

TxDOT Overhead Review Process for AQ

It is incumbent upon a Consultant or CPA to learn and maintain the specialized knowledge of FAR 31 guidelines prior to completion of an Overhead Audit report. Additionally, the Consultant's accounting department should be knowledgeable of FAR guidelines in maintaining the records of the consultant to ensure compliance and separation of allowable and unallowable costs in the required job cost accounting system.

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AASHTO (AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS) GUIDELINES

Management and CPA's should have an understanding of AASHTO which is a resource/guide "designed to assist engineering consultants, independent CPA's, and state DOT auditors with the preparation, and/or auditing, of Statements of Direct Labor, Fringe Benefits and General Overhead (indirect cost rate schedules)" and for understanding FAR 31 guidelines and Overhead Audit Reports.

ACCEPTANCE OF FINAL REVIEW OF OVERHEAD RATE

Upon notification of the final review and approval of the Overhead Rate by the Department, if no response is provided by the Contractor within five (5) business days, the rate will become final.

ALLOWABILITY FAR 31.201-2(D)

Adequate documentation necessary to demonstrate: costs have been incurred; costs are allocable to a contract; and, costs comply with cost principles. function may be combined into a single depreciable item of like term and nature such as several hard drives for computers or groupings of smaller equipment.

Documentation to show whom is included, nature and purpose of expense, dates of expenditures, agendas if applicable and allowable costs.

BONUS POLICY REQUIREMENTS

Pursuant to FAR 31.205-6(f)(1), for any bonus to be allowable in a TxDOT review of an OHA report, the Contractor must have a written bonus policy entered into in good faith *before* the services are rendered whereby incentive/bonus payments are awarded according to supporting metrics determined by the company. Bonus policies are normally written and/or revised to coincide with the fiscal year of a company. Written bonus plans should contain, at a minimum, the following components:

- Eligibility Criteria
- Period of the bonus plan
- Measurable performance criteria by position
- Incentive awards/spot bonuses must be related to performance measured by quantitative and qualitative factors
- Form of payment to be received, and
- Distribution of timeline

If a bonus pool of profits is used, in good faith, management should determine the profit percentage or amount of the pool as early as possible

Basing bonus payments solely on the profitability of the firm, or at the discretion of management/supervisors, does not comply with FAR. Also, please provide how each of the individual bonuses were calculated.

Hiring bonuses or referral bonuses should be clearly outlined with parameters of why, to whom, and when these types of payments will be paid. Such bonuses are part of the recruitment process and should be included in the recruitment expenses.

CELL PHONE EXPENSES

Per the ICQ, a consultant should maintain a log of cell phone usage indicating the phone numbers of incoming and outgoing calls to verify the use of cell phones for business purposes only. Such documentation of calls is normally included on the monthly cell phone billings and can be used as a cell phone log if broken down between business and personal calls. Only business calls are allowable under FAR; personal calls are disallowed. Therefore, only the portion of business related calls should be reported on the Overhead Report.

For a phone owned by and billed to the consultant for business purposes, if no logs are kept or the consultant does not trace business and personal calls via the monthly billing, the contracting officer may disallow all or part of a claimed cost that lacks adequate support.

At times, a consultant will allow employees to use personal phones in the course of doing business and provide a reimbursement expense. In such cases, the consultant must provide a cell phone log or billing record to determine the breakout of business and personal usage to verify the expense on the Overhead Report. A cell phone allowance or reimbursement, with no log or backup documentation from phone billings, is not allowable. The contracting officer may disallow all or part of a claimed cost that lacks adequate support.

COMBINED, OFFICE AND FIELD RATES

Under AASHTO 4.2- State and Local Cost Principles

“Although FHWA regulations require state DOT’s to accept indirect cost rates compliant with FAR Part 31 and to accept cognizant audits of FAR-compliant indirect cost rates, those regulations are not applicable to contracts *that do not involve Federal funding*”. Accordingly, for contracts with no Federal funding, some state DOT’s and local agencies define allowable cost more restrictively than FAR Part 31.” And further

that, "...methodologies prescribed by contracting agencies sometimes include: restatement of multi-tiered indirect cost rate structures to a single rate based on direct labor; and, Restatement of separate field and home office indirect cost rates as a combined consultant-wide rate".

