

Local Project Administration Manual & Resource Guide

Hiring Consultants



MaineDOT

Integrity - Competence - Service

Chapter 2 - Updated March 2023

Hiring Consultants

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 funding from MaineDOT, the agency must use a qualifications-based selection. Price *cannot* be a scoring factor.

Chapter 2 of this Manual is set up to guide local 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 – *updated* (page 2-2);
- Selection Methods / Pre-qualification (page 2-4);
- Request for Proposals / Consultant Technical Proposals (page 2-6);
- Selection Committee / Price Proposals – *updated* (page 2-7);
- Negotiations / Consultant 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 2-17); and
- Appendix 2D: Guidance on Consultant Expenses (page 2-20).



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 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 for the work;
- ☐ 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 or traffic engineering work.

2.2 Independent Estimate

A local 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 negotiations with the highest ranked consultant.

The independent estimate, which a local 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 (fee), typically 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.

A worksheet is found 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 agency sponsoring a project, MaineDOT may offer guidance. In many cases, there are local resources to help with this task, 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 local agency’s funding application, but such costs are ineligible for reimbursement. If MaineDOT awards funding, an agency must use a separate process to hire a consultant to design the project, following the requirements in section 2.4 (Selection Methods).

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

- The sponsoring local agency used a competitive, qualifications-based selection; and
- The consultant has pre-qualification status in an appropriate category; and
- The original contract has a provision allowing for additional work; and
- The contract has not lapsed when a project is funded.

INDEPENDENT ESTIMATE WORKSHEET

(Example)

Project Title/Location:

MaineDOT WIN:

Service Area or Phase of Work:

Date:

Revised:

Prepared By:

	Project Manager	Project Engineer	Project Engineer	Designer	CADD Technician	Traffic Engineer	Other	Other	Admin Support	TOTAL
#	Task Descriptions	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours
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
	HOURLY RATE	\$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

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

TOTAL DIRECT EXPENSES = \$0.00

Overhead	0.00 %	\$0.00
Profit/Fee	0.00 %	\$0.00
Subtotal:		\$0.00
Direct Expenses:		\$0.00
<u>TOTAL ESTIMATED PRICE</u>		<u>\$0.00</u>

2.4 Selection Methods

Local agencies must use one of the methods below to hire a consultant with federal or state funding. For step-by-step guidance, refer to the checklist in Appendix 2A, on page 2-10.

- ☐ **Simplified Acquisition.** If the estimated total cost of consultant work is **\$25,000 or less**, a local agency may seek a proposal from one consultant pre-qualified in an appropriate category, as set out in section 2.5 below. The agency must request and receive approval from MaineDOT using Letter 5 Simplified Acquisition Request, found on page 2-14.
 - *Simplified Acquisition is reserved for small projects. Consultant costs exceeding \$25,000 are non-reimbursable unless a separate selection process is used for additional services.*
- ☐ **Competitive Solicitation.** If the estimated total cost of consultant work is **\$250,000 or less**, a local agency either may use an advertised request for proposals (RFP) or may send its RFP directly to at least three pre-qualified firms. The RFP must request from each proposer a technical proposal and – as an option – a separate, sealed price proposal.
- ☐ **Brooks Act.** If the estimated cost of consultant work is **greater than \$250,000**, which falls under the federal Brooks Act, a local agency must use an advertised RFP. The RFP must allow for open competition and must be advertised on the websites for both the local agency administering the project and the MaineDOT Contract Procurement Office. After scoring technical proposals and doing interviews, if necessary, the local agency must: a) open the sealed price proposal from the highest-ranked firm or request a price proposal from that firm; and b) negotiate the scope of work, schedule and price.

➡ Price cannot be used as a scoring factor in the evaluation or ranking of any consultant.

2.5 Pre-qualification

If the estimated cost of a contract is less than \$250,000, and a local agency does not plan to use a public RFP, the agency must request proposals from pre-qualified 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:

- 103.60 – Planning-Feasibility Studies;
- 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;
- 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*);
- 608.00 – Materials Testing/Inspection.

