LOUISIANA DEPARTMENT OF TRANSPORTATION & DEVELOPMENT

Consultant Contract Services Manual

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Introduction

This manual outlines DOTD's policies and procedures to select, contract with, and manage engineering and related services consultant contracts procured under La. R.S. 48:285-294 and under 23 CFR 172. It also outlines entity-state agreements and certain local public agency (LPA) requirements. The manual is intended for use by the consultant community desiring to provide engineering and related services to DOTD, as well as the DOTD staff requiring those services.

Further information can be found on DOTD's Consultant Contract Services (CCS) webpage at http://bit.ly/DOTDCCS.

In order to promote a fair, transparent award and contract administration process:

- The written records produced during the evaluation and selection process are subject to the Louisiana Public Records Law.
- All activities shall comply with the Louisiana Code of Governmental Ethics.
- The written records produced during the negotiation process will comply with federal and state record retention requirements.

Contract Selection

1.0 Contract Types and Compensation Structures

The following contract types may be used by DOTD:

A. Project Specific: A contract for an identified project or projects in which the solicited services are divided into one or more phases, whereby the specific scope of work and associated costs may be negotiated and authorized by phase as the project progresses.

B. Indefinite Delivery/Indefinite Quantity (IDIQ) (formerly known as retainer contracts): A contract for the performance of services for a number of projects, under task orders issued on an as-needed basis, for an established contract period. Typically, IDIQ contracts are chosen due to their flexibility to perform like kind services statewide or regionally for projects which may require urgency.

The following compensation structures are used by DOTD in both negotiated and non-negotiated contracts:

A. Lump Sum: Provides for a single, all-inclusive fixed price, which is not subject to any adjustment because of cost changes that the consultant might encounter in the performance of the work. There is no separate reimbursement for direct or indirect expenses.
B. Cost Plus Fixed Fee: Provides for payment of a specified amount for a fixed fee, with separate payment for labor, direct, and indirect expenses.
C. Cost Per Unit of Work: Provides for payment using established, all-inclusive fees per unit of work satisfactorily performed. There is no separate reimbursement for direct or indirect expenses.
D. Specific Rates of Compensation: Provides for payment based on hourly rates established in the contract, multiplied by the number of hours actually worked, with separate payment for direct expenses. There is no separate reimbursement for indirect expenses.

All compensation structures, except for lump sum, shall specify a maximum payment amount which shall not be exceeded unless adjusted by contract modification. IDIQ contracts will provide for all compensation structures, and individual task orders will specify the compensation structure applicable to each task order.

1.1 Decision Factors for Different Contract Compensation Structures

The most important consideration in determining the choice of compensation structure is the degree of confidence that DOTD has to reasonably determine the project scope and compensation. The evaluations involve such elements as:

A. Complexity
B. Project/contract scope of services and/or compensation size
C. DOTD experience
D. Potential for encountering unknowns during the prosecution of the work

When their use is appropriate, non-negotiated contracts are preferable to negotiated contracts. The lump sum compensation structure shall only be used when DOTD has established the extent, scope, complexity, character, and duration of the work to be required to a degree that fair and reasonable compensation, including a fixed fee, can be determined at the time of contract procurement. The specific rate of compensation structure shall only be used when it is not possible at the time of contract procurement to estimate the extent, or duration of the work, or the estimated costs with any reasonable degree of accuracy. When appropriate, a single contract may contain different payment methods as appropriate for compensation of different elements of work.

1.2 Consultant Procurement Process

Louisiana Revised Statutes 48:285, et seq., establishes DOTD's Consultant Procurement Process. This procurement process is used for the selection of consultants to perform services that benefit DOTD capital projects.

1.2.1 Advertisement Process

Whenever a DOTD Section determines that consultant services are needed, the Section Head must submit a written request to the appropriate executive-level staff for permission to procure consultant services.

After approval has been obtained to procure consultant services, the project manager develops and transmits a request for advertisement to the CCS Unit for the subject project.

All advertisements shall be posted on DOTD's Website in accordance with La. R.S. 48:287.

Advertisements for negotiated and non-negotiated contracts differ as follows:

A. Negotiated Contracts: Sufficient information is provided to enable a consultant to structure a submittal. Following selection of a consultant, DOTD will engage in a negotiation process to determine final contract terms.
B. Non-Negotiated Contracts: Detailed information is provided to enable prospective consultants to make their own assessment of DOTD's estimate of the contract compensation. Prospective consultants proposing for non-negotiated compensation contracts are presumed to have evaluated the compensation in relation to the scope of services, and found it acceptable. If a consultant discovers what it believes to be an error in DOTD's estimate, the consultant shall contact the CCS Administrator in writing upon discovery of the error.

For IDIQ contracts, a task order selection process may be required as detailed in Chapter 3 (Task Ordering of Indefinite Delivery/Indefinite Quantity). All advertisements for IDIQ contracts will make reference to the task order selection process to be used by DOTD.

1.2.2 DOTD's Standard Submittal Form

All responses to advertisements shall be submitted on DOTD's current standard submittal form **prior to the closing date and time stated in the advertisement.** Name(s) of the prime consultant/Team listed on the standard submittal form must precisely match the name(s) filed with the Louisiana Secretary of State and the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, where applicable.

Submittals should present a reasonably accurate description of the duties and percentage of total work to be performed by the prime consultant and any sub-consultant, respectively. The portion of the work to be performed by any individual sub-consultant should not exceed the portion of work to be performed by the prime consultant.

In order to ensure the stability of a selected consultant team, no substantial or significant changes in teaming partners and compensation will be permitted between the time of selection and the time a

contract is executed. DOTD requires that all key personnel and sub-consultants shown on DOTD's standard submittal form remain on the consultant team in the manner in which their role was described from time of submittal until contract execution, since their qualifications were used in the selection process. In the event that changes occur, DOTD may, at its discretion, decline to execute the contract, and another consultant selection may be made from the shortlist.

1.2.3 Non-Responsive Firms

Any consulting firm failing to submit the required information or satisfy all the stated Minimum Personnel Requirements and any other requirements will be considered non-responsive. If deemed non-responsive, the prime consultant will be notified in writing with an explanation for the determination. The prime consultant has 72 hours from time of notification (excluding weekends and holidays) to protest the determination. The protest must be submitted to the CCS Administrator in writing and specifically set forth the reasons for the protest. If a timely protest is received, the Chief Engineer, or the Chief Engineer's designee, will review the protest and make a final determination. Notification of the final determination will be given before an apparent selection is posted.

1.2.4 Evaluation

DOTD uses a qualification-based selection process for all competitive selections. Cost shall not be a factor in the selection process for engineering or architectural services.

1.2.5 Shortlist/Selection

The Project Evaluation Team reviews the submittals, evaluates firm and staff experience, and provides scores to the CCS Unit. For large and complex projects, a two-tiered selection process may be utilized. The second tier of the evaluation may include an interview, work plan, or other secondary evaluation mechanisms. If a second tier evaluation will be used, details will be provided in the advertisement. The CCS Unit determines scores for the other evaluation factors provided in the advertisement and calculates overall scores. A shortlist containing a minimum of the three highest rated consulting firms/teams, provided there are at least three qualified firms, is prepared and posted on DOTD's website. Consultants have an opportunity to protest clerical errors and mathematical miscalculations related to the shortlist within 72 hours after it is posted to the DOTD website. If no protest is received the shortlist will be submitted to the Secretary. The Secretary will select one consulting firm/team from the shortlist per advertised contract. In the event that multiple selections are to be made pursuant to a single advertisement, the shortlist will be expanded accordingly. All respondents will be notified via the DOTD's Website as to the selection of the consultant(s) for an advertisement.

1.2.6 Protest of Apparent Selection/Shortlist

Proposers who object to the shortlist may submit a written protest request to the DOTD Contract Services Administrator within 72 hours (excluding holidays and weekends) after posting of the shortlist. The protest must specifically set forth the grounds for the protest which must be based on clerical errors or mathematical miscalculations. If a timely protest is received, the Chief Engineer or Chief Engineer's designee will review the protest and make a final determination. Notification of the final determination will be given before the shortlist is submitted to the Secretary for selection.

When the DOTD Secretary selects other than the first-ranked consultant on the shortlist, the selection shall be considered an "apparent selection". A prime consultant on that shortlist may appeal an apparent selection for reasons other than clerical errors and mathematical miscalculations by submitting a written protest request to the DOTD Contract Services Administrator within 48 hours (excluding holidays and weekends) after posting of the apparent selection. The appeal must specifically set forth the grounds for the appeal, which must not be based on any grounds that could have be asserted at an earlier stage of the advertisement, shortlist and selection process. If a timely appeal is received, the Secretary or Secretary's designee will review the appeal and make a final determination. Notification of the final determination will be given before the final selection is posted to DOTD's website.

1.2.7 Selection

The final selection will be made after the 72-hour protest period has expired, unless a timely protest is filed. After the final selection is posted, proposers may request a debriefing meeting with the CCS Administrator.

1.2.8 Non-Competitive Selections

In special and rare circumstances, non-competitive selections may be utilized. These circumstances include:

A. Specialty contracts where the necessary expertise is available only from a single, or possibly a few, source(s)
B. A particular project for which the contract has been satisfactorily completed and closed out at an earlier date, and which may require additional services by the prime consultant and/or, if applicable, the sub-consultant
C. Contracts requiring immediate action

Whenever a DOTD section determines that circumstances justify a non-competitive selection, the appropriate DOTD Section Head will submit justification to the CCS Administrator. The justification will be reviewed and submitted through the appropriate executive-level staff member to the Secretary for approval. The request will be in written form and contain:

A. Justification for hiring a consultant
B. The recommended firm
C. Justification for this type of selection and an explanation of how this firm meets the criteria for non-competitive selection
D. Type of contract and compensation structure
E. Estimated compensation and contract time
F. Source of funding

The Federal Highway Administration (FHWA) must approve non-competitive selections on all projects involving Title 23 funds (FHWA funding) Federal Aid prior to contract execution. In order for the selection to obtain FHWA approval, it must meet the following requirements, as outlined in 23 CFR 172.7(a)(3)(iii):

(iii) A contracting agency may award a contract by noncompetitive procedures under the following limited circumstances:

A. The service is available only from a single source;
B. There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
C. After solicitation of a number of sources, competition is determined to be inadequate.

Contract Preparation

2.0 Non-Negotiated Contracts
For non-negotiated scope and compensation contracts, DOTD defines the scope of services, and determines the compensation, as detailed in Appendix B. The Notice/Advertisement for the original contract will comply with Section 1.2.1 (Advertisement Process).

Consultants are expected to examine the scope and compensation to confirm that, in their judgment, the scope is correct, and the compensation commensurate with such scope. The consultant's signed DOTD's Standard Submittal Form indicates acceptance of the compensation and terms in the Notice/Advertisement.

The firm that receives the award is expected to execute the contract and return it to DOTD within 10 days of receipt. For this reason, it is suggested that preliminary agreements between the prime consultant and sub-consultants (if applicable) be ready for execution at the time of submittal.

2.1 Negotiated Contracts
The four types of negotiated contracts used by DOTD are lump sum, cost plus fixed fee, cost per unit of work, or specific rates of compensation payment method.

Contingencies may be added in the compensation computation for negotiated cost plus fixed fee contracts.

Fixed fee and maximum compensation limitation amounts are not adjusted because of the post audit (i.e., these amounts are not changed as a result of differences between the actual values and those used to determine compensation for the contract).

2.1.2 Initial Meeting for Negotiations
The project manager and/or task manager may schedule an initial meeting with the selected consultant, the CCS Unit, and appropriate personnel. The purpose of this meeting is to transfer data and materials from DOTD to the consultant and discuss in detail the scope of the project.

2.1.3 Detailed Scope of Services
The selected consultant will be required to submit a list of detailed tasks needed to provide the advertised scope of services. This list must not include work hours or proposed compensation. DOTD and any other affected parties will review the list and reconcile differences with the consultant.

The detailed scope of services shall contain the following:

A. A detailed narrative describing the tasks within the scope of services
B. A list of tasks which includes:
    1. A description of the work to be performed by the prime consultant and each sub-consultant, to which work hours will be distributed at a later date, with each detailed task specifically and logically tied to the narrative. The personnel or salary classification shall be shown for each task. The detailed tasks are developed for the purpose of estimating work effort. However, the agreed upon narrative scope will become the language used as the "Scope of Services" in the contract.
    2. The proposed work divided into logical parts with the magnitude and number that facilitate the future estimation of work hours. Caution should be exercised to make certain that work does not overlap between line items.

2.1.4 Work-Hour Calculation for Negotiated Contracts

After an agreement is reached on the detailed tasks necessary to perform the scope of services, the project manager and other appropriate DOTD personnel shall prepare an independent work-hour estimate and submit it to the CCS Unit. The project manager will then request that the consultant submit a written work-hour estimate and provide a copy to the CCS Unit.

