Contract Services Division
Consultant Advisory

Subcontract Requirements

The 'Subcontract Checklist and Payment Examples' have been revised, and are attached. Subcontracts submitted for approval to MDOT Contract Services Division (CSD) <u>must have all</u> the information contained in the Checklist, and in the proper format. Subcontracts previously submitted will <u>not require</u> resubmittal. Subcontracts not meeting all the criteria in the Checklist will be returned unapproved and must be corrected and resubmitted.

As a reminder, in accordance with the Indefinite Delivery of Services (IDS) contract, all subcontracts in excess of $25,000 must be submitted to MDOT for review and written approval prior to a subconsultant commencing work. Failure to submit a subcontract to MDOT for approval will result in the subconsultant costs being disallowed at audit.

Please distribute this information to anyone within your company responsible for the preparation of subcontracts. If you have any questions, please contact CSD's Subcontract Analyst, Sherri Hawkins at (517) 373-7644.

Subcontract Checklist and Payment Examples

The following items must be included in all subcontract agreements.
(Please note MDOT approval is not required for subcontracts for less than $25,000.)

1. MDOT/Prime contract number and authorization number (if applicable). All Exhibits must reference the MDOT Prime contract and authorization numbers as well.

2. Prime Consultant's name and description to be used throughout the subcontract (i.e., Engineer, Consultant, etc.).

3. Subconsultant's name and description to be used throughout the subcontract (i.e., Subconsultant, Consultant, etc.).

4. Description of work being performed by the subconsultant, as described in the scope of services. Include job number(s), control section(s),and structure number(s), if applicable.

5. The basis of payment, maximum contract amount, and fixed fee amount (if applicable) must be written into the **body of the** subcontract. A derivation of cost must accompany the subcontract. The derivation of cost can not be used in lieu of the written basis of payment and maximum dollar amount. Amendments, adding additional funds, will need to specify what the basis of payment is, the total amendment and fixed fee (if applicable) amounts, along with new total maximum not to exceed contract and fixed fee amounts.

   Following are basis of payment options and the recommended contract language.

   Actual Cost: compensation for the services will be on the basis of actual cost and will not exceed $ _____, as set forth in Exhibit _____.

   Actual Cost Plus Fixed Fee: compensation for the services will be on the basis of actual cost plus a fixed fee and will not exceed $ _____, which amount includes a fixed fee of $ _____, as set forth in Exhibit _____.

   Lump Sum: Compensation for the services will be on a lump sum basis in the amount of $ _____, as set forth in Exhibit _____.

   Milestone: Compensation for the services will be on a milestone basis in the amount of $_____, payable upon completion of defined milestones, as set forth in Exhibit ____.

   Fixed Hourly Rate – Compensation for the services will be on the basis of a fixed hourly rate plus actual direct expenses and will not exceed $ _____, as set forth in Exhibit _____.

   Unit Price: Compensation for the services will be on the basis of a set unit price and will not exceed $ _____, as set forth in Exhibit _____.

6. A statement must be included in the subcontract that the subcontract shall be governed by the laws of the State of Michigan, as set forth in the prime agreement.

7. A statement must be included that all terms and conditions included in the prime agreement are incorporated in the subcontract.

8. A statement must be included stating that in the event of a conflict between the terms and conditions of the subcontract and those of the prime agreement, the terms and conditions of the prime agreement shall prevail.

9. Per the prime agreement language, subcontracts should state that payment to the subconsultant will be made within (10) days of your receipt of payment from MDOT.

10. Subcontract effective and expiration dates. If these dates are not provided in the original subcontract, the prime agreement's effective and expiration dates will be used. However, if there is a time extension for the prime agreement, the time extension does not automatically carry over to the subagreements. If a

time extension is needed for the subconsultants, an amended subagreement should be submitted for approval.

11.   Records are to be maintained for 3 years from final payment.

12.   The following certification language must be included in all subcontracts.   "The SUBCONSULTANT agrees that the costs reported to the PRIME CONSULTANT for this Contract will represent only those items that are properly chargeable in accordance with this Contract.   The SUBCONSULTANT also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract."

The subcontract must be submitted to the department for approval, prior to execution. Once department approval is obtained, an approval letter will be mailed to the prime consultant for execution. An original signed copy of the subcontract should be returned to MDOT for the contract file.

Rev. 6/10/11