

2022 RC Refresher Training

Consultant Procurement

Outline



23 CFR PART 172
OVERVIEW



LOCAL PROJECTS
PROCUREMENT
PROCESS



UPDATES TO SCOPE
OF SERVICES



CASE STUDY



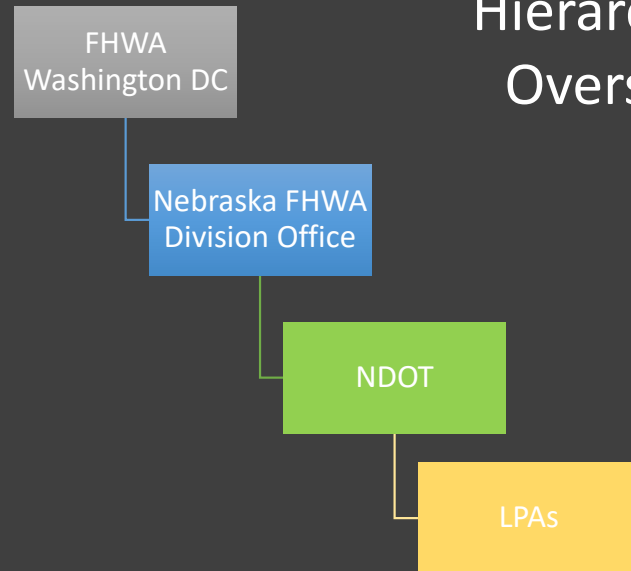
LESSONS LEARNED



Congratulations!



Hierarchy of Oversight



Nebraska DOT & NE-FHWA Stewardship Agreement:

“...The NDOR may permit local public agencies (LPAs) to carry out the NDOR’s assumed responsibilities on locally administered projects. The NDOR is responsible and accountable for LPA compliance with all applicable Federal laws and requirements...”



I don't make
the rules, I just
follow them...

23 CFR §
172.7 -
Procurement
Methods and
Procedures

- Competitive Negotiation
 - Brooks Act established Qualifications Based Selection (QBS)
 - Process:
 - 1. Public solicitation**
 2. Submission of qualifications
 3. Evaluation of statements
 4. Short-list
 5. Interviews of firms
 6. Ranking of at least three of the most qualified firms
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RFQ Elements

23 CFR 172.7

Clear scope of
work and
description of
project

RFQ-2006

NEBRASKA Request for Qualifications

Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Professional Services for Preliminary Engineering
(PE) Services for RFQ-2006; Lexington East Viaduct,
RRZ-TMT-1705(3) CN 61457 Project

February 2020

Statements of Qualifications are due Wednesday, March 11, 2020, by 4:00 P.M.

GENERAL

Dawson County is proposing to construct a new three-lane, grade-separated viaduct along East 29th Avenue over the existing double-track mainline and single siding track of the Union Pacific Railroad (UPRR). The proposed Lexington East Viaduct located in Dawson County, Nebraska, is on the eastern fringe of the City of Lexington. The proposed project is being developed as a federal-aid project with the Federal Highway Administration (FHWA) as the lead federal agency, and the Nebraska Department of Transportation (NDOT) and Dawson County as project sponsors.

An Environmental Assessment was prepared for this project with a [Finding of no Significant](#)

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prior to responding to this RFQ. By submitting a statement of qualifications in response to this RFQ, Consultant, and all sub-consultants, agree to meet the substantive requirements of these documents. These documents can be found on NDOT's website. An agreement will not be executed unless consultant provides a current overhead schedule and proof of meeting the insurance requirements in the form of an [Insurance ACORD](#). Further information regarding insurance, including a [checklist](#) to assist in submitting an acceptable certificate, can be found at <https://dot.nebraska.gov/business-center/consultant/insurance/>.

The NDOT is seeking a statement of qualifications from consultants who wish to be considered to provide these services. The selected consultant will be required to follow the [LPA Guidelines Manual for Federal-Aid Projects](#) and all applicable Federal and State requirements and procedures for the local federal-aid projects.

Page 1 of 8

RFQ Elements

23 CFR 172.7

Anticipated work categories

RFQ-2006

This RFQ does not commit the NDOT to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for services. The NDOT reserves the right to accept or reject any or all responses received as a result of this request, to negotiate with any qualified consultant or to modify or cancel in part or in its entirety the RFQ, if it is in the best interest of the NDOT to do so.

In accordance with Nebraska Revised Statute [84-712](#) et.seq., Nebraska Public Records Act, documents provided to NDOT are public records subject to disclosure unless consultant requests in writing that documents must be kept confidential and can demonstrate that such records are confidential under federal or state law.

