

## ADVERTISE, BID AND AWARD OF CONSTRUCTION PROJECTS

### CHAPTER 7

CDOT is transitioning toward accepting all submittals, forms, Project Records and supporting documents in electronic format. During the transition period from paper to electronic medium, unless specifically stated, documents and forms listed in this Chapter will be accepted from the Local Agency in paper or electronic format, although the latter is preferred and may be required by the CDOT Engineering Region where the project is located. See Appendix B for Local Agency requirements for electronic records and electronic signature requirements.

The approved bid package (without cost estimate) is prepared by the Local Agency for advertisement. The contractors responding to the advertisement are required to submit sealed bids in competition with other contractors to win the right to construct a project.

Because the requirements for advertisement, bid and award are different for projects with Federal-aid Highway funds, other federal funds (such as Federal Recovery Funds), and for projects with only non-federal (state) funds, this Chapter is divided into two sections, as follows:

**Section 7.1 Projects with Federal Funds** (page 7–5)

**Section 7.2 Projects with Non-Federal (State) Funds** (page 7–18)

A summary of the requirements during Advertisement, Bid and Award is provided in Tables 7A, 7B and 7C for each funding source. Additional details for each requirement are provided in Sections 7.1 and 7.2.

This *Desk Reference* uses “CDOT Project Manager” to refer to the CDOT staff member responsible for providing assistance to the Local Agency. The CDOT Project Manager is also referred to as the CDOT Local Agency Coordinator.

<b>Table 7A - Advertisement Requirements</b>		w/Federal-aid Highway Funds	w/other federal funds - Recovery	w/ Non-federal (State) Funds
<b>Concurrence and Approval</b>				
1	Concurrence to Advertise from CDOT	x	x	x
2	Approval for Advertisement less than 3 weeks (from CDOT)	x	x	x
<b>Forms and Requirements for Advertisement Package<sup>1</sup></b>				
1	Form 604 - Statement of Residency for Bid Preference			x
2	Form 606 - Anti-Collusion Affidavit	x	x	x
3	Form 1413 - Bidders List-Use prior to July 1, 2022	x		
4	Form 1414 - Anticipated DBE Participation Plan	x		
5	DBE Project Special Provision - DBE Contract Goal	x		
6	Disadvantaged Business Enterprise (DBE) Requirements (Local Agency) Standard Special Provision-Use prior to July 1, 2022	x		
7	Disadvantaged Business Enterprise (DBE) Requirements Standard Special Provision-Use on projects on or after July 1, 2022	x		
8	OJT Standard Special Provision - OJT Training, or OJT Training - LA Projects Not Using LCPTracker for reporting - Use on projects not using LCPTracker prior to July 1, 2022	x		
9	Davis Bacon Wage Determination, Certified Payroll Requirements for Construction Projects (unless excluded- See Chapter 6)	x		
10	Form FHWA 1273 - Required Contract Provisions, Federal-Aid Construction Contracts	x		
11	Standard Special Provision – Required Contract Statements		x	
12	Revision of Section 103 - Colorado Resident Bid Preference			x
13	Revision of Section 106 - Buy America Requirements	x		
14	Revision of Section 106 - Buy America Requirements - Non-Federal Aid (unless project has Federal-aid Highway funds)		tbd	x
15	Revision of Section 109 - Prompt Payment (Local Agency) – v1 or v2 dependent on timing. V1) Use on projects not using B2GNow prior to July 1, 2022, or v2) Use on all local agency projects advertised on or after July 1, 2022	x	x	x
16	Bonding Requirements	x	x	x
17	List CDOT as additional insured-general & auto liability policies	x	x	x
18	EE0-1 Report statements	x	x	
19	Affirmative Action Requirements Equal Employment Opportunity Standard Special Provision	x	x	x

<sup>1</sup> The Local Agency should include other applicable [Standard Special Provisions](#) as required for a specific project.

<b>Table 7B - Submittals at Bid Opening and Immediately After</b>		Local Agency Projects		
		w/ Federal- aid Highway Funds	w/other federal funds - Recovery	w/ Non- Fed (State) Funds
<b>Submittals to the Local Agency by All Bidders at Bid Opening</b>				
1	Form 604 - Statement of Residency for Bid Preference			x
2	Form 606 - Anti-Collusion Affidavit	x	x	x
3	Form 1413 - Bidders List -Use on projects prior to July 1, 2022	x		
4	Form 1414 - Anticipated DBE Participation Plan	x		
5	Bid Schedule	x	x	x
<b>Forms provided by Local Agency to apparent Low Bidder</b>				
1	Form 605- Contractors Performance Capability Statement	x	x	x
2	Form 621 - Assignment of Antitrust Claims	x	x	x
3	Form 1415 - Commitment Confirmation, if DBE goals are greater than zero, or if the bidder has voluntarily made commitments	x		
4	Form 1416 - Good Faith Effort Report	x		
<b>Submittals by the apparent Low Bidder to the Local Agency by 4:30 pm on the 5th calendar day after the date of Bid Opening</b>				
1	Form 605 - Contractors Performance Capability Statement	x	x	x
2	Form 621 - Assignment of Antitrust Claims	x	x	x
3	Form 1415 - Commitment Confirmation, if DBE goals are greater than zero, or if the bidder has voluntarily made commitments (Need Form 1415 from each DBE listed on Form 1414. The bidder shall complete Section 1 and the DBE shall complete Section 2 of Form 1415.)	x		
4	Form 1416 - Good Faith Effort Report (Submit only if commitments do not meet the DBE goal.)	x		

