

**INLAND VALLEY DEVELOPMENT AGENCY (IVDA)**

**APPENDIX II – EDA Funded Project Procedures**

ARTICLE 1 PROJECT PLANNING AND SELECTION.....04

ARTICLE 2 EDA GRANT APPLICATION PROCESS .....04

ARTICLE 3 ENVIRONMENTAL REQUIREMENTS .....05

ARTICLE 4 COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDs) .....09

ARTICLE 5 SPECIAL CONDITIONS .....10

ARTICLE 6 EDA GRANT AWARD .....10

ARTICLE 7 PROJECT MANAGEMENT CONFERENCE CALL (PMCC) ..11

ARTICLE 8 PROCUREMENT REQUIREMENTS FOR CONTRACTS UNDER 100K (EDA) .....11

ARTICLE 9 PROCUREMENT REQUIREMENTS FOR CONTRACTS OVER 100K .....12

ARTICLE 10 ARCHITECTURAL/ENGINEERING SELECTION PROCESS.12

ARTICLE 11 MULTIPLE CONTRACTS AND PHASING.....13

ARTICLE 12 SOLICITATION (RFP/RFQ AND INSTRUCTIONS TO BIDDERS) .....13

ARTICLE 13 ADVERTISEMENT .....14

ARTICLE 14 NON-MANDATORY PRE-PROPOSAL MEETING.....15

ARTICLE 15 ADDENDA .....15

ARTICLE 16 RECEIVING PROPOSALS .....15

ARTICLE 17 SELECTION PROCESS.....16

ARTICLE 18 CONSULTANT SELECTION AND NEGOTIATIONS.....16

ARTICLE 19 APPROVAL.....17

ARTICLE 20	ARCHITECT/ENGINEER AGREEMENTS .....	17
ARTICLE 21	CONSTRUCTION MANAGEMENT .....	19
ARTICLE 22	AMENDMENTS .....	19
ARTICLE 23	CONSULTANT PAY REQUESTS .....	20
ARTICLE 24	CONDITION ASSESSMENT REPORT .....	20
ARTICLE 25	PROPERTY CERTIFICATION, EASEMENTS, AND RIGHT OF WAY .....	21
ARTICLE 26	BID DOCUMENT APPROVAL .....	22
ARTICLE 27	ADVERTISEMENT .....	22
ARTICLE 28	PRE-BID CONFERENCE .....	23
ARTICLE 29	ADDENDUMS .....	23
ARTICLE 30	BID OPENING .....	23
ARTICLE 31	RECOMMENDATIONS/PROTESTS .....	24
ARTICLE 32	BOARD APPROVAL .....	25
ARTICLE 33	NOTICE TO PROCEED .....	25
ARTICLE 34	PREVAILING WAGE AND CERTIFIED PAYROLL .....	25
ARTICLE 35	SUBMITTAL REQUIREMENTS .....	26
ARTICLE 36	CHANGE ORDERS .....	27
ARTICLE 37	EDA CLOSEOUT REQUIREMENTS .....	28
ARTICLE 38	ENGINEERS FINAL ACCEPTANCE LETTER AND LIEN RELEASE .....	28
ARTICLE 39	NOTICE OF COMPLETION BOARD APPROVAL .....	29
ARTICLE 40	ACH VENDOR PAYMENT ENROLLMENT- SF-5881 .....	29
ARTICLE 41	FEDERAL FINANCIAL REPORT REQUIREMENTS .....	30

ARTICLE 42	QUARTERLY PERFORMANCE REPORT .....	30
ARTICLE 43	SINGLE AUDIT REPORTING PACKAGE .....	31
ARTICLE 44	PROGRAM INCOME REUTILIZATION PLAN .....	32
ARTICLE 45	PROPERTY MANAGEMENT SYSTEM .....	34
ARTICLE 46	GOVERNMENT REPORTING AND RESULTS ACT .....	35

## **ARTICLE 1**

### **PROJECT PLANNING AND SELECTION**

In 2010, the Inland Valley Development Agency (IVDA, also referred to as Agency) adopted a Strategic Plan (the “Strategic Plan”). The Strategic Plan codifies a forecast and allocation of resources for projects and programs that are necessary based on the market-based and operational needs of the IVDA, its project area, and in furtherance of its Airport obligations. All projects in the five-year and ten-year Strategic Plan elements are categorized through five primary strategic priorities as set forth in in the IVDA Strategic Plan, as amended. These core strategic priorities serve as a roadmap, which should be updated within the 2014/15 evaluation and review period of the Strategic Plan and in furtherance of continuing to achieve base reuse goals. The five primary strategic priorities set forth in the current Strategic Plan are as follows:

- San Bernardino International Airport
- Infrastructure
- Economic Development
- Environmental
- Housing

When a project is selected to be included in the Agency’s Capital Plan and fiscal year budget, the IVDA staff prepares a list of priority improvement projects based on current needs, from the project list previously established in the Strategic Plan, and prepares an updated cost estimate and budget accordingly. These projects are submitted for consideration to the IVDA Board and included in the annual capital budget. Once adopted, a Project can then be funded using then established funding mechanisms.

If the projects selected are candidates for federal funding, a list of priority projects is reviewed by IVDA Staff prior to submission to the aforementioned process. The IVDA then must prepare and submit a grant application for each qualifying project to the U.S. Department of Commerce, Economic Development Administration (EDA).

## **ARTICLE 2**

### **U.S. DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) GRANT APPLICATION PROCESS**

The EDA Grant application process is constantly changing. Although the process should be similar each year, IVDA Staff should always check with EDA at [www.eda.gov](http://www.eda.gov) for the latest grant application processes before submitting an application.

For all projects meriting further consideration, the following must be included with the grant application:

- A copy of the region’s Comprehensive Economic Development Strategy (CEDS) or alternate EDA-approved planning document
- Letters of commitment to document non-EDA funding
- U.S. Geological Survey (USGS) map of project site and environmental narrative.
- Engineering report

- Documented approval from the State Historic Preservation Officer and U.S. Fish and Wildlife Service
- Legal title, opinion/documentation as required
- Letters of commitment from private beneficiaries
- Comments from metropolitan review/agency clearinghouse

### **ARTICLE 3**

#### **ENVIRONMENTAL REQUIREMENTS**

IVDA Staff and/or an IVDA selected environmental consultant prepares a brief physical description of the project site, noting topography, vegetation bodies of water, and location and condition of any man-made structures or buildings. If available, they provide a Geographic Information System (GIS) analysis of the sensitive environmental areas, including contaminated sites, archeological sites, properties or sites listed on the National Register of Historic Places, and wetlands that are within a two-mile radius of the project site.

**Requirements for Environmental Narrative** (only required from those applicants seeking assistance with construction projects that EDA deem ‘merit further consideration’)

The National Environmental Policy Act (NEPA) requires federal agencies to assess the expected environmental impacts associated with proposed federal actions. EDA cannot make an award unless it has received sufficient information to make a determination regarding a project’s environmental impact.

EDA may request detailed information from the applicant (generally referred to as an ‘environmental narrative’) in the course of the agency’s review to obtain an understanding of the present environmental condition and the project’s elements that will affect the environment. Upon request, the applicant must provide detailed, comprehensive information for the: (a) site(s) where the proposed project facilities will be constructed and the surrounding areas affected by its operation; and (b) areas to be affected by any primary beneficiaries of the project. The information submitted must be sufficient to evaluate all reasonable alternatives to the proposed project, the direct and indirect environmental impacts, as well as the cumulative impacts on the environment as defined in the regulations for implementing the procedural provisions of NEPA (see 40 C.F.R. parts 1500-1508). The level of detail should be commensurate with the complexity and size of the project, and the magnitude of the expected impact. Previously completed environmental impact documentation (assessments, impact statements, etc.) for activities in the region in which the proposed project will be located may be attached to environmental narrative.

Upon request, applicants must provide information on the items listed below; there is no specific template for this information, but the submission must be of sufficient detail to enable EDA to complete its review. In all cases in which the applicant asserts that an item is not applicable, the applicant must explain the reason(s) for this assertion. Applicants are encouraged to contact the applicable EDA regional office with questions.

**Applicants must provide information on the following items in the environmental narrative:**

1. Beneficiaries

Identify any existing businesses or major developments that will benefit from the proposed project, and those which will expand or locate in the area because of the project.

