

Hiring Consultants

Project engineering is a complex task requiring assistance from licensed professionals. For this reason, local public agencies without staff engineers must hire consultants for project design and inspection work. If an agency intends to pay a consultant with funding from MaineDOT, a qualifications-based selection must be used. Price *cannot* be a scoring factor.

Chapter 2 of this Manual is set up to guide local public agencies in hiring and managing consultants using federal or state funding. Listed below are the topics covered in this chapter:

- Independent Estimate / Pre-Award Consultant Work (page 2-2);
- Selection Methods / Prequalification (page 2-4);
- Request for Proposals (RFP) / Technical Proposals (page 2-6);
- Selection Committee / Price Proposals (page 2-7);
- Salary Limits (*updated*) / Negotiations / Contracts (page 2-8);
- Contract Modifications (page 2-9);
- Debarment / Consultant Evaluations / Risks to Funding (page 2-9);
- Appendix 2A: Consultant Selection Checklist (page 2-10);
- Appendix 2B: Submittals to MaineDOT (page 2-13);
- Appendix 2C: Payment Methods (page 2-18); and
- Appendix 2D: Guidance on Consultant Expenses (page 2-21).



2.1 Scope of Work

Hiring a consultant begins with preparing a well-defined scope of work. At the start of a project, the local public agency managing the project should prepare a scope that covers the following items, to the extent that they apply:

- A description of the project, with the location and the type of work;
- Deliverables such as a preliminary design report (PDR) and final plans, specifications and an updated estimate (PS&E);
- Proposed schedule;
- The number of public meetings to be facilitated;
- Project-specific tasks such as utility coordination, preparation of permit applications, and right-of-way mapping, as applicable;
- Specialized services, such as geotechnical engineering or traffic engineering work.

2.2 Independent Estimate

A local public agency that intends to hire a consultant with funding from MaineDOT must prepare an independent estimate. The estimate will determine the selection process – set out in section 2.4 (Selection Methods) – and will be the basis for contract negotiations.

The independent estimate, which an agency must prepare and submit to MaineDOT’s project manager for review before requesting proposals, must include:

- Tasks based on the scope of work, as set out in the model worksheet on page 2-3;
- Classifications and estimated hourly wages of personnel likely to work on a project;
- Estimated number of hours required, by employee classification;
- Estimated overhead (indirect) rate;
- Direct costs, such as mileage (state rate), reproduction, and sub-consultants; and
- A reasonable profit, generally 8 percent to 10 percent.

An estimate must be treated as confidential, not to be shared with anyone submitting a proposal. During negotiations, the proposed price may vary by **15 percent** from the estimate for services estimated at \$100,000 or less, and by **10 percent** for services estimated to exceed \$100,000.

An Excel worksheet is in the Consultant Procurement section of the LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/

Although the estimate must be prepared by the local public agency sponsoring a project, MaineDOT may offer guidance. In many cases, there are local resources, such as:

- An experienced local official from a different community;
- A local professional engineer not involved in a project; and
- Retired technical professionals.

Note: Anyone who assists with an independent estimate cannot participate in the RFP process.

2.3 Pre-Award Consultant Work

A consultant may assist with a project funding application, but such costs are non-reimbursable. If MaineDOT awards funding, an agency must hire a consultant to design the project using a separate process that follows the requirements in Section 2.4: Selection Methods.

There is one exception. If a consultant is hired to prepare preliminary design plans, before a project is funded, the original consultant may stay on the project post-award with MaineDOT’s approval – as long as the following conditions are met:

- The local project sponsor initially used a competitive, qualifications-based selection; and
- The consultant has prequalification status in an appropriate MaineDOT category; and
- The original contract has a provision allowing for additional services; and
- The original contract has not lapsed by the time funding from MaineDOT is awarded.

