



Application of Paycheck Protection Program (PPP) Adjusted Overhead Cost Rate | Procurement and Contract Administration

Consultant Firms with Oregon Department of Transportation (ODOT) Approved Billing Rates

Interpretive Guidance Document

ODOT Procurement Office

April 4, 2022

BACKGROUND

Oregon Department of Transportation (ODOT) is implementing process to comply with Federal Highway Administration (FHWA) guidance for treatment of COVID related Paycheck Protection Program (PPP) loan forgiveness.

Firms who have taken the PPP loan and were then forgiven for all or a portion of the loan by the Small Business Administration are required to report the forgiveness to ODOT and adjust their indirect cost rate to account for that forgiven amount (see FHWA Memorandum dated March 24, 2021 for additional information).

The impacted firms will utilize the adjusted indirect cost rate for reimbursements on all federally funded, time-and-materials and cost-plus-fixed-fee contracts for one-full year (rate adjustment period).

During the rate adjustment period for each firm, the adjusted rate will apply in certain circumstances and an unadjusted rate will apply in others – see the procurement and contract administration application matrix below and also see the Approval OH Rate Table for additional information for each impacted firm.

The rate adjustment period may end early if the firm is able to provide to ODOT justification of repayment of the forgiven amount, through the application of the adjusted overhead rate on any federally funded contracts (not limited to ODOT).

Please note we may update this guidance as we receive new information, or further guidance from the Federal Government regarding PPP loans.

TIMEFRAME

Estimated start date: May 1, 2022

Projected end-date: July 1, 2024

PURPOSE

How to apply the adjusted overhead (indirect) cost rate related to Paycheck Protection Program (PPP) loan forgiveness during negotiations and at time of invoice submittal and reimbursement for those contracts requiring ODOT Approved Billing Rates.

APPLICABILITY

Applicable to domicile firms, prime or sub consultant, that received loan forgiveness from the Small Business Administration (SBA) for the Paycheck Protection Program (PPP) loan and have an overhead rate established with ODOT.

Impacted Oregon based firms will provide ODOT with their overhead cost rate information with PPP loan forgiveness identified on the [Cost Disclosure Questionnaire](#) (CDQ) on page 4. ODOT External Audit Services will review this information and provide ODOT Billing Rate Specialists with two overhead cost rates for use, both based on the firm's actual overhead cost data.

- a. An adjusted overhead cost rate based on PPP loan forgiveness, and
- b. An unadjusted overhead cost rate that is compliant with ODOT Billing Rate Policy, which will not include any adjustments for PPP loan forgiveness.

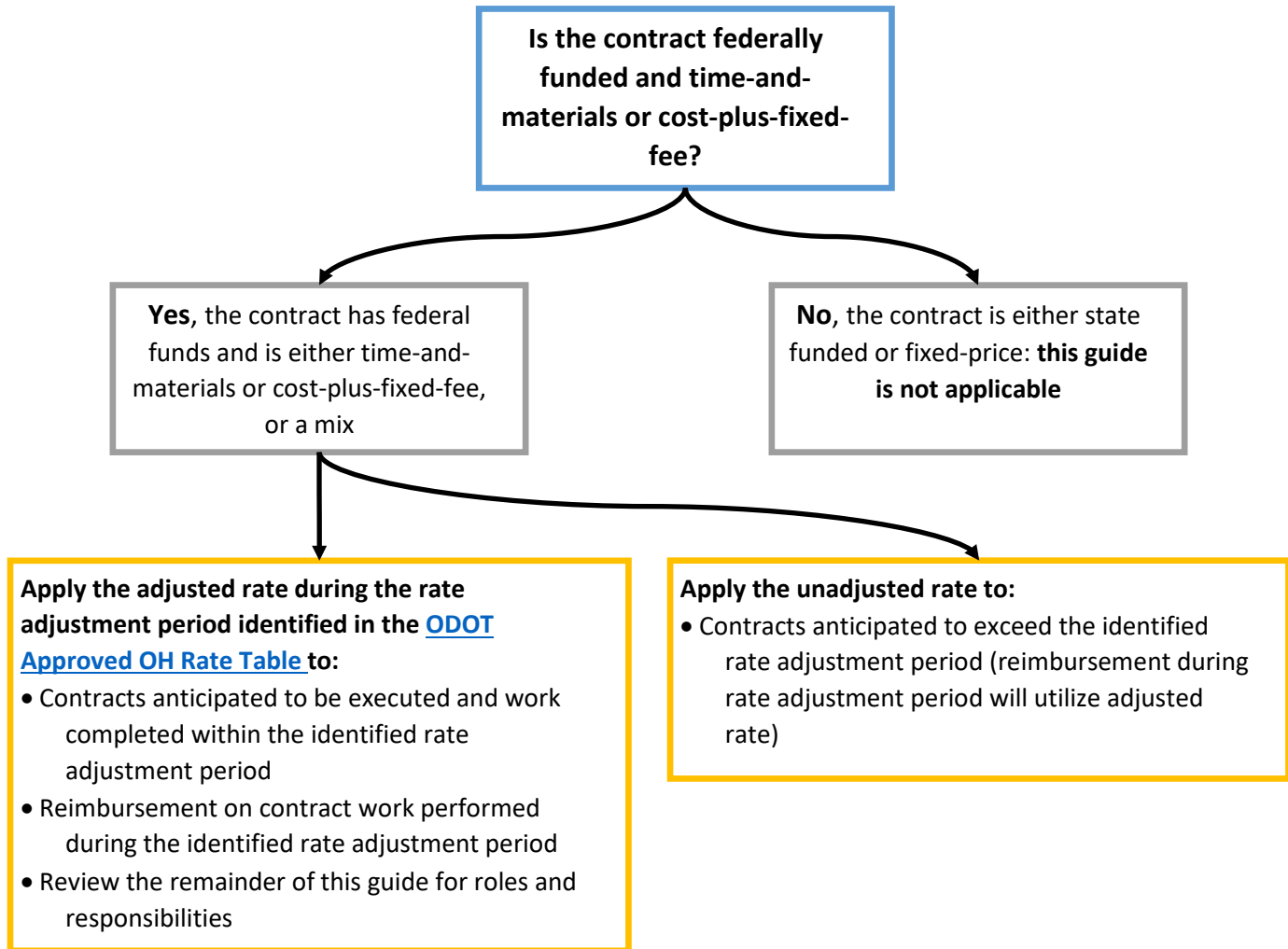
Adjustments made to overhead cost rates resulting from the forgiven loans will affect only federally funded, time-and-materials (T&M) and cost-plus fixed fee (CPFF) contracts. Mixed funding that includes any FHWA or FTA funding is considered federally funded. If any federal funds are added to a contract after executed, begin utilizing the rate applicable for federally funded contracts.