SCOPE OF SERVICES

Standard Work Categories anticipated on this project are:

- 103 Traffic Operation Studies
- 104 Traffic Operation Design
- 106 Highway Design – Minor (Urban)
- 107A Bridge Design – Major
- 202 Engineering Surveying
- 204 Land Surveying
- 206A Pavement Design
- 207 Geological Studies
- 209 Hydraulic and Hydrologic Studies
- 210 Right of Way Design (includes land ownership research, ROW plans, legal descriptions / plats)
- 211 Public Involvement

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RFQ Elements 23 CFR 172.7

Evaluation factors
with weight of
importance

EVALUATION CRITERIA

Short List (100 pts)

A. QUALIFICATIONS (50 PTS)

1. Qualifications of the project manager and key team members to perform the services described in the Scope of Services.
2. Qualifications and capability of key sub-consultants to perform the services outlined in this RFQ.
3. Consultant has demonstrated ability to manage project teams with multiple sub-consultants.
4. Consultant has the necessary computer technology, as listed above, to provide the services required.
5. Consultant has demonstrated they will allocate appropriate and sufficient staff resources or qualified sub-consultants to meet project objectives and schedules.
6. Applicability and relevance of comparable projects provided by Consultant.
7. Knowledge of NDOT Roadway Design Manual, Nebraska Board of Public Roads Minimum Design Standards, Federal Design Standards, and AASHTO's "A Policy on Geometric Design of Highways and Streets".

Page 5 of 8

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Page 5 of 8

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RFQ Elements

23 CFR 172.7

Evaluation factors
with weight of
importance

RFQ-2006

8. Knowledge of the NEPA process and adhering to the purpose and need of the project.

B. PERFORMANCE DATA (25 PTS)

1. Cooperation, communication, and timeliness of deliverables with NDOT and/or LPA staff on previous projects. If the consultant's team has no experience with NDOT, the consultant should include three (3) references in their response, including

Final Selection (100 pts)

A. QUALIFICATIONS (50 PTS)

1. Qualifications of the project manager and key team members to perform the services described in the Scope of Services.
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3. Consultant has demonstrated ability to manage project teams with multiple sub-consultants.
4. Consultant has the necessary computer technology, as listed above, to provide the services required.
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7. Knowledge of NDOT Roadway Design Manual, Nebraska Board of Public Roads Minimum Design Standards, Federal Design Standards, and AASHTO's "A Policy on Geometric Design of Highways and Streets".
8. Knowledge of the NEPA process and adhering to the purpose and need of the project.

B. ABILITY TO PERFORM THE WORK (20 PTS)

1. Consultant demonstrated they have adequate staff available to complete the contracted project(s) in an acceptable time frame.
2. Consultant demonstrated their sub-consultants are available to complete the work in an acceptable time frame.

RFQ Elements

23 CFR 172.7

Estimated schedule
of procurement
process and
submittal deadlines

RFQ-2006

3. Consultant has demonstrated how the new work will fit within their existing workload, both with NDOT and other clients.

C. QUALITY OF INTERVIEW (20 PTS)

1. Consultant's interview was clear and concise.
2. Consultant addressed evaluation factors and covered design issues adequately.
3. Consultant answered committee questions logically and thoroughly.

D. APPROACH TO THE PROJECT (10 PTS)

1. Consultant demonstrated they understand nature and scope of the projects to be assigned under this on-call agreement.
2. The consultant has recognized and identified special circumstances to be considered for the projects.
3. Consultant provided a logical approach to complete tasks and resolve issues of the project.

SCHEDULE OF ACTIVITIES	Date (2020)	Time (CST)
RFQ Posted	Feb 20	
Last Day Updates to RFQ may be posted	March 4	4:00 PM
NDOT Form 497 & Drug-Free Workplace Policy on File at NDOT	March 4	4:00 PM
Statement of Qualifications Due	March 11	4:00 PM
Post Short-List Consultants & Interview Schedule	March 26	4:00 PM
Interview	April 8	9:00 – 11:30 am
Post Final Selections	April 10	4:00 PM

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- tables, resumes, or photos.
6. [DR Form 498, "Architect, Engineer, & Related Services Supplement to Statement of Qualifications"](#) (under heading 'Forms') not to exceed six (6) pages for the

RFQ Elements 23 CFR 172.7

Any additional
information
consultants should
know

RFQ-2006

consultant and six (6) pages for each sub-consultant. A separate DR Form 498 must be submitted for each sub-consultant to be used.

Additional submittal requirements are:

1. All material in the submittal must be sized for 8½ x 11 paper printed single-sided, single or double spaced.
2. Submittal covers and dividers between the sections are allowed and not included in the page limit.

INTERVIEWS

Interview date and times for short-listed consultants will be posted on NDOT's website. Interviews will be capped at 20 minutes, followed by up to 10 minutes of Q&A with the selection committee members.

The NDOT will make every effort to post the short-listed consultants and the interview schedule on the NDOT's website prior to the deadline identified in the Schedule of Activities.

The NDOT selection committee will conduct interviews with the short-listed consultants via telephone. Consultant may contact the Consultant Services Engineer to make any special arrangements.

Upon completion of all the interviews and approval of the Director, the selected consultant will be notified by telephone. The NDOT will make every effort to post the final selection on the NDOT's website prior to the deadline identified in the Schedule of Activities.