INDEPENDENT ESTIMATE WORKSHEET

(Example)

Project Title/Location:

MaineDOT WIN:

Service Area or Phase of Work:

Date:

Revised:

Prepared By:

#	Task Descriptions	Project Manager <i>Hours</i>	Project Engineer <i>Hours</i>	Project Engineer <i>Hours</i>	Designer <i>Hours</i>	CADD Technician <i>Hours</i>	Traffic Engineer <i>Hours</i>	Other <i>Hours</i>	Other <i>Hours</i>	Admin Support <i>Hours</i>	TOTAL <i>Hours</i>
1	Survey										0.00
2	Alignment & Profile										0.00
3	Utility Coordination										0.00
4	PDR Submittal										0.00
5	Public Meeting										0.00
6	Misc. Meetings with Staff										0.00
7	Environmental Permits										0.00
8	Plan Impacts Submittal										0.00
9	Engineer's Estimate										0.00
10	Final Design										0.00
11	Final PS&E Submittal										0.00
12	Bidding Support										0.00
13	Construction Inspection										0.00
TOTAL HOURS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
HOURLY RATE		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
LABOR TOTAL		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Overhead	0.00 %	\$0.00
Profit/Fee	0.00 %	\$0.00

Subtotal: \$0.00

Direct Expenses: \$0.00

TOTAL ESTIMATED PRICE \$0.00

DIRECT EXPENSES	\$
Mileage	
Printing (External Use)	
Sub-consultants	
Other	
Other	

TOTAL DIRECT EXPENSES = \$0.00

2.4 Selection Methods

One of the qualifications-based selection methods below must be used if a local public agency intends to pay a consultant with federal or state funding. All methods require a request for proposals (RFP), and none of them can consider price as a ranking factor in the selection process. For guidance, go to the table on the next page and the checklist in Appendix 2A, on page 2-10.

- Simplified Acquisition.** If the estimated total cost of consultant work is **\$25,000 or less**, an agency may request a proposal from one consultant prequalified in an appropriate category, as set out in section 2.5. The agency must request and receive approval from MaineDOT using Letter 5 – Simplified Acquisition Request, on page 2-14.
 - *Note: Simplified acquisition is for small projects. A local public agency using this method must cover all consultant costs above \$25,000, without benefit of reimbursement. If the estimated cost of work is close to \$25,000, use a competitive process.*
- Competitive Solicitation.** If the estimated cost of consultant work is less than **\$500,000**, there are two options: 1.) Use an advertised RFP; or 2.) Send an RFP to at least three firms prequalified in an appropriate category. *Note: If the estimated cost is close to \$500,000, including anticipated modifications, use an open, publicly advertised process.*
- Advertised RFP.** If the estimated cost of consultant work is **greater than \$500,000**, a local public agency must use an advertised RFP. The RFP may be posted on the websites for the agency administering the project and MaineDOT’s Contract Procurement Office.
- Request for Qualifications.** A local public agency also may issue a request for qualifications (RFQ) to create a pool of consultants under a general services agreement, valid for 5 years. The agency must request a proposal for each MaineDOT-funded project from one of the pool consultants and negotiate a project-specific contract, based on an independent estimate.

☞ Price cannot be a scoring factor in the evaluation or ranking of any consultant.

2.5 Prequalification

If the estimated cost of a contract is \$500,000 or less – and a local public agency does not intend to use an open RFP – the agency must solicit proposals from prequalified consultants. Firms are listed online under the appropriate service number: <https://www.mainedot.gov/cpo/prequal/>

Locally administered projects commonly fall under one or more of the service numbers below:

- 202.10 – Reconstruction/Rehabilitation Highway Design;
- 206.20 – Minor Marine Facilities Design (*Small Harbor Improvement Program*);
- 209.10 – Pedestrian/Bicycle Facilities Design;
- 210.10 – Traffic Signal and Flashing Beacon Design;
- 601.00 – Highway Inspection, Construction Management, and Support Services;
- 603.10 – Marine Facilities Inspection (*Small Harbor Improvement Program*);
- 608.00 – Materials Testing/Inspection.