2. Area Description

Describe the general project area, including topography, economic history, historic land usages, unique geologic features, etc. In addition to maps, which may have been submitted as preliminary proposal exhibits and which should be updated if necessary, attach the following:

- a. The FEMA flood plain and USGS topographic maps with legend(s), showing the project location and boundaries, existing and proposed project components and location of all sites and/or companies benefiting from the proposed project. The document should be of sufficient size and clarity for adequate interpretation of the applicant's intentions (originals are preferred).
- b. Site photos and/or an aerial photograph of the site, if available.

3. Alternatives to the Proposed Project

Provide a detailed description of alternative actions which were considered during project development processes (e.g., alternative locations, designs, other projects having similar benefits, or a "no project" alternative), and explain why this project/site was selected as the preferred alternative with respect to the other choices.

4. Shorelines, Beaches and Dunes, Estuary, Wetlands and Floodplains

Identify any shorelines, beaches, dunes, estuaries, wetlands, or flood plain areas located within or adjacent to the project site(s). Indicate potential impact from proposed project activities and specify proposed measures to mitigate probable impacts. Contact the U.S. Army Corps of Engineers/U.S. Fish and Wildlife Service concerning any wetland resources in or near the project location. If wetlands are impacted, a permit from the U.S. Army Corps of Engineers may be required. Indicate if the applicant participates in the National Flood Insurance Program.

5. Vegetation and Wildlife Resources

Identify native vegetation and wildlife found in the project area or its immediate vicinity.

- a. Identify any designated State and National Parks, or National Game Preserves located on or in the vicinity of the proposed project activities.
- b. Identify any Wilderness Areas, as designated or proposed under the Wilderness Act, or wild or scenic rivers, as designated or proposed under the Wild and Scenic Rivers Act, that are located on or in the vicinity of the proposed project activities.

6. Endangered Species

Identify any endangered or threatened species of plants or animals, or critical habitats that have been identified in the project site(s) or its immediate vicinity. Contact the U.S. Fish

and Wildlife Service and request comments on your proposal for EDA investment assistance.

#### 7. Land Use and Zoning

Describe the present formal zoning designation and current land use of the specific project site and adjacent land parcels. These areas include the site of construction activities, adjacent areas, and areas affected by the primary beneficiaries. Land uses to be considered include, but are not limited to, industrial, commercial, residential, agricultural, recreational, woodlands, mines/quarries, and open spaces. Identify agriculture land parcels designated as "prime/unique agricultural lands" by the U.S. Department of Agriculture under the Federal Farmlands Protection Act or a local equivalent.

#### 8. Solid Waste Management

- a. Indicate the types and quantities of solid wastes to be produced by the project facilities and primary beneficiaries.
- b. Describe local solid waste collection and disposal methods, and their expected useful life.
- c. Indicate if recycling or resource recovery programs are or will be used.

#### 9. Hazardous or Toxic Substances

- a. Describe any toxic, hazardous, or radioactive substances which will be utilized or produced by the proposed project facilities and primary beneficiaries.
- b. Describe the manner in which these substances will be stored, used or disposed.
- c. Complete and sign the \*"Applicant Certification Clause".

#### 10. Water Resources

Describe surface or underground water resources at or near the project sites.

#### 11. Water Supply and Distribution Systems

Indicate the source, quality, and supply capacity of local domestic and industrial/commercial water resources, and the amount of water that project facilities and primary beneficiaries are expected to utilize.

#### 12. Wastewater Collection and Treatment Facilities

- a. Describe all domestic class or process waste waters or other discharges associated with the project facilities and its primary beneficiaries, and the expected composition and quantities to be discharged either to a municipal system or to the local environment.
- b. Describe the wastewater treatment facilities available for processing the additional effluent and indicate their design capacities and current loading, and their adequacy in terms of the degree and type of treatment required. Indicate all discharges which will require on-site pretreatment. Local treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates.

c. Describe any induced changes in local surface water runoff patterns, and the status of storm water discharge permit process.

### 13. Environmental Justice (Executive Order 12898)

Will this project result in disproportionate adverse human health or environmental impacts relative to minority and low income populations? If so, please explain.

### 14. Streets, Traffic, Parking

a. Briefly describe the local street/road system serving the project sites and describe any new traffic patterns that may arise because of the project.

b. Indicate if land use in the vicinity, such as residential, hospital, school or recreational, will be affected by these new traffic patterns.

c. Indicate if any existing capacities of these transportation facilities will be exceeded as a direct or indirect result of this project implementation, particularly in terms of car and truck traffic.

### 15. Air Quality

a. Is the proposed project site classified as a "non-attainment" area for any criteria pollutants? If yes, indicate types and quantities of air emissions (including odors) to be produced by the project facilities and its primary beneficiaries, and any measures proposed to mitigate adverse impacts.

b. Indicate any local topographical or meteorological conditions that hinder the dispersal of air emissions.

### 16. Noise Pollution

Will operation of project facilities or primary beneficiaries' facilities increase local ambient noise levels? If yes, indicate the areas to be affected.

### 17. Construction

Describe methods to be employed to reduce adverse impacts from construction, such as noise, dust generation, soil erosion and siltation.

### 18. Permits

Identify any federal, State, or local permits of an environmental nature needed for the project (e.g., U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Coastal Zone Management/Shoreline Management, Air Quality, State Environmental Policy Act, etc.), and the status of any such permits. Attach copies of any such permits.

### 19. Public Notification/Controversy

a. Provide evidence of the community's awareness of the project, such as newspaper articles or public notification and/or public meetings, as applicable.

b. If a formal public hearing has been held, attach a copy of the transcript.

c. Fully describe any public controversy or objections which have been made concerning this proposed project and discuss steps taken to resolve such objections.

20. Cumulative effects (the impact on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency or person undertakes such actions (40 C.F.R. § 1508.7)).

- a. Identify direct and indirect effects of the proposed action;
- b. Which resources, ecosystems, and human communities are affected; and
- c. Which effects on these resources are important from a cumulative effects perspective.

## **B. Historic/Archaeological Resources**

Identify any known historic/archeological resources within the project site(s) that are either listed on the National Register of Historic Places or considered to be of local and State significance and perhaps eligible for listing on the National Register.

Applicants are required to provide the State Historic Preservation Officer (SHPO) with (i) a narrative description of the project's elements and its location; (ii) a map of the area surrounding the project, which identifies the project site, adjacent streets and other identifiable objects; (iii) line drawings or sketches of the project; and (iv) photographs of the affected properties if building demolition or renovation is involved.

Additionally, the SHPO must be requested to submit comments on the proposed project to the appropriate EDA regional office. If comments from the SHPO have been received, they should be attached.

The SHPO Officer that reviews the above project information for concurrence is:

Tristan Tozer  
Office of Historical Preservation  
California Department of Parks and Recreation  
1416 9th Street, Room 1442-7  
Sacramento, CA 94296-0001  
916-653-8920

## **ARTICLE 4**

### **COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDDS)**

**Overview:** A comprehensive economic development strategy (CEDDS) is designed to bring together the public and private sectors in the creation of an economic roadmap to diversify and strengthen regional economies. The CEDDS should analyze the regional economy and serve as a guide for establishing regional goals and objectives, developing and implementing a regional plan of action, and identifying investment priorities and funding sources. A CEDDS integrates a region's human and physical capital planning in the service of economic development. Integrated economic development planning provides the flexibility to adapt to global economic conditions and fully utilize the region's unique advantages to maximize economic opportunity for its residents by attracting the private investment that creates jobs for the region's residents. A CEDDS must be the result of a continuing economic development planning process developed

with broad-based and diverse public and private sector participation, and must set forth the goals and objectives necessary to solve the economic development problems of the region and clearly define the metrics of success. Finally, a CEDS provides a useful benchmark by which a regional economy can evaluate opportunities with other regions in the national economy.

**These are the steps taken to ensure the inclusion of IVDA projects into the CEDS document.**

- IVDA staff identifies all of the projects and their scope of work for the next year.
- IVDA obtains a proposal from consultants for the preparation of the CEDS report for the inclusion of the IVDA projects.
- Upon approval of a purchase order, the IVDA provides the consultant the list of projects for inclusion into the CEDS report.
- A draft CEDS report is prepared and then submitted to IVDA for review.
- Once the report has been finalized and accepted by IVDA, a copy is sent to EDA for their approval.
- A copy of the CEDS report is attached to every EDA grant application.

