



Oregon Department of Transportation  POLICY	NUMBER AGR 06-01	SUPERSEDES NEW
	EFFECTIVE DATE 01/26/07	PAGE NUMBER 01 OF 04
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	REFERENCE 48 CFR, Chapter 1, Part 31; 23 CFR 172; OAM 40.10.00.PO; AASHTO Uniform Audit and Accounting Guide; Government Auditing Standards; ODOT Audit Guide for Consultants	
SUBJECT BILLING RATE POLICY FOR PERSONAL/PROFESSIONAL SERVICE CONTRACTS, ARCHITECTURAL AND ENGINEERING AND NON ARCHITECTURAL AND ENGINEERING	APPROVED SIGNATURE 	

PURPOSE

The purpose of this policy is to establish consistent contracting policies for Oregon Department of Transportation (Department) regarding review and acceptance of overhead rates, direct labor, and Other Direct Charges (ODCs), associated with personal/professional service contracting under a cost based Agreement to Agree, Price Agreement, or other applicable contracts. This billing rate policy applies to estimated value of services for all Work Order Contracts and other applicable contracts forming the basis for invoicing under contracts for time and materials, not to exceed, and cost plus fixed fee methods of compensation. The policy specifies requirements of professional consultants when requesting increases to billing rates or negotiating a new contract. The policy covers federal funded contracts in compliance with the Federal Acquisition Regulations (FAR) and projects funded from state and local sources.

POLICY

When negotiating contract language and determining fair and reasonable price for the contract as a whole, all Department staff and consultants shall follow this policy. Department Audit Services or Procurement Office may request financial information for review from consultants relating to the contracting process.

POLICY EXCEPTIONS

Any exceptions to this policy shall be prior approved in writing by the Department Chief Procurement Officer or designee.

DEFINITIONS

Annual Review: It is anticipated that the Department or the consultant may require periodic updates to rate schedules or financial information. The Department may, at its sole discretion, accept change requests for review and shall facilitate that process with the consultant. The Department shall promptly notify the consultant on decisions to accept or deny such requests.

Company Wide: All cost centers included in the development of the overhead rate, including but not limited to functional cost centers, subsidiaries, affiliates, divisions, and geographic locations.

GUIDELINES

DIRECT LABOR RATES

- All job classifications are submitted on standard Department rate sheet forms with stated duration.
- All salary rates are based upon the auditable, actual hourly rates.
- Consultants shall make available on request actual payroll records with billing rate documents.

Direct Labor Rate Changes (subject to contract provisions or Department business practice):

- All existing rates are valid until the Department accepts and authorizes any changes to schedules.
- Consultant shall submit a request for any rate change through the appropriate Region and/or Contract Administrator.
- The Department, at its discretion, may request additional financial information be submitted by the consultant for consideration of rate changes.
- The Department shall review, process, and/or approve or reject in writing a direct labor rate change and notify consultant of status within thirty days following request submission. The effective date of the rate increase is the date of approval.
 - Rates shall be revised based upon actual data and shall also consider:
 1. Consumer Price Index information; and/or
 2. National billing rate surveys, or other industry specific economic data; and/or
 3. Economic trends including historical, current, or forecasted data; or market or geographical comparability, or both, to similarly qualified firms.

Direct Labor Costs Not Allowable:

- All direct labor job classifications and cost including but not limited to the following are not allowable unless previously approved in an individual contract. Please refer to the Uniform Audit and Accounting Guide for further guidance (<http://www.oregon.gov/ODOT/CS/EXTERNALAUDITS/index.shtml>).
 - Principal, Partner, Executive, Officer, Director, or Board Member shall use a job classification appropriate to the level of service being provided (reference FAR 31.205-6(a)(2));
 - General administrative non-project related task;
 - Cost of preparing invoices and supporting documentation shall not be an allowable cost when the cost to prepare or provide such invoices or supporting documents has been included in the firm's overhead.

OVERHEAD RATES

- All overhead rate schedules and audits submitted shall be prepared in accordance with applicable auditing standards and practices. This includes adherence to the following:
 - Uniform Audit and Accounting Guide available at (<http://www.oregon.gov/ODOT/CS/EXTERNALAUDITS/index.shtml>);
 - Standard auditing practices incorporated in the Uniform Audit and Accounting Guide prepared by the American Association of State Highway and Transportation Officials;
 - Government Auditing Standards (Yellow Book) published by the Comptroller General of the United States;
 - Cost principles contained in the FAR (48 CFR, Chapter 1, Part 31); and
 - 23 CFR 172 Administration of Engineering and Design Related Service Contracts.
- Requests to change overhead rate are to be submitted, in industry standard three-column format (example provided in the Uniform Audit and Accounting Guide), as appropriate to consultant's financial calendar.
- Overhead rate changes shall be reviewed and approved or rejected by the Department.
 - The Department's Audit Services shall review and make recommendations when requested by the Department.
- All consultants, including prime consultants and sub-consultants, performing work for the Department in excess of \$1 million per year, based upon the state fiscal year, or consultants entering contracts expected to have \$1 million or more in Department contract work in the upcoming fiscal year, are required to submit annual audits from a cognizant state or federal agency, or an independent Certified Public Accounting firm. If a consultant exceeding the \$1 million threshold does not submit an annual audit as requested:

- The Department in coordination with Audit Services shall negotiate an accepted overhead rate until said consultant provides the appropriate audit; and
- Consultant shall submit a signed internally-prepared overhead schedule, in industry standard three column format, to establish that accepted overhead rate. This rate may be limited to the lesser of the internally-prepared overhead rate or 150% of direct labor.
- Consultants that do not reach the \$1 million threshold may submit a signed internally-prepared overhead schedule in industry standard three column format. This schedule is subject to review by Audit Services.
- Consultants, including sole proprietors, partnerships, and other closely-held firms that have not established an overhead rate based upon their particular financial reporting methodology, shall be reviewed by the Department to determine whether an overhead rate schedule will be required or a negotiated non-provisional billing rate used.

OTHER DIRECT CHARGES (ODCs)

- ODCs (also called reimbursables) are those actual costs to the firm incurred specifically for a given project other than payroll and overhead costs. Types of ODCs include travel, printing, CADD or specialized computer time, and project specific use of specialized equipment. Charging market rates for specialized equipment is not allowable.
- Firms may use one of the three methods outlined below for ODCs:
 - If a firm bills ODCs, they shall not include such costs in their overhead rate.
 - If a firm elects to not bill ODCs to any of their client projects, they can leave all such costs in their overhead accounts and recover the costs in their overhead rate.
 - If a firm elects to record invoiced ODCs in their overhead accounts, the firm shall be able to prove the overhead accounts are credited for all revenues billed to clients and for all unbilled other direct costs.

The consultant shall maintain accurate, auditable accounting records to verify that rates charged are based on actual costs (the actual costs associated with owning and maintaining the equipment). The charges are to be based upon the consistent company wide treatment of these types of consultant costs. All direct costs shall be recorded separately from overhead costs.