TABLE OF CONSULTANT SELECTION METHODS

ESTIMATED CONTRACT VALUE:	≤\$25,000	>\$25,000 to ≤\$500,000	>\$500,000
• Develop a Scope of Work.	✓	✓	✓
• Generate an Independent Estimate.	✓	✓	✓
• Select the most qualified consultant from a list of prequalified firms: www.maine.gov/mdot/cpo/prequal/	✓		
• Request a price proposal from the most qualified consultant.	✓		
• Develop Scoring Criteria.		✓	✓
• Develop a request for proposals (RFP) for review by MaineDOT Project Manager.		✓	✓
• Send RFP to 3-5 prequalified firms, seeking technical and <u>sealed</u> price proposals.		✓	
• Advertise finalized RFP, requesting technical and <u>sealed</u> price proposals.			✓
• Organize an evaluation team to review RFP technical submittals.		✓	✓
• Review technical proposals - and revise Independent Estimate, if necessary.	✓	✓	✓
• Open sealed price proposal from the top-ranked consultant.		✓	✓
• Negotiate scope of work, schedule, and a fair and reasonable price.	✓	✓	✓
• If negotiations break down, request Best and Final Offer.		✓	✓
• Verify that selected consultant is not debarred, via screen shot from sam.gov	✓	✓	✓
• Obtain MaineDOT Project Manager’s approval of draft contract before it is executed.	✓	✓	✓
• Execute contract with consultant.	✓	✓	✓
• Issue written Notice to Proceed to consultant.	✓	✓	✓
• Obtain MaineDOT Project Manager’s prior written approval of contract modifications.	✓	✓	✓
• Evaluate consultant upon completion of contract and provide copy to MaineDOT.	✓	✓	✓

2.6 Request for Proposals

A local public agency that intends to hire a consultant with funding from MaineDOT must prepare a request for proposals (RFP) that either is sent directly to prequalified firms or advertised for open competition, as set out in Section 2.4: Selection Methods.

- If the RFP requests paper proposals, each proposer will submit a **technical proposal** and a separate, sealed **price proposal** that must be secured and remain unopened. Once technical evaluations are completed, the sealed envelope from the top-ranked proposer may be opened. *If MaineDOT learns that an agency has considered price before selecting the top-ranked proposer, MaineDOT will reject the process and require that agency to start over.*
- If the RFP requests electronic proposals, each proposer will submit only its technical proposal up front; a price proposal will be requested from the top-ranked proposer later on.

A local public agency must answer only written questions submitted in the question-and-answer period stated in its RFP. Answers must be posted with the RFP so that all proposers have the same information. Proposals must be kept in a secure place until the submittal deadline.

➤ A template is online, under Consultant Procurement: www.mainedot.gov/lpa/lpadocuments/

An RFP must include the following information:

- Scope of work and a location map;
- Requirement for a technical proposal and separate, sealed price proposal;
- Person responsible for answering questions and receiving proposals;
- Deliverables;
- Scoring criteria and relative weights;
- Deadlines for questions and for proposals; and
- **Salary cap.** The RFP must state that salary rates are subject to limits established by MaineDOT, as set out in subsection 2.9.1 at the top of page 2-8.

2.7 Technical Proposals

A local public agency must request from each prospective consultant a technical proposal providing information that will be used to evaluate the qualifications of responsive firms.

Technical proposals should include the following information, at a minimum:

- Résumés of personnel, including descriptions of similar projects they have worked on;
- A proposed schedule;
- Consultant firm's experience delivering projects on schedule and on budget;
- A firm's experience with projects having state and federal transportation funds;
- Contact information for professional references from similar, completed projects; and
- Any subconsultants and the work they will perform.

2.8 Selection Committee

A local public agency must set up a committee to score consultant technical proposals. The committee must include the LPA certified official in charge of a project and at least two other local representatives. MaineDOT's participation in the scoring process is optional.

The selection committee, at a minimum, should consider using the factors listed below:

- Qualifications and experience of consultant staff;
- Ability to start and complete work on schedule; and
- Performance on comparable projects, based on reference checks.

☞ Remember: Price cannot be a factor in the evaluation or ranking of any consultant.

