
 <h1 style="text-align: center;">POLICY</h1>	NUMBER <b>AGR 06-01</b>	SUPERSEDES <b>02/08/2024</b>
	PRIOR EFFECTIVE DATE <b>02/08/2024</b>	PAGE NUMBER <b>01 OF 07</b>
	SUPERCEDE DATE <b>10/15/2025</b>	
	REFERENCE 40 U.S.C. Chapter 11 and as further referenced; 2 CFR 200; 23 CFR 172; 48 CFR Part 31; CFR as further referenced; Federal Acquisition Regulations; CFR as further referenced; Oregon Accounting Manual; AASHTO Uniform Audit and Accounting Guide; Government Auditing Standards; Generally Accepted Accounting Principles; Exhibit B from ODOT Personal Services contracts; Oregon Revised Statutes	
SUBJECT <b>BILLING RATES AND COST PRINCIPLES FOR QUALIFICATIONS BASED SELECTION CONTRACTING</b>	APPROVED SIGNATURE  <small>Carolyn SULLIVAN (Oct 15, 2025 09:22:17 PDT)</small> <b>Carolyn Sullivan</b> Chief Administrative Officer	

## **PURPOSE**

The purpose of this Billing Rates and Cost Principles for Qualifications-Based Selection Contracting Policy (Policy) is to establish consistent practices for the Oregon Department of Transportation (ODOT) regarding the review, negotiation, and acceptance of prime consultant and their sub consultant (Consultant) billing rates awarded through Qualifications-Based Selection (QBS).

## **APPLICABILITY**

ODOT procures and negotiates professional and related services using a QBS process in compliance with the procurement procedures for architectural, engineering (A&E), and design-related services as codified in title 40 of the United States Code (U.S.C.) Chapter 11 commonly referred to as the Brooks Act. In addition, ODOT must ensure that Consultants comply with the Federal Acquisition Regulations (FAR) and Code of Federal Regulations (CFR), including but may not be limited to 2 CFR part 200, 23 CFR part 172, 48 CFR part 31, related Oregon Revised Statutes (ORS), and the Oregon Accounting Manual (OAM). The Brooks Act defines QBS as any procurement method utilizing factors other than price or cost as a portion of the evaluation and selection of the Consultant for contract award.

### **This Policy applies to:**

- 1) Contracts procured under ORS 279C.100-125, through QBS process without price competition, that are fully or partially federally funded in compliance with the FAR **and** contracts funded from State and local sources; and,
- 2) Local Public Agency (LPA) when required in those contracts' terms and conditions or contract compensation exhibits.

### **This Policy does not apply to:**

- 1) Contracts where price is considered in awarding a contract through a competitive method, such as Intermediate Procurements, Competitive Sealed Bids or Competitive Sealed Proposals under ORS 279B.055, ORS 279B.060 and ORS 279B.070. Price competition is defined as any procurement method utilizing cost or price as a portion of the evaluation and

selection of a consultant for contract award. Examples of services that may fall into this category include, but are not limited to, Information Technology (IT), public involvement, training, community outreach, and marketing.

*Note: If billing rates for your contract may be needed, the Request for Proposals (RFP) language should denote this requirement. These costs and billing rates are subject to further negotiations with the ODOT project manager and ODOT contract administrator. Final billing rates must be maintained in the contract administration file.*

- 2) Small purchase QBS procurements meeting the simplified acquisition threshold, as defined in 23 U.S.C. 112(b)(2)(A), 40 U.S.C. 1101-1104, FAR 2.101 and Part 13, and 23 CFR 172.7(a)(1)&(2), and ORS 279C.110(2). However, at any time the threshold is exceeded through amendment or otherwise, this Policy will apply.
- 3) Non-competitive procurements, such as Small Procurements, Sole-source Procurements or Special Procurements, defined in 23 U.S.C. 112(b)(2)(A), 2 CFR 200.320, ORS 279B.065, ORS 279B.075, and ORS 279B.085.
- 4) Fully or partially Federally funded contracts exempted from QBS through Alternative Contracting procurement requirements as prescribed by 23 CFR 635 and 23 CFR 636.
  - a. If the procurement is for an FHWA approved Special Experimental Project No. 14 (SEP-14) exemption contact [ODOTBillingRateUpdates@odot.oregon.gov](mailto:ODOTBillingRateUpdates@odot.oregon.gov).
  - b. If the procurement is state funded and meets the exemption requirements listed under SEP-14 and/or 23 CFR 635 or 23 CFR 636 respectively, contact [ODOTBillingRateUpdates@odot.oregon.gov](mailto:ODOTBillingRateUpdates@odot.oregon.gov).
- 5) Contracts, price agreements, or agreements to agree, utilizing price competition, awarded by the Oregon Department of Administrative Services (DAS) which will describe the pricing or cost details within terms and conditions or related Buyers Guide, if applicable.
- 6) Other direct costs, services, and direct expenses ancillary to contract, which may include but may not limited to flagging services, drilling services, mobilization, lab services, specialized equipment charges, outside rental of equipment, printing, vehicle usage, and computer costs.

Note: If billing rates for a contract are required, the Request for Proposals (RFP) language should denote this requirement. For contracts where this policy does not apply, rates or prices proposed under an RFP are subject to further negotiations with the ODOT project manager and ODOT contract administrator and final billing rates must be maintained in the contract administration file.

### **QBS State-Funded Exceptions**

Exception considerations may be requested for QBS state-funded contracts only if submitted to [OPOBillingRateUpdates@odot.oregon.gov](mailto:OPOBillingRateUpdates@odot.oregon.gov) with a written justification. Requests for exceptions must be submitted before contract or amendment execution and the performance of a Consultant's work activities. The ODOT Chief Procurement Officer or designee has the sole authority to approve or deny a request for exception to this Policy. No exceptions will be granted for projects that are federally funded in whole or in part.

## **POLICY AND COST PRINCIPLES**

ODOT employees, ODOT contract administrators, and ODOT project managers will ensure the Consultants adhere to cost controls and other cost containment measures as well as maintain all

financial records in compliance with:

- 1) Title 23, United States Code (U.S.C), Section 112;
- 2) [Federal Acquisition Regulation](#) (FAR);
- 3) Title 48 CFR part 31 Federal Contract Cost Principles;
- 4) Title 23 CFR part 172 Administration of Engineering and Design Related Service Contracts;
- 5) The Association of American Highway Transportation Officials (AASHTO) [Uniform Audit & Accounting Guide](#) \* *this is an informational guide, not an authoritative reference*;
- 6) The Financial Accounting Standards Board U.S. [Generally Accepted Accounting Principles](#) (GAAP);
- 7) The [Oregon Accounting Manual](#) (OAM);
- 8) The ODOT Billing Rates Standards for Consultants [OPO-STD-011-Consultant](#) ("Consultant Billing Rate Standard"); and,
- 9) ODOT External Audit processes and procedures.

## **SUBMITTALS**

All billing rate submittals must be submitted to: [ODOTBillingRateUpdates@odot.oregon.gov](mailto:ODOTBillingRateUpdates@odot.oregon.gov). The ODOT Procurement Office is available to answer questions and provide guidance to Consultants with the billing rate submittal process.

The billing rate submittal requirements are outlined within the Consultant Billing Rate Standard. To ensure compliance with federal regulations (as specified in 23 U.S.C. 112(b)(2)(B), 23 CFR 172.11(c)(2), and 48 CFR 31) and state regulations, Consultants must submit their Indirect Cost Rate (ICR) Submittal Package to the ODOT Procurement Office (OPO), as defined by the Consultant Billing Rate Standard (ICR Submittal Package). All ICR Submittal Packages must include direct salary rate data to substantiate proposed billing rates, and the ICR Submittal Package must be provided to ODOT within 180 days of the Consultant's annual fiscal year end.

**Any Consultant whose Invoiced Revenue exceeds \$1,000,000.00 during the Consultant's fiscal year must provide an independent audit of their ICR which must be submitted with their ICR Submittal Package.** If a Consultant will be unable to submit a complete ICR Submittal Package, including all required information, within 180 days of their fiscal year-end, the Consultant may request an extension to [OPOBillingRateUpdates@odot.oregon.gov](mailto:OPOBillingRateUpdates@odot.oregon.gov) prior to the 180-day deadline.

If a Consultant does not provide a complete ICR Submittal Package on time and does not have an approved extension ODOT may reduce the Consultant's most recently approved ICR by 10 percentage points until such time as the Consultant has provided all information and documentation requested and required for the approval of the newly requested rate (including any additional information requested during an ICR review).

## **Negotiated Billing Rate (NBR) Review Process**

Some Consultants may be eligible for Negotiated Billing Rates (NBR). Eligibility may be based on the line of business and/or size. Consultants exceeding \$1,000,000.00 in Invoiced Revenue annually as outlined above no longer qualify for an NBR.

## **ESCALATION RATE**

No less than every three (3) years OPO will endeavor to establish an escalation rate that is applied to their Direct Salary Rate (DSR) and is accounted for within the ODOT Breakdown of Cost (BOC) template for multi-year contracts. The escalation rate will be based on factors such as economic price indices published by the Bureau of Labor Statistics, national billing rate surveys, other industry-specific economic data, economic trends, including historical, current, or forecasted data, and market or geographical data.

## **RATE EFFECTIVE DATE, APPLICATION, AND BILLING RATE DATA LOCATION**

### **Effective Date**

Upon issuance of the Rate Acceptance Notification by the OPO Oversight representative, the Consultant's Approved Rate Schedule will be applicable to all ODOT A&E contracts unless the contract states otherwise, or where this policy does not apply. The effective date of a new or revised billing rate will be stated within the Approved Rate Schedule and Rate Acceptance Notification.

### **Rate Application**

Consultants can use a new or revised billing rate ("Approved Rate Schedule") for invoicing purposes, however, any increases to base rates will not increase the not-to-exceed value of the contract. ODOT employees responsible for contract administration duties must refer to the ODOT A&E Professional Services contract terms and conditions related to rate revisions within the compensation exhibit.

Consultants with previously approved NBRs may be prohibited from using those rates in the future based on certain guidelines established by ODOT. If a Consultant no longer qualifies for an NBR, review the ODOT [NBR Graduation Guide](#), which defines the application of the ICR to active and future contracts.

### **Protection of Consultant Data**

ODOT will endeavor to protect Consultant data associated with their billing rates and ICR Submission Packages. ODOT employees will not share consultant billing rate information with other firms. Billing rate data is considered Level 3 – Restricted per [Department of Administrative Services Information Security Policy](#). Further, public records request requirements limit the information ODOT may be required to report.

### **Billing Rate Data Location**

Authorized ODOT employees within OPO and ODOT External Audit Services may access billing rate information. All approved rates will be updated on the internal [OPO SharePoint Billing Rate site](#).

## **PROCUREMENT OVERSIGHT AND AUDIT SERVICES | ROLES & RESPONSIBILITIES**

### **Indirect Cost Rate Reviews**

ODOT External Audit Services holds the responsibility and authority of reviewing the ICR information and providing a final determination of the rate for ODOT. ODOT External Audit

Services may determine in its discretion, based on annual risk assessment, to complete either a desk review or a cognizant review of the ICR information provided by a Consultant, or at its discretion may complete a cognizant review at the request of a Consultant. ODOT External Audit Services performs a review of the proposed ICR and supporting documents. ODOT Audit Services will notify OPO Oversight of the determined approved rate. OPO Oversight will notify the Consultant of the start of the invoicing cycle in the Rate Acceptance Notification.

Contact [ODOTExternalAudit@odot.oregon.gov](mailto:ODOTExternalAudit@odot.oregon.gov) with questions or concerns about the audit process or final accepted rate. OPO Oversight maintains record of approved rates.

### **Direct Salary and Negotiated Billing Rate Reviews**

OPO Oversight will review the proposed direct salary or negotiated billing rate submittal package and supporting documents. OPO Oversight may confer with ODOT External Audit Services during these reviews. OPO Oversight will issue and maintain a record of approved rates.

## **ADDITIONAL REFERENCE DOCUMENTS**

- [ODOT NBR Graduation Guide](#)

## **DEFINITIONS**

General definitions that may apply to this Policy or other documents:

<b>Approved Rate Schedule</b>	OPO Oversight approved billing rates.
<b>CFR</b>	Code of Federal Regulations
<b>Cognizant Review</b>	ODOT External Audit Services may perform cognizant reviews under 23 CFR § 172.11(b)(1)(iii)(B) for consultants whose Cognizant Agency is Oregon, which is “[r]eviewing and accepting an audit report and related workpapers prepared by a certified public accountant or another [State Transportation Agency.]” ODOT as the cognizant agency is responsible for conducting a review of the ICR and the related workpapers prepared by an independent auditor.
<b>Desk Review</b>	Desk reviews are evaluations by External Audit Services of the annual ICR submittal. ODOT performs desk reviews under 23 CFR § 172.11(b)(1)(iii)(D), in which it is “conducting <i>other evaluations in accordance with a risk-based oversight process</i> as specified in paragraph (c)(2) of this section and within the agency’s approved written policies and procedures, as specified in § 172.5(c).”
<b>Direct Non-Labor (DNL)</b>	Direct Non-Labor (DNL) costs are considered Other Direct Costs (ODC), as defined.
<b>Direct Salary Rate (DSR) or Direct Labor Rate</b>	Direct Salary Rates (DSR) are the hourly rates paid to non-exempt employees or the annual salary paid to exempt employees divided by 2080 hours. An employee’s actual annual direct salary shall be the salary amount directly payable to such employee on an annual basis.