**ARTICLE 5**

**SPECIAL CONDITIONS**

When EDA issues a Financial Assistance Award, they also enclose the Special Award Conditions for the respective grant. Upon acceptance of the Financial Assistance Award, the IVDA agree to comply with the Award provisions which include the Special Conditions and attachments. The Special Award Conditions are discussed during the Project Management Conference Call (PMCC) meeting to ensure a mutual comprehension is met between IVDA and EDA on how to comply with these requirements.

A special award condition may take precedence on a case-by-case basis over a construction standard term or condition when warranted by specific project circumstances. Refer to your grant's Financial Assistance Award for its exact Special Conditions.

**ARTICLE 6**

**EDA GRANT AWARD**

Once a grant application has been accepted and selected for funding, the IVDA receives three originals of the Financial Assistance Award from EDA for execution.

IVDA staff prepares a staff report for the governing board to authorize acceptance of this award and its terms and conditions, we also seek authorization to execute a Joint Agreement with any Co-IVDA agencies that were identified in the grant application. For a Joint Agreement, the Co-IVDA agencies shall execute and submit to the Government a Joint Agreement which identifies the parties to the Agreement, and project name, and indicates the ownership, operating and maintenance interests and responsibilities of each

of the parties in each of the project components during construction and after completion of construction.

The Clerk of the Board/Director of Information Services (“Clerk of the Board”) gathers the signatures of the authorized IVDA officials. The Clerk of the Board returns original signed Financial Assistance Award documents, indicating the IVDA’s agreement to the terms and conditions for distribution of the award to EDA’s Regional Director. The remaining original is kept for IVDA records.

## **ARTICLE 7**

### **PROJECT MANAGEMENT CONFERENCE CALL (PMCC)**

Upon receipt of the executed Financial Assistance Award, EDA will notify the IVDA in writing requesting that a Project Management Conference Call be arranged. The IVDA contacts the EDA Project Manager to schedule a time for the conference call. The EDA Project Manager mails the pertinent materials and disc necessary for the conference call. The disc outlines necessary procedures and actions that staff should eventually share with the administrator and or/ architect/engineer. Staff also reviews its contents to become acquainted with the grants requirements. The conference call is attended by the following:

- Deputy Director of Development/Properties
- Manager of Capital Projects
- Coordinator Grants/Projects
- Director of Finance
- Accountant
- Deputy Director of Finance
- EDA Project Manager

During the PMCC, the material contents are discussed with an emphasis the following:

- Grant time schedule
- Standard Terms and Conditions
- Special Conditions
- Budget
- Disbursement Arrangement

The conference call is finalized and the EDA Project Manager reminds the grantee that she will provide prompt assistance to ensure schedule compliance and successful implementation of the project.

## **ARTICLE 8**

### **PROCUREMENT REQUIREMENTS FOR CONTRACTS UNDER 100K**

The EDA allows provision for the Agency to procure material and services for small projects under their Small Purchase Procedures. Small purchase procedures are those

relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$ 100,000) in the aggregate. If small purchase procurements are used, price or rate quotations will be obtained from minimum 3 qualified sources and the vendors can be evaluated and selected based on pricing, requirements, product availability and shipping time frame, performance capability and past performance. Using procurement under these provisions, a scope of work is prepared by the Deputy Director Development/Properties. The scope of work is then marketed to firms qualified in the scope of work required and are usually selected from the approved vendor list. A minimum of three firms are required to respond to the solicitation and submit a proposal. Once the proposals are reviewed the most qualified firm that represents the best value for the intended project can be selected.

## **ARTICLE 9**

### **PROCUREMENT REQUIREMENTS FOR CONTRACTS OVER 100K**

All procurement transactions affecting a project funded in any way by the EDA will be conducted in a manner providing full and open competition consistent with the EDA standards outlined in this Article. See Chapter 2 Article 8 for Procurement requirements for Architectural and Engineering Consultants and Chapter 3 Article 12 for bid requirements for Construction. The following situations are considered to be restrictive of the competitive bidding process as defined by the EDA and are therefore prohibited on EDA funded projects. These situations include (but are not limited to):

1. Placing unreasonable requirements on firms in order for them to qualify to do business.
2. Requiring unnecessary experience and excessive bonding.
3. Noncompetitive pricing practices between firms or between affiliated companies.
4. Noncompetitive awards to consultants that are on retainer contracts.
5. Organizational conflicts of interest.
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement.
7. Any arbitrary action in the procurement process that results in one firm or firms receiving an advantage over other firms.

## **ARTICLE 10**

### **ARCHITECTURAL/ENGINEERING SELECTION PROCESS**

If an Architect/Engineer has been selected by the IVDA prior to EDA approval of the grant award and the contract between the IVDA and the Architect or Engineer has not been previously submitted to EDA, it should be submitted as soon after the grant award as possible. If the selection has not been made at the time of grant award the contract should be sent to the EDA Regional Office as soon as possible after its execution by both parties.

For EDA to participate in the cost for architect/engineer services the Architect/Engineer must be selected competitively by sealed bids (formal advertising) or by competitive proposals. If the selection is made by competitive proposal the following requirements apply:

- (1) Requests for proposals shall be publicized and shall identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- (2) Proposals will be solicited from an adequate number of qualified sources (normally sufficient to secure at least three proposals from qualified proposers).
- (3) The IVDA will have a method for conducting technical evaluations of proposals received and for selecting the best proposal, price and other factors considered.
- (4) The IVDA will determine the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. Competitor's qualifications will be evaluated and the most qualified competitor will be selected, subject to negotiation of fair and reasonable compensation.

#### **ARTICLE 11 MULTIPLE CONTRACTS AND PHASING**

The EDA recommends that the IVDA award all contracts for the project Architectural and Engineering at one time. However, based on project specifics, compelling reasons can justify phasing a project. If phasing is required, the EDA must grant approval for phasing prior to advertising any portion of the project and each phase must be bid independently. When submitting the request for phasing approval, valid reasons justifying the request and a statement indicating the IVDA can, and will, fund any overrun that arises in the later phases must be included.

#### **ARTICLE 12 SOLICITATION (RFP/RFQ AND INSTRUCTIONS TO BIDDERS)**

The EDA requires that the IVDA use written selection procedures for procurement actions (i.e. Instructions to Bidders or Written Request for Proposal). These written procedures are required by the EDA to ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of

- procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

All procurement solicitations can not prohibit the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographical location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The following steps should be followed when preparing the RFP/RFQ:

- A scope of work is prepared by the Manager of Capital Projects.
- Staff prepares a Request for Qualification (RFQ) to select an Architect Engineer consultant using a sample format previously approved by our legal counsel.
- Manager of Capital Projects reviews RFQ.
- A copy of the RFQ is emailed to EDA for review and approval.
- EDA reviews and approves RFQ and issues a written authorization to advertise the RFQ.
- Staff prepares a Board Action (staff report) to request authorization to advertise RFQ.
- Deputy Director Development/Properties edits staff report. (Board Meetings are held every 2nd Wednesday of the month).
- IVDA Board approves the RFQ and authorizes IVDA to advertise
- IVDA Staff places advertisement for the project.

All solicitations must be submitted to the EDA for approval prior to advertisement. Samples of previously approved EDA solicitations (RFP/RFQ and Instructions to Bidders) can be in Appendix I “STANDARD FORM” of this manual.

### **ARTICLE 13 ADVERTISEMENT**

Procurement solicitation by means of formal advertisement and sealed bid is required on all contracts over \$100k. The advertisement for bids should appear in publications of general circulation a minimum of four times within a 30-day period for EDA projects prior to the opening of RFP/RFQ or Bid. Additional circulation of the solicitation (invitation for bids) is encouraged if it is necessary to obtain the additional coverage needed to secure competitive bids.

IVDA staff shall prepare the advertisement for bid at the same time RFQ/RFP or Notice Inviting Bids is prepared. The advertisement should include the following:

- Project description, project specifics, and special requirements.
- Date of pre-proposal conference.
- RFP/RFQ or Bid opening date.
- Location and method of obtaining bid documents.
- Any other information deemed pertinent to competitive solicitation.

Staff submits advertisement to the Clerk of the Board for review and approval. The Clerk of the Board reviews, verifies their availability for dates stated, and approves publication. Staff submits the advertisement through a publication website.

The advertisement is run in two local newspapers for a minimum period of 4 times in 30 days. Submittal deadline for the ad is 3 days before ad run date. The Request For Proposal packet along with all EDA A/E requirements is posted on the IVDA website on the day the ad starts. A copy of the advertisement is faxed to prospective consultant engineers on the vendor list maintained by staff (as defined in the IVDA Construction Procedures Manual) on the day the respective ad starts.