The overhead cost rate adjustment will be applied for a one-year adjustment period (rate adjustment period), or until the forgiven loan amount has been repaid. The rate adjustment period is specific to each firm. If and when the loan

has been repaid, the adjustment to overhead cost rate can be returned to the unadjusted rate.

The unadjusted overhead cost rate will continue to be utilized for state funded contracts (estimations and reimbursement), estimations for multi-year contracts regardless of funding type, and fixed-price contracts regardless of funding type.

APPLICABILITY FLOW CHART



EXAMPLE 1 – MOCK Approved Overhead Rate Table

NAME of FIRM	Accepted Overhead	Accepted FCCM Rate	Last FYE OH Approved	Approval Date	Effective Date	Important Notes
ABC Companies, Inc. (EXAMPLE) *UNADJUSTED see Important Notes field	124.24%	none	12/31/2020	11/22/2021	5/1/2022	Applicable for: - <u>estimations</u> for all multi-year contracts - <u>reimbursement</u> on all state funded contracts Questions? Contact ODOTBillingRateUpdates@odot.oregon.gov
ABC Companies, Inc. (EXAMPLE) *ADJUSTED see Important Notes field	111.80%	none	12/31/2020	11/22/2021	5/1/2022	Applicable for: - <u>estimations</u> for federally funded contract work estimated to be completed within the period <u>May 1, 2022 through April 30, 2023</u> . If through the course of the project, the work extends beyond this period, the UNADJUSTED rate will apply to reimbursements all work performed beyond May 1, 2023. - Note: If federally funded contract work is anticipated to extend beyond May 1, 2023 at time of contract negotiations, utilize UNADJUSTED rate for contract estimate and apply applicable overhead cost rate at time of reimbursement - <u>reimbursements</u> on federally funded T&M and CPFF contracts for work performed <u>May 1, 2022 through April 30, 2023</u> . Questions? Contact ODOTBillingRateUpdates@odot.oregon.gov

PROCESS / ROLES AND RESPONSIBILITIES

ODOT Billing Rate Specialists will track both the adjusted and unadjusted overhead cost rates for impacted firms.

Consultants will retain their overhead cost rate approval notices, which will include the rate adjustment period for the adjusted rate. Ensure appropriate overhead cost rate is applied at time of contract execution and invoice submittal.

Procurement and Contract Specialists, APM/CAs, and Invoice Compliance Reviewers:

- See Example 1 above of the Approved Overhead Rate Table for a mock firm with an adjusted and unadjusted rate and application for each.
- Ensure appropriate overhead cost rate is applied at time of contract execution and invoice payment.

If, during the rate adjustment period, the firm anticipates the total adjustments made have met the full forgiven value, the firm shall notify ODOT Billing Rate Specialists at ODOTBillingRateUpdates@odot.oregon.gov and ODOTExternalAudit@odot.oregon.gov prior to loan repayment. The firm will need to identify and provide validation when the forgiven amount has been fully credited back through application of an adjusted indirect cost rate to any federally funded contract (not limited to ODOT). To avoid delay, begin this process prior to anticipated loan repayment date.