It is TxDOT policy that:

- For State funding contracts that do not require a field rate, the Combined Rate will be used in these contracts.
- For State funding contracts that require a field rate, the home office and field rate will be used. In the event the consultant does not have a field rate, the Department will establish a field rate per TAC 9.34.
- The established field rate is a calculation of the Departments database of companies that have actually developed a home office and field rate. The average is the percentage used to establish the final field rate for the contract. At the end of each FY, the average is reviewed and may be adjusted for future contracts.
- For Federal funded contracts, the rate will follow the FAR 31 guidelines for Federal funded contracts.

CPA RESPONSIBILITIES

Before accepting a FAR audit engagement, CPAs must determine if they have the required specialized knowledge, including CPE courses, to complete the engagement. The CPA auditor is responsible for performing an audit in accordance with Government Auditing Standards (GAGAS) to obtain reasonable assurance that the engineering consultant complied with FAR Par 31 and applicable Cost Accounting Standards. A CPS's testing must be performed independently to verify that the engineering consultant's internal controls are properly designed and are operating effectively. Adequate testing of accounts, especially high-risk areas as noted in AASHTO, is critical in issuing an opinion of the Overhead Audit Report.

DEPRECIATION OF ASSETS

FAR 31.205-11 requires that a Contractor's plant, equipment, IT software and other personal property be depreciated. Reimbursement of fixed asset costs shall be based on the asset costs recovered over the estimated useful life of the fixed assets using depreciation methods acceptable for financial purposes. For the purpose of FAR 31 guidelines, depreciation should use a straight line, double-declining balance, or sum of the year's digits. IRS 179 or accelerated depreciation is not allowable.

All depreciable assets should be depreciated. While some Contractor's may have a policy to expense items below certain threshold amounts, FAR 31 guidelines does not recognize expensing of depreciable assets.

Assets of similar function may be combined into a single depreciable item of like term and nature such as several hard drives for computers or groupings of smaller equipment.

DETAILED GENERAL LEDGER

The detailed general ledger is a record that lists and details all business accounts and all transactions posted to each account during a fiscal year, and should be properly segregated to correspond with the accounts listed on the OHA report (i.e., professional fees, office supplies, etc.). The detailed General Ledger is not a trial balance or compilation of checks/payments for the year. A job cost accounting software should be able to generate a detailed general ledger.

As noted below, each expense, by account, should be listed by date, the payee, and a brief description of the purpose of the expense, and debit or credit at a minimum. The description should be brief but descriptive enough to allow a transaction to be verified and vouched from the general ledger to the source documents. Description of a payment as a credit card payment does not provide sufficient detail to describe the payment type and purpose.

Example:

- Professional Fees
Date / Account / Name of Payee / Explanation / Description / Debit / Credit / Ending Bal
- Office Supplies
Date / Account / Name of Payee / Explanation / Description / Debit / Credit / Ending Bal
- Repairs & Maintenance
Date / Account / Name of Payee / Explanation / Description / Debit / Credit / Ending Bal

DIRECT, INDIRECT AND DIRECTLY ASSOCIATED EXPENSES

Per FAR 31 and AASHTO guidelines, Costs identified specifically with a contract(s) are direct costs of that contract including labor, materials, reimbursable expenses, and non-reimbursable expenses. Costs incurred related to contracts and that further or benefit a contract should be recorded as direct costs of the contract under a Consultant's job cost accounting system. The expense of vehicles, equipment supplies, etc. used in the performance of a contract(s) are considered job related costs and are direct costs of a contract. These costs should be tracked as direct cost of contracts in the job cost accounting system and recorded as Direct: Non-Billable costs on the Overhead Audit Report.

As a corollary item, a directly associated cost is a cost generated solely as a result of the incurrence of another cost, and which would not have been incurred had the other cost not also been incurred. If the other cost is a direct cost, the directly associated costs are disallowed. Directly associated costs may include labor, fringe, travel meals, supplies used and similar costs.