2.9 Price Proposals

Under a qualifications-based selection, an agency may receive price proposals in two ways:

- Request separate, sealed price proposals from everyone up front, but open the price proposal only from the highest ranked firm once scoring is completed; or
- Request a price proposal from the top-ranked firm once scoring is completed and give that firm at least five days to respond. ***This method must be used for electronic submittals.***

Price proposals must provide the following information:

- Direct Labor** (without overhead and profit) for each employee on a project, within the limits set out in subsection 2.9.1: Salary Limits (page 2-8).
- Number of hours** required to perform the service, by task and by employee.
- Overhead**, which covers rent, utilities, benefits, insurances and other costs not specific to a project, as supported by an audited overhead report approved by MaineDOT.
 - **Note:** Use commercial rates for smaller firms without audited overhead reports, as set out in Appendix 2C - Payment Methods (page 2-18).
- Direct costs** (not factored into a firm's overhead rate), such as the following:
 - Mileage at the State of Maine's rate, found online:
<https://www.maine.gov/osc/travel/mileage-other-info>;
 - Subconsultants at actual cost, with documentation set out in 2.9.1 on next page;
 - Project-specific reproduction and other miscellaneous costs; and
 - Travel-related meals and lodging at rates set by the General Services Administration. Refer to Appendix 2D – Guidance on Consultant Expenses (page 2-21).

Note: Consultants cannot mark up direct costs. They must be billed at actual cost.

- Profit**, generally capped at 10 percent on contracts for preliminary engineering and construction support services and at 8 percent on contracts for field inspection.

2.9.1 Salary Limits

Direct salary of up to **\$87.13 per hour** is permitted on new and adjustable-rate contracts as of January 1, 2025. Rates must be supported by an [Appendix A-1](#) listing personnel, classifications and actual rates. *(The salary limit will rise by 2.5 percent annually in subsequent years.)*

- **Subconsultants:** In all cases, the prime consultant must submit each subconsultant's proposal with an itemized cost breakdown. If a sub is performing 25 percent or more of the contract, the prime also must submit the sub's Appendix A-1 and Audited Overhead Report.
- **Wage rate waiver:** A completed [Wage-Rate Waiver Form](#) approved by MaineDOT is required for salary costs exceeding the limit above. The form is found under Consultant Procurement on the LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/

2.10 Negotiations

After scoring technical proposals, a local public agency will open the proposed price from the highest ranked firm and begin negotiations. The proposed price may vary by **15 percent** from an independent estimate for contracts of \$100,000 or less and by **10 percent** from the estimate for contracts greater than \$100,000.

Remember: Price proposals from consultants not selected must stay *sealed*. If MaineDOT learns that a local public agency has viewed the prices submitted by consultants other than the highest ranked firm, MaineDOT may nullify the selection process.

If a local agency cannot reach terms with a firm after requesting a Best and Final Offer, the agency should terminate negotiations. At that point, the agency should open the price proposal from its second-ranked firm and negotiate. The process should continue until it is successful. An agency cannot go back to a previous consultant after ending negotiations.

2.11 Contracts

After successfully negotiating with a consultant, a local public agency must prepare a contract. MaineDOT project managers must approve all contracts and any subsequent modifications **before** they are executed. *(See section 2.12 – Contract Modifications, on page 2-9.)*

Do not share technical proposals or cost estimates until a contract has been signed!

Federally funded contracts must include the items below. Local agencies should use a template found in the Consultant Procurement section of the LPA Documents web page:

www.maine.gov/mdot/lpa/lpadocuments/

- Scope of work, with deliverables and milestones;
- Start and end dates;
- Maximum amount payable under the contract;
- Detailed cost breakdown;
- DBE Utilization Form (*federally funded projects*);
- Indemnification and insurance requirements;
- Verification that a consultant is not debarred (*see section 2.13, on page 2-9*);
- FHWA-1273, Required Contract Provisions for Federal-Aid Contracts.



2.12 Contract Modifications

The local public agency managing a project must prepare a consultant contract modification covering any change in scope, time or amount. A modification must be accompanied by an **independent estimate** of the cost of additional work. A draft modification must be sent to MaineDOT's project manager for approval before it is executed, using Letter 8 (on page 2-17).

A modification must be signed by all parties before any associated tasks are performed. Work covered by a modification that is performed without MaineDOT's approval or before the modification is executed shall be ineligible for reimbursement.

2.13 Debarment

Local public agencies must verify that consultants are not debarred or otherwise prohibited from doing business with the Federal Government. The verification must be sent to the MaineDOT project manager through a screen shot from the System for Award Management at SAM.Gov: <https://www.sam.gov/entity-information>.

2.14 Consultant Evaluations

MaineDOT and the Federal Government require local public agencies to evaluate consultants upon contract completion. A standard, fillable Consultant Evaluation Form is found in the Consultant Procurement section of MaineDOT's LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/.

