

Consultant Certification Form to Apply for the MnDOT Safe Harbor Program

The Minnesota Department of Transportation has established a Safe Harbor Overhead Rate Program for use with Consultant contracts. Consulting firms that provide engineering and design-related services on fixed hourly rate contracts may be eligible to enroll in the Minnesota Department of Transportation Safe Harbor Overhead Rate Program. This program allows a consulting firm to use MnDOT's established Safe Harbor Overhead Rate of 110.00% of direct labor for the first two years that it is under contract to work with MnDOT.

To be eligible for the Safe Harbor Program, a consulting firm must certify that they do not have:

- an overhead cost rate accepted by a cognizant agency or State Department of Transportation, or
- contract cost history sufficient to use as a base for development of an overhead cost rate, or
- previous experience with federally funded contracts for which an overhead cost rate would have been developed in compliance with Federal Cost Principles and accepted for use by a cognizant agency.

To participate in the Safe Harbor Program, consultants must also certify their intent and commitment to actively work with an accountant or bookkeeper to establish an accounting system, using QuickBooks or similar software and will work toward accomplishing specific requirements to establish the following:

- An accounting system that segregates indirect (overhead) costs from direct (project) costs.
- An accounting system that segregates allowable and unallowable costs for overhead, as defined in Part 31 of the Federal Acquisition Regulation (FAR) and segregates direct labor and indirect labor.
- Training for accounting personnel and key management on FAR Part 31 requirements to ensure compliance.
- A written internal control policy and procedure manual that addresses compliance with FAR Part 31.
- Annually prepared financial statements including an income statement and a balance sheet to assist in the calculation of an overhead rate.
- The income statement (e.g., Profit & Loss Schedule, Schedule C, or 1120S Tax Return) must:
 - Track expenses with multiple line items of cost detail for each type of expense.
 - Separate expenses into "allowable costs" and "unallowable costs" according to the Federal Acquisition Regulation (FAR Part 31.205).
 - Segregate expenses between indirect costs (overhead) and direct project costs.
 - Segregate direct labor from indirect labor.

To participate in the Safe Harbor Program, consultants must establish their accounting system within two (2) years of enrollment in the Safe Harbor Overhead Rate Program.

- The consultant must use their accounting system to breakout expenses, complete the Overhead Package, and submit an overhead estimate to MnDOT as soon as the overhead rate is established and no later than the end of the second year.
- When the actual cost overhead rate has been approved for use by the MnDOT Office of Audit, the consultant will be removed from the Safe Harbor Overhead Rate Program and the Office of Audit will issue an official pre-award audit report.

Once enrolled, a consulting firm that does not have established salaries or wage rates for employees (or classes of employees) must establish fixed hourly labor rates for the direct labor portion of the contracted services. The MnDOT approved fixed hourly rates must comply with Federal Cost Principles.

If the consulting firm establishes a cognizant indirect cost rate while participating in MnDOT's Safe Harbor Program, that cognizant rate must be used on future contracts. Existing contracts using the Safe Harbor Overhead Rate must be invoiced using that rate for the entirety of the contract.

If the consulting firm cannot establish an accounting system within two years, the consulting firm must contact MnDOT Consultant Services to request a time extension at least 90 days before the expiration of its participation in the program. MnDOT may grant an extension, not to exceed one additional calendar year.

By signing and dating this certification form, the consultant acknowledges and agrees to the above requirements of the MnDOT Safe Harbor Program.

Company Official: _____ **Date:** _____