<b>Table 7C - Submittals at Request for CDOT Award Concurrence</b>		Local Agency Projects		
		w/ Federal-aid Highway Funds	w/other federal funds - Recovery	w/ Non-Fed (State) Funds
<b>Submittals by the Local Agency to CDOT Staff (Award Officer in Engineering Contract Services, CDOT Project Manager, CDOT_hq_dbeforams@state.co.us, and CRBRC DBE Program Manager)<sup>2</sup></b>				
1	Letter documenting review of bids, budget status of the project and the means of resolving any budget deficits, specify which bidder it is recommending for award of the project, and review of the project schedule	x	x	x
2	Form 604- Statement of Residency for Bid Preference			x
3	Form 605 - Contractors Performance Capability Statement	x	x	x
4	Form 606 - Anti-Collusion Affidavit	x	x	x
5	Form 621 - Assignment of Antitrust Claims	x	x	x
6	Form 1413 - Bidders List -Use on project prior to July 1, 2022	x		
7	Form 1414 - Anticipated DBE Participation Plan (from all bidders)	x		
8	Form 1415 - Commitment Confirmation	x		
9	Form 1416 - Good Faith Effort Report (Submit only if commitments do not meet the DBE goal.)	x		
10	Financial Statement	x	x	x
11	Bid Tabulations (for projects with Federal Funds, also list the percentage of DBE commitments secured by the bidder)	x	x	x
12	Project Special Provision identifying the DBE goal	x		

<sup>2</sup> Contact your Region representative for specific instructions. It may be permissible to package submittals in one transmittal and copy all. For projects with non-federal (state) funds, submit information to the CDOT Award Officer and the CDOT Project Manager only.

## Section 7.1 Projects with Federal Funds

If your project contains any federal funds, follow the guidance in Section 7.1 Projects with Federal Funds. In this section, Federal-aid Highway project requirements are distinguished from project requirements for other federal funds, such as American Rescue Plan Act/State and Local Fiscal Recovery Funds (ARPA/SLFRF). For simplicity, ARPA/SLFRF are referred to as “Federal Recovery Funds”.

For projects with multiple sources of federal funds, the most stringent requirement should apply.

### 7.1.1 Obtain Approval for Advertisement Period of Less Than Three Weeks

All federal projects: For program consistency, on projects with federal funds, the minimum advertisement period is three weeks (15 business days). A shorter advertisement period must be authorized by CDOT. The Local Agency shall contact the CDOT Project Manager for approval.

### 7.1.2 Advertise for Bids – Projects with Federal Funds

All federal projects: The Local Agency shall include the following in the bidding and advertising documents package on all projects with federal funds (see Appendix A for copies of the forms):

- CDOT Form 606 – Anti-Collusion Affidavit
- Revision of Section 109 – Prompt Payment (Local Agency) – Use version (v) 1 or v2 depending on timing of advertisement:
  - v1) Use on projects not using B2GNow prior to July 1, 2022, or
  - v2) Use on all local agency projects advertised on or after July 1, 2022
- Affirmative Action Requirements Equal Employment Opportunity Standard Special Provision
- Include project-specific [Standard Special Provisions](#), as required
- The advertisement for bids should include the following language:

"An EEO-1 Report must be submitted to the Joint Reporting Committee if the contractor and subcontractors meet the eligibility requirements (29 CFR 1602.7). For additional information regarding these federal requirements, please refer to: <http://www.eeoc.gov/employers/eo1survey/faq.cfm>."

Federal-aid Highway projects: In addition to the above list, the following items must be included in the bidding and advertising documents package on Federal-aid Highway projects:

- DBE Requirements:
  - CDOT Form 1413 – Bidders List – Use on projects advertised prior to July 1, 2022
  - CDOT Form 1414 – Anticipated DBE Participation Plan (include on projects with a zero percent DBE goal)
  - DBE Project Special Provision – Disadvantaged Business Enterprise (DBE) Contract Goal
  - DBE Standard Special Provisions:
    - Disadvantaged Business Enterprise (DBE) Requirements (Local Agency) – Use on projects advertised prior to July 1, 2022
    - Disadvantaged Business Enterprise (DBE) Requirements – Use on projects advertised on or after July 1, 2022
- Davis-Bacon Wage Determination, and Certified Payroll Requirements for Construction Projects
- OJT Standard Special Provision – On the Job Training, or On the Job Training – Local Agency Projects Not Using LCPtracker for Reporting – Use on projects not using LCPtracker and advertised prior to July 1, 2022
- Form FHWA 1273 - Required Contract Provisions, Federal-Aid Construction Contracts (A reference to this form is acceptable in the bidding and advertisement package.)
- The advertisement for bids shall include the following language:

"The [insert local agency name], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award."