Indirect costs represent remaining general and administrative costs that are allocable to multiple cost objectives.

DIRECT SELLING COSTS

Direct selling costs is characterized by person to person contact to induce a particular customer to purchase a particular product or service of a contractor for the customer's use. Direct selling may include:

- Familiarizing a potential or existing customer with a contractor's products or services, conditions of sale or service capabilities
- Negotiation, liaison between customer and contractor personnel, technical and consulting efforts, individual demonstrations of products and/or services

DIRECT LABOR COSTS/INDIRECT LABOR COSTS/ FRINGE BENEFITS

The relationship between the reasonableness of Direct Labor Costs, Fringe Benefits and Indirect Labor Costs is important in reviewing an OHA report. As noted in AASHTO 4.3, the relationship of these cost elements must be reviewed for reasonableness in accordance with FAR 31.201-2 and 31.201-3. For example, the amount of indirect labor, or other fringe benefits, in relation to direct labor may cause concerns regarding the firm's efficiency, holding of employees, or assignment of duties and the extent to which the government should reimburse costs through the overhead rate. When a firm's relationship between Direct Labor Costs and a particular Fringe Benefit or Indirect Labor Costs is not in alignment with other OHA reports reviewed by the Department, an adjustment to the cost may be made by the Department. Pursuant to FAR guidelines, the burden of proof of reasonableness shall be upon the contractor.

DOCUMENTATION

Per FAR 31.201-2(d), costs included in the Overhead Audit Report must be supported and engineering consultants must maintain adequate records, including supporting documentation to demonstrate that the costs comply with applicable FAR cost principles. Receipts/Invoices must have the written purpose/reason for the expense, place, date, full names of all employees and guests, and for meals, must have the receipt that reflects the individual items ordered. Credit card statements are not acceptable proof of expenses. The AQ staff may disallow all or part of any claim that lacks adequate supporting documentation.

During the review of the Overhead Audit Report or the Self-Certification Report, the Reviewer may request additional information pertaining to proof of expenses. The Reviewer may request copies of the original receipts or invoices that support the expense item. Individual expense report, credit card statement, and bank statement are not acceptable proof of expenses. It is important for a Contractor to understand that when the Department requests additional backup information to a submitted OHA report, the Contractor has 30 days to comply or the entire submission may be rejected and no rate provided for that fiscal year. This point is noted at the bottom of the email as:

“In accordance with TAC Title 43, Part 1, Chapter 9, Subchapter C, Rule 9:34 (3)(B), all information requested must be returned within 30 calendar days of the request by the Department. Failure to return all information, or returning only a portion of the information requested, will result in the file being closed for the calendar year and the submittal will not be processed for administrative qualification. If the information is received after the 30 calendar days, the file will not be reopened.”

EMPLOYEE MORALE, HEALTH, WELFARE, FOOD SERVICE AND DORMITORY COSTS AND CREDITS (FAR 31.205-13)

Unallowable expenses include any cost that has recreational or entertainment features including: company picnics and holiday parties; tickets to sports or other entertainment events; memberships to social organizations; gifts to employees, unless connected to established awards policy based on performance; and, company sponsored trips and outings; coffee/snacks in break room for employees if the amount of coffee and snacks is unreasonable; awards banquets meals, trophies, etc.; birthday cakes, greeting cards and seasonal decorations.

Exceptions to unallowable employee morale recreational activities include: company sponsored sports teams; wellness or fitness centers; counseling or health advisory services; vending machines/cafeterias or lunch wagons; dormitory services; house publications such as company newsletters, announcements, human resource notifications, etc.

ENTERTAINMENT (FAR 31.205-14)

Regardless of purpose, cost for any amusement, diversion, social or recreational activity is considered unallowable. Examples include: memberships in social, dining, or country clubs; gifts to clients or employees (unless performance related); tickets to shows or sporting events; company picnics, parties, or other outings where activity is recreational in part; dinners or other after hours events (unless solely business related); business meetings where spouses or guests are present; client entertainment of any kind; alcoholic beverages, music (band), organ grinder, magician; and, business lunches are suspect, especially if frequent and expensive.