**ARTICLE 14  
NON-MANDATORY PRE-PROPOSAL MEETING**

The EDA requires that a Non-Mandatory Pre-Proposal Meeting be held while the solicitation is being advertised. The date and location of this meeting shall be included in the advertisement. If the date of this meeting is changed, an addendum must be issued to all current plan holders and posted on the agency website. At the meeting, the project team should discuss the project specifics and if necessary conduct a job walk. Typically, requests for bidder information (RFBI) received at the meeting are submitted to the Agency (or its selected representative) in writing. The meeting agenda and sign-in sheet shall be sent to the EDA for their records.

**ARTICLE 15  
ADDENDUMS**

Any changes or clarification to the solicitation (RFP, RFQ, Instruction to Bidders) or bid documents (plans and specifications) must be made via addendum to the original documents. The addendum(s) must be issued to all current plan holders, posted on the agency website, and distributed with all future bid documents for the project. Any significant changes in the project specification or scope of work must be made seventy-two (72) hours prior to the advertised solicitation (RFP, RFQ, Instruction to Bidders) opening date. If any addendums are issued within seventy-two (72) hours of the opening date, the date of the opening must be extended. A copy of all addendums must be sent to the EDA for approval.

**ARTICLE 16  
RECEIVING PROPOSALS**

Proposals are received by the Clerk of the Board on the due date indicated in the solicitation. The proposals are received and time stamped to insure compliance with the solicitation. The proposals are also entered into a log with the Manager of Capital

Projects and Staff Analyst as witnesses. Any proposal received after the date and time indicated in the solicitation are returned, un-opened to the company representative submitting the proposal. The Clerk of the Board opens the proposals with the public present and read the names and proposal amounts received from each firm. If no public opening is required, the Clerk of the Board turns proposals over to the Manager of Capital Projects once received. The Manager of Capital Projects gives proposals to staff for the preparation of the Bid Log and also to enter them into a matrix notating whether minimum qualifications have been met.

The IVDA must furnish the following to the EDA for each solicitation opening:

- (1) A statement signed by the Authorized Representative of the IVDA, certifying that all bids were received sealed and were opened in his/her presence.
- (2) A copy of official minutes of the bid opening.
- (3) A copy of the bid tabulation.
- (4) A copy of the original solicitation.

## **ARTICLE 17 SELECTION PROCESS**

Each solicitation for services (RFP/RFQ or Instruction to Bidders) will include a detailed outline of the selection method being used on each project. Due the complexity and variables on each project, this process may differ slightly based on project specifics and sources of funding. A typical selection process is as follows:

Once the proposals are received and reviewed for compliance with the solicitation, a selection committee is formed with a minimum of three (3) members. The proposals found to be in compliance with the minimum requirements set forth in the solicitation are then reviewed by the selection committee. The selection committee will assess each proposal based on a series of set parameters determined in the solicitation. Based on the evaluation of each member of the selection committee, a short list of the top qualified firm(s) will be formed. The list of shortlisted firms are then invited to interview for the specific services solicited. Each interview will last approximately 45 minutes to an hour and will cover a short presentation by the shortlisted firm followed up with a question and answer session with the selection committee. Generally, a list of questions will be distributed to each short listed firm prior to the interview, and additional questions will be asked by the selection committee at the interview. Each member of the selection committee will rank the firms based on their interviews.

## **ARTICLE 18 CONSULTANT SELECTION AND NEGOTIATIONS**

Once interviews are completed, the selection committee will meet and discuss the individual rankings of each firm. The highest ranked firm will be selected to enter into negotiations. If two or more firms are ranked highest by the selection committee or if further evaluation is needed, the firms may be asked to provide additional information such as a cost proposal or estimate for the solicited work. The selection committee will then recommend a firm in which IVDA should enter into negotiations based on the best

value that that firm represents for the Agency and the project in question. Once negotiations are reached with the selected firm, the selection is recommended to the Executive Director for approval. If negotiations are not reached with the top ranked firm, the Agency may choose to either enter into negotiations with the next ranked firm, or reject all proposals and re-issue a solicitation for the services.

## **ARTICLE 19 APPROVAL**

Once negotiations have been completed and the Executive Director has approved the selection, the EDA, Agency counsel, and IVDA Board must also approve the selection and selection process used. IVDA staff will prepare an IVDA Board action recommending approval of the award of contract to the selected firm, subject to EDA approval. In the event that the IVDA Board approves the award, a contract will be drafted for EDA review and approval. See Article 9 of this chapter for the A/E Contract Requirements.

The following is required to be submitted to the EDA for review:

1. Original solicitation
2. Affidavit of advertisement.
3. Log of proposals
4. Ranking matrix
5. Proposal of selected firm
6. Justification for selection of firm
7. Draft of contract.

Once reviewed and approved, the EDA will issue an approval to award letter to the IVDA. The Coordinator, Grants and Projects will then issue the contract documents, subject to final approval by IVDA legal counsel to the selected firm for execution. Once executed, an original is provided to the Clerk of the Board, and a copy of the executed contract is concurrently submitted to EDA and to the consultant.

## **ARTICLE 20 ARCHITECT / ENGINEER AGREEMENTS**

Once fair and reasonable compensation has been negotiated, the EDA has specific guidelines that must be followed when executing the Architect/Engineer Agreement for services. These requirements are as follows:

- A. The architect/engineer agreement shall provide for all services required by the IVDA for the planning, design and construction phase of the proposed project. Appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council (ACEC), American Society of Civil Engineers (ASCE), National Society of Professional Engineers (NSPE), and/or the American Institute of Architects (AIA) may be used where the IVDA standard procurement documents do not apply or are not desired based on project specifics.

- B. The Architect/Engineer's fee for basic services must be either a fixed price or a cost reimbursement with an agreed maximum to be eligible for EDA participation. The amount of EDA participation will be based on a determination, subject to audit, that the compensation is reasonable.
- C. The use of the cost-plus-a-percentage-of-cost and percentage of construction cost forms of compensation are specifically prohibited.
- D. The Architect/Engineer's fee shall cover all services necessary for the successful execution of the project, including consultations, surveys, soil investigations, supervision, travel, "as-built" or record drawings, and incidental costs. The basic fee shall not exceed that prevailing for comparable services in the project area. If the total fee is in excess of the prevailing rate because of special services to be performed, these services shall be identified in the agreement. Such additional charges may be approved for grant participation by EDA if they:
  - (1) Do not duplicate a charge for services provided for in the basic fee and are within the normal scope of the Architect/Engineer's responsibilities;
  - (2) Are a proper charge against the project cost; and
  - (3) Are reasonable for the extra services to be rendered.
- E. Regardless of who furnishes the construction inspector, the Architect/Engineer shall be held responsible for making sufficient visits to the project site to determine, in general, if the work is proceeding in accordance with the construction contract.
- F. All negotiated architect/engineer contracts (except those of \$100,000 or less awarded under small purchase procedures) awarded by IVDA shall include a provision to the effect that the IVDA, EDA, the Comptroller General of the United States, the Inspector General of the Department of Commerce, or any of their duly authorized representatives, shall have access to any documents, books, papers, and records of the architect/engineer (which are directly pertinent to a specific grant project) for the purpose of making an audit, examination, excerpts, and transcriptions. The IVDA shall require the Architect/Engineer to maintain all required records for at least three years after the IVDA makes final payment and all pending matters are closed.

## **ARTICLE 21 CONSTRUCTION MANAGEMENT**

For the purposes of this Article, Construction Management is defined by the EDA as the services of a firm with competent and experienced staff to act as the IVDA's agent to perform all or part of the following:

1. Aid the project designer to find expedited or less costly methods of construction (Value Engineering).
2. Monitor the contracting process. This may vary in scope from giving advice to the IVDA to complete control of the contracting process.
3. Inspection or supervision of inspection of the construction work.
4. Controlling the expenditure of project funds on a multi-faceted or highly complex project.
5. Controlling unusual methods of contracting such as "fast track" or "turn-key".

Agreements for Construction Management Services fall under the same requirements by the EDA as Architectural and Engineering Services described in Article 9 of the Chapter. Further, procurement requirements for Construction Management Services follow the same EDA requirements for Architectural and Engineering Services procurement as outlined in Article 8 of this Chapter and are usually combined with A/E services included in the A/E services solicitation. However, the EDA does have specific requirements as it relates to Construction Management Services and they are as follows:

- (1) If the IVDA wishes to use a Construction Manager, EDA will participate in reimbursement of such costs only if EDA approves the proposed or actual contract for such services.
- (2) The compensation for Construction Management services is subject to the same rules as those for architect/engineer services.
- (3) The Construction Management Agreement must spell out who is responsible for construction inspection, approval of construction and supply contracts, change orders and other areas of possible conflicts (i.e., the division of responsibility and authority between the IVDA the Architect/Engineer and the Construction Manager).