Federal Recovery Fund projects: In addition to the requirements on all federal projects, the advertisement for bids on Federal Recovery Fund projects shall comply with the following (which are contained in the Standard Special Provision – Required Contract Statements):

- The IGA Exhibit containing the *Assurances of Compliance with Civil Rights Requirements* which requires the Local Agency to incorporate the following language in every Agreement subject to Title VI and its regulations between the Local Agency and the Local Agency's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

*"The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement."*

- The IGA Exhibit containing references to *Title 2 CFR 200.322, Domestic preferences for procurements*, which requires adherence to the requirement in all subawards including all Agreements and purchase orders for work or products under the award, as follows:

*"The <name of Local Agency> has indicated a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products)."*

On all federal projects, the Local Agency bonding requirements or procedures may be used if approved by the CDOT Engineering Contract Services. If Local Agency bonding requirements have not been approved, minimum bonding requirements include a bid

guarantee, performance bond and payment bond in accordance with *Title 2 CFR 200.326, Bonding requirements*.

The specifications shall provide for the Local Agency's Contractor to name CDOT as an "additional insured" on its general liability and automobile liability policies.

Specifications or bidding procedures cannot provide preference to local contractors.

### **7.1.3 Concurrence to Advertise – Projects with Federal Funds**

All federal projects: The bid package is sent in electronic format to the CDOT Project Manager for coordination and review. The Project Manager will forward a copy to the Resident Engineer if requested. Upon approval, the Project Manager submits the Concurrence to Advertise in electronic format to the Local Agency.

The Local Agency must receive the concurrence prior to advertising the project. The CDOT Project Manager will send copies to the following CDOT personnel or offices:

- Resident Engineer
- Region Project Engineer
- Region Materials Engineer
- Region Civil Rights Manager
- Office of Financial Management and Budget
- Business Programs Office
- Center for Accounting, Projects and Grants
- CDOT's Electronic Data Management System (ProjectWise)

Note the following public notice (advertisement) requirements:

1. The advertisement period will be for a minimum of three weeks (15 business days).
2. The advertisement can either be published in a newspaper of general circulation, the official county paper where the work is being done, or electronically on a bidding website of widespread knowledge to the contractors (as approved by CDOT). If the advertisement is by official county paper, in the instances where a



project spans several counties, the advertisement should be placed in the official newspaper of each county. It is highly recommended that advertisement be made once in a newspaper of statewide circulation. CDOT uses the *Daily Journal* and occasionally the *Denver Post* and *La Voz*.

3. If the Local Agency has established a project number different from the State's, the advertisement and bidding documents should show both project numbers.
4. The advertisement must show the Disadvantaged Business Enterprise (DBE) goal that has been established for the project.
5. Projects on CDOT right of way require CDOT contractor prequalification. For roadway projects not within CDOT right of way, prequalification is recommended. The advertisement shall state prequalification requirements. The CDOT prequalified contractor list is available at the following link:  
<https://www.codot.gov/business/bidding/Prequalified%20Contractors>

The Local Agency may use the CDOT proposal package and contract that include the above information. A copy of this information may be obtained from the CDOT Project Manager.

#### **7.1.4 Distribute “Advertisement Set” of Plans and Specifications**

All federal projects: The Local Agency must provide the plans and specifications to the person responsible for showing the project. For Local Agency projects that include the construction of a major or minor structure, one set of plans and specifications shall be forwarded to Staff Bridge in electronic format as per the [Bridge Design Manual](#), Policies and Procedures, Section J.2.

#### **7.1.5 Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement**

All federal projects: To ensure competitive bidding, the person responsible for showing the project must provide all bidders with an equal opportunity to view the proposed construction site and should conduct each of the project showings in a similar manner. It is important to provide each prospective bidder with identical information. This helps to avoid favoring one company over the other. It is preferable that the same person conducts each of the project showings; however, if that is not practical, ensure that identical information is communicated to each attendee.

### 7.1.6 Open Bids – Projects with Federal Funds

All federal projects: Bids will be opened in accordance with Section 103 of the *CDOT Standard Specifications*.

Immediately after bid opening, the Local Agency shall provide to the apparent low bidder the following CDOT forms (see Appendix A). The apparent low bidder must submit these completed forms to the Local Agency by 4:30 p.m. on the 5<sup>th</sup> calendar day after the date of bid opening.

#### Federal-aid Highway Fund Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims
- Form 1415 – Commitment Confirmation, if DBE goals are greater than zero, or if the bidder has voluntarily made commitments
- Form 1416 – Good Faith Effort Report, if DBE goals are not met

Note: A Form 1415 shall be obtained from each DBE listed on Form 1414. The bidder shall complete Section 1 and the DBE shall complete Section 2 of Form 1415. The apparent low responsible bidder shall not Terminate, Reduce, or Substitute a Commitment listed on Form 1414 without following the procedures outlined in the *Standard Special Provision Disadvantaged Business Enterprise (DBE) Requirements*.

#### Federal Recovery Fund Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims

### **7.1.7 Process Bids for Compliance – Projects with Federal Funds**

#### **Submittals to Local Agency by All Bidders**

The CDOT forms listed below must be submitted by all bidders with their bids. If these forms are not submitted, the bid is considered nonresponsive and shall be rejected.

