



Office of the Secretary
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Bobby Jindal, Governor
Sherri H. LeBas, P.E., Secretary

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Updated Engineering and Related Services Contract Articles

AUDIT

Annually, the Consultant shall provide or cause to be provided to the DOTD Audit Section *independent* Certified Public Accountant (CPA) audited overhead rates for itself and any sub-consultants. These audited overhead rates shall be developed in accordance with generally accepted accounting principles, using the cost principles and procedures set forth in 48 CFR 31 of the Federal Acquisition Regulations (FAR) and guidelines provided by the DOTD Audit Section. In addition, the selected Consultant will allow the DOTD Audit Section to perform an overhead audit of its books, at the DOTD's sole discretion, and shall require the same of any sub-consultants. The performance or non-performance of such an audit by the DOTD Audit Section shall not relieve the Consultant of its responsibilities under this paragraph.

Prior to the commencement of work for each stage/phase of this Contract, DOTD will submit to the Consultant a certification, substantially in the form of Exhibit "■" to this Contract, stating the last three (3) years of audited overhead rates and the average of same for the Consultant and any sub-consultants to be used for that stage/phase of this Contract. In the event that DOTD does not have records of audited overhead rates for the Consultant or any sub-consultants, the certification will supply a statewide average audited overhead rate to be used for that Consultant/sub-consultant for that stage/phase of this Contract. Upon signature and approval of the certification by the Consultant and return of the certification to DOTD, the average of the last three (3) years of audited overhead rates or the statewide average audited overhead rate, as applicable, will be the approved DOTD audited overhead rate for that Consultant/sub-consultant for that stage/phase of this Contract. If the Consultant requests to add a sub-consultant after commencement of work for a given stage/phase, such a certification must be prepared, submitted, and approved before that sub-consultant commences work on that stage/phase.

Consultants are also required to submit labor rate information twice a year, or more frequently upon request from DOTD, to the DOTD's Audit Section. Newly selected firms must have audited salaries and overhead rates on file with the DOTD's Audit Section before starting any additional stage/phase of their contracts.

If the Consultant is to be entitled to be reimbursed for direct and/or indirect costs of the Consultant and/or any sub-consultants pursuant to this Contract, the Consultant/sub-consultant must maintain an approved Project Cost System and segregate direct from indirect cost in its General Ledger. Pre-award and post audits, as well as interim audits, may be required.



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PROSECUTION OF WORK

The Consultant shall provide sufficient resources to insure completion of the Project in accordance with the project scope and within the contract time limit. If the completed work is behind the approved progress schedule, the Consultant shall take immediate steps to restore satisfactory progress.

The progress of the work shall be determined monthly, with the submission of an invoice and progress schedule to the DOTD. For any work, the Project shall be considered **on schedule** if the percentage of the total work completed is equal to or greater than the percentage of contract time elapsed.

The overall project schedule includes the combined time allotted for all Stages and Parts of a Contract, subject to any overlaps of concurrent activities. For the purposes of evaluating work progress, the elapsed time for any Stage or Part begins in accordance with the original project schedule, even though work on a Stage or Part may not commence on schedule. Should any Stage or Part of the work fail to commence in accordance with the original schedule because of delinquencies in a previous Stage or Part, the elapsed time in the above ratio shall be measured from the time the Stage would have begun had the previous Stage or Part been completed on schedule. Should any delays in progress be necessitated by circumstances outside of the Consultant's control, it shall be the responsibility of the Consultant to request an appropriate adjustment in contract time. If the ratio of percentage of work completed to percentage of time elapsed falls below 0.75, the Consultant shall be subject to Disqualification

DISQUALIFICATION

The Consultant will be subject to Disqualification in the event that the Consultant fails to comply with the terms of this Contract with respect to:

- 1) Prosecution of work;
- 2) Audits, including but not limited to providing access to documentation deemed necessary by DOTD to conduct audits of direct expenses and/or overhead rates, if applicable;
- 3) Repayment of any overpayments after receipt of an invoice from DOTD.