Kyle Schneweis, P.E., Director
Nebraska Department of Transportation

EQUAL OPPORTUNITY EMPLOYER

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23 CFR §
172.7 -
Procurement
Methods and
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3. Evaluation Do's and Don'ts

- Assess competence and qualifications for services solicited.
- Evaluate proposals based on criteria that was established in RFQ
- Price and location **cannot** be used

23 CFR §
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23 CFR § 172.9

- Contracts and Administration

Contract types:

- Multi-phase
- Project-specific
- On-call or Indefinite Delivery/Indefinite Quantity (IDIQ)
 - Specify max length of contract period, cannot exceed 5 years
 - Specify max total contract dollar amount that may be awarded

Payment methods:

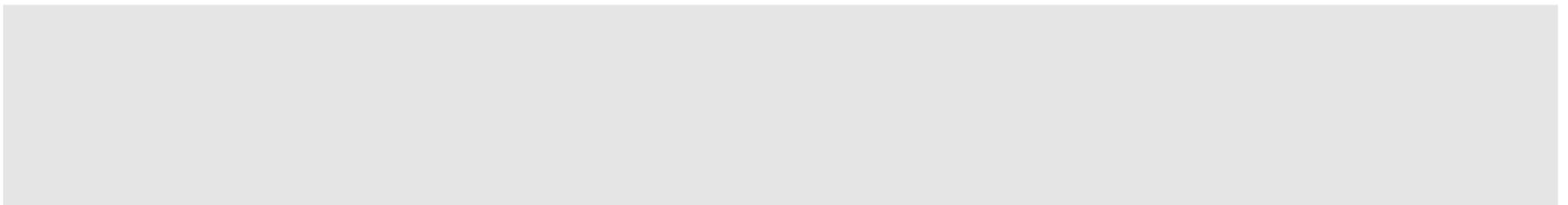
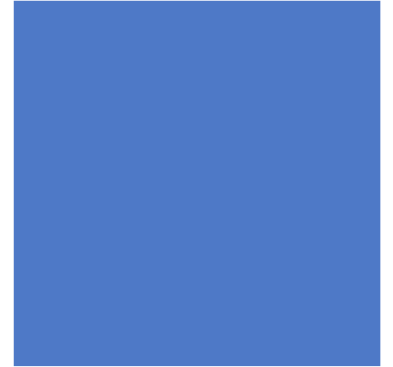
- Lump Sum (LS), Cost Plus Fixed Fee (CPFF), or Specific Rates of Compensation (SRC)
 - The contract must specify a maximum amount payable, which cannot be exceeded unless adjusted by a contract modification (Consultant Work Order/Supplement)

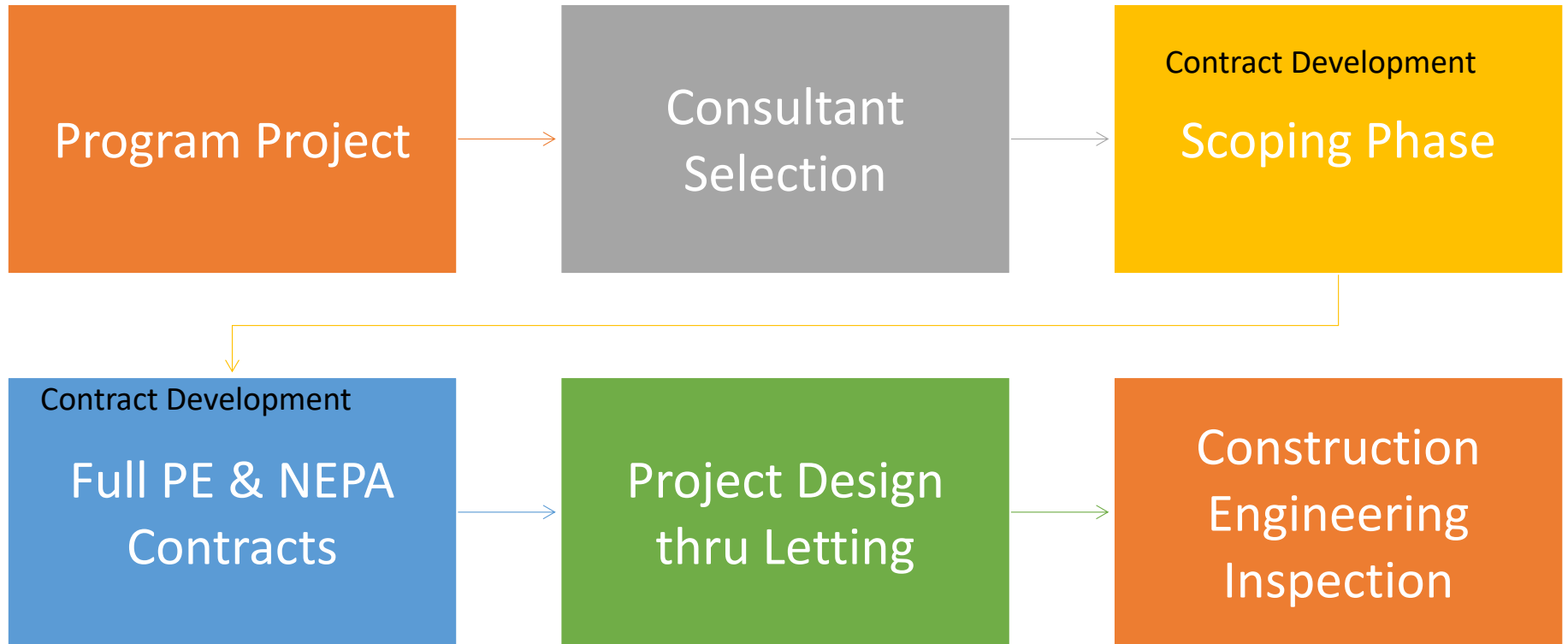
23 CFR § 172.9 - Contracts and Administration

What is required of us?

