

Checklist for Review of Professional Services Agreements on BEST Projects

The checklist below is provided as a non-exhaustive reference when reviewing and negotiating agreements for professional services for projects involving Building Excellent Schools Today grant funding. Please carefully review each item, and discuss any questions with your legal counsel and CDE Division of Capital Construction staff.

- Legal Counsel has reviewed the contract and any modifications against grant contract/sublease requirements
- RFQ/RFP and any exhibits are included by reference and attached to the contract
- Sublease or Cash Grant Contract is included by reference and attached
- BEST Service Provider Contract Exhibit is attached and referenced if necessary
- Contract is based on an industry standard format (AIA, ConsensusDocs, DBIA) and/or thoroughly prepared and coordinated by the district's legal counsel with other related contracts
- Contract Amount is specified and clear, includes the complete scope necessary, and falls within the grant budget. No exclusions are identified that should fall within the grant scope
- Scope of Work Exhibit is attached or referenced if scope not identified within the agreement
- Insurance provisions and bonding requirements have been reviewed carefully and are in alignment with Sublease or Cash Grant Contract requirements, and LEA policy, whichever is more stringent
- Reimbursable expenses for professional service providers are at cost and without markup if a not-to-exceed format, or included within an agreed upon fixed price or rate
- No limitations on liability, or any such limitations are agreeable according to legal counsel and are in accordance with grant contract
- Indemnification clauses have been reviewed by legal counsel, and the right to governmental immunity has been retained
- Dispute resolution procedures are well defined and in accordance with legal counsel recommendations, district/school policy, and grant contract or sublease requirements
- No late charges or delayed payment charges are included, or, if such charges are included, sufficient time is allowed for processing of BEST Lease/Purchase fund requests
- Additional Services or Contract Modification provisions are agreeable, well defined, and tied only to increases in the scope of services. Professional services fees are fixed and not directly tied to increases/decreases in final cost of construction, or the methodology for establishing the final amount is clear.
- All referenced exhibits or addenda have been reviewed and are included in the final contract
- Termination clauses have been reviewed and agreed upon by legal counsel
- Assignment clauses are included as required by cash grant agreement or sublease
- A fully executed agreement is on record