Once repayment has been validated and accepted by ODOT, ODOT will no longer utilize the adjusted rate and begin

utilizing the unadjusted rate. ODOT Billing Rate Specialists will notify consultant and agency that the adjusted overhead cost rate is no longer effective for use (within a reasonable timeframe from the notification of repayment), and will remove the adjusted rate from the ODOT Approved OH Rate table.

All consultants, regardless of impact related to PPP forgiveness, are required to continue to submit their overhead cost rate in compliance with ODOT Billing Rate Policy, annually and within 180 days of the end of the firm's fiscal year ending. This updated overhead cost rate data, once accepted by ODOT, will be made effective upon completion of the rate adjustment period, or when the loan has been fully paid through credits to federally funded contracts, whichever is first.

LOAN REPAYMENT

Firms have the ability to identify when the forgiven loan amount has been fully credited back through application of an adjusted indirect cost rate to any federally funded contract (not limited to ODOT). Firms shall notify ODOT of their loan repayment and work with ODOT External Audit Services and Billing Rate Specialists to validate the credited amount is equal to the forgiven loan amount. Once validated by ODOT, ODOT will issue notice to the firm and will no longer utilize the adjusted rate and begin utilizing an unadjusted rate.

ROLES AND RESPONSIBILITY MATRIX

Responsibility	Action
<p>ODOT Billing Rate Specialists</p>	<p>Track both the adjusted and unadjusted overhead cost rates for impacted firms.</p> <p>Remove adjusted rate upon acceptance of loan repayment validation, or at the end of the rate adjustment period.</p>
<p>Consultants</p>	<p>Provide ODOT overhead cost rate information annually, identify PPP loan forgiveness on the Cost Disclosure Questionnaire (CDQ) on page 4.</p> <p>Retain overhead cost rate approval notices, which will include the rate adjustment period for the adjusted rate.</p> <p>Ensure appropriate overhead cost rate is applied at time of contract execution and invoice submittal.</p> <p>Notify ODOT Billing Rate Specialists at ODOTBillingRateUpdates@odot.oregon.gov when the PPP loan has been paid if prior to the rate adjustment period. ODOT External Audit Services will work with your firm to verify loan repayment.</p> <p>Submit overhead cost rate schedule and other required information within 180 days of the end of your firm’s fiscal year ending, regardless of the rate adjustment period.</p>
<p>Procurement and Contract Specialists, APM/CAs, and Invoice Compliance Reviewers for ODOT contracts and Local Agency contracts managed by ODOT</p>	<p>See Example 1 above, which is an example of what an impacted firm’s overhead cost rate information will appear as in the ODOT Approved OH Rate Table. Each firm will have two rates listed in the table with notes regarding application. Ensure appropriate overhead cost rate is applied at time of contract execution and invoice payment.</p> <ul style="list-style-type: none"> • To validate <u>funding</u> type review the contract. The first page will indicate whether federal funding is included. If the contract has subsequent amendments <ul style="list-style-type: none"> ○ Review each amendment to ensure federal funding has not been included with additional funding. • To validate <u>contract</u> is either time-and-materials or cost-plus-fixed-fee review the contract, Exhibit B, Part 1. • To validate <u>applicability</u> of adjusted and unadjusted rates review the ODOT Approved OH Rate Table ‘Important Notes’ field for application.
<p>Federally funded Certified Local Agency Contracts Required to Utilize ODOT Approved Billing Rates</p>	<p>Ensure appropriate overhead cost rate is applied at time of contract execution and invoice payment.</p> <ul style="list-style-type: none"> • To validate <u>funding</u> type review the contract. The first page, paragraph 2 will indicate whether federal funding is included. If the contract has subsequent amendments <ul style="list-style-type: none"> ○ Review each amendment to ensure federal funding has not been included with additional funding. • To validate <u>contract</u> is either time-and-materials or cost-plus-fixed-fee review the contract, Exhibit B, Section J. • To validate <u>applicability</u> of adjusted and unadjusted rates email ODOTBillingRateUpdates@odot.oregon.gov.

CONTACTS

ODOT Billing Rate Specialists at ODOTBillingRateUpdates@odot.oregon.gov

ODOT External Audit Services, Margaret Cole, ODOT External Audit Services Manager at Margaret.A.Cole@odot.oregon.gov or at ODOTExternalAudit@odot.oregon.gov.

ADDITIONAL RESOURCES

1. FHWA Memorandum: Treatment of Paycheck Protection Program Funds for Architectural and Engineering Consultants Guidance March 24, 2021
2. ODOT Cost Disclosure Questionnaire (CDQ) | Paycheck Protection Program (PPP) Questions, Page 4
3. ODOT Guidance for Paycheck Protection Program (PPP) Adjusted Overhead Cost Rate | ODOT Procurement and Contract Administration