



Consultants vs. Vendors

Classification:

CDOT classifies firms providing professional services as “consultants” (or “subconsultants”) and all other service providers as “vendors.” For CDOT contracting purposes, professional services are only those services governed by the Brooks Act, which include: Engineering, Architecture, Landscape Architecture, Land Surveying, and Industrial Hygiene.

“Program management, construction management, feasibility studies, preliminary engineering, design engineering, surveying, mapping, or other related services” (including professional engineering related services, or incidental services that may be performed by a professional engineer or individuals working under their direction) are considered professional services. Firms providing these services will be considered consultants or subconsultants. (23 C.F.R. 172.3)

Firms providing other types of services do not fall under this definition of professional services and should be classified as vendors. Vendors and personal services may be listed on professional service contracts only to the extent that the work is incidental to the professional service being performed under the terms of the Consultant Contract.

Work that is not incidental to a professional service and/or is easily severable from the professional services may not be performed under a Consultant Contract. These services should be selected under the procedures outlined in the State Procurement Code and should be performed under a Personal Services Contract.

Some firms provide both professional and personal services as part of their business operations. These firms will be classified based on the particular work being performed in the scope of services under each individual contract or task order.

Contact:

If you are uncertain whether you or a party you are contracting with should be classified as a (sub)consultant or a vendor, please contact Pehle Colletta in the Engineering Contracts Unit at (303) 757-9195 or by email at pehle.colletta@state.co.us for clarification.

Please contact Pat O’Neal in Procurement at (303) 757-9399 or by email at patricia.o'neal@state.co.us to discuss the procurement of personal services.

Requirements for Consultant Contracts - Documentation, Fees, and Estimates:

Consultants and Subconsultants:

- Consultants and subconsultants are subject to a rigorous audit process and must be prequalified and have a Master Pricing Agreement (MPA) in order to perform work on professional service contracts. This requires the completion of an annual FAR Part 31 compliant audit.
- Consultants and subconsultants must submit Project Cost Worksheets (PCWs) on Contracts and Task Orders. PCWs must use the rates established in the firm's most recent MPA.
- Consultants and subconsultants are entitled to fee, which is negotiated with the Prime prior to Contract award. Subconsultants' fee should be the same as the Prime. Subconsultants must submit PCWs in the same format as the Prime – "Cost Plus Fixed Fee" (CPFF) or "Specific Rate of Pay" (SROP), depending on the contract and type of project.
- Estimated total costs must be shown on the Prime's PCW. Subconsultant totals should be shown on the Prime's PCW in Section 3A Outside Services Rates (Subconsultants).

Vendors:

- Vendors on professional service contracts do not need to be prequalified or have an MPA.
- Rates for vendors should be "fair and reasonable" but are not subject to the same audit process as professional service consultants and subconsultants. Primes should follow relevant procurement rules to obtain sub-contracted vendor services.
- Vendors are not required to provide Project Cost Worksheets (PCWs) or any other estimate documents to CDOT as part of the contract documents.
- Vendors are not entitled to the consultant fee. Bids/cost estimates, if provided, generally should use either lump sum or fully-loaded rates.
- Vendors' total costs must be shown on the Prime's PCWs, and should be listed under Section 3B "Outside Services Rates (Vendors)."