##### Federal-aid Highway Projects:

- Form 606 – Anti-Collusion Affidavit
- Form 1413 – Bidders List – Use on projects advertised prior to July 1, 2022
- Form 1414 – Anticipated DBE Participation plan (if DBE contract goal is greater than zero)

##### Federal Recovery Fund Projects:

- Form 606 – Anti-Collusion Affidavit

#### **Submittals to the Local Agency by Apparent Low Bidder**

The apparent low bidder must submit the CDOT forms listed below by 4:30 p.m. on the 5<sup>th</sup> calendar day following bid opening.

##### Federal-aid Highway Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims
- If a DBE goal greater than zero has been set for the contract or if the bidder has voluntarily made commitments, the apparent low bidder must submit:
  - Form 1415 – Commitment Confirmation
  - Form 1416 – Good Faith Effort Report, only if commitments do not meet contract goal

Note: If a DBE goal greater than zero has been set for the contract, the award is contingent upon approval of the Contractor's DBE participation plan (or good faith effort) by the CDOT Civil Rights and Business Resource Center (CRBRC).

Federal Recovery Fund Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims

**Submit Required Documentation for CDOT Award Concurrence**

All federal projects: The Local Agency must review bids for reasonable conformance with estimate and unbalancing prior to award. The Local Agency must obtain CDOT concurrence before the project can be awarded. The Local Agency's request for concurrence letter must document its review of the bids, address the budget status of the project and the means of resolving any budget deficits, specify which bidder it is recommending for award of the project, and include civil rights documentation. The letter must also include a review of the project schedule which lists the IGA Expiration Date, the construction performance period end date, and an evaluation whether the time frame of the construction project can be accomplished within the IGA period.

The Local Agency must send the bid review letter, the construction timeline evaluation, and the following documents in electronic format to the CDOT Project Manager who will review the information and forward it to Engineering Contract Services. (See Appendix B for an example award letter and construction timeline evaluation.)

Federal-aid Highway Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 606 – Anti-Collusion Affidavit
- Form 621 – Assignment of Antitrust Claims
- Project Special Provision identifying the DBE goal
- Form 1413 – Bidders List – Use on projects prior to July 1, 2022
- Form 1414 – Anticipated DBE Participation Plan (from all bidders)
- Form 1415 – Commitment Confirmation
- Form 1416 – Good Faith Effort Report (if goal is not met)
- Financial Statement
- Bid Tabulation(s)

Federal Recovery Fund Projects:

- Form 605 – Contractors Performance Capability Statement
- Form 606 – Anti-Collusion Affidavit
- Form 621 – Assignment of Antitrust Claims
- Financial Statement
- Bid Tabulation(s)

**Documentation Review by CDOT CRBRC prior to Award**

Federal-aid Highway Projects: CDOT Engineering Contract Services will forward to CRBRC all civil rights documents submitted by the Local Agency with the request for concurrence to award. If the apparent low bidder has demonstrated Good Faith Efforts to meet the Contract Goal, CRBRC will issue a determination to Engineering Contract Services. CDOT may concur with awarding of the contract only if the apparent low bidder demonstrates (i) sufficient commitments, or (ii) good faith efforts to meet the established DBE contract goal. The CRBRC review will include:

- **Review of Commitment Submittals**  
CRBRC will review Form 1414 – Anticipated DBE Participation Plan, and each Form 1415 – Confirmation Commitment, submitted by the apparent low bidder to the Local Agency to ensure that the commitment is valid and has been properly calculated. CDOT may investigate or request additional information from the Local Agency in order to confirm the accuracy of a commitment. The CRBRC will issue a determination of the good faith efforts of the Contractor within two weeks of receiving all fully completed DBE documentation unless the total eligible DBE participation does not meet the contract goal. If the total estimated eligible participation of the DBE commitments does not meet the contract goal, CDOT will request a Form 1416 – Good Faith Effort Report from the apparent bidder and the CRBRC will conduct a review of the good faith efforts made by the firm to meet the DBE contract goal.
- **Review of Good Faith Effort**  
If the total eligible participation of Form 1414 and all supporting Form 1415s does not meet the contract goal, CDOT will review the Form 1416 – Good Faith Effort Report and all supporting documentation submitted by the apparent low bidder to

the Local Agency in order to determine whether good faith efforts to obtain DBE participation have been demonstrated. CDOT will use *Title 49 CFR 26, Appendix A* as a guide for determining whether good faith efforts have been made to meet the contract goal. It is not considered a good faith effort for a bidder to commit a DBE firm to the performance of work for which it is not DBE certified unless the bidder can establish a reasonable basis for its actions. CDOT may consider and approve DBE commitments made after bid submission only if the bidder demonstrates that (i) good faith efforts were made prior to submission of the bid, and (ii) there is a reasonable justification for not obtaining commitments prior to bid submission.