The consultant's initial work-hour estimate will contain the following:

A. Previously agreed to scope of services and a list of tasks with each task showing the estimated work hours required for each appropriate salary classification.
B. A separate sheet of calculations shall include:
    1. Total work hours for each salary class
    2. Sum of the work hours for all salary classes
    3. Estimated direct expenses (in detail including specialized equipment)

The above items must be shown separately for each stage/phase; for each discipline, such as Road Design or Bridge Design; and for the prime consultant and each sub-consultant.

The consultant's proposal(s) are distributed to all reviewers by the project manager. The project manager is responsible for integrating the input from all reviewers and for comparing DOTD's estimate with the consultant's estimate to ensure that they fall within the allowable tolerance of one another. If the estimates don't fall within the allowable tolerance, the project manager shall initiate negotiations with the consultant. The negotiation period will be limited to one round of negotiation, not to exceed a total duration of 90 calendar days from final selection, unless an extension is approved by appropriate executive-level staff member or designee. If an agreement cannot be reached with the selected consultant within the time allowed, negotiations shall be terminated and another consultant selection may be made from the shortlist.

2.1.5 Fixed-Fee Calculation for Negotiated Contracts

A fixed fee is a sum expressed in U.S. dollars established to cover the consultant's profit and other business expenses not allowable or otherwise included as a direct or indirect cost. DOTD's standard fixed fees are used for all forms of contracts.

Separate fixed-fee calculations are performed for the prime consultant and each sub-consultant, for each applicable stage of the project. A particular prime consultant or each sub-consultant may respectively have several fixed-fee calculations for different aspects of work within a scope of services.

Factors considered in determining fixed-fee percentages are:

A. Type of project (Engineering or Field Services)
B. Magnitude of the consulting firm's overhead rate
C. Magnitude of the total estimated project cost

The fixed-fee percentage calculation consists of applying a base profit percentage, and multiplying it by the overhead factor and the compensation size factor. The overhead factor and the compensation size factor will be calculated as detailed in Appendix B.

The resultant fixed-fee percentage is applied to the sum of the estimated direct salary costs, escalation allowance, and the estimated overhead cost, excluding direct expenses, to determine the fixed-fee amount in dollars.

2.1.6 Development of Compensation Package for Negotiated Contracts

The consultant will be responsible for submitting a compensation proposal that includes:

A. Total work hours for each salary class multiplied by the appropriate salaries
B. Sum of the work hours for all salary classes
C. Overhead percentage and amount
D. Fixed fee
E. Estimated direct expenses (in detail including specialized equipment)
F. Maximum limitation (sum of items B, C, D, and E)

If requested, overtime charges may be allowed for construction inspection projects where the consultant is required to adhere to the contractor's schedule. Overtime for other projects will not be allowed unless approved in writing in advance by the Chief Engineer or designee.

The project manager submits the final compensation proposal to the CCS Unit. The CCS Unit compares the rates submitted in the final compensation proposal to the audited rates. The maximum and hourly compensation levels used in the contract will be the lesser of the consultant's proposed compensation or the compensation calculated by the CCS Unit, as detailed in Appendix B, applying the audited rates. The final compensation package is the basis for the preparation of the contract.

Pre-award audits may be requested when audited rates are not available. (See Section 2.4 Audits for more details.)

2.2 Preparing the Contract

For non-negotiated contracts, the compensation used in the contract will be that stated in the advertisement. For negotiated contracts, compensation used in the contract will be that determined through the negotiation process set forth in this chapter. The contract shall describe all anticipated stages of the project. The contract shall segregate compensation according to stages. In cost plus fixed

fee with maximum compensation limitation contracts, a separate maximum limit shall be set for each task of each stage. Funds shall not be transferred from one stage to another without prior executive-level staff approval.

2.3 Contract Execution

After the contract is prepared, DOTD will send the selected consultant a contract for review. If found acceptable, the consultant is required to sign the contract with the approved signature as certified by a Board Resolution for Corporations or a Power of Attorney for Sole Proprietorships, and return the contract within ten days of receipt.

Forms required for proper and precise contract execution are:

A. For Corporations: Corporate Certified Board Resolution, clearly authorizing and designating an officer of the consulting firm, by name, to sign contracts for the firm. Also, a Disclosure of Ownership Certificate from the Secretary of State's Office. Corporations domiciled outside Louisiana are required to submit a Certificate of Authority issued by the Louisiana Secretary of State.
B. For Limited Liability Companies (LLC): Manager/managing member consent, clearly authorizing and designating the person, by name, to sign contracts for the firm. Also, a Disclosure of Ownership Certificate from the Secretary of State's Office. LLCs domiciled outside Louisiana are required to submit a Certificate of Authority issued by the Louisiana Secretary of State.
C. For Sole Proprietorships: A Power of Attorney/Affidavit is required.
D. For cost plus contracts: A certification, on a form prepared by DOTD, stating the last three years of audited overhead rates and the average of same for the consultant and any sub-consultants. The average will be used as the overhead rate for the first stage/phase of the contract. Additional certification will be prepared by DOTD and must be signed and returned by the consultant before the start of each subsequent stage/phase of the contract.
E. For federally funded contracts; these additional forms are required to be signed by the authorized signatory:
    1. Certification of consultant
    2. Certification of Non-Procurement Debarment and Suspension
    3. Consultant's Statement of sub-Contractor Participation
F. Certification of Professional Liability Insurance

After receipt of all documentation, including a signed contract, from the consultant, CCS staff will search SAM.gov to verify that the consultant is not subject to any current suspensions or exclusions and will print evidence of same for inclusion in the CCS files. Once this search is completed, the contract will be routed for DOTD signatures.

Following receipt of all necessary approvals, signatures, and forms, a copy of the executed contract will be returned to the consultant with a transmittal letter.

2.4 Audits

DOTD requires that all consultants conducting business with the Department, whether as a prime or a sub-consultant, must submit indirect cost rates and related certification requirements of their firm on an annual basis in accordance with 23 CFR 172.11 (c)(3)(iii) and 2 CFR 200. Rates must be developed using the applicable federal cost principles (e.g., Federal Acquisition Regulation [FAR], 48 CFR 31) and guidelines provided by DOTD's Audit Section. In addition, consultants are also required to submit labor rate information and supporting documentation at least annually to DOTD's Audit Section.