- Contract Provisions (addressed in agreement language)
- Responsible Charge
 - Roles & Responsibilities
- Consultant Performance Evaluation
- Contract Modification
 - Consultant Work Order/Supplemental Agreement

Local Projects Procurement Process





Programming Project

- Executed Program Agreement
- Request initial obligation of funds
 - Based off MOA between FHWA & NDOT
 - \$10,000 – State; \$5,000 – RC

Federal Obligation Request Form

Project No.:	Control No.:
Project Name:	Date:
<input type="checkbox"/> RBP <input type="checkbox"/> State Oversight	Program Agreement No.:

	Agreement No.	Previous	Adjustment	Current
PE				
State				0.00
RC				0.00
PE Consultant:				0.00
NEPA Consultant:				0.00
Final Design Consultant:				0.00
Subtotal:		\$0.00	\$0.00	\$0.00
ROW				0.00
Utilities				0.00
				0.00
CE				
State (1% of construction estimate – minimum of \$5,000)				0.00
Plus \$2,500 for audit				0.00
RC				0.00
Consultant:				0.00
				0.00
Subtotal:		\$0.00	\$0.00	\$0.00
Construction Cost Estimate				0.00
TOTAL		\$0.00	\$0.00	\$0.00

Notes and Justification: Values shown in table are totals, not solely the Federal share.

Is this project using soft match? Yes No

Funding Type: Funding Breakdown:

Agreement Notes:

I have reviewed all the supporting documentation and found that the costs are reasonable, eligible, and in compliance with 23 USC and 23 CFR and all standards established in the LPA manual
 NDOT Project Coordinator: _____

Name _____ Date _____




MEMORANDUM OF AGREEMENT BETWEEN NDOR AND FHWA-NE

LPA/RC EXPENSES ON FEDERAL-AID PROJECTS

The purpose of this memorandum is to establish methodology and justification for Federal funding obligation requests and reimbursements for LPA labor and expenses attributable to specific Federal-aid projects. 23 CFR § 1.11 is the basis for Federal participation for costs "directly attributable and properly allocable to specific projects." 23 CFR § 1.9 prohibits Federal reimbursements for costs "incurred prior to authorization by the Administrator. . . ."

After the project program agreement between the LPA and NDOR is executed NDOR may, on behalf of the LPA, request Federal obligation authority for LPA expenses in accordance with 23 CFR § 1.11. The following provides methodology and justification for such requests. It is important to note that this is a new process for NDOR, and that adjustments will probably need to be made over time as actual cost information become available with which to compare.


A "Policy on Costs Incurred by the Responsible Charge (RC) Person for Federal-aid Projects Funded through FHWA" has been established, a copy of which is attached. It can be viewed and printed at the following web-link:
<http://www.transportation.nebraska.gov/gov-off/foa/cost-estimating/RC-Costs-Policy.pdf>

A procedure has been established for the LPA expenses process. A copy is attached. It can also be viewed and printed at the following web-link:
<http://www.transportation.nebraska.gov/gov-off/foa/lpa-invoice-procedures.pdf>

An electronic spreadsheet was developed by NDOR to assist the LPA in estimating/verifying LPA expenses for each project. A copy is attached. The electronic spreadsheet is available to FHWA-NE upon request. The final cost estimates will be a result of negotiation between the LPA and NDOR. The obligation request will be made for the appropriate pro rata share, 80% (Federal) of the estimate.

NDOR will monitor projects over time and adjust the spreadsheet formulas and numbers if needed.

FHWA/NDOR Memorandum of Agreement
 LPA/RC Expenses for Federal-aid Projects Page 1 of 2



LPA PROGRAM AGREEMENT- FEDERAL-AID FUNDS

STATE OF NEBRASKA, DEPARTMENT OF TRANSPORTATION
 LPA, NEBRASKA
 PROJECT NO. Project #
 STATE CONTROL NO. Control #
 Project Location – ex. Brownson East