## **ARTICLE 22 AMENDMENTS**

Between conception and closeout of any construction project, one or more changes in the project may be necessary to resolve unforeseen problems or remove obstacles impeding the project's successful completion. In most instances, the proposed change can be effected only through a formal amendment to the project either via Amendment to Contract (for professional services), or a Change Order to construction services (see Appendix I for Change Order requirements).

Amendments to Contract (for professional services) generally fall into the following categories:

- (1) Time extensions.
- (2) Budget or line item revisions.
- (3) Project scope changes due to unforeseen conditions or additional requirements.

(4) Approved reimbursable.

All Amendments to Contract must be submitted to the EDA and IVDA Board for approval, regardless if cost is or is not involved. Amendments to Contract submitted for EDA approval must include full justification, including any requests for time extensions on the contract. EDA reserves the right to suspend and/or terminate any grant if the IVDA fails to proceed with reasonable diligence to accomplish the project as intended. Once an Amendment to Contract request is received from the consultant/firm, IVDA staff will review the request for validity and value. Once the request is reviewed by the Manager of Capital Projects, a recommendation will be given to the Deputy Director Development/Properties and Executive Director. If accepted, the request for Amendment to Contract can be presented to the IVDA Board and EDA for approval. At that point, a recommendation for approval will be sent to the IVDA Board and EDA. After acceptance from the EDA and IVDA Board, the proposed Amendment to Contract will be finalized, duly executed, and the consultant will be able to include any additional fees approved on the next progress payment request.

### **ARTICLE 23**

#### **CONSULTANT PAY REQUESTS**

Consultant(s) may submit payment requests on a monthly basis or as needed throughout the duration of the approved contract. Depending on the contract, payment requests should be submitted on a Schedule of Values (line item) basis, or in some cases, a pre-determined monthly value. In all instances, the consultant will be paid only for services and/or goods rendered at the time of the request. Consultants are generally allowed to monthly payment applications on 20<sup>th</sup> of each month and are asked to forecast services through the end of each month. Generally, retention is not withheld from professional services; however, in some cases, it may be needed or required to withhold retention from each pay request until the end of the contract term.

### **ARTICLE 24**

#### **CONDITION ASSESSMENT REPORT**

On some projects, it may be required to conduct a survey of the project site or facility prior to design to determine design parameters. Given this variable, the condition assessment could be part of the A/E contract or an independent contract held by an IVDA third party consultant. However, if the project is funded by the EDA, the design cost will be determined based on the outcome of the assessment, and the assessment must be solicited and procured prior to procurement of the A/E consultant. The EDA requires a total cost of design to be provided when procuring A/E services. Therefore, if a total cost for design cannot be established without an assessment, the assessment must be procured separately.

The condition assessment process is the systematic evaluation of a site or facility's physical condition to assess deficiencies and identify enhancements necessary to bring conditions up to acceptable standards, and codes and develop estimates for the cost of those enhancements. A condition assessment is an integral part of establishing the scope of work for any project. In many cases, a condition assessment may be required to

establish design parameters and must be preformed prior to solicitation of A/E services. Condition assessments can be a valuable tool to any project involving an existing site of facility. A detailed assessment can reveal unanticipated project costs before design related expenses are incurred. Typically, the more detailed the requirements a consultant is to provide to perform the condition assessment, the more useful the final report will become. At a minimum, the consultant performing the condition assessment should be contractually required to include and perform the following steps when conducting the assessment:

- Reviewing/Updating/Developing Design Criteria and Technical Standards.
- Defining the condition assessment scope of work that will be addressed in this process.
- Compiling historical data from the site or facility.
- Interviewing maintenance staff and end users (if applicable).
- A complete hazardous material assessment.
- Assessing existing structures, infrastructure, and environmental concerns.
- Developing assessment reports.

## **ARTICLE 25**

### **PROPERTY CERTIFICATION, EASEMENTS, AND RIGHT OF WAY**

Depending on project dynamics, it may be required to purchase land, establish rights-of-way, or certify property or easements on EDA funded projects prior to the start of Design or During the Design phase. The EDA requires that the IVDA possess and maintain good and merchantable title to the tracts or parcels of land on which buildings, structures, or other project improvements will be located, with any liens or encumbrances noted, and that it has obtained all necessary easements, permits, rights-of-way, franchises, condemnations, and all Federal, State and local approvals necessary to the completion of the project.

To comply with this requirement, the IVDA must furnish to the EDA a description of the sites and rights-of-way on which the project will be located. A "Certificate as to Project Site, Rights-of-Way, and Easements," must be provided to confirm the IVDA's title to the real property necessary for the project. The IVDA also has the option to prepare the title opinion in a format that meets local law or custom. Any title opinion submitted must be approved by EDA and as always the EDA may require additional documentation.

If land acquisition is a part of the project, the EDA must be provided with documentation to show the basis for determining that the amount of land acquired and that the cost of the land is reasonable. If an appraisal is required, a professional appraiser(s) should perform the service. An appraiser registered with a national society and/or licensed by the State is required by the EDA. Any significant change in the amount and cost of land from that upon which the project approval was based must be approved by EDA to be eligible for EDA reimbursement. No financial assistance will be approved for a project involving public or privately owned land adjacent to or in the vicinity of a federally owned or operated airfield, unless the IVDA can demonstrate that the proposed project is compatible with the airfield land use plan prepared for that facility. Due to the

requirements described above, land acquisitions are generally not requested to be reimbursed by the EDA when part of an EDA project

## **ARTICLE 26**

### **BID DOCUMENT APPROVAL (EDA)**

Once the design is completed, the budget has been reconciled, and the bid documents have been assembled, the bid documents must be submitted to EDA for final approval before the project is put out to bid. The EDA review and approval of plans, specifications, contract and related documents is to assure compliance with terms of the EDA grant award and does not attest to the accuracy or completeness of design, dimensions, details, proper selection of materials nor compliance with required codes or ordinances. This responsibility rests with the IVDA and the consultant(s) that were selected for the project. It is recommended that the IVDA standard “front end” specifications be used, as these documents have already been reviewed by the EDA and IVDA legal counsel. Use of these standard documents will help to expedite the EDA review and approval of all the related bid documents. Once the EDA has concluded the review, a letter will be issued to the IVDA outlining any changes that are recommended and indicating approval to advertise the project. IVDA staff will then need to obtain IVDA Board approval to advertise the project pursuant to applicable procedures.

## **ARTICLE 27**

### **ADVERTISEMENT**

IVDA staff should prepare the advertisement or “Notice Inviting Bids” once approval is granted from the IVDA Board. The advertisement should include the project specifics, date of non-mandatory pre-proposal conference, bid opening date, location and method of obtaining bid documents, and any other information deemed pertinent to competitive solicitation. Staff is required to submit the advertisement to the Clerk of the Board for review and approval. The Clerk of the Board will review and verify availability for dates selected. Once the Clerk of the Board approves the advertisement, staff establishes a chronological file related to the project for the Clerk of the Board files. Staff submits an advertisement through the publication website. The advertisement should appear in publications of general circulation a minimum of four times within a 30-day period prior to the opening of the Bid. Additional circulation of the “Notice Inviting Bids” is encouraged if needed to obtain the coverage necessary to secure competitive bids.

The advertisement for bids should appear in publications of general circulation a minimum of four times within a 30-day period for EDA projects, prior to the opening of Bid. Additional circulation of the solicitation (invitation for bids) is encouraged if it is necessary to obtain the additional coverage needed to secure competitive bids. The submittal deadline for an ad under these requirements is 3 days before the ad run date. The “Notice Inviting Bids” packet, along with any special EDA or A/E requirements, is posted on the IVDA website on the day the ad starts. A copy of the advertisement is faxed to prospective consultant engineers on the vendor list maintained by IVDA staff (as defined above) on the day the ad starts.