2.4.1 Risk-Based Review and Approval of Indirect Cost Rates

DOTD's requirements for submittal, review, and approval of consultant indirect cost rates are scaled based on the level of risk associated with each firm's indirect cost rate submittal. Categorization of risk will be the purview of DOTD's Risk Review Committee (RRC), which will categorize firms as low, medium, or high risk, or low risk-cognizant. The RRC will be composed of the DOTD Audit Director, the DOTD Consultant Contract Services Administrator, and a third member, at or above the level of DOTD Section Head, who will be designated by the DOTD Chief Engineer and must have significant experience and knowledge related to the management of DOTD's consultant contracts. The RRC will establish and maintain general guidance criteria describing what constitutes a low, medium, or high risk firm, which will be published on DOTD's web site.

Every indirect cost rate submittal must include the following documentation:

- a complete "AASHTO Internal Control Questionnaire for Consulting Engineers," including all supporting documents requested on the face of that form;

- a complete "Consulting Engineer Self-Certification Packet," forms for which are available on DOTD's web site;

- Financial Statements; and

- a FAR compliant "Schedule of Indirect Costs" (if a firm is required to provide a CPA-audited indirect cost submittal, then its Schedule of Indirect Costs must also be audited by an independent CPA or a cognizant government agency).

Upon receipt of the required submittal, RRC will review all submitted documentation, the indirect cost rate submitted and its relationship to the firm's historical indirect cost rates and the typical rates prevailing in the market, the magnitude of the firm's DOTD and Federal-Aid -related billings, and the firm's history of audit deficiencies over the prior three fiscal years. The RRC will also consider subjective matters known to the RRC members that might affect the risk level associated with the firm's submitted indirect cost rate, including the professional reputation of the consultant firm and of any CPA involved in the review or preparation of the firm's books and indirect cost rate submittal, whether any recent organizational changes have occurred at the firm that might be pertinent to its indirect cost rate, and any other matters that might inform the RRC's determination of the risk level associated with the firm's indirect cost rate. Based on its review, the RRC will categorize a firm as low, medium, or high risk, or low

risk-cognizant. In making its determination, the RRC will be informed by the general guidance criteria for low, medium, and high risk firms; however, ***the RRC will have full discretion to determine whether a firm should be categorized as low, medium, or high risk, or low risk-cognizant***. If the RRC believes that its determination requires additional documentation, it may request same from the consultant firm and defer action until the additional documentation is received. Once the RRC assigns a risk category to a firm for a fiscal year, any further action regarding the firm's categorization during that fiscal year will be at the sole discretion of the RRC.

The submittal and review requirements for consultant indirect cost rates will vary based on the risk category assigned to the firm, as follows:

- Firms categorized as low risk will be required to submit the mandatory documentation set forth above, but will not be required to submit a CPA audit of indirect costs. Rates for firms categorized as low risk by the RRC will be approved for use without further action by the DOTD Audit Section.

- Firms categorized as medium risk will be required to submit the mandatory documentation set forth above, as well as a FAR-compliant CPA audit of indirect costs. The DOTD Audit Director will recommend to the RRC a proportion of medium risk CPA audits to receive a full review by the DOTD Audit Section for quality assurance purposes. Rates for firms categorized as medium risk and flagged for a full review by the DOTD Audit Section will be approved for use only after that review is satisfactorily complete. Rates for firms categorized as medium risk by the RRC and not flagged for a full review by the DOTD Audit Section will be approved for use without further action by the DOTD Audit Section.

- Firms categorized as high risk will be required to submit the mandatory documentation set forth above, as well as a FAR-compliant CPA audit of indirect costs. Rates for firms categorized as high risk by the RRC receive a full review by the DOTD Audit Section, and will be approved for use only after that review is satisfactorily complete.

- Firms categorized as low risk-cognizant will be required to submit the mandatory documentation set forth above, as well as a copy of the FAR-compliant indirect cost rate submittal approved by their cognizant agency. Rates for firms categorized as low risk-cognizant by the RRC will be approved for use without further action by the DOTD Audit Section.

In addition to the required documentation set forth above, a firm may be required to submit a FAR-compliant CPA audit of its indirect costs, or other documentation determined to be appropriate by the RRC or the DOTD Audit Section at any point during the review and approval process for a firm's indirect cost rate.

Task Ordering Indefinite Delivery/Indefinite Quantity Contracts

3.0 Introduction
Indefinite Delivery/Indefinite Quantity (IDIQ) contracts, commonly referred to as retainer contracts, are defined as: a contract for the performance of services for a number of projects, under task orders issued on an as-needed basis, for an established contract period.

The process for procuring a consultant to perform an IDIQ contract and for solicitation and contract execution of an IDIQ contract shall conform to the requirements set forth in Section 1.2 (Consultant Procurement Process).

3.1 Task Order Development
Task orders shall be developed based on required services and in accordance with the scope and requirements of IDIQ contract(s).

3.2 Task Order Selection
When only a single IDIQ contract provides for the scope of services required for a task order, a task order may be issued on an as-needed basis without any further selection process.

When multiple IDIQ contracts with similar scopes of service exist within a section of the department, use one of the following task order selection procedures to award task orders to these contracts:

A. Task orders may be awarded through an additional qualifications-based selection procedure, which may include, but not require, a formal Request for Proposals (RFP) or Request for Qualifications (RFQ). Criteria used for this selection will assess the demonstrated competence and qualifications for the type of professional services required by the specific task order. These qualifications-based factors may include, but are not limited to:
    1. Work experience
    2. Specialized expertise
    3. Professional licensure
    4. Staff capabilities
    5. Workload capacity
    6. Past performance
    7. Location of consultant as compared to the project site
    8. Technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures)
B. Task orders may be awarded on a regional basis, where the state is divided into regions and consultants have been selected to provide IDIQ services primarily for an assigned region(s) identified within the solicitation.

3.3 Task Order Preparation
Once a task order has been awarded, the project manager or task manager, through the appropriate Section Head, will forward relevant information to the CCS Unit for task order preparation and routing for execution. The task order will be prepared in accordance with the processes set forth in this manual in Chapter 2 (Contract Preparation).

Contract and Project Administration

4.0 Initial Project Schedule

Immediately upon receiving notice of contract or task order execution, the consultant will prepare and submit to the project manager a proposed project schedule. The project manager will either approve the proposed schedule, or provide comments to the consultant for revision. The consultant and the project manager will discuss and develop a final project schedule, which will include:

A. Appropriate items of work
B. Times for beginning and completion by calendar periods
C. Review/checkpoints
D. Any other data required by the project manager

The schedule shall be in a format that allows comparison of actual progress to planned progress for each item of work. Final approval of the project schedule shall be at the discretion of the project manager. Notice to Proceed will be issued after the schedule is finalized and approved by the project manager.