Upon completing a project, a local public agency must send MaineDOT a copy of its completed Consultant Evaluation Form for every firm with which it contracted. *MaineDOT may withhold final reimbursement until this evaluation is completed.*

2.15 Risks to Funding

In signing agreements with MaineDOT, local agencies become legally bound to meet all of the requirements that come with the federal and state funding for their projects. Listed below are activities that could make consultant costs ineligible for reimbursement:

- Selecting a consultant based on the lowest price offered for the service.
- Reviewing prices from all consultants responding to an RFP, not just the top-ranked firm.
- Starting work before a consultant contract is executed and notice to proceed is sent out. *Work before the execution date would not qualify for reimbursement.*
- Performing work beyond the original scope without a contract modification in place. *Work outside of the original scope would not qualify for reimbursement.*
- Working past the contract expiration date without a modification in place. *Work performed past the expiration date would not qualify for reimbursement.*
- Exceeding the maximum value of a contract without a modification in place. *Reimbursement would be capped at the original contract amount.*

Appendix 2A: Consultant Selection Checklist



Checklist: Consultant Selection

(Updated, March 2024)

1. **Simplified Acquisition: Services estimated to cost no more than \$25,000.**

- Send draft Scope of Work and Independent Estimate to MaineDOT Project Manager (PM).
- Obtain MaineDOT PM's approval to use Simplified Acquisition (***Letter 5***).
- Request/receive proposal from a single, prequalified consultant.
- Negotiate Scope of Work, schedule and price, based on Independent Estimate.
- Verify that consultant is not debarred using the SAM.Gov site: <https://sam.gov/content/home>
- Obtain consultant's completed Disadvantaged Business Enterprise (DBE) form (*federal funds*).
- Obtain MaineDOT PM's approval of consultant proposal and unsigned contract (***Letter 7***).
- Execute a contract with selected consultant after receiving MaineDOT's approval.
- Send consultant Notice to Proceed.

Note: If Simplified Acquisition is used, any other services must be procured using a separate process.

2. **Competitive Solicitation: Services estimated to cost \$25,000 to \$500,000:**

- Send the draft Scope of Work and Independent Estimate to MaineDOT PM for review/approval.
- Prepare draft request for technical proposals (RFP) using one of the templates on MaineDOT's LPA Documents web page: <https://www.mainedot.gov/lpa/lpadocuments/>.
 - Send draft RFP to MaineDOT PM for review/approval (***Letter 6***).
- Send approved RFP to 3-to-5 prequalified firms: www.mainedot.gov/cpo/prequal/
- Price proposals may be obtained in one of the following ways:
 - a. Consultants may provide sealed price proposals with their paper RFP submittals. The envelope only from the top-ranked firm would be opened after the scoring is done.
 - b. The top-ranked firm may submit a price proposal after the scoring is finished, as follows:
 - Always use this process if proposals are being submitted by email.
 - State in the RFP that a price proposal will be requested after the scoring is completed.
 - Give the proposer five days to submit a price proposal.
- Form a committee to score technical proposals and rank firms.
- After scoring technical proposals, review the price proposal from highest ranked firm and negotiate the scope of work, schedule and price.
 - If negotiations with the highest ranked firm are successful, prepare a contract and send it to MaineDOT PM for approval.
 - If terms cannot be reached with the highest ranked firm, request a Best and Final Offer, terminate negotiations, and repeat this negotiation process with the second-ranked firm.
- Once terms are reached, verify that consultant is not debarred: <https://sam.gov/content/home>

- If a project has federal funds, obtain completed DBE form from selected consultant.
- Send unsigned contract and price proposal to MaineDOT for approval (**Letter 7**).
- Execute a contract, after receiving approval from MaineDOT PM.
- Send regret letters to the proposers not chosen, along with their unopened price proposals.
- Send selected consultant Notice to Proceed.
 - ➔ Going forward, send draft **contract modifications** to MaineDOT for approval using **Letter 8**, which must be accompanied by an independent estimate of any additional cost.

