



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

Date: **September 1, 2022**

To: **Local Public Agencies (LPA) & Consultant Community**

From: **Bureau of Planning and Community Assistance**
New Hampshire Department of Transportation (NHDOT)

Re: **Notice #2022-01: Direct Labor and Indirect Labor Updates**

Dear Local Public Agencies (LPA's) and consulting firms interested in working on both Federal and State funded LPA projects. We are writing to update you on recent changes to the consultant's Direct and Indirect Labor Rates.

For Direct Labor Rates - Until recently, NHDOT's current policy has had a cap of \$60/hr. This salary cap has been removed. We realize that it may be difficult to implement this revision to Direct Labor Rates on projects that have a consultant contract in place. With that in mind we are implementing this change to new consultant contracts that have not been submitted to NHDOT for review and approval. Therefore, this change is for any new contract and any new contract amendment even if the original contract had the \$60/hr cap included. No existing contract with an approved fee using the \$60/hr cap will be re-calculated or amended for the sole purpose of adjusting the contract for the new rate.

For Indirect Labor Costs (ICR) the LPA Manual Version 3.0 requires that all consultant and sub-consultant costs over \$10,000 have indirect labor cost rates approved annually by the NHDOT Auditing Department. This Notice will increase this threshold for ICR's from \$10,000 to \$200,000. A lump sum cost may be used for sub-consultants with contract costs of less than \$200,000. For all consultant contracts and sub-consultants with contract costs greater than \$200,000, the following breakdown must be used:

Indirect Labor Cost = Direct Labor Cost x Indirect Cost Rate (ICR)

Section 14 of the LPA Manual Version 3.0 will be revised to include the language below:

Consulting firms providing services under a contract reimbursed with Federal-Aid Highway Program (FAHP) funds are required to develop an indirect cost rate in accordance with the Federal cost principles outlined in the Federal Acquisition Regulations (FAR) of part 31 of title 48, Code of Federal Regulations. The prime consultant, and all sub-consultants with a **cumulative** active contract total of \$200,000 or greater, must submit an Indirect Cost Rate Audit

and required documentation (as listed below) to the NHDOT Internal Audit Office prior to contract negotiations, and then annually for each fiscal year work is performed under a contract, unless the indirect cost rate is fixed for the duration of the contract.

Sub-consultants below the \$200,000 threshold must either submit an Indirect Cost Rate Audit or a Sub-Consultant Indirect Cost Rate Self-Certification form stating the same. See attached form or the Departments website under “Consultant Selection Information”.

The Indirect Cost Rate Audit must meet the following requirements:

- Be conducted by an independent Certified Public Accountant (CPA), a Federal government agency, or another state transportation agency.
- Be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the U.S. Government Accountability Office (GAO) and with the cost principles and procedures set forth in part 31 of the FAR.
- Follow the guidance of the most recent American Association of State Highway Transportation Officials (AASHTO) Uniform Audit and Accounting Guide for Audits of Architectural and Engineering Consulting Firms (AASHTO Audit Guide).

Along with the Indirect Cost Rate Audit, the consultant is requested to submit the following documentation to NHDOT’s Internal Audit Office: DOT-InternalAudit@nh.gov.

- AASHTO Internal Control Questionnaire (ICQ) for Consulting Engineers form with the required attachments.
- Certification of Final Indirect Costs as required pursuant to 23 CFR 172.11 and FHWA Order 4470.1A.
- Complete copy of the firm’s annual audited financial statements.
- Analysis of reasonableness of executive compensation as outlined in the AASHTO Audit Guide.
- Cognizant letter of concurrence issued by a cognizant agency, if available.
- A listing of all contracts, with dollar amounts, the consultant currently has with NHDOT as a prime consultant or sub-consultant.

The Internal Audit Office will notify the consultant by letter of their approved indirect cost rate. The rate remains valid until the earlier of the provisional rate expiration date or the approval date of next year’s submittal, unless the Internal Audit Office determines the rate must be adjusted. Annual indirect cost rate submissions are due within six months of the consultant’s fiscal year end and shall be submitted to the Internal Audit Office either electronically or in writing.

The provisional indirect cost rate shall be stated in the agreement and shall be the current approved indirect cost rate at the time of contract execution. The terms of the agreement shall require that the stated provisional indirect cost rate be used for the life of the agreement when invoicing overhead applicable to direct salary costs. The contract language shall also specify that payments may be adjusted during final audit to agree with approved annual indirect cost rate applicable to the period in which work was performed, unless the indirect cost rate is fixed for the duration of the contract.

These changes will be made to the next update to the LPA Manual. In addition, these updates apply to State Bridge Aid and State Highway Aid projects.

Please refer any questions or concerns to either C.R. Willeke or Bill Watson

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