FAR 31 (48 CFR PART 31 CONTRACT COST PRINCIPLES AND PROCEDURES)

TxDOT Administrative Qualifications reviews of consultant's Overhead Audit Reports are based on FAR 31 which establishes boundaries and parameters regarding allowable and unallowable costs that can be claimed under government contracts.

IMMIGRATION EXPENSES

Legal and other fees relating to an employee's immigration status are personal expenses of the employee and are not allowable.

INDEPENDENCE OF ANNUAL OHA REPORTS

Each year's annual Overhead review is independent from previous year's reports and the approved OHA rate is independent of previous year's rates. The allowable or disallowed costs contained in each year's report are independent upon each year's review.

Depending on the complexity of a company's OHA report, the Department may perform a more in-depth review of the OHA report and individual expenses, including the documentation and allowable expenses. It is the policy of the Department to conduct an in-depth review of a contractor's OHA report at least every three years where possible.

JOB COST ACCOUNTING SYSTEMS

Under FAR, the consultant must maintain a job cost accounting system which accumulates and assigns costs to contracts/projects. The CPA and accounting department should be well versed in job cost accounting practices and systems used by A/E firms. The OHA report should include a description of accounting policies and procedures governing the classification of costs as direct or indirect, and describe how project costs are accumulated and assigned to projects.

MANAGEMENT RESPONSIBILITIES

Management should establish Policies and Procedures for compliance with FAR 31 and TAC 9.34. Management bears the sole responsibility to see that all relevant employees should have a clear and consistent understanding of the policies and procedures for recording allowable costs and for identifying, segregating and removing unallowable costs as transactions occur, and the necessary documentation required under FAR 31. Management must be responsible to certify that the indirect cost rate schedule includes only allowable costs in preparation for an independent audit or self-certification report. Management bears the ultimate responsibility for the Overhead Audit Report and should perform its own analysis of high-risk accounts, assurance that internal controls are adequate and working properly, and that all unallowable costs have been removed from the final report.

MEALS ELIGIBILITY AND DOCUMENTATION

Per AASHTO guidelines, meals associated with valid travel purpose expenses are governed by FAR 31.205-46 which includes references to maximum per diem rates. Travel meal expenses in excess of the per diem allowable is disallowed. Non-travel business meals are governed by FAR 31.205-43(c), which provides that incidental meal costs incurred during business meetings are allowable if the principal purpose of the meeting is the dissemination of trade, business, technical, or professional information, are properly supported, and are reasonable in amount.

Documentation for meals must contain receipts/invoices with the written purpose/reason for the expense, place, and date, full names of all employees and guests, and a receipt that reflects the individual items ordered by each person. Individual receipts are important to verify reasonableness and disallowed expenses such as alcohol. Credit card, bank, and company expense statements are not acceptable proof of expenses. Alcohol is not an allowable expense.

MEETINGS, CONFERENCES, TRADE SHOWS

For all meetings, conferences, trade show, seminary, chamber of commerce, or any professional meetings of any kind attended by employees, officers, directors, quests, outside contractor on behalf of the firm, the Reviewer requires a copy of the agenda, original receipts for the expenses and employee's title and relationship to Firm. Any expense item not properly supported in accordance with FAR 31.201-2(d); FAR 31.205-46 will be disallowed

PROFESSIONAL AND CONSULTANT COSTS (FAR 31.205-33)

Allowability factors specified include: a qualified specialist; need for service given contractor's service specialty; arm's length bargaining; customary fees charged for same service in general market place; impact of services on government business; and, whether service can be performed internally.

Specific Documentation Requirements (FAR 31.205-33(f)) are: agreement details including scope of work to be performed, compensation rates, nature and amount of other expenses; evidence that work was performed, and the details as to services provided (deliverables, if applicable and related documents, i.e. trip reports, minutes of meetings, monthly report activities); and, invoices that sufficiently describe services performed and time expended.