3. **Advertised Process: Services estimated to cost greater than \$500,000:**

- Send the draft Scope of Work and Independent Estimate to MaineDOT PM for review/approval.
- Prepare draft request for technical proposals (RFP) using one of the templates on MaineDOT's LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/.
 - Send draft RFP to MaineDOT PM for review/approval (**Letter 6**).
- Advertise the approved RFP.
- Price proposals may be obtained in one of the following ways:
 - a. Consultants may provide sealed price proposals with their RFP submittals. The envelope only from the top-ranked firm would be opened after the scoring is done.
 - b. The top-ranked firm may submit a price proposal after the scoring is finished, as follows:
 - Always use this process if proposals are being submitted by email.
 - State in the RFP that a price proposal will be requested after the scoring is completed.
 - Give the proposer five days to submit a price proposal.
- Form a committee to score technical proposals and rank firms.
- After scoring technical proposals, review the price proposal from the highest ranked firm and negotiate the scope of work, schedule and price.
 - If negotiations with the highest ranked firm are successful, prepare a contract and send it to the MaineDOT PM for approval.
 - If terms cannot be reached with highest ranked firm, request a Best and Final Offer, terminate negotiations, and repeat this negotiation process with the second-ranked firm.
- Once terms are reached, verify that consultant is not debarred: <https://sam.gov/content/home>
- If a project has federal funds, obtain completed DBE form from selected consultant.
- Send draft contract and price proposal to MaineDOT for approval (**Letter 7**).
- Execute a contract, after receiving approval.
- Send regret letters to the proposers not chosen, along with their unopened price proposals.
- Send selected consultant notice to proceed.
 - Going forward, send draft **contract modifications** to MaineDOT for approval using **Letter 8**, which must be accompanied by an independent estimate of any additional cost.

Appendix 2B: Submittals to MaineDOT

Note: Word documents may be downloaded from the “Consultant Procurement” section of the LPA Documents page: <https://www.mainedot.gov/lpa/lpadocuments/>



[Date]

[Name], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 state House Station
Augusta, ME 04333-0016

Subject: Simplified Acquisition Request
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] is requesting approval to seek a proposal for engineering services for [project scope] from [insert company name], which is prequalified by MaineDOT in the service category of [insert number and type of service]:

Since the cost is estimated to be \$25,000 or less – based on our Independent Estimate (enclosed) – we request approval to use Simplified Acquisition, allowing us to solicit a proposal from one consultant prequalified by MaineDOT to perform the service. Our draft request for proposals is attached for your review.

We understand that MaineDOT cannot participate financially in contract costs exceeding \$25,000, since Simplified Acquisition will be used, and that we must use a separate process to solicit additional consultant services (if required).

Please review the submitted materials and notify us if we are approved to solicit a proposal and subsequently to negotiate a contract with this firm. We understand that we cannot award a contract without your approval.

Sincerely,

[Name], Local Project Administrator

Enclosures:

1. Request for Proposals
2. Independent Estimate

[Date]

[Name], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 state House Station
Augusta, ME 04333-0016

Subject: Request for RFP Review
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] intends to solicit proposals for consultant engineering services for [project scope]. Attached is the request for proposals that we intend to use for this solicitation.

If estimated price is \$25,000 to \$500,000, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we may select potential consultants from a pool of 3 to 5 prequalified firms. We intend to send the RFP to the following consultants on the MaineDOT Prequalification listing for [insert number and type of service]:

-
-
-

If estimated price is \$500,000 or greater, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we must use a publicly advertised solicitation in accordance with the federal Brooks Act. We intend to advertise the RFP on [date] as follows:

Please review the draft RFP and inform me as to its adequacy.

Sincerely,

[Name], Local Project Administrator

Enclosure: Draft RFP

[Date]

[Name], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 state House Station
Augusta, ME 04333-0016

Subject: Consultant Selection Approval Request
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] has selected [name of consultant firm] for engineering services for [project scope]. Attached is the negotiated contract, price proposal and our independent estimate. We understand that we cannot execute this contract without approval.

We have verified that our selected consultant is not debarred. Attached is a screen shot from the federal System for Award Management (SAM) database: www.sam.gov.

Please review these documents and respond at your earliest convenience so that we may execute a contract. We understand that no work eligible for reimbursement may begin until we execute the contract upon MaineDOT's approval and give our selected consultant notice to proceed.