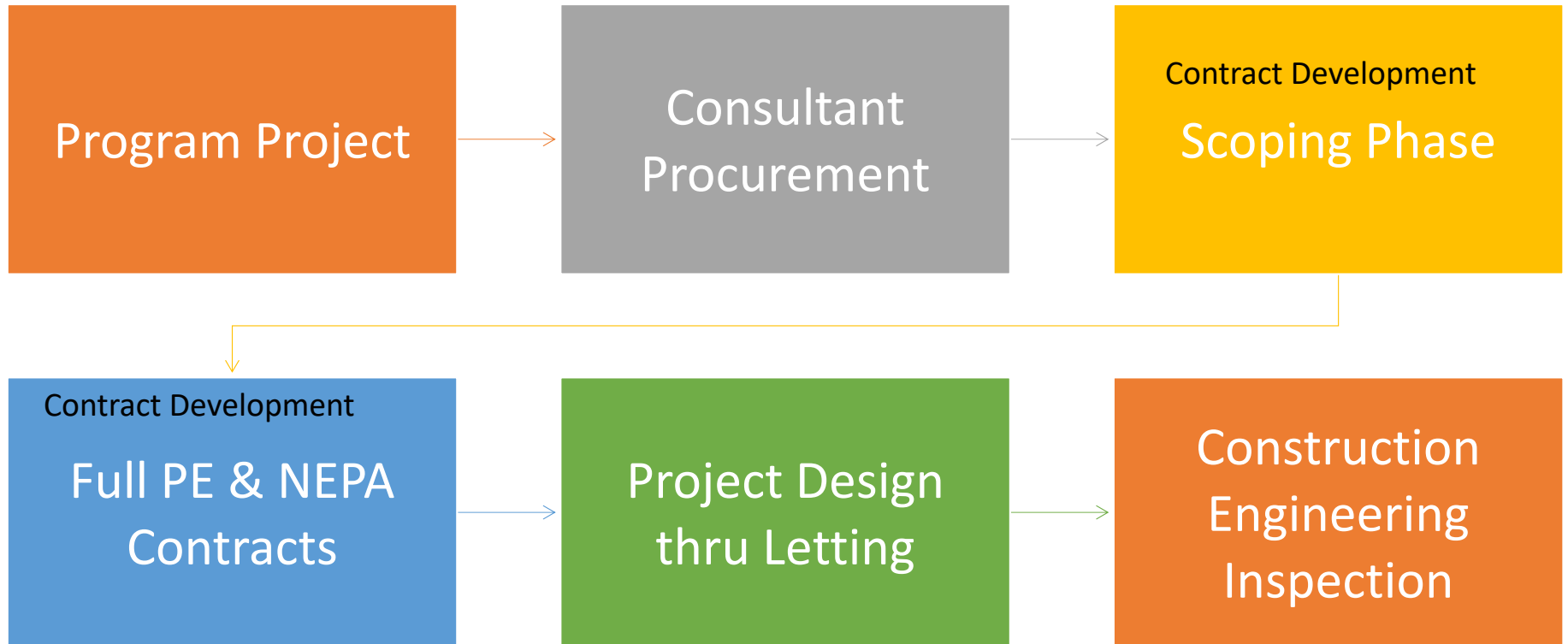
THIS AGREEMENT is between the <LPA>, Nebraska, a local public agency ("LPA"), and State of Nebraska, Department of Transportation ("State"), collectively referred to as the "Parties".

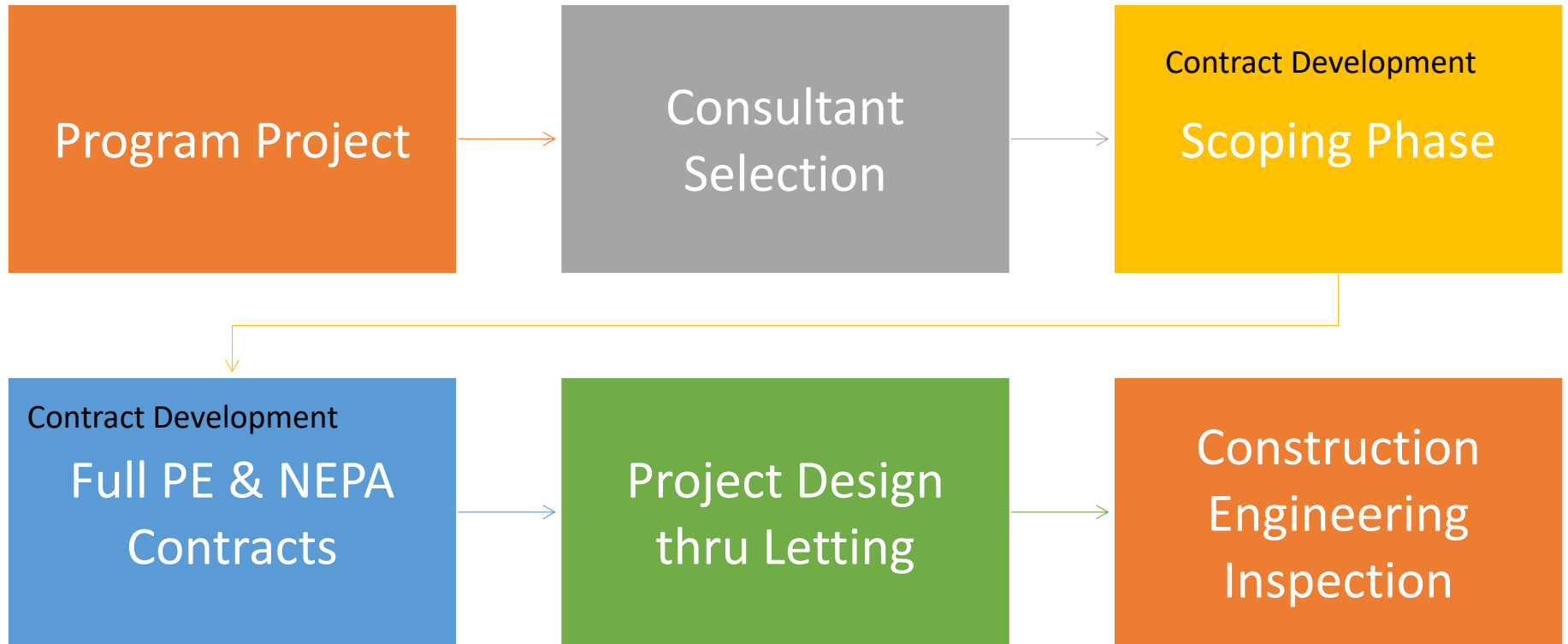
WITNESSETH:

WHEREAS, Federal-aid funds are available for transportation projects on eligible routes within the jurisdiction of Local Public Agencies under Title 23 of the United States Code and 23 Code of Federal Regulations, and

WHEREAS, federal law requires that State act as a liaison for all Federal-aid local transportation projects, and

WHEREAS, LPA has a proposed project on an eligible route that LPA would like to seek





Contract Development

- Project Design thru Letting
 - Consultant Work Orders
 - Include SOS and Fee + NDOT-250 + revised schedule
 - Results in supplement to the agreement



Do not move forward without NTP.

Consultant Work Order (Local Projects)

Project No.:		Control No.:		
Consultant: (Name and Representative)		Agreement No.:	Work Order No.:	
LPA: (Name and Representative)		Constr. Change Order No.: (if applicable)		
<p>All parties agree the following described work needs to be performed by the consultant as part of the referenced project. All parties concur and hereby give notice to proceed based on the following: justification to modify contract, scope of services, deliverables, schedule, and estimated total fee. All other terms of existing agreements between the parties are still in effect. It is understood by all parties that the work described herein will become part of a future supplement to the agreement indicated above.</p> <p>Justification to modify agreement: (include scope of services, deliverables, and schedule)</p>				
Work Title		Summary of Fee		
		A. Total Direct Labor Cost	=	
		B. Overhead (Factor * x A)	=	
		C. A + B	=	
		D. Profit/Fee (Factor ** x C)	=	
		*Overhead Factor: %	E. FCCM (Factor*** x A)	=
		**Profit/Fee Factor: %	F. Direct Non-Labor Cost	=
		***Facility Capital Cost of Money (FCCM): %	G. Subconsultant Services	=
Total Fee Notes:		TOTAL FEE: C + D + E + F + G		
		ESTIMATED TOTAL FEE:		
		FINAL TOTAL FEE:		

Work Order Authorization – May be granted by email and attached to this document.

Consultant:

Name Signature Date

LPA:

Name Signature Date

LPS PC (for Preliminary Engineering) and State Rep. (for Construction Engineering):

Name Signature Date

LPS Unit Head Review (for PE Phase):

Name Signature Date

LPS Manager or Construction Engineer (Construction Phase):

Name Signature Date

FHWA: (FHWA Approval on Full Oversight Projects Only):

Name Signature Date

Notice to Proceed will be granted by email by:
LPS PC for Preliminary Engineering & CD PC for Construction Engineering.

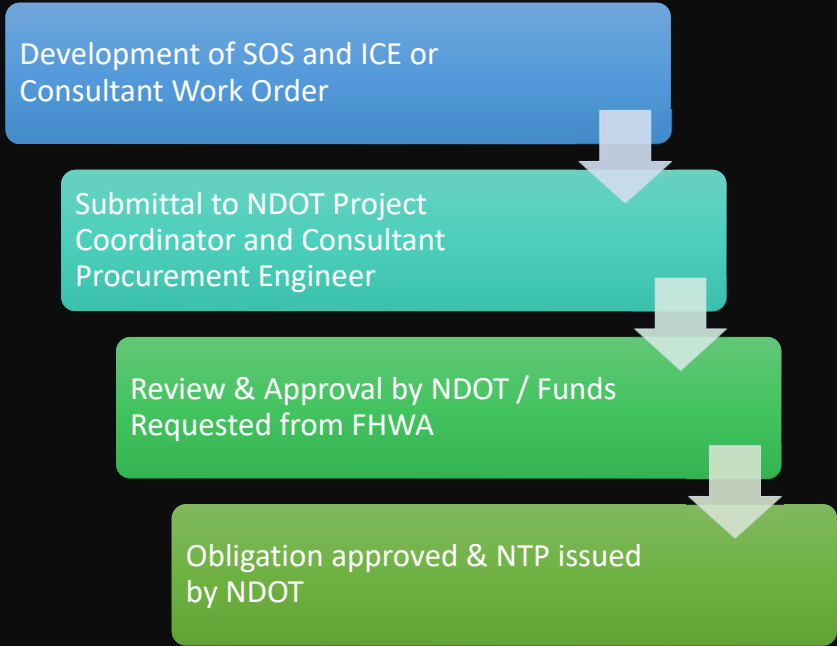
FMIS Approval Date:

Notice to Proceed Date:

Distribution: Consultant, LPA – RC, State Rep., FHWA, LPS PC, NDOT Agreements Engineer, Highway Funds Manager, CD PC

NDOT Form 250, November 18

Summarized Process...



