

*Local Project Administration Manual & Resource Guide*

# Hiring Consultants



**MaineDOT**

*Integrity - Competence - Service*

*2020 Update*

# Hiring Consultants

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Project engineering is a complex task requiring assistance from licensed professionals. For this reason, local agencies without engineers on staff must hire consultants for design and inspection work. If a local agency intends to pay a consultant with federal or state money, the agency must use a qualifications-based selection method. Price *cannot* be a scoring factor.

Chapter 2 of this Manual is set up to guide local agencies in hiring and managing consultants with funding from MaineDOT. Listed below are the topics covered in this chapter:

- Consultant Selection Checklist (page 2-2);
- Independent Estimate (pages 2-3 and 2-4);
- Selection Methods / Pre-qualification (page 2-5);
- Table of Consultant Selection Methods (page 2-6);
- Request for Proposals / Consultant Technical Proposals (page 2-7);
- Selection Committee / Consultant Price Proposals (page 2-8);
- Negotiations / Consultant Contracts (page 2-9);
- Contract Modifications (page 2-10);
- Debarment / Consultant Evaluations / Risks to Funding (page 2-10);
- Appendix 2A: Submittals to MaineDOT (page 2-11);
- Appendix 2B: Consultant Payment Methods (page 2-15); and
- Appendix 2C: Guidance on Consultant Expenses - *new* (page 2-18).



## 2.1 Scope of Work

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

- A description, with the location and the type of work;
- Deliverables such as design plans, a project contract book, and revised cost estimates;
- Proposed schedule for the work;
- The number of meetings with local staff;
- The number of public meetings to be facilitated;
- Preliminary engineering issues such as constructability analysis, environmental review, utility coordination, and right-of-way impact assessments, as applicable;
- A list of the specific services and expertise needed.

## 2.2 Consultant Selection Checklist

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- Prepare Scope of Work and Independent Estimate and send them to MaineDOT's Project Manager (PM) for approval.

### ➤ Services estimated to cost no more than \$25,000:

- Obtain MaineDOT PM's approval to use Simplified Acquisition (**Letter 5**).
- Request/receive proposal from a single, pre-qualified consultant.
- Negotiate Scope of Work, schedule and price, based on Independent Estimate.
- Verify that consultant is not debarred using the following federal website: [www.sam.gov/SAM/](http://www.sam.gov/SAM/)
- 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.*

### ➤ Services estimated to cost \$25,000 to \$250,000:

- Prepare and send draft request for request for proposals (RFP) to MaineDOT PM for approval (**Letter 6**).
- Send approved RFP to 3-to-5 pre-qualified consultants, soliciting a technical proposal and a separate, sealed price proposal. A list of MaineDOT pre-qualified firms is available online: [www.maine.gov/mdot/cpo/prequal/](http://www.maine.gov/mdot/cpo/prequal/)
- Form a committee to score technical proposals, rank firms and conduct interviews, if necessary.
- After scoring technical proposals, open the price proposal from highest-ranked firm and negotiate the scope of work, schedule and price.
  - If negotiations with highest-ranked firm are successful, prepare a contract and send it to 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 using [www.sam.gov/SAM/](http://www.sam.gov/SAM/)
- 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.

### ➤ Services estimated to cost greater than \$250,000:

- Prepare and send draft RFP to MaineDOT PM for approval (**Letter 6**).
  - The RFP should solicit from each firm a technical proposal a separate, sealed price proposal.
- Advertise the approved RFP on the websites for the local agency sponsoring a project and MaineDOT's Contract Procurement Office.
- From this point forward, follow the steps in the process outlined above for services estimated to cost \$25,000 to \$250,000, since the requirements are the same.

## 2.3 Independent Estimate

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A local agency that intends to hire a consultant using funding from MaineDOT must prepare an independent estimate of the price. The estimate will determine the selection process – as set out in section 2.5, “Consultant Selection Methods” – and will be the baseline for negotiations to reach fair and reasonable compensation with a selected consultant.