## **ARTICLE 28**

### **PRE-BID CONFERENCE**

The purpose of the pre-bid conference/job walk is to acquaint prospective bidders with the overall project scope, team members, project site, and to highlight any unique aspects, features or contract requirements. Generally, IVDA funded projects conduct a Mandatory Pre-Bid Conference. This is preferred to ensure that prospective bidders walk the project site and have an opportunity to develop questions. However, the EDA requires that a Non-Mandatory Pre-Proposal Meeting be held while the solicitation is being advertized. Regardless of the funding source or requirements of the meeting attendance, the date and location of this meeting shall be included in the advertisement. If the date of this meeting is changed, an addendum must be issued to all current plan holders and posted on the Agency website. At the meeting, the project team should discuss the project specifics, and if necessary, conduct a job walk. Typically, requests for bidder information (RFBI) received at the meeting are submitted to the agency (or its selected representative) in writing. The meeting agenda and sign-in sheet shall be posted on the agency website and if applicable sent to the EDA for their records.

## **ARTICLE 29**

### **ADDENDA**

The objective of the addenda process is to provide a method of incorporating additional information into the bid documents after the bid documents are published but prior to the bid, and disseminating this additional information to all plan holders. Additional information may need to be added to the bid documents as a result of questions from bidders, last minute design or administrative changes, or because the A/E did not finish the work before publication of the bid documents. Any changes or clarifications to the solicitation (notice inviting bids) or bid documents (plans and specifications) or response to bidder questions, must be made via addendum/addenda to the original documents. The addendum/addenda must be issued to all current plan holders, posted on the Agency website, and distributed with all future bid documents for the project. Any significant changes in the project specification or scope of work must be made seventy-two (72) hours prior to the advertized bid opening date. If any addendum/addenda are issued within seventy-two (72) hours of the opening date, the date of the opening must be extended. A copy of all addendum/ addenda must be sent to the EDA for approval (if applicable).

## **ARTICLE 30**

### **BID OPENING**

The objective of the bid opening process is to comply with all applicable rules and regulations of the IVDA and any other regulatory agency that is part of the project that may have special bid and award requirements. Bids are public documents and are generally required to be opened in a public forum and made available to other bidders upon request. It is critical that all IVDA staff present at the bid opening remain neutral throughout the process. IVDA Staff and representatives should not answer last minute questions and avoid casual contact with bidders. Proposals are received by the Clerk of the Board and respective IVDA Staff on the due date and time indicated in the solicitation. The bids are received and time stamped to insure compliance with the

solicitation. The proposals are also entered into a log with the Manager of Capital Projects, Staff Analyst, and respective IVDA staff present as witnesses. Any bids received after the date and time indicated in the solicitation, are returned, un-opened to the company representative submitting the proposal. If a public opening is being conducted or is required, the Clerk of the Board, Manager of Capital Projects, Staff Analyst, and respective IVDA staff (serving as witnesses) will gather the public once all proposals are received. The Clerk of the Board will then open the proposals with the public present and read the names and proposal amounts received from each firm. If no public opening is required, the Clerk of the Board turns proposals over to Manager of Capital Projects.

If the project is funded by the EDA, The IVDA must furnish the following to the EDA for each bid opening:

- (1) A statement signed by the Authorized Representative of the IVDA, certifying that all bids were received sealed and were opened in his/her presence.
- (2) A copy of official minutes of the bid opening.
- (3) A copy of the bid tabulation.

### **ARTICLE 31 RECOMMENDATIONS /PROTESTS**

California public contract law requires that the contract be awarded to the lowest responsible bidder with a responsive bid. This requires the ranking of bidders to identify the lowest bid, determining whether the bidder is responsible, and determining whether the bid is responsive. If a bid does not comply on one of these points, the bid is no longer considered and evaluation of the next lowest bid begins. In order to award the contract to the lowest responsible bidder with a responsive bid, the bid amount must be within the project's allowable budget constraints. In the event that an award recommendation cannot be made, all bids will be rejected. Typically it is the responsibility of the selected IVDA consultant (project A/E or CM) to evaluate the bid and make a recommendation in writing for award or rejection. However, it is the IVDA's decision to accept or reject the consultants and make a board recommendation for award or rejection. If the project is funded by the EDA, recommendations must also be sent to the EDA for review and approval.

A bid protest must be filed within legal timeframes as specified in the Bid Contract Documents. Bid protests may result in re-bidding or incur other cost and scheduling impacts. A bid protest initiated by an unsuccessful bidder will usually be based on the responsiveness of the bid document, the responsibility of the successful or selected bidder, or the advertising and bidding process itself.

Upon receipt of a bid protest, the Deputy Director Development/Properties responsible for the project and the agency counsel should be notified right away to evaluate the protest and also access the impact of the protest on the project's schedule and budget.

**ARTICLE 32**  
**BOARD APPROVAL**

Once the bid evaluation process is complete, the bid protests have been cleared or the protest period has past, and the recommendation for award has been received, the board must approve the award. If the project is funded by the EDA, the EDA must also approve the award. IVDA staff will prepare a board action recommending approval of the award to the selected firm (contingent upon EDA approval if applicable).

The following is required to be submitted to the EDA for review (if applicable):

1. Original solicitation
2. Affidavit of advertisement.
3. Bid Log
4. Bid Tabulation
5. Protest (if any)
6. Recommendation

Once reviewed and approved, the Coordinator of Grants/Projects will then issue the contract documents to the selected firm for execution, subject to prior approval from IVDA legal counsel. The contract must be executed within a specific time frame after the notice of award is issued. IVDA staff should refer to the Contract Documents and Bid Documents for this time frame, as it may vary on each project depending on the funding source and regulatory agencies involved. If applicable, the executed contract must be sent to the EDA for their records.

**ARTICLE 33**  
**NOTICE TO PROCEED**

Once all bonds and insurance have been verified, accepted, and the contract executed, a Notice to Proceed (NTP) needs to be prepared by IVDA staff that includes the contract start date, duration (usually calendar days), and the completion date. The contract is required to be executed in a specific amount of time (usually 10 days) after notice of award is issued. In addition, a Notice to Proceed must be issued in a specific amount of time after award and contract execution. IVDA staff should refer to the Contract Documents and Bid Documents for both of these dates, as they can vary on each project depending on funding source and regulatory agencies involved. IVDA staff must obtain the signature of the awarded firm on the NTP and retain a copy in the project files. IVDA staff should also provide a copy of the executed contract and NTP to other team members, as needed. If the project is funded by the EDA, the EDA must first approve the contract before an NTP can be issued. Once issued, a copy of the NTP should also be sent to the EDA for their records.

**ARTICLE 34**  
**PREVAILING WAGE AND CERTIFIED PAYROLL**

Prevailing wage is required for all construction undertaken for IVDA projects. The California Labor Code states that “Except for public works projects of one thousand dollars (\$1,000) or less, not less than the **general prevailing rate** of per diem wages for

work of a similar character in the locality in which the public work is performed, and not less than the **general prevailing rate** of per diem wages for holiday and overtime work, shall be paid to all workers employed on public works contracts.” This is applicable only to work performed under **contract**, and is not applicable to work carried out by the agency with its own forces.

For projects that are funded by the EDA, prevailing wage is also required. This falls under the Davis-Bacon Act, and states “all laborers and mechanics employed by contractors or subcontractors on construction contracts, in excess of \$2000 financed by Federal assistance funds, must be paid on a prevailing wage rates.”

Prevailing wage rates change frequently and the current rates at the time the project is bid should be listed in the project specifications. It is the prospective bidder’s responsibility to account for any increases in the prevailing wage rate during the life of the project and include them in their bid. Current prevailing wage rates for the County of San Bernardino can be found on the California Labor Board website.

The IVDA Accountant will verify that the prevailing wage is being correctly paid on each project. This is accomplished by certified payroll reports that should be accompanied with each payment application. The Certified payroll should be submitted in a WH-347 form, which includes the statement of compliance. The certified payroll should be on a weekly basis and should state the project name or grant number. If there was no work performed, then the contractors need to submit a Nonperformance letter for that period. IVDA accountant keeps a certified payroll tracking system to check whether the certified payroll is submitted weekly. Certified Payroll should be retained by IVDA for 3 years after the project is closed out.

## **ARTICLE 35 SUBMITTAL REQUIREMENTS**

The submittal process is intended to ensure that the product(s) that were specified in the bid documents during the Design Phase are same or equal products used on the project. Submittals are also used to select colors and finishes of products that were specified in the bid document but a finish was not indicated. Generally, all IVDA construction contracts require the contractor to turn in submittals for approval prior to ordering or installing the product. The project specifications will dictate when submittals are required. Depending on the project size and complexity, submittals can be required as soon as ten (10) days after a Notice to Proceed is issued. Projects will have submittals of various items required by the contract, and most will allow substitutions. Allowing substitutions can depend on the funding source or scope of the project. If the project is funded by the EDA, an “or equals” clause must be added to the bidding documents allowing prospective bidders to substitute any specified items for an equal item from another manufacturer.