If the CRBRC determines that the bidder did not make good faith efforts, the bidder is entitled to administrative reconsideration with CDOT's Chief Engineer or his/her designee. The process for reconsideration is set forth in the *CDOT Good Faith Effort Administrative Reconsideration Process*, which is an Appendix J to the DBE Program Manual found at:

<https://www.codot.gov/business/civilrights/smallbusiness/dbe/dbe-program-manual> .

A copy of the *CDOT Good Faith Effort Administrative Reconsideration Process* will be included in the written notice from CDOT. If the Chief Engineer determines that a good faith effort to achieve the contract goal was not demonstrated, he or she will issue a written notice of the finding and direct the Local Agency to work with the next low bidder.

- Approval of DBE Participation Plan

On projects advertised prior to July 1, 2022, if CDOT finds that the apparent low bidder has met the contract goal or made good faith efforts to do so, the CRBRC will issue CDOT Form 1417 – DBE Participation Report documenting the approved DBE commitments and provide a copy to Engineering Contract Services and the CDOT Project Manager. On projects advertised on or after July 1, 2022, CDOT will issue a Form 1417 or provide a Utilization Plan in B2GNow documenting the approved commitments on the contract.

### **7.1.8 Concurrence from CDOT to Award – Projects with Federal Funds**

All federal projects: The Local Agency will make the final decision on award; however, Federal participation in such award will require coordination with and concurrence of CDOT. The Local Agency shall document all decisions concerning bidding and award.

Engineering Contract Services will issue a letter to the Local Agency of concurrence or non-concurrence in the award of the project when the Local Agency has complied with the requirements in 7.1.7 for projects with federal funding. Engineering Contract Services will send copies in electronic format to the following CDOT personnel and file a copy with the Inter-Governmental Agreement in CDOT's OnBase web tool:

- CDOT Project Manager
- Civil Rights and Business Resource Center (CRBRC)
- Center for Accounting, Projects and Grants

ProjectWise Explorer/Project Share is the repository for project documents during the project. The CDOT Project Manager will provide ProjectWise Explorer/Project Share access to the Local Agency. The Local Agency is responsible for filing submittals, forms, Project Records and supporting documents in ProjectWise Explorer/Project Share on an ongoing basis or as directed by the CDOT Project Manager.

### **7.1.9 Approve Rejection of Low Bidder – Projects with Federal Funds**

All federal projects: With CDOT concurrence, the Local Agency may reject the low bidder. The Local Agency must obtain CDOT concurrence prior to issuing a rejection notice to a bidder.

The Local Agency request for concurrence to reject must include the following information:

- A copy of the bid solicitation and bid documents
- A cover letter identifying the project and pertinent background supported by written justification for the Local Agency's determination to reject the bid proposal and/or bidder. The letter must document the reason for the determination, and whether the bidder was non-responsive or non-responsible.

The Local Agency request for concurrence to reject should be sent to the CDOT Project Manager who will forward it to CDOT Engineering Contract Services for resolution. It is recommended the Local Agency seek legal counsel prior to requesting concurrence from CDOT.

#### **7.1.10 Award Contract – Projects with Federal Funds**

All federal projects: Following the concurrence of the CDOT Award Officer in Engineering Contract Services, the Local Agency sends a letter to the Contractor issuing the Notice of Award and the invitation to the Preconstruction Conference. Electronic copies are sent to the CDOT Project Manager and Resident Engineer.

Once the Local Agency receives the concurrence letter of award from Engineering Contract Services, the Local Agency shall draft a contract for the project work. If the Local Agency used the *CDOT Standard Specifications for Road and Bridge Construction*, performance and payment bonds should also be obtained from the successful bidder by the Local Agency. Each bond shall be in a penal sum equal to the nearest integral one hundred dollars in excess of the sum of the original bid items plus all force account items specified by an asterisk in the project special provisions to be included in the payment and performance bonds. In addition, the successful bidder shall provide a certificate of insurance indicating coverage in the types and limits described in subsection 107.15 of the Standard Specifications.

If the project has Federal-aid Highway funding, the contract must include Form FHWA 1273 - Required Contract Provisions, Federal-Aid Construction Contracts.

The Contract shall be signed and returned by the successful bidder together with the contract bonds and insurance certification (if using CDOT specifications). The Contract will not be considered effective until it has been fully executed by all of the parties to the Contract. An executed original Contract should be retained by the Local Agency and another executed original should be provided to the Contractor. An electronic copy shall also be sent to CDOT, usually the Project Manager or Resident Engineer and a copy placed in ProjectWise Explorer/Project Share.



## **Notify Office of Federal Contract Compliance Programs of Award**

All federal projects: For projects with federal funds, in accordance with *Title 41 CFR 60-4.2*, the prime contractor and all subcontractors are required to give written notice to the Office of Federal Contract Compliance Programs within 10 working days of award of a construction contract or subcontract in excess of \$10,000. Additional information is provided at the following link: <https://www.dol.gov/agencies/ofccp/contract-award-notifications>.