The independent estimate, which a local agency must prepare and submit to MaineDOT’s project manager *before* seeking proposals, must include:

- Tasks based on the scope of work, as set out in the example worksheet on page 2-4;
- Classifications and estimated hourly wages of personnel likely to work on a project;
- The estimated number of hours of work required, by employee classification;
- Estimated overhead (indirect) rate;
- List of direct costs, such as mileage, reproduction, and sub-consultants; and
- A reasonable profit (fee), typically 8 percent to 10 percent.

Because the independent estimate will be the baseline for negotiations, it *must not be shared* with anyone submitting a proposal. During contract negotiations later on in the process, the proposed price may vary by up to **15 percent** from the estimate for services estimated to cost less than \$100,000, and by up to **10 percent** for services estimated to exceed \$100,000.

An estimate worksheet is found in the Consultants section of the LPA Documents web page: [www.maine.gov/mdot/lpa/lpadocuments/](http://www.maine.gov/mdot/lpa/lpadocuments/)

Although the estimate must be prepared by the local agency managing a project, MaineDOT may offer guidance. Additionally, there often are local resources to help with this task, such as:

- An experienced public works director or road commissioner;
- An engineer not involved in the project at hand; and
- Retired technical professionals in a community.

*Note: A consultant who assists a local agency with preparing its independent estimate cannot participate in the subsequent request for proposals (RFP) process.*

## 2.4 Consultant Work on Grant Applications

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Local agencies may hire consultants to assist with grant applications, but application-related costs are **not** reimbursable. If MaineDOT approves an application and funds a project, the local agency sponsoring the project must use a separate process to select and contract with a design consultant, as set out in section 2.5, “Consultant Selection Methods.”

A consultant who assisted with an application may compete for the subsequent design contract, but the consultant cannot receive additional points in the scoring process for having worked on the application. If a local agency ultimately selects for design work a consultant who also worked on its application, after using the appropriate process, the work must have a separate contract.

**INDEPENDENT ESTIMATE WORKSHEET**  
(Example)

**Project Title/Location:** [Redacted]

**Date:** [Redacted]

**MaineDOT WIN:** [Redacted]

**Revised:** [Redacted]

**Service Area or Phase of Work:** [Redacted]

**Prepared By:** [Redacted]

#	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
<b>TOTAL HOURS</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
HOURLY RATE		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
<b>LABOR TOTAL</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

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

<b>DIRECT EXPENSES</b>	\$
Mileage	
Printing (External Use)	
Sub-consultants	
Other	
Other	

**TOTAL DIRECT EXPENSES = \$0.00**

**Subtotal: \$0.00**

**Direct Expenses: \$0.00**

**TOTAL ESTIMATED PRICE \$0.00**

## 2.5 Selection Methods

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Local agencies must use one of the methods below to procure consultant services for projects with funding from MaineDOT. For step-by-step guidance, go to the table on the next page and the checklist found in section 2.2, on page 2-2.

- If the estimated total cost of a service is **\$25,000 or less**, a local agency with MaineDOT approval may request a proposal from a single consultant pre-qualified in an appropriate category listed at the bottom of this page. The request should follow the wording of Letter 5, “Simplified Acquisition Request,” found on page 2-12.
  - *Agencies using Simplified Acquisition cannot be reimbursed for consultant costs exceeding \$25,000, and they must use a separate selection process for other services.*
- If the estimated cost of consultant work is **\$250,000 or less**, a local agency either may use an advertised request for proposals (RFP) or send its RFP to at least three pre-qualified consultants soliciting a technical proposal and a separate, sealed price proposal. In both cases, the local agency must score and rank technical proposals, open the price proposal from the highest-ranked firm, and negotiate the scope of work, schedule and price.
- If the estimated cost of consultant work is **greater than \$250,000**, a local agency must solicit technical and *sealed* price proposals from consultants using an advertised RFP. The RFP should be posted on the websites for the local agency administering the project and the MaineDOT Contract Procurement Office. After scoring technical proposals and conducting interviews (if necessary), the local agency must open the price proposal only from the highest-ranked firm and negotiate scope of work, schedule and price.

