/or minor work classes <u>OR</u> review bid document for Local Agency qualifications relevant to project scope.	
30. Prevailing Minimum Wage	23 USC 113  23 CFR 633A  FDOT SP0071600  FHWA 1273	Include latest Davis-Bacon wage table(s) in the contract and FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page. Current wage tables may be obtained at: <a href="http://www.fdot.gov/construction/wage.shtm">http://www.fdot.gov/construction/wage.shtm</a> or <a href="http://www.wdol.gov">http://www.wdol.gov</a> . Ensure compliance with FHWA 1273.	Review bid document for reference to wage rates and final contracts for the applicable wage rate table(s).	
31. Progress Payments/Estimates	23 CFR 635.122  FDOT Std Spec 9-5	Develop contract language to ensure that payments are based on work completed, this may include stockpiled materials or include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page. Language must include prompt payment provision to subcontractors (all tiers).	Review bid document for inclusion of the provision.	
32. Prohibition Against Convict Produced Materials	23 CFR 635.417  FDOT Std Spec 6-5.1	Develop contract language to prohibit the use of convict-produced materials or include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision.	
33. Public Agencies in Competition with the Private Sector	23 CFR 635.112(e)	Do not allow	Review bid document to ensure exclusion of the provision.	
34. Publicly-Owned Equipment	23 CFR 635.106	Do not allow. Exceptional cases may be considered for FDOT approval and require a public interest finding.	Review bid document for exclusion of the provision	
35. Standardized Changed Conditions Contract Clauses	23 CFR 635.109  FDOT Std Specs 4-3 and 5-12	Develop contract language to ensure that the requirements of 23 CFR 635.109 are met or include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.	Review bid document for inclusion of the provision.	
36. State (Florida or other) produced materials	23 CFR 635.409	Do not allow. Preference programs mandating materials purchasing requirements or restrictions are not allowed.	Review bid document for exclusion of state or locally produced materials preferences.	

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37. State/ Local Owned/ Furnished/ Designated Materials	23 CFR 635.407	Do not allow. Exceptional cases may be considered by FDOT and FHWA for approval and require a public interest finding. Local Agency tax savings programs are generally not allowed for federal projects.	Review bid document for exclusion of materials furnished by Local Agency	
38. Subcontracting	23 CFR 635.116 23 CFR 635.604(c) 23 CFR 635.112(g) FDOT Std Spec 8-1	FHWA 1273 requires the prime contractor to perform 30% of work on NHS projects, with the exception of design build and IDIQ contracts. FDOT requires the prime to perform 40% of work on the SHS per Std Spec 8-1. Develop contract language to meet the requirements for NHS and SHS projects or include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page. Local agencies may establish self-performance requirements on Class D projects.	Review bid document for inclusion of the provision that does not conflict with FHWA 1273 or Standard Specification 8-1	
39. Suspension and Debarment	23 CFR 630.112(4) CFR 635.112(g) 23 CFR parts 180 and 1200	The Local Agency shall include certification in bid documents. Local Agency may use <a href="#">FDOT Form # 375-030-32</a> .  Local Agency will need to verify status for all contractors and subcontractors utilizing the federal and state web applications: <a href="https://beta.sam.gov/">https://beta.sam.gov/</a> <a href="http://www.fdot.gov/construction/legal/NewSuspension.shtm">http://www.fdot.gov/construction/legal/NewSuspension.shtm</a>  The agency may use <a href="#">FDOT Form # 375-030-91</a> or use their own method (screenshots, etc.) for verifying that contractors and subcontractors are eligible for contract award.	Review bid document for inclusion of provision and form. Verify low bid contractor and subcontractor are not excluded from state or federal contract awards.	
40. Termination of Contract	23 CFR 635.125	Develop contract language for termination for cause, convenience, and legal remedies for default or breach and include in the bid document.	Review bid document for inclusion of the provision.	
41. Time Extensions	23 CFR 635.121 23 CFR 635.604 FDOT Std Spec 8-7.3.2	Develop contract language for how time extensions will be allowed or include FDOT's Division 1 specification package for Local Agencies in the bid document located on the FDOT <a href="#">Specs on the Web</a> page.  The sum of the duration of the initial Indefinite Delivery/Indefinite Quantity (ID/IQ) contract and any optional contract extensions shall not exceed five years.	Review bid document for inclusion of the provision.	

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42. Warranty Clauses	23 CFR 635.413	<p>Warranty provisions on the SHS must not conflict with FDOT Standard Specifications. General condition warranties for an entire project are not allowed on the NHS or SHS. Items of maintenance, warranty bonds, or maintenance bonds are <b>not</b> eligible for federal projects and shall not be participating costs. Transfer of product warranties is allowed.</p> <p>LAP Class D projects may use the local agency warranty provisions. Warranties should be for a reasonable period and not require routine maintenance by the contractor. It is recommended that warranties be specific to the quality of workmanship, materials, or other tasks or features of the project under the contractor's control.</p>	Review bid document for warranty clauses. Remove all general condition warranty clauses from PS&E Package on NHS.	

Local Agency: I hereby certify that the above mentioned LAP project construction contract documents contain the provisions set forth in this checklist.

\_\_\_\_\_

Signature

\_\_\_\_\_

Position Title

\_\_\_\_\_

Name (Printed)

\_\_\_\_\_

Date

District LAP Administrator/Designee: I hereby certify that the above mentioned LAP project construction contract documents contain the provisions set forth in this checklist.

\_\_\_\_\_

Signature

\_\_\_\_\_

Position Title

\_\_\_\_\_

Name (Printed)

\_\_\_\_\_

Date