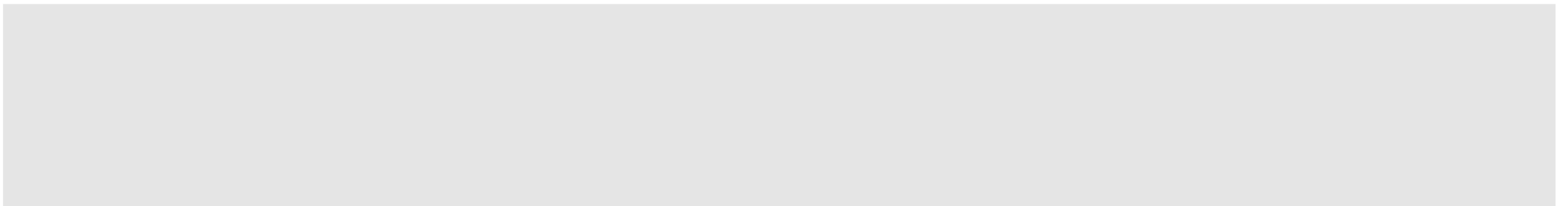
Lessons Learned

- Independent Cost Estimates not being completed
 - Lack of complete scope of services
- Subpar record keeping and document retention
- Missing or incomplete documentation
- RFQ vs. NDOT On-Call
 - Importance of work categories
- Out of scope work occurring prior to NTP

2011 Local Public Agency Stewardship Issues report:
<https://www.fhwa.dot.gov/federalaid/lpa/120213.cfm>



Scope of Services Updates



Scope of Services

- 86 pages → 43 pages
- Inclusion of PCM meetings
- Shifted “up front” work to pre-scoping contract such as NDOT-76, H&H, TS&L, etc.
- Updated naming convention of plan submittal phases
 - Plan in Hand, Post Plan in Hand, Draft PS&E, and Final PS&E
- Reminders of design changes

THE CONSULTANT SHALL NOTIFY THE LPA AND NDOT OF ANY CHANGES MADE TO THE DESIGN OR PLANS AFTER THEY HAVE BEEN SUBMITTED TO AND/OR REVIEWED BY THE BOTH THE LPA AND STATE. SUCH CHANGES ARE DISCOURAGED, UNLESS THEY ARE IMPERATIVE OR AT THE REQUEST OF THE LPA AND/OR STATE.

The only revisions to the Draft PS&E plans would be modifications resulting from right of way negotiations, design modifications due to unknown utility conflicts or revisions requested by an affected railroad.



Pre-Scoping Phase



New process implemented by Local Assistance Division



More streamlined process in project delivery

Intention is to reduce number of CWOs and cost to an LPA → results in increased ability to develop program of projects



Communicate the LPA's expectations for the project

LPA is more involved in development of a project and can make informed decisions



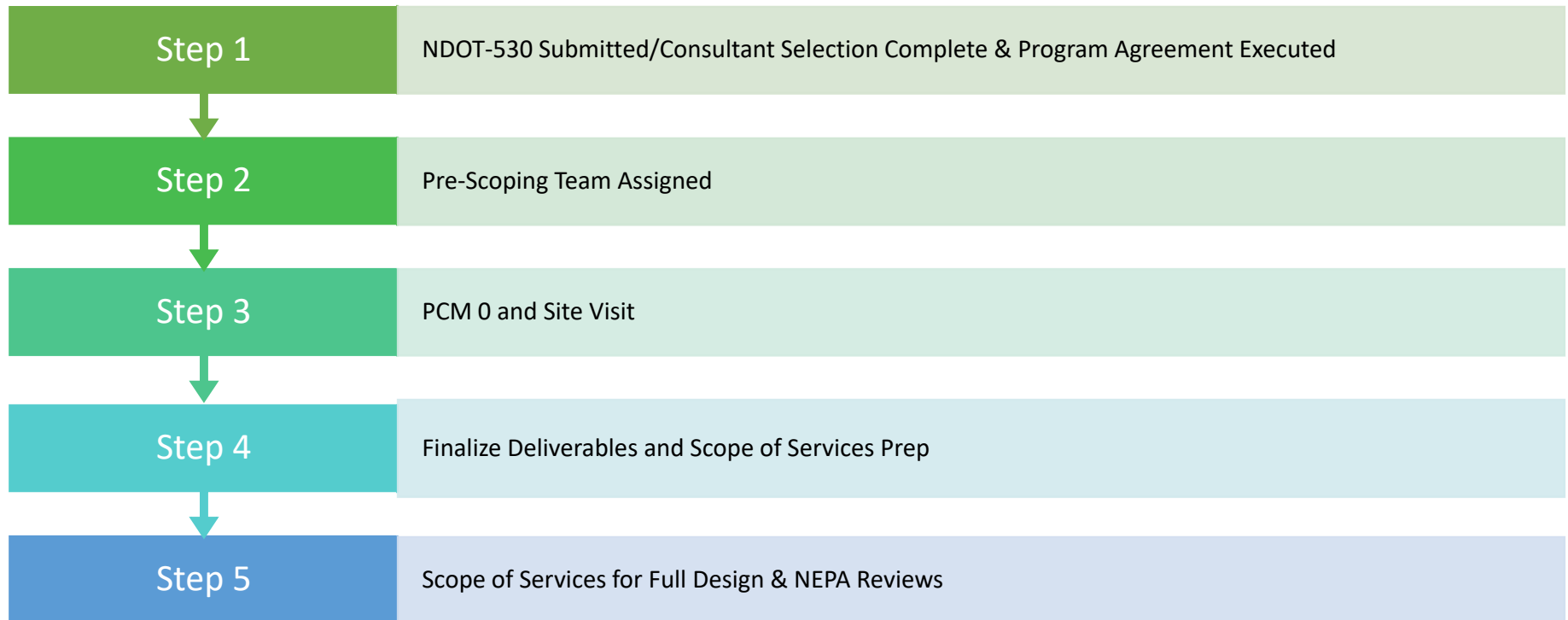
Consultants are now able to be compensated for their work effort in developing an overall project scope