**Remember:** Price cannot be a factor in the initial evaluation or ranking of a consultant.

## 2.6 Pre-qualification

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If the estimated value of a contract is \$250,000 or less, and a local agency does not plan to go out for public RFP, the agency must solicit proposals from consultants pre-qualified by MaineDOT. Firms are listed by service number on MaineDOT’s website: [www.maine.gov/mdot/cpo/prequal/](http://www.maine.gov/mdot/cpo/prequal/)

Pre-qualification service numbers common to locally administered projects are listed below:

- 201.10 – Multimodal Building Design & Architectural Services;
- 202.10 – Reconstruction/Rehabilitation Highway Design;
- 203.00 – Bridge Design (*Low Use / Redundant Bridge Program*);
- 206.20 – Minor Marine Facilities Design (*Small Harbor Improvement Program*);
- 209.10 – Pedestrian/Bicycle Facilities Design;
- 402.00 – Property Valuation and Appraisal Services (*right-of-way work*);
- 403.00 – Property Negotiations/Ownership Information Services (*right-of-way work*);
- 601.00 – Highway Inspection, Construction Management, and Support Services;
- 603.10 – Marine Facilities Inspection (*Small Harbor Improvement Program*);
- 606.20 – Building Construction Management and Support Services.

## TABLE OF CONSULTANT SELECTION METHODS

ESTIMATED CONTRACT VALUE:	≤\$25,000	>\$25,000 to ≤\$250,000	>\$250,000
• Develop a Scope of Work.	✓	✓	✓
• Generate an Independent Estimate.	✓	✓	✓
• Select the most qualified consultant from a list of pre-qualified firms: <a href="http://www.maine.gov/mdot/cpo/prequal/">www.maine.gov/mdot/cpo/prequal/</a>	✓		
• 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 pre-qualified 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 print from <a href="http://www.sam.gov">www.sam.gov</a>	✓	✓	✓
• 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.	✓	✓	✓

## 2.7 Request for Proposals

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A local agency that intends to hire a consultant with funding from MaineDOT must prepare a request for proposals (RFP) that either is advertised or sent directly to pre-qualified firms, as set out in section 2.5, “Consultant Selection Methods.”

In most cases, the local agency managing a project will request from each prospective consultant a **technical proposal** and a separate, sealed **price proposal** that must remain unopened unless a firm is ranked as highest qualified after a formal review of qualifications.

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

➡ Local agencies should use a template RFP found in the “Consultants” section of MaineDOT’s LPA Documents web page: [www.maine.gov/mdot/lpa/lpadocuments/](http://www.maine.gov/mdot/lpa/lpadocuments/)

An RFP must include the following information:

- Scope of work with location map;
- Requirement for a technical proposal and separate, sealed price proposal;
- Contact person responsible for answering questions and receiving proposals;
- Deliverables;
- Scoring criteria and relative weights;
- Deadline for questions;
- Deadline for proposals;
- Payment method; and
- Salary cap.** Pay rates on contracts funded by MaineDOT are capped at **\$62 per hour** for project managers and quality-control engineers, and **\$50 per hour** for other personnel.

## 2.8 Consultant Technical Proposals

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In all cases, a local 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 listing qualifications and experience of personnel to be assigned to the project;
- A 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
- List of sub-consultants and the work they will perform.

## 2.9 Selection Committee

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When hiring a consultant, a local agency must form a selection committee to review technical proposals and conduct interviews (if necessary) to rank proposers. This committee must include the local official in charge of a project and at least two other agency representatives. MaineDOT, in most cases, won't serve on this committee.

In reviewing technical proposals, the selection committee at a minimum should use evaluation factors such as those set out below, which must be listed on the scoring sheet for the project:

- Qualifications and experience of consultant staff;
- Past performance on comparable projects with federal and state funding;
- Ability to start and complete work on schedule; and
- Cost control methods.

