



CONNECTICUT DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT

POLICY NO. EX.O-41
December 16, 2022

Subject: CTDOT Safe Harbor Rates

Program Description and Purpose

A/E Consulting firms providing services under a contract funded by federal funds are required by regulation, as specified in 49 CFR 18.22 (b), to account for and bill costs in accordance with the Federal Cost Principles of 48 CFR 31. In addition, federal law, and regulation for the Federal-Aid Highway Program require contracting agencies to accept overhead cost rates developed in accordance with the Federal Cost Principles for the consulting firm's applicable one-year accounting period and apply those rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, as specified in 23 U.S.C. 112 (b)(2) and 23 CFR 172.7.

Developing overhead rates annually can place a significant burden on some consulting firms and may create a barrier for otherwise eligible and qualified firms to compete for contracts. To remove the potential barriers, the Federal Highway Administration has issued a final guidance for the implementation of the Safe harbor indirect cost rate, allowing the establishment of an agency-developed indirect cost rate for use by firms that find establishing a FAR compliant indirect cost rate to be a barrier in their ability to compete for contracts. This "safe harbor" rate has been approved for voluntary use by eligible consultants for both work as a prime consultant and as a subconsultant. The Connecticut Department of Transportation safe harbor rate is 109% and is optional for those firms not having a FAR compliant overhead rate for the reasons stated above.

Safe Harbor Consultant Qualifications

- Consulting firms that have never had an overhead cost rate accepted by a cognizant agency or State Department of Transportation. Those firms that have an audited, or otherwise accepted overhead rate, developed in accordance with the Federal Cost Principles are not permitted to use the safe harbor rate
- Consulting firm must be new, small, or DBE company, meeting the following:
 - Demonstrate a lack of the financial resources available to hire a CPA firm to conduct a FARS audit. (*Balance sheet - current assets / P&L statement - Revenues and or Net Profit*)
 - And one of the following:
 - Lacks the financial sophistication to develop an indirect Cost Rate
 - Consulting firm does not have a relevant contract cost history to use as a base for development of an overhead cost rate

Revenue Cutoff to qualify for the Department's Safe Harbor Rate: **\$2,701,842**

Requirements to be approved for a Safe Harbor Rate

- All consulting firms using the safe harbor rate are required to have, and provide to the Department, a project/cost accounting system adequate to perform all of the following:
 - 1) Segregate indirect costs and direct costs
 - 2) Segregate allowable and unallowable costs
 - 3) A job cost system which is general ledger driven
 - 4) A project cost estimation system that agrees with the job cost system
- Consulting firms that use the safe harbor rate and do not have established salaries or wage rates for employees or classes of employees, fixed hourly labor rates will need to be established for the direct labor portion of the contracted services. The agreed upon fixed hourly rates shall be reasonable as set forth in the Federal Cost Principles, considering the nature of the services to be provided.
- Consulting firms electing to use the safe harbor rate for a contract are required to submit to CTDOT a completed AASHTO Internal Control Questionnaire.
- If, during the life of a contract, the consulting firm establishes a cognizant indirect cost rate, that cognizant rate must be used for contracting purposes immediately upon establishment. However, any existing contracts utilizing the Safe Harbor rate, must be invoiced at the Safe Harbor rate for its entirety.

The following other direct costs are not considered to be included within the safe harbor rate and may generally be charged as direct contract costs when warranted and allowable in accordance with the Federal Cost Principles:

- 1) Travel costs in accordance with the State of Connecticut Travel Regulations (airfare, rental care, mileage, lodging, per diem, etc.)
- 2) External printing and reproduction costs
- 3) Mailing and shipping costs
- 4) Equipment rental fees
- 5) Subconsultant costs
- 6) Other direct costs as appropriate to the contracted services

The Safe Harbor Rate has a maximum term of 3 years after which the consultant must provide an Audited FARS Rate report issued by a licensed CPA firm if they wish to continue to contract with the Department.

Participation in the Safe Harbor Rate program shall not be renewed or extended after the 3-year term for use on new agreements with the Department.

Participation in the Safe Harbor Rate program shall not be available to new applicant firms with the same Principles / Owners as currently or formerly enrolled firms in the CT Safe Harbor Rate program.



Joseph J. Giulietti
Commissioner