DOTD has various review/checkpoints for services provided by consultants for engineering and other related activities. At these points, there are defined tasks that must be accomplished before a certain percent-complete status is acknowledged by DOTD. These standard review/checkpoints and their defined tasks are not applicable to all projects.

4.1 Project Kickoff

The project manager shall conduct a meeting, in person or by phone, with the consultant and all applicable DOTD personnel to discuss the project scope, project review milestones, consultant evaluation, and other coordination efforts, as applicable.

4.2 Prime Consultant and Sub-Consultant

After the execution of the contract, the prime consultant may request, through the project manager, the use of a sub-consultant or the replacement of an existing sub-consultant. A request must be submitted in writing to the CCS Administrator with justification and all required documentation. This justification will be reviewed by the CCS Administrator and submitted to the Chief Engineer for approval.

4.3 Staffing Plan

The key personnel shown on the Staffing Plan submitted with the DOTD's Standard Submittal Form should remain unchanged during the course of the project. However, if changes to the Staffing Plan or key personnel assigned to the project should become necessary, a request, including justification and supporting documentation, shall be submitted in advance to the project manager and the CCS Administrator for review and the Chief Engineer or designee for approval.

4.4 Invoices

A certified standard DOTD invoice shall be submitted each month for each project or task order. The invoice will be accompanied with any and all backup documentation required as per the contract. The consultant's accounting system shall segregate costs by stage, as well as by supplemental agreement or extra work letter.

A progress report shall be submitted to the project manager with other required monthly data required as per the contract. The progress report shall be in a form and arrangement approved by the project manager; it should show actual progress in comparison to the original project schedule and summarize major tasks completed since the last report.

Payments to the consultant on undisputed amounts for services invoiced by the consultant will be made monthly, as per the contract.

4.5 Contract Management Documents

Contract management documents, such as notices to proceed, extra work letters, time extensions, or time suspensions, may be issued as per the terms of the contract.

4.6 Modifications to Contracts or Task Orders

The consultant will make minor revisions in the described work, as directed by DOTD, without additional compensation as the work progresses. Considerations for minor revisions have been included in the compensation computations. If DOTD requires more substantial revisions or additional work which the consultant believes to warrant additional compensation, the consultant will notify DOTD in writing within 30 days of being instructed to perform such work. If DOTD agrees that the required work is necessary and warrants additional compensation, the contract or task order will be modified as provided in the contract.

A supplemental agreement to a contract or a supplement to an existing task order may be executed when it is necessary to add compensation for ancillary services required for the project. Ancillary services are services that are within the general scope of the advertised project but were not obvious components of the project immediately identifiable at the time of contract execution. Additional compensation for ancillary services is limited to 75 percent of the original contract maximum compensation for contracts entered into on July 1, 2009, or thereafter. A supplement to an existing task order should only be executed in other special and rare circumstances.

When a contract or task order modification is required, the supplement will be prepared in accordance with the processes set forth in this manual for contract preparation.

4.6.1 Procedures for Modifying Contracts or Task Orders

The procedures to be used for contract or task order supplements are described as follows:

A. Non-Negotiated Type Contracts: The project manager/task manager will develop a detailed scope of services description and a list of appropriate descriptive line items, estimate the required work hours, and submit this information to the CCS Unit. The CCS Unit will calculate the compensation. The consultant's average salary and overhead rate information, if available, will be used in preparation of the compensation package.
B. Negotiated Type Contracts: The procedure is the same as outlined in Chapter 2 (Contract Preparation), except that the time period for negotiations will not exceed 60 days. If negotiations are not successful within the 60-day time frame, the consultant will be directed to proceed as per the contract.

The remainder of the process follows the policies outlined in the Chapter 2 (Contract Preparation) under the negotiation and contract execution sections.

4.7 Consultant Performance Ratings

The project manager and task managers shall electronically complete a consultant performance rating at major project milestones and/or deliverables as identified during the project kickoff meeting by the project manager or task managers. A listing of consultant rating categories and factors for various project types is available online in the CCS section. Consultants' ratings on DOTD projects will remain in the CCS database for a period of up to five years for use by the Project Evaluation Team.

4.8 Claims Avoidance

Both the project manager and the consultant shall work together in good faith to resolve issues as they arise, in order to avoid claims. The conduct of the project team contributes to the success or failure of this process.

Components that aid in claims avoidance are:

A. Careful preparation and review of contract documents by all parties prior to signing
B. Open, frequent, and continued communication between project manager and the consultant
C. Adherence to all contract requirements by all parties
D. Immediate written communication regarding any and all changes or discoveries that may require additional compensation
E. Maintenance of proper project documentation by all parties

4.9 Claims

When a consultant and DOTD's project manager disagree as to whether additional compensation is warranted for work the consultant has been directed to perform, it is the consultant's responsibility to continue the work. Within 30 days of being directed to perform the work, the consultant must also request in writing that additional compensation be granted. If the request for additional compensation is denied, the consultant may subsequently file a claim within 30 days of completion of the work upon which the claim is based, in accordance with the Claims and Disputes provisions of the contract.

Claims must be filed with the Chairman of the Contract Claims Team (CCT). The claim request shall include all items outlined in the consultant and Project Manager Checklist for Claims.

The DOTD's CCT will be comprised of three members appointed by the Chief Engineer. The CCT may include additional ad hoc members or advisors as required at the discretion of the Chairman. The Chief Engineer shall also designate a DOTD employee, who is not a member of the CCT, to review the recommendation of the CCT and determine whether or not the claim will be paid.

The CCT will review the claim, and determine if the claim has merit in principle, and if so, how much additional work effort was warranted. The Chairman will notify the Chief Engineer's designee of the CCT's recommendation. The Chief Engineer's designee will determine whether or not the claim will be paid. The consultant will be notified in writing of this decision. If supplemental compensation is

approved and accepted by the consultant, a supplemental agreement is drafted, and sent to the consultant for signature.

The consultant may appeal the decision to the Chief Engineer in writing or provide additional documentation in support of the claim. The decision of the Chief Engineer shall constitute the final determination of the Department and the consultant shall be notified in writing of the Chief Engineer's decision.

4.10 Errors and Omissions

The selected consultant will be responsible for errors and omissions provided in the contract and DOTD's Errors and Omissions (E&O) policy, which is attached as Appendix A hereto.