Sincerely,

[Name], Local Project Administrator

Enclosures:

1. Draft contract
2. Independent Estimate

[Date]

[Name], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 state House Station
Augusta, ME 04333-0016

Subject: Consultant Contract Modification
MaineDOT WIN [Number], [Project Title]

Dear [NAME]:

Attached for MaineDOT's review is proposed Modification # ___ to our consultant contract with [Name of Firm] for [scope of work] services, originally executed on [dd/mm/yy]. This modification proposes to increase the total contract amount by \$00,000.00, to a new total amount of \$00,000.00.

If necessary: This modification also extends the contract by [Time], to a new expiration date of [dd/mm/yy].

The reason for this contract modification is the following: [provide brief explanation].

Our independent estimate of the cost of the additional work is attached.

We realize that we cannot execute this modification until we receive approval from MaineDOT. Please let me know if you need additional information.

Sincerely,

Local Project Administrator

(New, August 2024)

Appendix 2C: Payment Methods



PAYMENT METHODS

❑ BURDENED HOURLY RATE

Adjustable Burdened Hourly Rate:

This payment method consists of direct labor, overhead and profit that may be adjusted during a contract. Overhead and direct labor rates must be supportable, and direct labor rates must be at or below the cap for projects funded by MaineDOT. (See 2.9.1, page 2-8.) Direct expenses must be listed separately on an invoice and billed without markup.

- Use an adjustable rate for longer contracts, generally greater than one year in duration.

Fixed Burdened Hourly Rate:

This is a fixed rate consisting of direct labor, overhead and profit that cannot be adjusted during the term of a contract. Overhead and direct labor rates must be supportable, and director labor rates must be within the cap for projects funded by MaineDOT. (See 2.9.1, page 2-8.) Direct expenses must be listed separately on an invoice and billed without markup.

- Use a fixed rate for shorter contracts, generally up to one year in duration.

When to use a Burdened Hourly Rate:

A burdened hourly rate payment method is suitable when the effort per unit of work is well defined, but the number of hours required is uncertain. A consultant working under this type of contract must keep a record of the work completed.

Under this payment method, a consultant must submit an audited overhead report to the MaineDOT Office of Audit annually for review and approval. The contract must include a maximum amount payable that cannot be exceeded unless adjusted by a contract modification.

❑ COST PLUS FIXED FEE

Under cost plus fixed fee, a consultant is reimbursed for actual, supportable costs: direct labor (within the salary cap for projects funded by MaineDOT), overhead, and direct expenses that must be listed separately on an invoice. (Direct expenses must be billed without markup.) In addition, the consultant is paid an agreed upon fixed fee (profit), which should be reasonable and range from 8 percent to 10 percent. Once negotiated, this fee is fixed and does not change.

When to use Cost Plus Fixed Fee:

This payment method is suitable when the scope of work is well-defined, but the effort required to complete the work cannot be estimated precisely.

Under this payment method, the consultant must submit an annual audited overhead report to the MaineDOT Office of Audit for review and approval. The contract must include a maximum amount payable that cannot be exceeded unless adjusted by a contract modification.

❑ LUMP SUM

Lump sum includes all direct labor, overhead and profit. Direct expenses either may be included in the lump-sum amount or may be billed separately without markup. Progress payments are generally based on the percentage of work completed.

Under a lump-sum contract, a consultant still must document that the direct-salary rates for staff working on the contract will be within the salary cap for projects funded by MaineDOT. Additionally, the overhead rate factored into the lump sum generally must be supported by an audited overhead report.

The amount of a lump-sum contract is fixed; therefore, it is not subject to adjustment because of cost changes that a consultant might encounter when performing the work. For this reason, local agencies must scrutinize requests from consultants to increase the dollar value of these types of contracts, after work has started.

When to use Lump Sum:

A lump-sum payment method may be used when the scope of work is clear and well defined, and the total cost can be estimated accurately.

- ➡ **Note:** A lump-sum contract must not be used as a way to avoid MaineDOT's limits on consultant compensation.

