



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

December 22, 2010

Mr. John D. Niemela
Director
County Road Association of Michigan
P.O. Box 12067
Lansing, Michigan 48901-2067

Mr. Christopher Hackbarth
Legislative Associate
Michigan Municipal League
208 North Capitol Avenue, 1st Floor
Lansing, Michigan 48933-1354

Subject: Mandatory Indirect (Overhead) Cost Rate Certification for Consultant Contracts with Federal Funding Participation

Dear Mr. Niemela and Mr. Hackbarth:

The Federal Highway Administration (FHWA) has asked us to remind the local agencies of the new federal policy which was issued October 27, 2010 regarding contractor (consultant) certification of costs used to establish indirect cost rates, also known as overhead cost rates, included in federal-aid engineering and design-related services contracts. The order is FHWA Order 4470.1A, a copy of which is posted on the FHWA Consultant Services website at <http://www.fhwa.dot.gov/programadmin/consultant.cfm>.

MDOT will require a contractor (consultant) certification of indirect cost rates which are used in the contract calculations for consultant third party contracts, effective with contracts initiated after January 1, 2011. The contractor (consultant) shall certify that the indirect cost rate as submitted does not include any costs which are expressly unallowable, and that the indirect cost rate was established only with allowable costs in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of 48 CFR part 31. Proposed indirect cost rates will not be accepted or approved by MDOT for use in contract estimation, negotiation, administration, reporting, or payment, unless the costs have been certified by an official (executive or chief financial officer) of the contractor (consultant) as being allowable in accordance with the applicable FAR cost principles. **If a consultant contract includes subcontract(s), then a certification must be provided for each subconsultant.**

A copy of the certification form, MDOT Form 5108 L, is attached which can be used to certify consultant contracts for local agency projects. This certification form will also be available in the Forms area of the MDOT website.

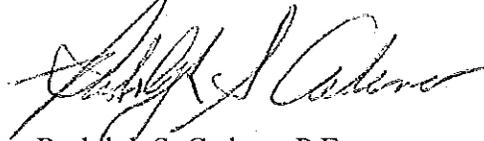
Please note that penalties for falsification of this document can be severe. The language in the federal guidance referenced above reads in part, "A contractor found to have knowingly charged unallowable costs to a Federal-aid funded contract is subject to suspension and debarment action by the FHWA (as specified in FHWA Order 2000.2A, FHWA Nonprocurement Suspension and Debarment process (Federal-Aid Program), dated June 19, 2000, and 2 CFR §180."

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**FHWA Nonprocurement Suspension and Debarment process (Federal-Aid Program),
dated June 19, 2000, and 2 CFR §180.”**

Please contact Mr. Bill Stonebrook at stonebrookb@michigan.gov or 517-373-2281 if you have any further questions.

Sincerely,



Rudolph S. Cadena, P.E.
Local Agency Programs Engineer
Local Agency Programs

Enclosure

cc: B. Wieferich
B. Kadzban
M. Harbison
K. Cooper
W. Stonebrook
C. Rademacher
R. Hepfer – FHWA
E. Purkiss – FHWA
C. Guo - FHWA

CERTIFICATION OF INDIRECT (OVERHEAD) RATE

MDOT Form 5108 L (Version Date 12/10)

This Certification is required according to U.S. Department of Transportation, Federal Highway Administration (FHWA) Order 4470.1A, dated October 27, 2010. FHWA has issued this new policy to be **effective January 1, 2011**. This policy requires consultants to certify that costs used to establish indirect (overhead) cost rates applicable to Federal-aid engineering and design related services contracts do not include any costs which are expressly unallowable, and that the indirect (overhead) rate was established based only on allowable costs.

This certification is to provide assurance that the indirect (overhead) cost rate was calculated in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR) Part 31.

This form shall be completed and submitted by the prime consultant, for the prime contract as well as for each subcontract (first and second tier subconsultant(s)) proposed to be included as part of this priced proposal, where an indirect (overhead) rate is proposed. Please note that the Certifying Official is defined as the firm's Executive (Vice President, President or equivalent) or Chief Financial Officer.

PROJECT INFORMATION

MDOT CONTROL SECTION(S) – JOB NUMBER(S):

CONTRACT / AUTHORIZATION NUMBER:

LOCAL AGENCY:

PROJECT DESCRIPTION:

DECLARATION OF CERTIFICATION

INDIRECT (OVERHEAD) COST RATE: _____

DATE OF INDIRECT (OVERHEAD) COST RATE DETERMINATION
(mm/dd/yyyy) : _____

FISCAL PERIOD COVERED: (mm/dd/yyyy to mm/dd/yyyy)

to _____

I, the undersigned, certify that I have reviewed the indirect (overhead) rate calculation for the fiscal period as specified above and to the best of my knowledge and belief:

1.) All costs included to establish the above rate are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of title 48, Code of Federal Regulations (CFR), part 31.

2.) This indirect (overhead) cost rate does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and indirect (overhead) cost rates have been disclosed.

CONSULTANT INFORMATION

LEGAL BUSINESS NAME:

FEDERAL ID NUMBER: (Must match prequalification file)

COMPANY ADDRESS:

EMAIL:

CERTIFYING OFFICIAL

NAME OF CERTIFYING OFFICIAL: (Printed Name & Title)

SIGNATURE OF CERTIFYING OFFICIAL: