

Oregon Department of Transportation  POLICY	NUMBER AGR 06-01	SUPERSEDES 07/18/08
	EFFECTIVE DATE 6/08/2015	PAGE NUMBER 01 OF 04
	VALIDATION DATE	
	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; Federal Acquisition Regulations	
SUBJECT BILLING RATE POLICY FOR PERSONAL/ PROFESSIONAL SERVICE CONTRACTS, ARCHITECTURAL AND ENGINEERING AND NON ARCHITECTURAL AND ENGINEERING	APPROVED SIGNATURE Signature on file with Business Services Branch	

PURPOSE

The purpose of this policy is to establish consistent contracting policies for the Oregon Department of Transportation (Department) regarding the review and acceptance of overhead rates, direct labor, and other direct charges (ODCs), associated with personal/professional service contracting under cost based agreements to agree, price agreements, or other applicable contracts. This billing rate policy applies to all work order contracts and other applicable contracts and the estimated value of services for forming the basis for invoicing under consultant 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 new contracts. The policy covers federally 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 must be approved in advance and in writing by the Department's Chief Procurement Officer or designee.

APPLICABILITY

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 about 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 Contract Administrator.
- The Department, at its discretion, may request that additional financial information be submitted by the consultant for consideration of rate changes.
- The Department shall review, process, and 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 to similarly qualified firms, or both.

Direct Labor Costs Not Allowable:

- No direct labor job classifications and costs, including but not limited to the following, are 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 audit reports submitted must 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 the 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 with an estimated value of \$1 million or more in Department contract work in the upcoming fiscal year, are required to submit annual audit reports 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 report as requested within a year from the firm's fiscal year end:

- The Department’s Procurement Office in coordination with Audit Services shall negotiate an accepted overhead rate until said consultant provides the appropriate audit report; and
- Consultant shall submit a signed internally-prepared overhead schedule, in industry-standard, three column format.
- If a consultant fails to meet the deadline, the Department may reduce the consultant’s approved overhead rate by 10% until the required information is provided.
- 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. Updates must be submitted on an annual basis within a year from the firm’s fiscal year end. If a consultant fails to meet the deadline, the Department may reduce the consultant’s approved overhead rate by 10% until the required information is provided.
- 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 have their rates 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) ALLOWED BY FEDERAL ACQUISITION REGULATIONS

- 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:
 - Bill ODCs that do not include such costs in their overhead rate.
 - Do not bill ODCs to any of their client projects, and leave all such costs in their overhead accounts and recover the costs in their overhead rate.
 - Record invoiced ODCs in their overhead accounts. When choosing this method, the firm must 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 must be based upon the consistent company-wide treatment of these types of consultant costs. All direct costs shall be recorded separately from overhead costs.