❑ COMMERCIAL RATE

Commercial rate is a fair and reasonable rate composed of direct labor, overhead (indirect), and profit. This rate remains fixed for the duration of a contract. A local public agency must show that the

commercial rate is fair and reasonable by comparing that rate against the rates of a minimum of two other firms of similar size that perform similar work.

- ➡ Direct expenses must be listed separately on an invoice and billed without markup.

When to use Commercial Rate:

A commercial rate may be used when a consultant either is a new or is a small firm without an audited overhead report. As discussed above, this rate generally is established by a market-rate comparison.

END OF APPENDIX 2C

Appendix 2D:

Guidance on Consultant Expenses

Note: This information is available in the “Doing Business” section of the website for MaineDOT’s Contract Procurement Office: <https://www.mainedot.gov/cpo/>

Guidance on Consultant Expenses

Contracts between local agencies and consultants using funding from MaineDOT are subject to the policies of MaineDOT and the State of Maine regarding limits on salary, overhead and project-specific expenses. Prime consultants and their subconsultants must comply with these limits unless granted a waiver in writing before work begins.

This section provides guidance on project-specific direct expenses not included in a consultant's overhead rate. Such expenses must be billed without markup, with mileage and per diem rates following the guidance set out below.

Remember: Consultants cannot mark up subconsultant costs and other direct expenses. MaineDOT also will disqualify for reimbursement any such markups or any other costs exceeding the allowable expenses set out in this section.

- ☞ For additional information, refer to the following documents:
 - MaineDOT Consultant General Conditions: <https://www.mainedot.gov/cpo/>
 - Maine State Administrative and Accounting Manual: <https://www.maine.gov/osc/travel/>

Lodging

Any consultant overnight stay that will be charged to a project must receive approval from the local administrator in charge of the project, in consultation with MaineDOT's project manager. Lodging may be approved if round-trip travel to a site other than a consultant's standard work location exceeds 150 miles.

Receipts must accompany any request for reimbursement, which cannot exceed rates from the U.S. General Services Administration: <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

Meals

A consultant may bill for travel-related meals only if such meals accompany an approved overnight stay, as described in the "Lodging" section above. In such cases, meal costs cannot exceed rates established by the U.S. General Services Administration, which are online: <https://www.gsa.gov/travel/plan-book/per-diem-rates>

If a consultant's policy is to reimburse its employees at the GSA per diem (daily) rate, the consultant will not have to submit receipts. If a consultant's policy is to reimburse employees for the actual cost of meals, the consultant will have to submit receipts; the consultant will be reimbursed for the actual amount paid up to the GSA per diem rate.

Note: If a local public agency is billed at rates exceeding the amounts described above – and the agency does not reject such costs – MaineDOT will deduct the difference between the allowable rate and the actual rate paid from any subsequent invoice for reimbursement.

Mileage

Mileage reimbursement is limited to the maximum rate allowed by the State of Maine. The current mileage rate is found on the website for the Office of State Controller:

<https://www.maine.gov/osc/travel/mileage-other-info>

If a consultant bills for mileage at the higher federal rate – and a local public agency does not flag and reject that cost – MaineDOT will deduct the difference between the federal and state rates from any subsequent invoice submitted to MaineDOT for reimbursement.

Printing

The cost of reproducing design plans for submittal to a local public agency or MaineDOT may be charged to a project at the actual cost. Any printing cost incurred for the consultant's internal use will be considered an overhead expense, ineligible for reimbursement.

Tolls

Highway toll charges must be accompanied by copies of receipts or other proof of payment, such as an E-ZPass statement.

Vehicle Rentals

A consultant may be reimbursed for a vehicle rental for project-related travel if doing so would be cost-effective. Use of a rental vehicle would require the approval of the local administrator in charge of a project, in consultation with the MaineDOT project manager.

The consultant would have to meet the following conditions:

- The cost of the rental and fuel would be less than the mileage reimbursement; and
- The consultant would have to provide a receipt.

Note: If a local public agency invoices MaineDOT for a vehicle rental cost incurred by a consultant without the required approval from the local administrator, MaineDOT may deny reimbursement of that cost.

END OF APPENDIX 2D

INTENTIONAL BLANK PAGE

INTENTIONAL BLANK PAGE

INTENTIONAL BLANK PAGE

END OF CHAPTER 2