During the period of disqualification, the Consultant shall not be considered for contracts nor shall he be considered or approved as a sub-consultant on contracts or proposals. The Consultant shall be allowed to proceed with any work under any preexisting contract or written sub-



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consultant agreement. The period of disqualification shall continue until the Consultant comes into compliance with the relevant terms of this Contract.

– The disqualified Consultant may submit a written appeal to the DOTD Chief Engineer for review by the Disqualification Review Board (DRB). The Disqualification Review Board shall be composed of the DOTD Chief Engineer or his designee, the Consultant Contract Services Administrator, and the Project Development Director. The written appeal shall be submitted within 7 days, excluding weekends and holidays, after issuance of written notice of disqualification and may either request a meeting with the DRB or that the DRB consider a written appeal only. A meeting of the DRB shall be scheduled within 10 days, excluding weekends and holidays, after receipt of the appeal. After all the information has been considered, the Chief Engineer shall notify the Consultant of the decision of the DRB in writing within 10 days, excluding weekends and holidays. The decision of the DRB shall not operate as a waiver by the DOTD of any of its rights under this Contract or for any damages, including, but not limited to, untimely completion.

RETAINAGE

Retainage in the amount of five (5%) percent of invoiced amounts other than amounts to be reimbursed for direct expenses may be held, at the sole discretion of DOTD, if any of the following conditions are met:

- 1) Failure of the Consultant to submit invoices timely in accordance with this Contract; or
- 2) The Consultant has received a rating of “Marginal Performance” or lower in any rating category.

PAYMENT FOR COST PLUS

Payments (on undisputed amounts) to the Consultant for services rendered by the Consultant and/or sub-consultant, shall be made monthly based on a standard certified correct and itemized invoice subdivided for each Stage, detailing the names of the employees, the time worked, their classification and rates of pay, and the approved DOTD audited overhead rate for the contract phase that gave rise to the invoice, as per the “Audit” article of the Contract. The contract overhead rates shall be adjusted during the course of this Contract, as per the “Audit” article of this contract. The invoiced overhead rate shall not exceed the approved DOTD audited overhead rate for the Contract phase that gave rise to the invoice, as per the “Audit” article of the Contract. All documented designated personnel for various classifications shall be subject to a Post Audit at the end of the Contract. Failure to comply with the designated personnel requirements shall result in the DOTD using the Consultant’s average audited salary classification rate.



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The invoice shall be submitted monthly and be directly related to the Monthly Progress Schedule. The DOTD shall not approve any invoice in which the proportional amount of the total contract compensation for any individual Stage exceeds the percentage of project completion for that Stage by more than five percent.

Payments shall also be made monthly for direct expenses chargeable and identifiable to this specific Contract, provided such charges are substantiated by documentation subject to audit. Direct expenses shall be disallowed if subsequent audits reveal that adequate supporting documentation has not been maintained. If any invoiced amounts are disallowed after payment as a result of a subsequent audit, DOTD will invoice the Consultant for the amount of any overpayments and the Consultant shall be required to repay such amount within sixty (60) days of receipt of DOTD's invoice. If the Consultant fails to make payment within sixty (60) days, the Consultant will be subject to Disqualification as provided in the "Disqualification" article of this Contract. It is understood that the firm's entire books must segregate these items out of general overhead costs.

The invoice shall show the total amount earned to the date of submission, and the amount due and payable as of the invoice including direct expenses and the pro-rata share of the fixed fee **All invoices submitted for payment shall include the assigned Purchase Order Number.**

A principal member of the Prime Consulting Firm to whom the contract is issued must sign, date, and certify the invoice for correctness. The original and three copies of each invoice shall be submitted to the Project Manager.

Upon receipt of each invoice, the DOTD shall check the invoice for correctness and return if required; upon acceptance and approval of a standard certified correct invoice, for services satisfactorily performed, the DOTD shall pay the amount shown to be due and payable within 30 calendar days, in accordance with Louisiana R.S. 48: 251.5.

Payments by Extra Work Letter(s) may be made on a lump sum basis.