### **7.1.11 Provide “Award” and “Record” Sets of Plans and Specifications – Projects with Federal Funds**

All federal projects: The Local Agency provides the award sets of plans and specifications in electronic format to the CDOT Project Manager for distribution. The distribution within CDOT is as follows:

- Region Program Engineer/Finals Engineer
- Region Project Files
- Project Manager
- Specialty Units

The Local Agency shall also place into ProjectWise Explorer/Project Share an 11” x 17” record set electronically sealed by a Colorado Registered Professional Engineer within 45 days of award. The CDOT Project Manager will move the original record set to ProjectWise Explorer and ensure the record set is copied, smart scanned and made ISO compliant before placing the second copy in ProjectWise Explorer.

### **Finalize Project Construction Administration Checklist (CDOT Form 1243)**

All federal projects: If the Local Agency Contract Administration Checklist is revised, signed copies shall be distributed as shown on the checklist.

## **Section 7.2 Projects with Non-Federal (State) Funds**

If your project contains only non-federal (state) funds and match, follow the guidance in Section 7.2 Projects with Non-Federal (State) Funds.

### **7.2.1 Obtain Approval for Advertisement Period of Less Than Three Weeks**

Two weeks (10 business days) is the minimum advertisement period required by State statute. However, for program consistency, the minimum advertisement period on Local Agency projects is three weeks (15 business days). A shorter advertisement period must be authorized by CDOT. The Local Agency shall contact the CDOT Project Manager for approval.

### **7.2.2 Advertise for Bids – Projects with Non-Federal (State) Funds**

On projects containing state or other non-federal funds and local match, the Local Agency shall include the following in the bidding and advertising documents package (see Appendix A for copies of the forms):

- CDOT Form 604 – Statement of Residency for Bid Preference
- CDOT Form 606 – Anti-Collusion Affidavit
- Revision of Section 103 – Colorado Resident Bid Preference
- Revision of Section 106 – Buy America Requirements – Non-Federal Aid
- Revision of Section 109 – Prompt Payment (Local Agency) – Use version (v) 1 or v2 depending on timing of advertisement:
  - v1) Use on projects not using B2GNow prior to July 1, 2022, or
  - v2) Use on all local agency projects advertised on or after July 1, 2022
- Affirmative Action Requirements Equal Employment Opportunity Standard Special Provision
- Include other project specific [Standard Special Provisions](#), as required

The Local Agency bonding requirements or procedures may be used if approved by CDOT Engineering Contract Services.

The specifications shall provide for the Local Agency's Contractor to name CDOT as an "additional insured" on its general liability and automobile liability policies.

### 7.2.3 Concurrence to Advertise – Projects with Non-Federal (State) Funds

The bid package is sent in electronic format to the CDOT Project Manager for coordination and review. The Project Manager will forward a copy to the Resident Engineer if requested. Upon approval, the Project Manager submits the Concurrence to Advertise in electronic format to the Local Agency.

The Local Agency must receive the concurrence prior to advertising the project. The CDOT Project Manager will send copies to the following CDOT personnel/offices:

- Resident Engineer
- Region Project Engineer
- Region Materials Engineer
- Region Civil Rights Manager
- Office of Financial Management and Budget
- Business Programs Office
- Center for Accounting, Projects and Grants
- CDOT's Electronic Data Management System (ProjectWise)

Note the following public notice (advertisement) requirements:

1. The advertisement period will be for a minimum of three weeks (15 business days).
2. The advertisement can either be published in a newspaper of general circulation, the official county paper where the work is being done, or electronically on a bidding website of widespread knowledge to the contractors (as approved by CDOT). If the advertisement is by official county paper, in the instances where a project spans several counties, the advertisement should be placed in the official newspaper of each county. It is highly recommended that advertisement be made once in a newspaper of statewide circulation. CDOT uses the *Daily Journal* and occasionally the *Denver Post* and *La Voz*.
3. If the Local Agency has established a project number different from the State's, the advertisement and bidding documents should show both project numbers.

4. Projects on CDOT right of way require CDOT contractor prequalification. For roadway projects not within CDOT right of way, prequalification is recommended. The advertisement shall state prequalification requirements. The CDOT prequalified contractor list is available at <https://www.codot.gov/business/bidding/Prequalified%20Contractors>

The Local Agency may use the CDOT proposal package and contract that include the above information. A copy of this information may be obtained from the Project Manager.

#### **7.2.4 Distribute “Advertisement Set” of Plans and Specifications**

The Local Agency must provide the plans and specifications to the person responsible for showing the project. For Local Agency projects that include the construction of a major or minor structure, one set of plans and specifications shall be forwarded to Staff Bridge in electronic format as per the [Bridge Design Manual](#), Policies and Procedures, Section J.2.

#### **7.2.5 Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement**

To ensure competitive bidding, the person responsible for showing the project must provide all bidders with an equal opportunity to view the proposed construction site and should conduct each of the project showings in a similar manner. It is important to provide each prospective bidder with identical information. This helps to avoid favoring one company over the other. It is preferable that the same person conducts each of the project showings; however, if that is not practical, ensure that identical information is communicated to each attendee.

#### **7.2.6 Open Bids – Projects with Non-Federal (State) Funds**

Bids will be opened in accordance with Section 103 of the *CDOT Standard Specifications*.