➔ During the initial scoring of consultants, price proposals must be set aside and stay sealed.

## 2.10 Consultant Price Proposals

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Under a qualifications-based selection, a local agency may review the price proposal only from the highest-ranked firm; price proposals from lower-ranked firms must be kept sealed.

Price proposals must provide the following information:

- Direct salary** (without benefits) for each employee working on a project, within the limits set out in subsection 2.10.1 on the next page, "Consultant Salary Limit."
- 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 explained in Appendix 2B, starting on page 2-15, "Payment Methods."*
- Direct costs** (not factored into a firm's overhead rate), such as the following:
  - Mileage at the State of Maine's maximum rate, found online: <https://www.maine.gov/osc/travel/mileage-other-info>;
  - Sub-consultants, at actual cost;
  - Project-specific reproduction and other miscellaneous costs; and
  - Travel-related meals and lodging, which cannot exceed the rates set by the U.S. General Services Administration. For more information, refer to Appendix 2C, "Guidance on Consultant Expenses," starting on page 2-18.

*Note: Consultants are prohibited from marking up direct costs.*

- Profit** (fee), typically 8-to-10 percent depending on the scope of work and level of risk. The maximum allowed is 15 percent, but this requires written justification and approval.

## 2.10.1 Consultant Salary Limit

Salary rates on consultant contracts funded by MaineDOT are capped at **\$62 per hour** for a project manager or quality-control engineer, and **\$50 per hour** for all other personnel. Local agencies must obtain waivers in advance to be reimbursed for salary costs exceeding the limits.

➔ A waiver form is found in the “Consultants” section of the LPA Documents web page: [www.maine.gov/mdot/lpa/lpadocuments/](http://www.maine.gov/mdot/lpa/lpadocuments/)

## 2.11 Negotiations

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After ranking consultants, a local agency should open the price proposal from the highest-ranked firm and negotiate the scope of work, schedule and price. The proposed price may vary by up to **15 percent** from a local agency’s independent estimate for contracts below \$100,000 and by up to **10 percent** from the independent estimate for contracts above \$100,000.

**Remember:** Price proposals from all other proposers must stay *sealed* throughout the process. If MaineDOT learns that a local agency has looked at the prices offered by consultants other than the highest-ranked firm, MaineDOT may nullify the selection process.

If an agency cannot reach terms with a firm after requesting a Best and Final Offer, the agency should end negotiations. At that point, the agency should open the price proposal from its second-ranked firm and negotiate. The process should continue until a contract is negotiated. A local agency cannot go back to a previous consultant after terminating negotiations.

## 2.12 Consultant Contracts

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After successfully negotiating the scope of work, schedule and price, a local agency must prepare a contract with its selected consultant. MaineDOT project managers must approve all contracts and any subsequent modifications **before** they are executed. (*See section 2.13 on the next page.*)

Federally funded contracts must contain the items below, at a minimum. Local agencies are encouraged to use a template in the “Consultants” section of the LPA Documents web page: [www.maine.gov/mdot/lpa/lpadocuments/](http://www.maine.gov/mdot/lpa/lpadocuments/)

- Scope of work, with deliverables and milestones;
- Start and end dates;
- Maximum amount payable under the contract;
- Cost breakdown listing personnel by task and hourly rate, proposed hours, overhead, profit and direct costs;
- DBE Utilization Plan;
- Indemnification and insurance requirements;
- Administrative, contractual or legal remedies for breach of contract;
- Assurances that a consultant is not debarred (*see section 2.14, on the next page*);
- Signed Title VI Assurances; and
- FHWA-1273, Required Contract Provisions for Federal-Aid Contracts.



## 2.13 Contract Modifications

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The local agency managing a project must prepare a contract modification covering any change in scope, time or dollar amount. Contract modifications must be sent to MaineDOT's project manager for review and approval before they are executed, and they must be signed by all parties before any associated tasks are performed.

**Note:** Work subject to a contract modification that is performed without MaineDOT's approval or before the modification is executed shall be *ineligible* for reimbursement from MaineDOT.