4.11 Contract Closeout

The project manager shall notify the CCS Unit in writing when the contract has been satisfactorily completed. The CCS Unit will then close the contract and request a post audit from the Audit Section, when necessary.

A post audit and reconciliation shall be performed on all contracts other than lump sum contracts. The post audit shall be conducted according to the Government Auditing Standards, including, but not limited to, applicable provisions of 2 CFR 200 and 23 CFR 172. Audit results shall be forwarded to the CCS Unit, which will either remit payment to the consultant, or invoice the consultant, as appropriate.

Additionally, DOTD maintains historical project data that is used to define work efforts and costs for future projects. A post audit may be performed on a lump sum compensation contract for the purpose of adding to or updating this data. Lump sum compensation is not adjusted because of the post audit results.

Agreements Other Than Consultant Contracts

5.0 Entity-State Agreements

When a local public agency (LPA) holds a contract on which federal or state funds will be used, DOTD must ensure that all State and Federal regulations are followed. The entity-state agreement (ESA) is a legal document that states the requirements to which the LPAs must adhere.

An ESA is required for projects where the LPA contributes services or money, or where the LPA will assume ownership of a road or bridge improvement. Typical programs that use ESAs include the Transportation Alternatives Program, Recreational Trails program, Safe Routes to Schools program, Local Roads Safety Program, and Urban System Program. Where available, DOTD standard templates shall be used.

5.1 Asset-Specific Agreements

An asset-specific agreement is required when, following completion of a project, an LPA will assume ownership and/or maintenance for an improvement other than a road or bridge improvement. Examples include, but are not limited to:

A. Sidewalks

B. Shared-use paths
C. Landscaping
D. Lighting
E. Right-of-way that is to be transferred after construction

5.2 Memorandum of Understanding
This document is to record an understanding between two or more parties, typically governmental agencies and/or railroads. It establishes that they agree to cooperatively work together on an identified project or to meet a shared objective.

5.3 Memorandum of Agreement
This agreement is to record an understanding between two or more parties, typically including the federal government. It establishes that they agree to cooperatively work together on an identified project, or to meet a shared objective.

5.4 Cooperative Endeavor Agreement
Cooperative endeavor agreements are agreements between two or more parties that may be used under special circumstances, which must be drafted and/or reviewed by the DOTD Legal Section.

5.5 Other
The DOTD Legal Section shall be contacted where there is any deviation from existing standard templates, or where a specialized agreement is needed.

Oversight of Local Public Agencies

6.0 Local Routes Funded by LPAs
If 100% local funds are used for pre-construction engineering on an LPA's local route, the LPA may choose one of the following:

A. Perform work in-house
B. Select its own consultant to help with work, using applicable state and local procurement laws. (Exception: The consultant cannot be on the DOTD disqualified or debarred list.)

6.1 Selection of LPA Consultant Contracts with Federal Aid Funds
If federal aid funds are used for a consultant contract that will be held by an LPA, then DOTD will provide oversight of consultant selection and contracting. This oversight may be provided through approval of LPA selection and contracting processes, or by DOTD conducting selection and contracting process on behalf of the LPA.

6.1.1 LPA Utilizing its Own Selection Process
If an LPA intends to conduct its own selection process for a stage or phase of a project that will use federal funds, it must obtain prior approval of its selection process by the CCS Administrator. The CCS Administrator will review any selection process for conformity with the requirements of 23 CFR 172.5 (b)

and (c), and will approve or reject, as appropriate. DOTD may subsequently audit LPA's use of approved selection processes in order to verify continued compliance with the requirements of state and federal law.

If an LPA uses its own DOTD-approved selection process for a stage or phase of a project that will use federal funds, it must submit appropriate documentation related to the selection and a draft of the consultant contract to the CCS Administrator for review prior to execution by either party. The CCS Administrator will approve the contract or direct the entity to make revisions, as appropriate. **Any contract executed without DOTD approval will not be eligible for federal aid.**

6.1.2 DOTD Conducting Selection on Behalf of LPA
If the LPA does not have an approved selection process, DOTD will select a consultant using its own processes. The LPA may make a non-binding recommendation to DOTD in connection with the selection.

6.2 LPA Responsibilities Regarding Administration of Federal Aid Consultant Contracts
LPAs shall prepare and maintain their own written policies and procedures for administering federal aid contracts, in accordance with the 23 CFR 172.5 (b) and (c). LPAs may refer to DOTD's LPA manual for additional guidance. The LPA must submit their written policies to the CCS Administrator for review. The CCS Administrator will review all policies for conformity with the requirements of 23 CFR 172.5 (b) and (c), and will approve or reject, as appropriate.

In accordance with 23 CFR 172.9 (d), each LPA that holds a contract shall designate a full-time, public employee of the LPA who is qualified to ensure that the work delivered under contract is complete, accurate, and consistent with the terms, conditions, and specifications of the contract to be in responsible charge of each contract or project.

Compliance Programs

7.0 Equal Employment Opportunity/Affirmative Action
It is the policy of DOTD to ensure that transportation activities are free from any discriminatory elements or practices, and that affirmative actions are taken to foster the participation of Disadvantaged Business Enterprises (DBEs) in all such activities.

Each consultant must develop and maintain a written affirmative action program for each of its establishments, if it has 50 or more employees, and a contract of $50,000 or greater.

Specific programs are established to facilitate compliance with federal and state laws, rules and regulations pertaining to non-discrimination and affirmative action. These programs are administered by the DOTD Compliance Programs Section and are described below:

A. DBE Program – involves locating, certifying, educating, assisting, and selecting DBEs for a percentage of work financed all or in part by federal funds.
B. Title VI Program – involves the social, economic, and environmental impact of DOTD's activities that are federally funded.
C. Contract Compliance Program – involves enforcing the Equal Employment Opportunity

(EEO) provisions included in all federal-aid contracts.

D. Local Government Compliance Program – involves monitoring those Louisiana governmental entities that are subject to civil rights responsibilities as a result of acceptance of federal transportation funding.
E. Internal Personnel Practices Program– involves the treatment and effect of personnel practices on DOTD and prospective DOTD employees.

Each of these program areas may have a potential impact on any contract selection. Further information and program manuals can be obtained online at DOTD's Website at www.dotd.la.gov.

7.1 Disadvantaged Business Enterprise Requirements

It is the policy of DOTD that DBE firms as defined in Title 49, Code of Federal Regulations, Part 26 (49 CFR 26), shall have the maximum opportunity to participate in selected contracts that are financed in whole or in part with federal funds. In this regard, consultants shall be required to take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that DBE firms have the maximum opportunity to compete for and perform services relating to contracts for which a DBE goal has been set by the Department.