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

In most cases, the local agency managing a project will request a **technical proposal** and a separate, sealed **price proposal** that must remain unopened. Once the technical evaluations are completed, the sealed envelope from the highest-ranked proposer may be opened. *If MaineDOT learns that a local agency has considered price before selecting the highest-ranked proposer, MaineDOT will reject the process and require the agency to start over.*

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. Proposals must be kept in a secure place until the submittal deadline.

➡ A fillable RFP template is available online, under the Consultant Procurement category: www.mainedot.gov/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;
- ☐ Deadlines for questions and for proposals;
- ☐ Payment method; and
- ☐ **Salary cap.** It should be stated that pay of **\$62/hour** is allowed for one project manager and one quality-control engineer, but a cap of **\$50/hour** applies to all other personnel.

2.7 Consultant Technical Proposals

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 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
- ☐ List of sub-consultants and the work they will perform.

2.8 Selection Committee

A local agency must set up a committee to review and 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 is optional.

In reviewing technical proposals, the selection committee should consider using evaluation factors such as the following, which must be listed on the scoring sheet for the project:

- ☐ 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, a local 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 should 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 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 set out in Appendix 2C, "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 at rates set by the General Services Administration. Refer to Appendix 2D, "Guidance on Consultant Expenses," starting on page 2-20.
- 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.

2.9.1 Consultant Salary Limit

Pay rates up to **\$62/hour** are allowed for one project manager and one quality-control engineer per contract, but rates are capped at **\$50/hour** for all other personnel. Rates must be supported by an Appendix A-1 Form showing personnel, classifications and actual pay rates.

➤ Starting in 2023, a subconsultant must submit an Appendix A-1 and an Audited Overhead Report only if the sub will perform work estimated to cost \$250,000 or more.

➤ A completed Wage-Rate Waiver Form approved by MaineDOT is required for salary costs exceeding the limits set out above. A template is found in the “Consultant Procurement” section of the LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/

2.10 Negotiations

After scoring consultant technical proposals, a local 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 all other proposers must stay *sealed*. If MaineDOT learns that a local agency has viewed the prices from 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 terminate negotiations. At that point, the agency should open the price proposal from its second-ranked firm and negotiate. The process should continue until successful. A local agency cannot go back to a previous consultant after ending negotiations.

2.11 Consultant Contracts

After successfully negotiating with a consultant, a local agency must prepare a contract. MaineDOT project managers must approve all contracts and any subsequent modifications **before** they are executed. (*See section 2.12 on the next page.*)

Federally funded contracts must contain the items below. Local agencies should use a template 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;
- Remedies for breach of contract;
- Assurances that a consultant is not debarred (*see section 2.13, on the next page*);
- FHWA-1273, Required Contract Provisions for Federal-Aid Contracts.



2.12 Contract Modifications

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. They must be signed by all parties before any associated tasks are performed.

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

2.13 Debarment

Local agencies must verify that consultants are not federally debarred. Verification must be sent to MaineDOT's project manager through a screen shot from the System for Award Management: <https://sam.gov/content/entity-information>.

2.14 Consultant Evaluations

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 Consultant Procurement section of MaineDOT's LPA Documents web page: www.mainedot.gov/lpa/lpadocuments/.

Upon completing a project, a local agency must send MaineDOT a copy of its completed Consultant Evaluation Form for every firm with which it contracted on the project. *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 2023)

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, pre-qualified 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 \$250,000:**

- ☐ 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 pre-qualified 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 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 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: <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.

3. Brooks Act: Services estimated to cost greater than \$250,000:

- ☐ 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 on the websites for the local agency sponsoring a project and MaineDOT's Contract Procurement Office.
- ☐ 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 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: <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.

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 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/.

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

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 subsection 2.10.1, page 2-9). 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 (covered in subsection 2.10.1, page 2-9). 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:

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

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.

❑ **COMMERCIAL RATE**

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. The local agency must show that the commercial rate is fair and reasonable by comparing that rate against the rates of at least two other firms of similar size that perform similar work.

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**

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 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 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, 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 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 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, 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 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 2D

END OF CHAPTER 2