

July 15, 2008

OHIO DEPARTMENT OF TRANSPORTATION CONSULTANT SANCTION REVIEW PROCESS

Preamble

In 2005, the Ohio Department of Transportation developed a set of circulars to guide and assist consultants in the creation of a Statement of Direct Labor, Fringe Benefits and General Overhead. Consultants were given a period of time to comply with and implement the guidance in the circulars before actively conducting incurred-cost audits. With the conclusion of the implementation period, ODOT has been actively auditing the overhead schedules and project costs of its consultants. In anticipation of possible audit findings, the Department has developed a process for the administrative review of proposed sanctions that the Department may impose upon a consultant.

The following is the Consultant Sanction Review Process as approved by the Director. Please note that the implementation of this process shall not preclude the Director of Transportation from exercising complete discretion in considering the nature and substance of any issues identified during, or as a result of, the audit process when evaluating the qualifications of a consultant for current or future work with the Department.

Audit Findings and Determination of Sanctions

The following procedures will be used in transmitting audit findings and sanctions, if warranted, to consultants.

1. At the conclusion of an audit, the ODOT auditors will conduct an exit conference with the consultant to discuss preliminary findings and advise of open items yet to be completed. At this stage, the auditors have not finalized all audit findings or questioned costs. Accordingly, the exit conference is general in nature and serves as a forum to discuss the areas tested and concerns identified from the audit fieldwork.
2. The Office of Audits will forward a Questioned Costs Analysis to the consultant. The known audit findings and questioned costs are identified, quantified, and disclosed to the consultant at this time, and the auditors request additional details regarding any outstanding audit issues. The consultant is encouraged to provide additional or clarifying information for the questioned costs, as well as any other information specifically requested by the Office of Audits.
3. The draft audit report, including all findings, will be sent to the consultant along with a cover letter with instructions and a deadline for response. This provides the consultant with another opportunity to provide clarifying information to the Office of Audits. The Office of Audits generally requires consultants to reply with any review comments within 30 days of the date of the cover letter; however, a longer review period may be permitted

by the Deputy Director of Finance and Forecasting, if warranted by the magnitude and/or complexity of the audit findings.

4. All draft and final audit reports will include boiler-plate language indicating that a copy of the audit report will be forwarded to the Division of Production Management, Office of Consultant Services for review and further action, if warranted.
5. If the draft audit report indicates that significant findings exist, and these findings are disputed by the consultant, then the consultant may request a meeting with the Deputy Director of the Division of Finance and Forecasting to discuss the findings.
6. Before issuing the final audit report, the Office of Audits will revise the draft audit report, if necessary. This revision will occur after the Office of Audits reviews all comments and clarifications submitted by the consultant, including any comments submitted to the Deputy Director of the Division of Finance and Forecasting during the meeting discussed above.
7. The Division of Finance and Forecasting will issue the final audit report and send it to the consultant with a copy to the Office of Consultant Service.
8. The Office of Consultant Services will review the audit report and determine if sanctions are warranted. The Office of Consultant Services shall use the Consultant Sanction Matrix as a guide for determining an appropriate sanction, if warranted.
9. If sanctions are warranted, the Office of Consultant Services will issue a letter notifying the consultant of the proposed sanctions and the duration of such sanctions. ODOT will send the letter by certified mail and shall notify the consultant of the opportunity to request an administrative review of the proposed sanctions. The notification letter also shall include instructions for submitting a request for administrative review, and will outline the review process and procedure, and note any other terms, conditions or limits on current or future contracts.

Consultant Request for Review

The following procedures will be used to provide an opportunity for consultants to request a review of sanctions imposed by the Department:

1. Upon the receipt of the Notice of Proposed Sanctions (Notice), the consultant may submit a written request for review. Requests must be postmarked within 15 calendar days from the consultant's receipt of the Notice. Requests should be directed to the Office of the Director, Ohio Department of Transportation, 1980 West Broad Street, Columbus, Ohio 43223.

