

Oregon Department of Transportation  POLICY	NUMBER AGR 06-01	SUPERSEDES 06/15/2018
	EFFECTIVE DATE 06/22/2023	PAGE NUMBER 01 OF 05
	VALIDATION DATE	
	REFERENCE 48 CFR, Chapter 1, Part 31; 23 CFR 172; FAR 31.201; OAM 40.10.00.PO; AASHTO Uniform Audit and Accounting Guide; Government Auditing Standards; ODOT Audit Guide for Consultants; Exhibit B from ODOT Personal Services contracts; Federal Acquisition Regulations as further referenced	
SUBJECT BILLING RATE POLICY AND COST PRINCIPLES FOR PERSONAL/ PROFESSIONAL SERVICE CONTRACTS	APPROVED SIGNATURE Signature on File	

PURPOSE

The purpose of this policy is to establish consistent contracting practices for the Oregon Department of Transportation (Department) regarding the review and acceptance of Overhead rates, Direct labor, and Other Direct Charges (ODCs).

APPLICABILITY

This billing rate policy applies to personal/professional service contracts. Fixed price for non A&E contracts are not covered by this policy. The policy covers federally funded contracts in compliance with the Federal Acquisition Regulations (FAR) **and** projects funded from State and local sources. The policy specifies requirements of consultants when requesting a first time rate approval or increases to existing billing rates.

When negotiating contract language and determining a fair and reasonable price for the contract as a whole, all Department employees and consultants shall follow this policy.

The Department's External Audit Services or the ODOT Procurement Office (OPO) may request financial information for review from consultants relating to the contracting process.

POLICY EXCEPTIONS

Exceptions will be considered for state funded projects if submitted with a written justification. Justifications must be approved in advance and in writing by the ODOT's Chief Procurement Officer or designee. No exceptions will be granted for projects with any federal funds.

DEFINITIONS:

A & E:

Architecture and engineering, as defined by ORS 279C.100 (2).

Direct Labor:

A consultant firm's employee time spent performing on an ODOT contract

Direct Salary Rate (DSR):

The actual hourly salary rate for each individual employee of a consultant firm, calculated by dividing the employee's actual annual direct salary by 2080. The employee's actual annual direct salary is the salary amount directly payable to the employee on an annual basis, excluding overtime, employer payments mandated by law such as taxes and insurance, employer contributions to retirement plans, and all other fringe and supplemental benefits.

Direct Salary Rate (DSR) Schedule:

A schedule listing all work classifications or titles of employees of a consultant firm, as defined by the firm. For each work classification, the firm provides the name of each employee in that classification, and the actual hourly salary rate of that employee. The schedule calculates the average and maximum hourly rates for each work classification.

Escalated Salary Rate (ESR) Schedule:

A schedule listing all work classifications of a consultant firm, along with the average and maximum hourly salary rates for each classification, transferred from the DSR schedule. OPO escalates the salary rates forward by three-year increments, using annual rate increases reflective of actual industry data. The ESR provides estimates for labor costs for use in negotiating cost estimates for later ODOT projects.

Negotiated Billing Rate (NBR) Schedule:

A consultant firm's schedule of fully-loaded billing rates, including labor, overhead and profit.

NBR firms:

Consultant firms using fully-loaded billing rates, which include overhead and profit.

Other Direct Charges (ODC):

Non-labor costs associated with an ODOT project, reimbursed at actual cost, such as travel, equipment rental, or supplies.

Overhead:

The indirect costs or fixed expenses of operating a business, not directly related to the manufacture of a product or delivery of a service, such as rent, administrative costs, and marketing costs; all non-labor expenses required to operate a business.

Overhead Rates:

The indirect costs or fixed expenses of operating a business, compared to the cost of direct labor.

REVIEW TYPES

ODOT Annual Review: 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.

Consultant: The Department will review all cost centers companywide 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 and Direct Salary Rate (DSR) Schedule

- Consultants shall submit all job classifications on standard Department rate schedules.
- Consultants shall formulate all salary rates 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):

- All existing direct labor rates are valid until the Department accepts and authorizes any changes to schedules.
- Consultants shall submit requests for rate changes through the appropriate Contract Administrator or through the billing rate email inbox at: ODOTBillingRateUpdates@odot.state.or.us.
- The Department, at its discretion, may request that the consultant submit additional financial information or forms for consideration of rate changes.
- OPO shall review, process, and approve or reject, in writing, a direct labor rate change and notify consultant of the status within thirty days following the request submission. The effective date of direct labor hourly rate increases is the date of approval.
 - Rate revisions shall be based upon actual data and shall also consider any of the following or combination thereof:
 1. Consumer Price Index information;
 2. National billing rate surveys, or other industry specific economic data;
 3. Economic trends including historical, current, or forecasted data; and
 4. Market or geographical or both, comparability to similarly qualified firms.
- The Department will use the submitted DSR to calculate the Escalated Salary Rate (ESR) schedule, which sets the average and maximum salary rates for each job classification. Rates are escalated in three-year increments to allow for multiple year contracts. At a minimum, an updated DSR will need to be submitted every third year. Failure to submit updated information will cap the rates at the latest year listed on the ESR.
- OPO will determine escalation factors. The Department will track average escalation factors across all of the Department's Overhead-based and NBR firms, to help set the escalation factor.

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 (AASHTO);
- 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 rates 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 External Audit Services shall review and make recommendations when requested by OPO. OPO provides final approval of overhead rate changes.
- The effective date of a new overhead rate is the first of the month following the month the rate has been accepted.

Consultant Services Provided at \$1M or more Revenue

- 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 into 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 180 days from the firm's fiscal year end, the consultant must contact the Department before proceeding. 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.

Consultant Services Provided Under \$1M Revenue

- Consultants that do not reach the \$1 million threshold per a year may submit a signed internally-prepared overhead schedule in industry-standard, three column format. This schedule is subject to review by Audit Services. Consultants must submit updates on an annual basis within 180 days 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.

Negotiated Billing Rates

- 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 OPO. The Department will determine whether to require an overhead rate schedule or use a negotiated non-provisional billing rate schedule.

ODCs ALLOWED BY FARs

- ODCs (also called reimbursables) are those actual costs to the firm incurred specifically for a given project not including personnel salary rates, overhead or profit. Types of ODCs include travel rates as set forth by the U.S. General Services Administration (gsa.gov), printing, field supplies, Computer-Aided Design & Drafting (CADD) or specialized computer time, and project-specific use of specialized equipment. Consultants are not allowed to charge market rates for specialized equipment.
- Firms may use one of the three methods outlined below for ODCs:
 - Bill ODCs directly to the project and keep separate from the overhead.
 - Do not bill ODCs directly to the project, and leave all such costs in their overhead accounts and recover the costs in their overhead rate.
 - Initially record invoiced ODCs in their overhead accounts but change to project related before calculating the overhead. The overhead statement must clearly show that the amounts originally charged have been deducted from the overhead statement. This method is mostly used for office support.

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.