PAYMENT FOR LUMP SUM

Payments (on undisputed amounts) to the Consultant for services rendered by the Consultant and/or sub-consultant shall be made monthly. The payments shall be based on a standard certified correct invoice directly proportional to the percentage of completed work, as shown in the monthly progress schedule. The monthly progress schedule shall: a) show in detail the status of the work; b) be subdivided into appropriate Stages with estimated percentages for each Stage, and c) be of a form and with a division of items as approved by the DOTD. The allowable costs shall be in accordance with the cost principles and procedures set forth in 48 CFR 31.

The invoice, reflecting the amount and value of work accomplished to the date of such submission, shall be submitted each month directly to the Project Manager. The invoice shall



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also show the total of previous payments-on-account to this Contract and the amount due and payable as of the date of the current invoice. **All invoices submitted for payment shall include the assigned Purchase Order Number.**

A principal member of the Prime Consulting Firm to whom the contract is issued must sign, date, and certify the invoice for correctness. The original and three copies of each invoice shall be submitted to the Project Manager.

Upon receipt of each invoice, the DOTD shall check the invoice for correctness and return if required; upon acceptance and approval of a standard certified correct invoice, for services satisfactorily performed, the DOTD shall pay the amount shown to be due and payable within 30 calendar days, in accordance with Louisiana R.S. 48: 251.5.

BILLABLE RATE PAYMENT

Payments (on undisputed amounts) to the Consultant for services rendered by the Consultant and/or sub-consultant shall be made monthly based on a standard certified correct and itemized invoice showing the line item costs incurred. Any labor charges for other approved services shall include the names of the employees, their classification, and the time worked. These shall be reimbursed at the approved billable rate for that classification.

Any charges for approved services other than labor shall be detailed to include vendor name, cost, and description. Final payment for these costs shall be adjusted after Project completion, or at the request of the Project Manager, to reflect the actual work performed and the direct expenses incurred by the Consultant during the course of this Contract, and as determined by the DOTD's Audit Section following the post audit of this Contract. However, in no event shall such an adjustment allow the contract cost to exceed the maximum limitation imposed thereon. The allowable costs shall be in accordance with the cost principles and procedures set forth in 48 CFR 31 of the Federal Acquisition Regulations System (FARS), as modified by DOTD's audit guidelines regarding reasonable Consultant compensation and state travel regulations in effect on the date of the audit, which are incorporated herein by reference as if copied in extenso, and available for inspection or copying in the office of the DOTD's Audit Director.

The invoice shall be submitted monthly and be directly related to the monthly progress schedule, if applicable. The DOTD shall not approve any invoice in which the proportional amount of the total contract compensation exceeds the percentage of project completion by more than five percent.

Payments shall also be made monthly for direct expenses chargeable and identifiable to this specific Contract, provided such charges are substantiated by documentation subject to audit. Direct expenses shall be disallowed if subsequent audits reveal that adequate supporting documentation has not been maintained. If any invoiced amounts are disallowed after payment as a result of a subsequent audit, DOTD will invoice the Consultant for the amount of any



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overpayments and the Consultant shall be required to repay such amount within sixty (60) days of receipt of DOTD's invoice. If the Consultant fails to make payment within sixty (60) days, the Consultant will be subject to Disqualification as provided in the "Disqualification" article of this Contract. It is understood that the firm's entire books must segregate these items out of general overhead costs.

The invoice shall show the total amount earned to the date of submission, and the amount due and payable, including the direct expenses. The invoice shall also show the total of previous payments-on-account to this Contract and the amount due and payable as of the date of the current invoice. **All invoices submitted for payment shall include the assigned Purchase Order Number.**

A principal member of the Prime Consulting Firm to whom the contract is issued must sign, date, and certify the invoice for correctness. The original and three copies of each invoice shall be submitted to the Project Manager.

Upon receipt of each invoice, the DOTD shall check the invoice for correctness and return if required; upon acceptance and approval of a standard certified correct invoice, for services satisfactorily performed, the DOTD shall pay the amount shown to be due and payable within 30 calendar days, in accordance with Louisiana R.S. 48: 251.5.

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