It is further DOTD policy that Small Minority Businesses and Women Business Enterprises shall have the maximum opportunity to participate in DOTD contracts as per 2 CFR 200.321. Prime consultants are required to take all steps provided for in 2 CFR 200.321(b).

Furthermore, consultants shall not discriminate on the basis of race, color, national origin, sex, or any other protected status in the performance of contracts. Consultants found to be in non-compliance with DBE regulations may be subject to sanctions.

7.1.1 DOTD DBE Goals

In accordance with requirements of the Federal Office of Small and Disadvantaged Business Utilization (OSDBU) USDOT DBE Program, DOTD establishes contract-specific DBE subcontracting goals, as appropriate.

In order to participate in the DBE program, firms must apply for and receive certification as a DBE. The firms may contact the DOTD Compliance Section if further information on certification is required. The Web address for the DOTD's Compliance Section is: http://bit.ly/DOTDCompliance.

A complete list of those firms registered as DBE with their specialties can be found at: http://bit.ly/UCPFirms. A list by work type can be found at: http://bit.ly/UCPWorkType.

Advertisements for federally funded contracts which are equal to or greater than $250,000 will be reviewed by the Compliance Section for DBE goals, except that advertisements that do not allow for sub-consultants shall not be reviewed for DBE goals. The Compliance Section will provide a list of available DBE firms in the project area, and firms with specialties in the identified work types, to assist in setting goals.

This information will be presented to the DBE Consultant Contract Goal Committee. The committee will establish the goals for the contract. Once the goals are established, DOTD's CCS Unit will advertise the project.

Appendix

A. Errors and Omissions Policy

Construction plan errors and omissions have a direct correlation to plan quality and therefore to the QC/QA efforts on the project and to the diligence of the Engineer of Record (EOR). LA DOTD has a separate document, Construction Plans Quality Control / Quality Assurance Manual, to address internal plan quality procedures. No policies, efforts or lack thereof absolve the EOR from responsibility for quality construction plans.

1 Purpose:

The purpose of this Errors and Omissions (E&O) Policy is to reinforce design accountability and recover added project costs due to carelessness or negligence on the part of design consultants.

In contracting for design services by consultant professionals, and as a recipient of federal funds for highways, each state DOT must have written procedures, approved by the FHWA, for determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from E&O in the work furnished under its contract. [23 CFR 172.5 (c) (16)]

2 Definitions:

The following definitions will apply to this policy:

Errors: Plan or specification details or contract administration actions that are incorrect, conflicting, insufficient, or ambiguous (items are shown incorrectly).

Omissions: Cases in which the plans, specifications or contract administration actions are silent on an issue that should otherwise be addressed in the documents (items are missing, not shown or not included).

Errors and Omissions: Design deficiencies in the plans and specifications, which must be corrected in order for the project to function or be built as intended.

Standard of Care: The consultant will perform all services in accordance with the degree of skill and care ordinarily used by competent practitioners of the same professional discipline under similar circumstances, taking into consideration the contemporary state of the practice and the project conditions. The consultant will perform the required quality control and quality assurance (QC/QA) for each project and document that the QC/QA has been performed.

Other Design Flaws:

- Breaches of contract administration caused by untimely review of submittals and untimely and inadequate responses to requests for information.
- Problems in cost estimates and in conduct of construction inspections.

Recoverable Costs: The amount of the recoverable cost is that which would not have been incurred had the plans been correct. These costs result from factors such as delays in construction and any premium on costs of items that had to be added to the project after the original bid. The cost of items that would have been part of the project anyway, had the error or omission not occurred, are not included in the restitution sought from the design consultant. The costs to be recovered should be based on actual costs to DOTD. The consultant must reimburse these costs in cash; in-kind services by the consultant are not acceptable as payment.

Before, during and after construction, E&O can result in additional costs that DOTD would not have incurred if the construction plans had been correct. Under contract law, the resulting additional costs are considered damages that DOTD is entitled to collect. E&O identified prior to project construction should be corrected at the consultant's expense with no additional cost to DOTD. These errors could also result in below average or poor consultant performance ratings. E&O discovered prior to letting, resulting in real costs to DOTD, such as additional utility relocation or real estate costs, will generally be resolved following the same procedures as described below for errors discovered during construction, except that 3.1 and 3.2 will be handled by the Project Manager (PM) and technical experts.

The process for identifying, addressing and recovering costs associated with E&O is outlined below.

3 Process and Steps:

It is the DOTD's intent to communicate to the Design consultant, as soon as possible, when a potential E&O or design issue is discovered. Early involvement is needed to minimize potential costly delays to the Project, to provide the consultant the earliest opportunity to participate in determining a solution (in an effort to resolve issues and mitigate damages), and to provide a process that is fair to the Department and to the consultant. The steps involved in the full process of resolving issues relating to E&O during construction are as follows:

3.1 Discovery, Evaluation, and Early Notification

Normally, E&O found during construction comes to the attention of the Engineer through the Contractor as an issue. The Engineer will immediately notify the Design Project Manager of the problem. The Project Manager will notify the appropriate Task Manager so that a solution can be developed.

The Project Manager and Task Manager must quickly initiate an internal review of the circumstances to assess whether the issue is likely (a) design-related, (b) construction-related, or (c) due to other causes that are not the responsibility of the design consultant or the contractor. If there is any chance that the issue could be due to a consultant error or omission, the Project Manager or the Task Manager will notify the design consultant immediately and request their involvement in preparing a solution to the issue. Responsiveness by the consultant is crucial to this process and the DOTD will provide a deadline for required responses. The consultant will respond and advise the Task Manager on proposed solutions to the problem. The consultant shall perform additional work to correct design deficiencies promptly and at no additional cost to the Department and the consultant is afforded the opportunity to mitigate potential damages. Regular communication should be maintained between the Task Manager and the consultant until an acceptable solution is provided to the Engineer. Detailed documentation of all communication with the consultant should be maintained by the Project Manager.

There are instances whereby either due to the nature of the error or in the interest of time, that the Engineer may direct a field change to correct an error without consulting the Project Manager. This will not absolve the consultant of responsibility for the error. Errors may still be discovered through other reviews (i.e., review of project change orders by the Project Manager) later in the project life cycle and financial responsibility may be assigned to the consultant.

