

Consultant Advisory

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MDOT, CSD, Consultant
Contracts Section
P.O. Box 30050
Lansing, MI 48909
Fax/517-355-7446
www.michigan.gov/mdot

Questions regarding this
Consultant Advisory
should be directed to:

Carol Rademacher
517-373-3382
rademacherc@michigan.gov

Transfer of Funds (Zero Sum Transfer) Guidelines

The Transfer of Funds (Zero Sum Transfer) process has been reviewed and approved for implementation, effective immediately. Consultants that meet the requirements for the processing of a Transfer must consult with the MDOT Project Manager (PM) of record on their project and proceed according to the following guidelines. Please do not submit any information to Contract Services Division (CSD) prior to working with the MDOT PM.

Form Instructions

MDOT Form 5109, Transfer Request Cover Sheet, must be completed and submitted to the MDOT Project Manager for consideration and approval to transfer between the Prime Consultant & Subconsultant(s), the Subconsultants, or between Job Numbers.

Include all applicable forms: 5101A-1, 5101A-2, 5101B and 5101C.

Project Information Section: This section must be completed by the prime consultant only and provided to each subconsultant affected by the transfer request.

Consultant Information Section: This section must be completed by each prime and subconsultant affected by the transfer request.

Note: Multiple form 5109's may be required, depending on the number of parties affected by the transfer. The prime consultant and each subconsultant must each complete a form. The subconsultant will complete the Consultant Information section of the form only, for submittal to the prime consultant.

Transfer Requirements

Transfers are utilized to process a change within a contract or authorization (Agreement) for the movement of funds between the Prime Consultant & Subconsultant(s), the Subconsultants, or between Job Numbers, that do not warrant a revision or an amendment.

- A transfer may occur between a Prime Consultant and a Subconsultant
- A transfer may occur between a Subconsultant and a Subconsultant
- A transfer may occur between Job Numbers

If **additional** subconsultants, services, amount, or time is needed to complete a project, a revision/amendment **must** be initiated, to reflect the changes in amount(s) and services(s) between parties, after all the required internal approvals are received.

It is understood that the number of hours, direct labor cost, overhead and direct expenses of the transferred services between consultants may vary. The entries and calculations on the derivation of costs should reflect the actual time and costs necessary for the accepting consultant(s) to complete the services. These hours and costs must be approved by MDOT. An accepting consultant derivation may not exceed what was originally proposed by the forfeiting consultant; however, the overall fixed fee amount must not exceed 11% of the total labor and overhead. The accepting consultant may need to adjust (lower) the "rate" of the fixed fee in order for the dollar amount to remain the same due to their actual labor, overhead, and direct expense costs of completing the transferred service.

However, if a prime or subconsultant completes 100% of the services initially proposed, 100% of the associated fixed fee will be paid to that consultant, unless defined as as-needed work, and therefore prorated.

When a transfer occurs where a percentage of the services were completed by the original consultant and some tasks remain, the MDOT PM must determine the percentage of services completed by the original consultant. It is important for the PM to determine the percentage of work completed by the forfeiting consultant in order to prorate the amount of fixed fee due to that company and to determine the amount remaining for transfer.

Before any transfers are performed all of the affected consultants will be required to agree/consent to (sign off on) the transfer on Form 5109. If an affected team member disagrees, the PM may move forward on the subject without concurrence. The forfeiting team member may petition for a revised resolution through the Dispute Resolution Process (DRP).

1. The Prime Consultant must submit Form(s) 5109, Transfer Request Cover Sheet, to the PM to request a transfer, including a detailed explanation and clear justification. A 5109 form must be submitted by the prime consultant and each subconsultant affected by the transfer.
2. The PM will review the Transfer Request Form(s) and all supporting documentation and make a decision to approve or deny the request.
3. The PM must submit to the CSD Contract Administrator (CA) the following information. Without this information the transfer request will be delayed or rejected.
 - Form 5109** – Transfer Request Form(s)
 - Cost Derivations/Priced Proposals – from consultant
 - o **Form 5101A-1** – Summary of Total Project Costs by Job Number
 - o **Form 5101A-2** – Summary of Total Project Costs, As Amended
 - o **Form 5101B** – Derivation of Prime Consultant Costs
 - detail of specific request (amounts to be reduced or increased)
 - o **Form 5101C** – Derivation of Subconsultant Costs
 - detail of specific request (amounts to be increased or reduced)
 - Other Documentation**
 - Amended Subcontract Agreement(s) – required if increase in budgeted amount for work by subconsultant(s)
4. CSD Division Administrator approval is required for any transfer to be completed.
5. Verification will be made that no additional services, amount, time or subconsultant(s) are being added, and that all services are contained within the original Scope of Services.
6. Verification will include but not be limited to the following:
 - Costs reported in the cost derivations are correct
 - The agreement (contract or authorization) is in awarded status
 - The consultants are prequalified for all services they are performing
 - DBE requirement goal is maintained. (No DBE % reduction can occur.)
 - The 40/60 (%) rule is maintained (Prime consultant must perform 40% or more of the overall contract work by dollar amount.)
 - The 50/50 (%) rule for subconsultant is maintained (First Tier subconsultant must maintain 50% or more of the work by dollar amount.)
 - The total Fixed Fee amount does not increase
 - Key staff changes are approved by the PM, if applicable
7. Written notification of acceptance will be sent to the Prime Consultant, the PM, and the CSD Subcontract Analyst.

SUBCONTRACTS

If a transfer contains any individual sub-consultant costs exceeding \$25,000, please submit the sub-consultant agreement(s) to CSD as soon as possible for review and approval. Previously approved sub-consultants agreement should also be amended accordingly. However, previously approved sub-consultant agreements will only need to be resubmitted for review and approval if the revised sub-consultant costs result in an increase and are still in excess of \$25,000. Failure to provide sub-consultant agreements that exceed \$25,000 is in violation of the terms and conditions of MDOT Contracts.