Typically, the IVDA-selected consultant (project A/E or CM) is responsible for managing the submittal process effectively to help make the project successful. However, on smaller, “in-house” projects that responsibility may be shifted to IVDA staff. This

process effectively starts by emphasizing the importance of timely submittal development (especially of critical and long lead items), at the Pre-Construction Meeting and throughout the early phase of the project. Then the responsible party will need to constantly monitor the process, to ensure that the submittal approval supports the project schedule.

### **ARTICLE 36 CHANGE ORDERS**

During the construction of the project (after construction contracts have been executed) it may become necessary to alter the contract(s) due to design changes, additional regulatory requirements, or unforeseen conditions. The change to the contract is referred to as a Change Order (CO). If the project is funded by EDA, all change orders must be agreed to by the EDA if they are to be considered eligible for reimbursement. The work on the project may continue pending EDA review and concurrence in the change order, but the IVDA is then “at risk” and fully responsible for the impacts of the change order, pending EDA approval. NOTE: The EDA will not approve financial participation in change orders that are solely for the purpose of using excess funds resulting from an under run of one or more of the items in the EDA approved project budget. EDA approval of change orders must be based on a finding by EDA that the work called for in the change order is within the project scope and will enhance the operation or functioning of the project.

All change orders, regardless of the project funding source, should first be submitted to the IVDA or its authorized representative (project A/E or CM) as a proposed change order (PCO). The PCO should include all necessary supporting statements, RFI responses, estimates, specifications, plans and whether or not a change in price or project time is involved. Any increase in quantity which will result in an overall project cost overrun will require a change order to the contract. Any change to a unit price shown in the contract documents will also require a change order to the contract. Once the PCO has been received, negotiated, and approved by the IVDA it can be included into a Change Order (CO) either independently or coupled with other approved PCO’s in one Change Order.

The CO is the actual signature document that modifies the contract between the IVDA and the Contractor. It is a legal document that modifies the contract. The CO incorporates the final scope of work and associated cost and/or time impacts developed. The CO should include a complete justification for the scope referenced in the documents. If this is change in the project scope of work, the justification should include a detailed break out of labor and material including invoices for materials or equipment purchased or rented. Every Change Order requires the approval of the Contractor, Manager of Capital Projects, Architect/Engineer, Inspector of Record (if any), and Construction Manager (if any). Once staff approves a change order, it must be brought to the governing board for approval. If a change order contingency was previously approved by the IVDA Board for the project the change order can be included on the monthly progress billing once staff had approved the CO. If no contingency budget or if the CO is over the contingency amount approved, the CO must be board approved on an individual basis. If the

contingency budgeted amount was not exceeded, all change orders billed to the contingency must then be ratified by the board at the end of the project. The IVDA has established a standard Change Order form that should be used on all construction projects.

### **ARTICLE 37**

#### **EDA CLOSEOUT REQUIREMENTS**

Once IVDA has accepted the project from the contractor, the IVDA can begin the closeout process. This should include notifying EDA of the following actions:

1. Compliance with all Special Conditions of the EDA grant award.
2. Securing permanent insurance for above ground facilities.
3. Results of a review of the project to determine that all changes to the project have been brought to the attention of EDA.
4. Provisions have been made for the retention for three years of all records pertaining to the project.
5. Certificate of Final Completion has been prepared, executed and a copy furnished to EDA.
6. As-built drawings have been received from the contractor and/or the architect/engineer.
7. A copy of a current Single Audit Act audit of the IVDA has been furnished to EDA.
8. To the knowledge of the IVDA, there are no outstanding Davis-Bacon or local labor employment violations.
9. EDA has been notified of any change, lien, mortgage or other encumbrance relating to the ownership of the project.
10. EDA has been notified of any unresolved contract/contractor disputes.
11. If required, a lien or Covenant of Purpose, Use, and Ownership in favor of EDA has been executed and recorded.
12. A record will be maintained by the IVDA of the useful life of the facility as determined by EDA during which period the IVDA may not alienate its ownership or change the use and purpose of the EDA assisted facility without EDA's written permission.

The IVDA staff is also required to submit, within 90 calendar days after the completion of the project, all financial, performance and other reports as required by the terms and conditions of the grant award. Unless EDA authorizes an extension, the IVDA shall liquidate all obligations incurred under the grant award no later than 90 calendar days after the funding period or the date of completion, whichever is earlier, as specified in the terms and conditions of the award.

### **ARTICLE 38**

#### **ENGINEER'S FINAL ACCEPTANCE LETTER AND LIEN RELEASE**

At the end of a project, a final inspection will be performed. The project will be rejected or accepted by the IVDA and the Architect/Engineer. The A/E will submit, in writing, a final acceptance report or similar document outlining the project scope, final construction costs, and compliance with contract documents. This report states that the work

performed under contract was inspected for the purpose of determining acceptability of construction. The date of acceptance is usually the date which the IVDA may occupy and/or use facility for the purpose for which it is intended in accordance with the contract documents and all work for the facility has been completed. The contractor should agree that the date of acceptance is also the date of commencement of all warranties required by the contract documents and that the contractor has released all liens on the project, including material men and mechanics liens or others filed by the contractor. A copy of the lien releases should be received from the contractor and kept for the project file. For EDA funded projects, the final acceptance letter must be sent to the EDA along with a copy of all the lien release and as-builts. A sample of the final acceptance letter and lien releases can be found in Appendix I of the manual.

### **ARTICLE 39**

#### **NOTICE OF COMPLETION BOARD APPROVAL**

Once all closeout requirements have been met, a recommendation for final acceptance and notice of completion can be brought before the IVDA Board for approval. This final acceptance action to be presented to the IVDA Board will often include a final change order reconciling the contract with any outstanding items. IVDA staff will prepare a board action recommending approval. If applicable, the board acceptance must be sent to the EDA for their records

### **ARTICLE 40**

#### **ACH VENDOR PAYMENT ENROLLMENT- SF-5881**

The SF 3881 Payment Information Form-ACH Vendor Payment System, required setting up electronic fund transfer for EDA Grants by Inland Valley Development Agency (IVDA).

#### **Steps for completing SF 3881**

1. Agency Information ARTICLE- EDA types the name and address of Economic Development Agency, grant number, location code, and contact person name and telephone number of EDA. Also, check the appropriate box for ACH format.
2. Payee/Company information ARTICLE- The accountant of IVDA types name and address, Tax I.D. number, and the CFO's name and phone number. Accountant also verifies IVDA Bank account number, account title, and type of account entered by our financial institution in the Financial Institution Information Section.
3. Financial Institution Information ARTICLE- The Financial institution prints the name and address of IVDA financial institution who will receive ACH payment, ACH coordinator name and telephone number, nine-digit routing transit number and IVDA account title and account number. Also, the box for type of account is checked, and the signature, title, and telephone number of the appropriate financial institution official are included.

**ARTICLE 41**  
**FEDERAL FINANCIAL REPORT**  
**Reporting Requirements**

1. The submission of interim FFRs is Semi-annual, as directed by the Federal agency. A final FFR shall be submitted after the completion of the project. Agencies reporting period end date for interim report is 06/30 & 12/31.
2. Semi- annual interim reports shall be submitted no later than 30 days after the end of each reporting period. Final reports shall be submitted no later than 90 days after project or grant period end date.

**Steps for completing Federal Financial Report (FFR)**

Enter the following information in the box number specified.

1. 'Economic Development Administration'.
2. Grant number from award letter or agreement.
3. Complete address of IVDA.
4. a) DUNS Number.  
b) EIN Number.
5. General Ledger A/C number assigned for the project.
6. 'Semi-Annual' (for ongoing project) or 'Final' (if the project is finished).
7. 'Cash'.
8. Start date and the end date from the Award Document.
9. Either 06/30 or 12/31.
10. d) Grant amount.  
e) Total expenditure incurred within the reporting period.  
f) The approved fund that is not yet spent.  
g) Sum of line 10e and 10f.  
h) Amount of line 10d minus line 10g.  
i) Matching fund.  
j) Actual amount spent from matching fund.  
k) Amount of line 10i minus 10j  
l) Amount of program income earned from the project if it has started generating income.  
m) Amount of program income that was used to reduce the Federal share of the total project costs.  
n) Amount of program income that was added to funds committed to the total project costs.  
o) Amount of line 10l minus line 10m or line 10n.
13. The authorized certifying official must sign and date.