2. Upon receipt of a request for review, the Department shall convene a meeting of the Director's Consultant Sanction Review Committee ("CSRC"). The CSRC shall consist of the following three members appointed by the Director: the Assistant Director/Chief of Staff, the Deputy Director of the Division of Production Management, and the Deputy Director of the Division of Finance and Forecasting. The Office of Chief Legal Counsel will provide legal counsel. The Office of Consultant Services shall be the secretary to the CSRC. The CSRC may also have technical advisors at the review to assist in reviewing the proposed sanctions.
3. During the meeting of the CSRC, the Consultant shall have an opportunity to present any information the Consultant deems relevant to the proposed sanctions. Only proposed sanctions will be reviewed by the CSRC. Audit findings and monetary recovery are not eligible for review by the CSRC. Representatives from the Offices of Consultant Services and Audits may be present to inform the CSRC of the reasons for the proposed sanctions. At the meeting, the CSRC may, on its own initiative, request information of any person or group, and may ask questions and interact with the participants throughout the meeting.
4. Upon completion of the review meeting and consideration of any additional information submitted therein, the CSRC will issue a final determination on the proposed sanctions in a written decision. The CSRC may: (1) affirm the proposed sanctions and the associated enforcement period; (2) modify the proposed sanctions; including imposing new or additional sanctions, or limiting the proposed sanctions; or (3) vacate any sanctions.
5. The written decision of the CSRC shall be provided within thirty (30) days of the Review meeting. The decision of the CSRC shall be the final agency action and may not be appealed or reviewed for further determination within the Department.

**Consultant Sanction Review Committee (CSRC)
Levels of CSRC and Impact**

Audit Report

Findings structured in accordance with Government Auditing Standards.
Consultant agrees to voluntary compliance with Findings.
Consultant signs affidavit agreeing to comply in future periods.
Auditor confirmation via Desk Inspection for future periods.

Consultant Impact

Eligible to work.
Eligible to invoice.
Eligible for new work.

Level 1 - CRSC

Accounting System Probation with a Corrective Action Plan (CAP):

Added to Consultant Evaluation System Issues List.

Administrative Suspension imposed until CAP received by ODOT.
Consultant must submit documentation/proof that accounting system is acceptable.
Consultant must submit documentation/proof that internal controls are functioning as intended.
CEO certification and signature on affidavit.
Officer signature/approval of invoices.

Additional administrative suspension imposed at discretion of Consultant Services.

Consultant Impact

Administrative suspension imposed until CAP received by ODOT - Not eligible for new work.

Eligible to work.

Eligible to invoice.
Officer certification and signature on affidavit.
Officer signature/approval of invoices.
On Consultant Evaluation System Issues list until proof internal controls functioning as intended.
Not eligible for new work for an additional period of time.

Level 2 - CSRC

2	<p>Total Loss of Prequalification</p> <p>Removal from Prequalification indefinitely.</p> <p>Movement of Consultant to "unacceptable" category rating.</p> <p>Workload - Project-by-Project review of work:</p> <ul style="list-style-type: none">1 Rescind project work awarded but not authorized.1 Reassign work to another consultant when feasible.1 Complete work ODOT unable to reassign due to cost/complexity/stage. <p>1 Based on volume of work, complete mandatory project audit for sampling of projects allowed to complete.</p> <p>Increased oversight/review of interim invoices and supporting documentation.</p> <p>Possible referral to outside entities for additional review, audit or investigation.</p>
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Consultant Impact
<p>Immediate removal from Prequalification - for indefinite term.</p> <p>Rescind project work awarded but not authorized.</p> <p>Consultant eligible to work at ODOT discretion.</p> <p>Consultant invoices subject to additional oversight.</p> <p>Officer signature/approval of invoices required.</p> <p>Consultant not eligible for new work.</p> <p>Could affect work with other agencies and local government.</p> <p>Outside agency referral may occur.</p>

Level 3 - CSRC

3	<p>Termination</p> <p>Immediate termination from ODOT qualification.</p> <p>Movement of Consultant to "unacceptable" category rating:</p> <ul style="list-style-type: none">1 Immediate work stoppage.1 Reassignment of all work. <p>Mandatory project audit for all projects.</p> <p>Mandatory referral to outside entities for additional review, audit or investigation.</p> <p>Termination in another state.</p>
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Consultant Impact
<p>Termination.</p> <p>Immediate work stoppage.</p> <p>Mandatory referral to outside entities.</p>