3.2 Investigation

After a potential E&O is identified, the Project Manager, in coordination with the Engineer and the Task Manager, shall investigate the issue and will identify any apparent violation of Standard of Care by the consultant as well as additional costs incurred by DOTD. This investigation will take into account all factors influencing the consultant's liability and the extent of potential damages due to DOTD by the consultant. The consultant should not be responsible for the direct cost that DOTD would have incurred during construction had the error or omission not occurred. The Project Manager will document the findings of the investigation. If recoverable damages are identified, the Project Manager will forward a recommendation to the Chief Engineer's designee to collect recoverable costs.

3.3 Decision Notification

If the Chief Engineer's designee agrees with the recommendation of the Project Manager that costs attributable to E&O are due to the consultant's neglect, then the Chief Engineer's designee will notify the consultant of the costs, methods of payment of such costs, and options for review of the decision. All communication between DOTD and the consultant shall be in writing. The consultant may accept the determination, appeal the decision to a Review Panel, or litigate the matter.

3.4 Review Panel Meeting

The consultant may choose to have the findings of the investigation reviewed by the E&O Review Panel. At the request of the consultant, DOTD will convene the Review Panel, consisting of:

Chief Engineer, Chair
Chief Construction Engineer
Chief of Project Development
Contract Services Administrator

The consultant will have the opportunity to present information relative to the E&O findings to the Review Panel. DOTD Technical Staff may also be asked to present and DOTD may engage outside technical experts, if needed. The Panel will consider the information presented at the Review Panel Meeting and will render a decision on consultant liability and recoverable costs. The Chief Engineer will communicate the decision to consultant and will include options for settling the matter.

Based on these findings, the consultant may choose to pay costs associated with their E&O, or may refuse to pay these costs. If the dispute remains unresolved, litigation by DOTD may be the only remaining option. If the dispute is resolved or if the Department prevails in litigation, the claim is collected from the consultant.

3.5 Recovery and Collection

At the conclusion of step 3.3 or 3.4, DOTD may issue a request for damages to the consultant. At any step in the process, the consultant may opt to pay the costs of E&O. Once a tentative agreement is set, DOTD prepares a settlement agreement. The agreement is then executed and payment is made to DOTD.

3.6 Litigation

If at the conclusion of step 3.5 the consultant disagrees with the findings of the Review Panel, the only recourse for DOTD may be litigation. In these cases, the Project Manager will provide all information relative to the matter, including the Investigation, Notification and Review Panel findings to the DOTD Legal Section for further action.

The consultant, through payment of restitution for damages, and/or DOTD may agree to resolve the issue or at any step in the process, in which case the process moves directly to its conclusion.

B. The CCS Unit's Methodology for Calculating Maximum Contract Compensation

1.0 Calculation of Labor Cost

Upon receipt of the estimated or negotiated work hours, as applicable, from the project manager, the CCS Unit will apply appropriate hourly rates to the work hours to generate a labor cost. If work hours are non-negotiated, then statewide average labor rates will be applied; if work-hours are negotiated, then the lesser of the consultant's audited labor rates or the consultant's proposed labor rates will be applied. If work-hours are negotiated, the consultant and sub-consultant must submit audited labor rates within the time period allotted for negotiations. If the consultant submits audited labor rates during the negotiation process but audited labor rates are not reviewed and approved the DOTD's Audit Section prior to the conclusion of the negotiation period, then the lesser of the statewide average or the consultant's proposed labor rates will be applied. Once the consultant's labor rates are approved by DOTD's audit section, the contract will be amended to incorporate the approved rates and revised maximum compensation.

2.0 Escalation

Salary escalation is the practice of anticipating that salary rates will increase during the performance of a contract; and basing the compensation structure on an average of the current rate and the estimated future rate. No escalation is applied if the contract midpoint is a year or less from the current salary survey date. Contracts with midpoints more than one year beyond the salary survey date, but whose total duration is not greater than three years, may be escalated to the contract midpoint. Escalation for contracts with durations greater than three years will be computed annually and applied to the remainder of the contract amount.

The proposed escalation percentage is limited to DOTD's maximum. Maximum percentages are calculated annually based on Consumer Price Index (CPI-U), published by the United States Department of Commerce/Bureau of Economic Analysis.

3.0 Overhead

In order to reduce the effects of annual fluctuations of overhead rates, the overhead rate is calculated for each consultant or sub-consultant by using the running average of up to the last three audits, if available, from within the last five-year period. If no audited rates are available, each consultant and sub-consultant must submit audited rates within the time period allotted for negotiations. If the Consultant submits audited rates during the negotiation process but audited rates are not reviewed and approved the DOTD's Audit Section prior to the conclusion of the negotiation period, the statewide average will be applied. Once the Consultant's overhead rates are approved by DOTD's audit section, the contract will be amended to incorporate the approved rates and revised maximum compensation. The overhead rates will be applied to the labor cost, as calculated pursuant to Section 1.1 above, and as escalated pursuant to Section 1.2 (if applicable).

4.0 Base Profit Percentage

The base profit is based upon the type of work to be performed. The base profit percentage is 15% for general engineering/related services and 12% for construction support/inspection and other field services.

5.0 Overhead Factor

The overhead factor used in the fixed-fee computation is based upon the comparison of the overhead calculated pursuant of Section 1.3 of this appendix to the statewide average overhead. The overhead factor is C^2, where C is the ratio of statewide average overhead to contract overhead, up to a maximum value of 1.15.

6.0 Compensation Size Factor

The same compensation size factor is used for all fixed-fee calculations for the prime consultant and each sub-consultant. The contract compensation size factor is based on the magnitude of the total estimated project cost. For compensation up to $100,000, the factor is one. For compensation higher than $100,000 the factor is $1.5X^{-0.036}$, where X is the total estimated project cost. The compensation size factor may be negotiated for contracts larger than $10,000,000.

7.0 Contingencies

In limited cases, DOTD may include contingencies in cost plus fixed fee with maximum compensation limitation contracts, when deemed appropriate and approved by DOTD. Contingencies may be included for large and complex contracts to compensate for lack of precision in estimating the work efforts to accomplish all tasks within the specified project scope. The contingency percentage varies from a minimum of 5 to a maximum of 20, with incremental mid-values of 5's (i.e., 5, 10, and 15).

8.0 Overtime

DOTD does not pay overtime for engineers or other professionals. If requested, overtime charges may be allowed for construction inspectors on construction, engineering and inspection (CE&I) projects where the inspector is required to adhere to the contractor's schedule. Overtime for other projects will not be allowed unless approved in writing in advance by the Chief Engineer or designee.