**ARTICLE 42**  
**QUARTERLY PERFORMANCE REPORT**

The IVDA is required to constantly monitor project progress to assure that time schedules are being met, project work units by time periods are being accomplished, and other

performance goals are being achieved. This review shall be made for each program, function, or activity as set forth in the approved grant application. The IVDA is required to submit a project performance report for each calendar quarter. The report will cover the following for each program, function, or activity involved:

1. A comparison of actual accomplishments to the timetable established in the Grant Award
2. Reasons for delays in those cases where the timetable approved by EDA was not met;
3. Any change to the purpose, nature, location, bona-fide need, neighborhood served, size, funding, or cost of the project.
4. All change orders issued up to the date of the report and not previously reported to EDA
5. All other pertinent information including, when appropriate, an analysis and explanation of cost overruns or high unit costs.

The project performance report will be due not later than January 15, April 15, July 15 and October 15 for the immediate previous quarter year. This requirement shall begin with the IVDA's acceptance of the EDA Grant Award and shall end when EDA approves the final grant disbursement. Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the Recipient will be required to inform EDA as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially affect the ability of the IVDA to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work by established time periods. This disclosure shall be accomplished by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.
2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work than originally projected.
3. If any performance review conducted by the Recipient discloses the need for change in the budget estimates, the Recipient is required to submit a request for budget revision.

The report will be sent to the EDA Regional Office. EDA will not process any requests for grant disbursement from Recipients with delinquent performance reports.

#### **ARTICLE 43**

##### **SINGLE AUDIT REPORTING PACKAGE**

Recipients of Federal Awards are subject to audit requirements contained in the Single Audit Act amendments of 1996 and revised OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations".

At year end, while preparing audit schedules for Financial Statement Audit, Internal Auditor also prepares the Schedule of Expenditures of Federal Awards for External

Auditor. External Auditors reviews the Schedule prepared by Internal Auditor and determines if the Single Audit needs to be done or not.

While preparing Schedule of Expenditures of Federal Awards, Internal Auditors, reviews the general ledger account detail for current year's expenditures of federal awards. Inland Valley Development Agency has assigned different general ledger account numbers to each grant projects to identify the cost separately for each award.

External Auditors of Inland Valley Development Agency submit the Form SF-SAC to The Federal Audit Clearinghouse along with A-133 Single Audit Reporting package. Also A-133 Single Audit Reporting package is submitted to each Federal Agency that Inland Valley Development Agency received Federal Award from.

#### **ARTICLE 44**

##### **PROGRAM INCOME REUTILIZATION PLAN**

This Program Income Reutilization Plan (Plan) shall pertain to all Program Income, as defined by EDA and when generated by the Inland Valley Development Agency (IVDA) for all of the EDA grant awards or by any of its sub recipients, unless a separate agreement is developed for such sub recipient. The term "Income Producing Facility," - refers in this document to the former Norton Air Force Base as one whole unit, which is more specifically described in the attached exhibit (Note 1).

##### **A. Program Income generated during the grant period:**

1. Program Income will be reviewed, semi annually to coincide with Federal Financial Reporting as required by Standard Terms and Conditions of the EDA financial assistance award through the following process which identifies the total Program Income by award, the activity to which the Program Income is being committed, and the Federal Fiscal Year contract to which it is being assigned.
2. All activities for which Program Income is to be utilized shall comply with 15 CFR 14.24 and 15 CFR 24.25 meeting the federal guidelines.
3. To calculate Net Program Income the following expenses will be deducted in the order noted below:
  - a. The IVDA may deduct capital costs incident to the generation of Gross Program Income to determine Net Program Income, provided these costs have not been charged to the award. The example of the costs would be capital expenditures those are not charged to award but essential for the general and specific purpose of the grant award.
  - b. The operation and maintenance of an income producing facility will be deducted from the Gross Program Income to calculate Net Program Income. For example, utilities, repair and maintenance and over-all operational expenditure of the income producing facility.

4. The use of Program Income: The program income shall be used in the following order:
  - a. Upon approval from EDA, if there has been net revenue generated from Program Income after costs as defined above have been deducted, this revenue will first be used to meet the cost sharing or matching requirement of the grant agreement.
  - b. Upon approval from EDA, if the cost sharing or matching requirement has been satisfied by the net revenue generated by Program Income, the Program Income may be added to the funds committed to the grant agreement by EDA and the Recipient. The Program Income shall be used for the purposes and under the conditions of the grant agreement.
  - c. If the cost sharing or matching requirement has been satisfied by the net revenue generated by Program Income and added to the funds committed to the grant agreement “during the grant period” (from the date of the award to the ending date reflected in final Outlay Report and Request for Reimbursement for Construction Programs financial report) it shall be deducted from program outlays associated with the grant award in question before other EDA funds are drawn down for the purposes of said project activity.
  
5. Program Income shall be reported in all audits and Outlay Report and Request for Reimbursement for Construction and Federal Financial Reports prepared and/or released by the IVDA / SBIAA.

**B. Income generated as a result of the grant project after the grant period:**

1. Any long-term rental revenue created as a result of the EDA grant project after the grant period and for the duration of the project period pursuant to such EDA grant award - (the 15-year useful life of the building) will be used in the following order of priority:
  - a. “Base Re-use Area” shall mean one whole unit for administration, operation, maintenance and repair of the Project facilities for their estimated useful life (as determined by EDA) in a manner consistent with good property management practice and in accordance with established city building codes.
  
  - b. Economic development activities within the EDA eligible areas that are authorized for support by EDA provided such activities meet the economic development purposes of Public Works and Economic Development Act (PWEDA).

During the 15-year useful life, the grantee will keep track of the income generated through such activity by award by fiscal year, and prepare report and submit to EDA for review upon the request.

2. The Income Reutilization Plan will be submitted to EDA for approval.

## **ARTICLE 45**

### **PROPERTY MANAGEMENT SYSTEM**

This Plan shall pertain to all Property that is acquired or improved with EDA grant assistance by Inland Valley Development Agency.

#### **Purchasing:**

1. It is the practice of Inland Valley Development Agency that no personal property will be purchased with EDA grant assistance. If in future will there be necessary to purchase the personal property with the EDA assistance, the procedure manual should be re-visited and re-written to comply with EDA requirements in 15 CFR 24.32.

#### **Inventory & Record Maintenance:**

2. Property records must be maintained and updated annually and reviewed and approved by Deputy Director Development/Properties department annually.
3. Property records should include a description of the property, an identification number, the source of property, who holds the title, the acquisition date, the cost of the property, percentage of Federal participation cost of the property, the location, use and condition of the property, life of the property and any ultimate disposition data including the date of the disposal and sale price of the property.
4. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

#### **Title & Maintenance:**

5. After the completion of the project, the entity that holds the title of the property is responsible for adequate maintenance. The IVDA Staff are required to do on site inspections of the completed project site annually and to inspect for any significant damage. When an entity other than the Inland Valley Development Agency holds the title, the Inland Valley Development Agency requires an initial agreement with the entity to take the responsibility to maintain the property after the completion of the project.
6. It is the policy of Inland Valley and Development Agency not to sell the property acquired with the EDA Assistance. If the sale or disposition of the property is required, the sale or disposition should comply with 15 CFR 14.32.
7. Inland Valley Development Agency's policy is to record liens against the property for the useful life of the property that is acquired with Federal Assistance to comply with the disposition condition.

## **ARTICLE 46**

### **GOVERNMENT REPORTING AND RESULTS ACT**

The Government Performance and Results Act of 1991 (GPRA) requires Federal Agencies to develop performance goals and measures, and to monitor and report on its program performance. To obtain this performance data, EDA requires, as part of the Special Award Conditions, that investment-related information be reported 3-years, 6-years, and 9-years after the grant award date. The applicable forms and related instructions are listed below.

- The EDA Regional Office will notify investment recipients in writing of the reporting requirements and current instructions within a reasonable period of time (normally 45 days) prior to the submission of performance reports.
  
- GPRA Forms and Instructions
  - ED-915 Form Public Works Economic Adjustment Infrastructure and Revolving Loan Fund Investments
  
  - ED-915 Instructions Public Works Economic Adjustment Infrastructure and Revolving Loan Fund Investments

GPRA Performance Validation Form – For EDA Infrastructure and RLF investments reporting \$6 million and more in private sector investment OR 3,500 or more jobs created/retained.