Ability to better define the scope of a given project

Answer questions the consultant may have

Pre-Scoping Process



Topics for Consideration

- Existing site characteristics
 - Potential project footprint and alternatives
 - Design Elements
 - Geometric Design Standards
 - i.e., deficient curves
- Environmental resource clearance requirements
 - HMR, noise walls? Public involvement?
- ROW needs
 - Landownership – temp or permanent easement, acquisition, condemnation?
- Need for utility and railroad coordination?
- Geotechnical investigation needs
- Hydraulic conditions
- Delivery Schedule
- Preliminary Cost Estimates
- Traffic Data
- Problem Identification
 - Access control



“Red Flag” (On-Site) Meeting Concept

- Part of the scoping phase process – aka Kick Off meeting
 - Provides a high-level overview of the proposed project; identify known risks.
 - Goal is to gather necessary information to aid in the future development of the SOS for design and environmental documentation.
 - Determine desired outcome, discuss the design and fact finding so that SOS can be developed for the PE and Environmental consultants.
- Takes place prior to PCM 0 meeting
- Both Design and NEPA consultants required to investigate various project attributes prior to meeting and present findings to LPA and Team
- NDOT can provide feedback on expected level of effort for NEPA document, ROW acquisition types, design considerations, etc.



Lessons Learned

- Doesn't have to be limited to just prelim research – can be tailored to project as needed
 - i.e., traffic study for intersection configuration
 - H&H completed prior to scoping overall project so that appropriate structure is decided up front.



Pre-Scoping/Red Flag Case Study

Atkinson SE – CN 81036; BRO-7045(37)

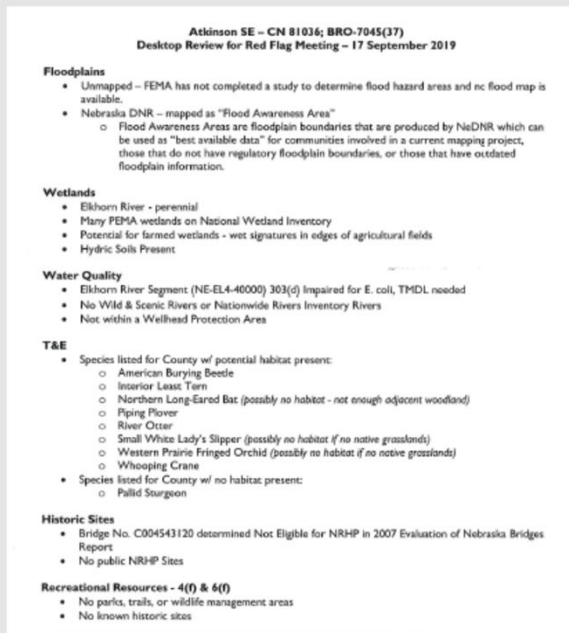
Existing Structure

- The existing roadway on this segment of 477th Avenue is 24 feet wide with gravel surface and 3-foot earthen shoulders. The existing bridge is a three-span steel girder bridge with a concrete-cast-in-place slab, 121 feet long by 20 feet wide.

West elevation

6/1

Desktop Environmental Review prior to Site Visit



- Floodplains
- Wetlands
- Water Quality
- T&E
- Historic Sites
- Recreational Resources – 4(f) & 6(f)
- Farmland
- Hazardous Materials
- Airports
- Utilities
- Detour
- Public Involvement
- ROW

Design Considerations Resulting from Site Visit

- Road needs to be kept open for harvest
- Structure is prone to ice jamming however overtopping is not common
- Contractor needs to work downstream due to power lines in the area.
- Examples of items that were considered during the development of the scope of services:
 - Bridge Type (Slab, Prestressed Concrete Girder, and Steel Girder)
 - Construction Phasing/Detour Route/Temporary Roads – issues?
 - Utility Coordination/Verification – in or out of LPA ROW? Reimbursable?
 - Encroachments in the existing ROW – how will they be handled?
 - Geotechnical investigations
 - Constructability
 - Delivery schedule of project
 - etc.

Questions?

THANK YOU!

Nicole D. Taylor, P.E.

Procurement Engineer | Local Assistance Division

OFFICE 402-479-3859 **FAX** 402-479-3636

nicole.taylor@nebraska.gov

Department of Transportation

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dot.nebraska.gov

NEBRASKA

Good Life. Great Journey.