	<p>The DSR must <b><u>not</u></b> include any amount for the following costs or payments: (1) all payments for Services performed during overtime hours; (2) all employer payments mandated by law, including without limitation, social security and Medicare taxes, insurance (Worker's' Compensation, Employer's Liability, Unemployment); (3) all employer contributions, if any, to retirement plans, including without limitation pension and deferred compensation plans, (4) all costs for any and all other fringe and supplemental benefits, and (5) bonuses, commissions, or any other form of compensation, or as otherwise unallowable per FAR.</p> <p><b>* Direct Salary Rate and Direct Labor Rate are synonymous terms and may be used interchangeably. *</b></p>
<b>Escalated Salary Rate (ESR) Schedule</b>	Escalated Salary Rate (ESR) means a DSR with escalation applied over multiple years to allow for economic price adjustments. The ESR schedule is developed by ODOT for firms that calculate an indirect cost rate. It includes the maximum rate and average rate (based on the actual direct salary rate of employees within the classification provided by the Consultant) for all classifications that may be used under the Contract and may include rates for multiple years with escalations as approved by ODOT.
<b>Facilities Capital Cost of Money (FCCM)</b>	The "cost of money as an element of the cost of facilities capital" as used in FAR 31.205-10 and FAR 15.404-4(b)(3). Once approved, this rate is kept separate from the ICR and shall not incur profit.
<b>FAR</b>	Federal Acquisition Regulations
<b>Field Office Indirect Cost Rates</b>	A subset of indirect costs allocable to offsite locations. Applicable when Consultant employees do not work out of the office and do not receive office support, such as employees hired solely to perform inspections, surveys or other non-home office services. A Field Office ICR may need to be established to allocate a reasonable portion of the Consultant's indirect costs to a field office.
<b>Indirect Costs or Indirect Cost Rate (ICR, also known as Overhead Rate)</b>	<p>The indirect costs of operating a business, not directly related to the delivery of a service (e.g., rent, insurance, administrative costs, general office expenses, etc.) but are necessary to support the Consultant's business operations, less unallowable costs defined by 48 CFR Part 31. Indirect Cost Rates (ICR) are expressed as a percentage of direct labor. Indirect cost rates are based on one fiscal year of financials.</p> <p><b>* Overhead rate and indirect cost rate are synonymous terms and may be used interchangeably. *</b></p>
<b>Invoiced Revenue</b>	The gross revenue that has been invoiced to ODOT, regardless of whether payment has been made, regardless of the portion of the gross revenue that is allocable to the prime and/or subconsultants.
<b>Negotiated Billing Rate (NBR)</b>	NBRs are fully loaded hourly rates that generally include direct salary, profit, indirect costs, and cost of living or merit raises. NBR schedules are approved by ODOT as an alternative to the indirect cost rate requirements.
<b>OPO Oversight</b>	OPO Oversight is comprised of team members within the ODOT Procurement Office assigned the oversight responsibility for contract compliance, invoice standards, and consultant billing rates.

	Visit the <a href="#">Contract Oversight and Consultant Billing Rates</a> SharePoint site or contact <a href="mailto:ODOTBillingRateUpdates@odot.oregon.gov">ODOTBillingRateUpdates@odot.oregon.gov</a> for additional information.
<b>Other Direct Costs (ODCs)</b>	Expenditures, not included in the indirect cost rate, that are necessary and allowed as a direct charge which is properly tracked and applicable to the Project. This includes but is not limited to costs for: approved travel, trade services subcontractors such as flaggers and drilling companies, rental equipment, lab and testing services; and other approved ODCs.
<b>Qualifications-based selection (QBS)</b>	Qualifications-based selection also known as competitive negotiation means complying with <a href="#">40 U.S.C. Chapter 11</a> , commonly referred to as the Brooks Act. Price is evaluated and negotiated after selection or award of the contract to a consultant.








# Policy update AGR 06-01 BILLING RATES AND COST PRINCIPLES FOR QUALIFICATIONS BASED SELECTION CONTRACTING

Final Audit Report

2025-10-15

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