## 2.14 Debarment

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Local agencies must verify that consultants are not debarred, which prohibits them from working on government contracts. Verification must be sent to MaineDOT's project manager through a screen print from the federal System for Award Management: [www.sam.gov/SAM/](http://www.sam.gov/SAM/)

## 2.15 Consultant Evaluations

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MaineDOT and the Federal Government require local agencies to evaluate consultants once their contracts are completed. MaineDOT's standard Consultant Evaluation Form may be used if references to MaineDOT are removed. It is stored in the "Consultants" section of MaineDOT's LPA Documents web page: [www.maine.gov/mdot/lpa/lpadocuments/](http://www.maine.gov/mdot/lpa/lpadocuments/)

Upon completion of a project, a local agency must send MaineDOT a copy of its completed Consultant Evaluation Form for every firm with which it contracted for work on the project. *MaineDOT may hold the final reimbursement payment until this evaluation is completed.*

## 2.16 Risks to Funding

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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.
  - *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 contract modification in place.
  - *Reimbursement would be capped at the original contract amount.*

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# Appendix 2A: Submittals to MaineDOT

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[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 pre-qualified 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 pre-qualified 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 \$250,000, 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 pre-qualified firms. We intend to send the RFP to the following consultants on the MaineDOT pre-qualification listing for [insert number and type of service]:

- 
- 
- 

*If estimated price is \$250,000 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 your 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/SAM/](http://www.sam.gov/SAM/).

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

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# Appendix 2B: Payment Methods

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# PAYMENT METHODS

## ☐ BURDENED HOURLY RATE

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### Adjustable Burdened Hourly Rate:

This payment method consists of direct labor, overhead and profit that may be adjusted during the term of a contract. Direct labor rates must be supportable and within the salary cap for projects funded by MaineDOT. (*See subsection 2.10.1, page 2-9*). Direct expenses must be listed separately on an invoice and billed without markup. This payment method is recommended 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. Direct labor rates must be supportable and within the salary cap for projects funded by MaineDOT (covered in subsection 2.10.1, page 2-9). Direct expenses must be listed separately on an invoice and billed without markup. Use of this fixed payment method is recommended for shorter contracts, generally up to one year in duration.

### When to use a Burdened Hourly Rate:

Use of 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

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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 and 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.

## ❑ **COMMERCIAL RATE**

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Commercial Rate is a fair and reasonable rate consisting of direct labor, overhead (indirect), and profit. This rate remains fixed for the duration of a contract.

Direct labor rates must be supportable and within the salary cap for projects funded by MaineDOT. Direct expenses must be listed separately on an invoice and billed without markup. An audited overhead report is not required for this payment method unless the contract value is greater than \$250,000.

### **When to use Commercial Rate:**

Use Commercial Rate when a consultant either is a new or is a small firm without an audited overhead report. This rate often is established by using a market-rate comparison.

## ❑ **LUMP SUM**

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Lump sum is a payment method in which the price 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.

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 perform the work. For this reason, local agencies must scrutinize requests from consultants to increase the dollar values of these types of contracts.

### **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.

END OF APPENDIX 2B

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# Appendix 2C:

## Guidance on Consultant Expenses

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

## Guidance on Consultant Expenses

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Contracts between local agencies and consultants that use 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 MaineDOT grants waivers 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 will deduct any such markup from a local agency's request for reimbursement. MaineDOT also will disqualify for reimbursement any costs exceeding the allowable expenses set out in this section.

For additional information, please refer to the following documents:

- MaineDOT Consultant General Conditions: <https://www.maine.gov/mdot/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 agency is billed at rates that exceed the amounts described above – and the agency does not flag and 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 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 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 that is ineligible for reimbursement as a direct expense.

## 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 agency invoices MaineDOT for a vehicle rental cost incurred by a consultant without documented approval from the local project administrator, MaineDOT may deny reimbursement of that cost.

END OF APPENDIX 2C

END OF CHAPTER 2