Immediately after bid opening, the Local Agency shall provide to the apparent low bidder the following CDOT forms (see Appendix A):

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims

The apparent low bidder must submit these completed forms to the Local Agency by 4:30 pm on the 5<sup>th</sup> calendar day after the date of bid opening.

With CDOT concurrence, the Local Agency may reject any or all bids depending upon a number of factors.

### **7.2.7 Process Bids for Compliance – Projects with Non-Federal (State) Funds**

#### **Submittals to Local Agency by All Bidders**

The following CDOT forms must be submitted by all bidders with their bids:

- Form 604 – Statement of Residency for Bid Preference
- Form 606 – Anti-Collusion Affidavit

If these forms are not submitted, the bid is considered nonresponsive and shall be rejected.

#### **Submittals to the Local Agency by Apparent Low Bidder**

The apparent low bidder must submit the following CDOT forms:

- Form 605 – Contractors Performance Capability Statement
- Form 621 – Assignment of Antitrust Claims

The apparent low bidder must submit these completed forms to the Local Agency by 4:30 pm on the 5<sup>th</sup> calendar day after the date of bid opening.

**Submit Required Documentation for CDOT Award Concurrence**

The Local Agency must review bids for reasonable conformance with estimate and unbalancing prior to award. The Local Agency must obtain CDOT concurrence before the project can be awarded. The Local Agency 's request for concurrence letter must document its review of the bids, address the budget status of the project and the means of resolving any budget deficits, and specify which bidder it is recommending for award of the project. The letter must also include a review of the project schedule which lists the IGA Expiration Date and an evaluation whether the time frame of the construction project can be accomplished within the IGA period.

The Local Agency must send the bid review letter, the construction timeline evaluation, and the following documents in electronic format to the CDOT Project Manager who will review the information and forward to Engineering Contract Services (See Appendix B for an example award letter and construction timeline evaluation.):

- Form 604 – Statement of Residency for Bid Preference
- Form 605 – Contractors Performance Capability Statement
- Form 606 – Anti-Collusion Affidavit
- Form 621 – Assignment of Antitrust Claims
- Financial Statement
- Bid Tabulations

**7.2.8 Concurrence from CDOT to Award – Projects with Non-Federal (State) Funds**

The Local Agency will make the final decision on award; however, State participation in such award will require coordination with and concurrence of CDOT. The Local Agency shall document all decisions concerning bidding and award.

Engineering Contract Services will issue a letter to the Local Agency of concurrence or non-concurrence in the award of the project when the Local Agency has complied with the requirements in 7.2.7 for projects with state and non-federal match funding.

Engineering Contract Services will send copies in electronic format to the following CDOT personnel and file a copy with the Inter-Governmental Agreement in CDOT's OnBase web tool:

- CDOT Project Manager
- Civil Rights and Business Resource Center (CRBRC)
- Center for Accounting, Projects and Grants

ProjectWise Explorer/Project Share is the repository for project documents during the project. The CDOT Project Manager will provide ProjectWise Explorer/Project Share access to the Local Agency. The Local Agency is responsible for filing submittals, forms, Project Records and supporting documents in ProjectWise Explorer/Project Share on an ongoing basis or as directed by the CDOT Project Manager.

### **7.2.9 Approve Rejection of Low Bidder – Projects with Non-Federal (State) Funds**

With CDOT concurrence, the Local Agency may reject the low bidder. The Local Agency must obtain CDOT concurrence prior to issuing a rejection notice to a bidder.

The Local Agency request for Concurrence to Reject must include the following information:

- A copy of the bid solicitation and bid documents
- A cover letter identifying the project and pertinent background supported by written justification for the Local Agency's determination to reject the bid proposal and/or bidder. The letter must document the reason for the determination, and whether the bidder was non-responsive or non-responsible.

The Local Agency request for Concurrence to Reject should be sent to the CDOT Project Manager who will forward it to Engineering Contract Services for resolution. It is recommended the Local Agency seek legal counsel prior to requesting concurrence from CDOT.

### **7.2.10 Award Contract – Projects with Non-Federal (State) Funds**

Following the concurrence of the CDOT Award Officer in Engineering Contract Services, the Local Agency sends a letter to the Contractor issuing the Notice of Award and the invitation to the Preconstruction Conference. Electronic copies are sent to the CDOT Project Manager and Resident Engineer.

Once the Local Agency receives the concurrence letter of award from Engineering Contract Services, the Local Agency shall draft a contract for the project work. If the Local Agency used the CDOT *Standard Specifications for Road and Bridge Construction*, performance and payment bonds should also be obtained from the successful bidder by the Local Agency. Each bond shall be in a penal sum equal to the nearest integral one hundred dollars in excess of the sum of the original bid items plus all force account items specified by an asterisk in the project special provisions to be included in the payment and performance bonds. In addition, the successful bidder shall provide a certificate of insurance indicating coverage in the types and limits described in subsection 107.15 of the Standard Specifications.

The Contract shall be signed and returned by the successful bidder together with the contract bonds and insurance certification (if using CDOT specifications). The Contract will not be considered effective until it has been fully executed by all of the parties to the Contract.

An executed original Contract should be retained by the Local Agency and another executed original should be provided to the Contractor. An electronic copy shall also be sent to CDOT, usually the Project Manager or Resident Engineer and a copy placed in ProjectWise Explorer/Project Share.



### **7.2.11 Provide “Award” and “Record” Sets of Plans and Specifications – Projects with Non-Federal (State) Funds**

The Local Agency provides the award sets of plans and specifications in electronic format to the CDOT Project Manager for distribution. The distribution within CDOT is as follows:

- Region Program Engineer/Finals Engineer
- Region Project Files
- Project Manager
- Specialty Units

The Local Agency shall also place into ProjectWise Explorer/Project Share an 11” x 17” record set electronically sealed by a Colorado Registered Professional Engineer within 45 days of award. The CDOT Project Manager will move the original record set to ProjectWise Explorer and ensure the record set is copied, smart scanned and made ISO compliant before placing the second copy in ProjectWise Explorer.

### **Finalize Project Construction Administration Checklist (CDOT Form 1243)**

If the Local Agency Contract Administration Checklist (Form 1243) is revised, signed copies shall be distributed as shown on the checklist.

## **7.3 Roles and Responsibilities on Both Federal and Non-Federal (State) Projects (unless specifically stated otherwise)**

- **Local Agency**
  - Prior to advertisement, prepare bidding documents and seek all appropriate approvals including, but not limited to, the following:
    1. Seek approval from the CDOT Project Manager for an advertisement period proposed to be less than three weeks (15 business days). (Approval must be received prior to initiating the advertisement.)
    2. Verify that the bidding and advertising package includes the correct CDOT and/or FHWA forms, Project Special and Standard Special

3. Provisions, most recent Wage Determination (if applicable), and required civil rights/EEO language and notices. Verify that the documents clearly state the forms that the bidder must submit with their bid.
  4. Determine bonding requirements and seek approval from CDOT Engineering Contract Services, if required.
  5. Verify the specifications provide for the Contractor to name CDOT as an additional insured in accordance with the Inter-Governmental Agreement limits on general liability and automobile liability policies.
  6. On federally funded projects, verify specifications or bidding procedures do not provide preferences to local contractors.
  7. If the project is located within CDOT right of way, verify the project advertisement states the Contractor is required to be prequalified.
  8. Coordinate final review of the bid package with the CDOT Project Manager.
  9. Verify the CDOT Project Manager has issued a written Concurrence to Advertise.
  10. Forward the final set of plans and specifications to the person responsible for showing the project.
  11. If the project includes the construction of a major or minor structure, forward one set of plans and specifications to CDOT Staff Bridge
- During advertisement:
    1. Comply with public notice advertisement requirements outlined in this *Desk Reference*.
    2. In accordance with procedures outlined in the bidding documents, show the project, respond to questions regarding the project, and prepare PS&E revisions under advertisement, if necessary.
  - Open and process bids for compliance:
    1. Open bids in accordance with Section 103 of the CDOT Standard Specifications. Review bids for reasonable conformance with the estimate and unbalancing prior to award.
    2. Furnish forms listed in this *Desk Reference* to the apparent low bidder and collect the completed forms within the time frames specified in this *Desk Reference*.

3. With CDOT concurrence, reject any or all bids and re-advertise the project.
4. Collect forms from the apparent low bidder and, if the project has Federal-aid Highway funded, submit this information to the Civil Rights and Business Resource Center.
5. Prepare the request (and supporting documents) for Concurrence to Award and send to the CDOT Award Officer.
6. After receipt of CDOT Concurrence to Award, issue the Notice of Award to the successful bidder.
7. Prepare and enter into a contract for the project work. Collect performance and payment bonds from the successful bidder and certificates of insurance.
8. Send a copy of the signed contract to CDOT.
9. Provide award and record sets of plans and specifications to the CDOT Project Manager.
10. File documents in ProjectWise Explorer/Project Share as directed by the CDOT Project Manager.

- **Bidders**

- Comply with requirements in the bidding and advertising package.
- Submit required forms with the bid.
  
- Submit other required forms in the time frame specified in the bid package.
- Sign the contract with the Local Agency.

- **CDOT**

- Project Manager/Local Agency Coordinator
  1. For projects with Federal-aid Highway funds, submit documents necessary to obtain federal authorization.
  2. Review bidding and advertising documents for compliance with federal and/or state requirements.
  3. Issue Concurrence to Advertise the project for construction.
- Awards Officer in Engineering Contract Services
  1. Review documents submitted by the Local Agency.

2. Issue a letter of concurrence or non-concurrence in the award of the project after the Local Agency has complied with the requirements in this *Desk Reference*.
- **Civil Rights and Business Resource Office (for Projects with Federal-aid Highway Funds only)**
    1. Review submittals by the apparent low bidder to ensure that the DBE commitment is valid. Request a Good Faith Effort Report from the apparent low bidder if necessary.
    2. Issue a determination of the good faith efforts of the apparent low bidder.
    3. If the apparent low bidder has met the contract goal or made good faith efforts to do so, issue the Form 1417 or Utilization Plan in B2GNow.
- **FHWA** – Overall responsibility for the Federal-aid Highway Program including those project actions which cannot be assumed by the CDOT or the Local Agency.