PUBLIC RELATIONS AND ADVERTISING (FAR 31.205-1)

Allowable advertising includes: requirement of contract- acquiring scarce items or disposal of scrap or surplus items; recruiting needed personnel; promoting sales of products as exports normally sold to US government. Allowable Public Relations includes: items required by a contract; responding to inquiries on company policy, media liaison, communication with press or stockholders; certain community service activities; plant tour and open houses; and, product roll out or ship christening ceremonies if allowed by contract.

Unallowable public relations and advertising includes: any cost/event that is related to promoting sale of products or services by stimulating interest in product, or call favorable attention to company and/or enhancing company image to sell company's product; trade shows where emphasis is not on export sales of products normally sold to government; meetings/seminars where purpose is not business related; promotional materials, brochures, souvenirs, meeting wages, etc. whose purpose is to promote products or company image; company celebrations and new product announcements; and, memberships in community and civic organizations.

REASONABLENESS OF EXPENSES

Per FAR 31.201-3, a cost is reasonable if it does not exceed that which would be incurred by a prudent person in the conduct of competitive business and is considered an ordinary and necessary expense. The burden of proof shall be upon the consultant to establish a cost is reasonable. While the reasonableness test applies to all expenses, as noted in the AASHTO guidelines, of specific concern for reasonableness is the amount of indirect labor in relation to direct labor which may cause concerns regarding a firm's efficiency and the extent to which the State should reimburse costs through the overhead rate.

RESPONSIBILITY OF CONSULTANT ACCOUNTING DEPARTMENTS

The Accounting Department is responsible for the Consultant's understanding of the principles in FAR Part 31.2, which are the primary federal regulations addressing Allowable Costs and Unallowable Costs. The Accounting Department shall:

- Ensure Employees are formally trained in the requirements of FAR Part 31.2.
- Maintain an appropriate chart of accounts and maintain cost accounts in the general ledger to enable the segregation of Unallowable Costs.

- Ensure costs are properly coded as "Allowable" or "Unallowable" and that Employees do not submit Unallowable Costs for reimbursement.
- Ensure all Unallowable Costs are identified and removed from the indirect rates used for OHA Indirect Cost Rate schedules.
- Arrange for periodic internal reviews and audits to ensure that the Consultant is complying with FAR Part 31 and any applicable state or local regulations such as TAC 9.34.
- Have final authority within the Consultant to decide which costs are allowable and which are unallowable.
- Enforce this Policy on behalf of the Consultant and update and revise the Policy as needed.

SAMPLE VEHICLE TRACKING SCHEDULE (EXCEL BASE) vehicle expense tracker 2.xlsx

TAC 9.34, COMPREHENSIVE PROCESS

The TxDOT Administrative Qualifications Process for contracting is subject to the rules published under the Texas Administrative Code Title 43, Part 1, Chapter 9, Subchapter C, Rule 9:34, Comprehensive Process.

TAXES (FAR 31.205-41)

Allowable taxes are: state and local income, franchise taxes; sales taxes; FICA, FUI, SUI; and, communications taxes.

Unallowable taxes include: federal income and excess profits taxes; interest or penalties on late payment of taxes; taxes for refinancing/refunding operation; taxes where exemptions are available to Government; taxes from which company is exempt (e.g. state income taxes on Sub S distribution); special assessments on land that represents capital improvement; and, taxes on property used solely for purposes other than Government contracts.

TRADE, BUSINESS, TECHNICAL AND PROFESSIONAL COSTS (FAR 31.205-43)

Allowable costs include: membership dues for technical, business, professional, and trade organizations; subscriptions to technical and trade journals, magazines, newsletters; cost for meeting or seminars when purpose is for dissemination of business/technical information, stimulation of production, and improved productivity.

Allowable meeting costs may include: organizing, setting up, advertising, sponsoring; rental of facility; travel costs of participants and business lunches; and, refreshments.

TRAVEL COSTS (FAR 31.205-46)

Travel costs incurred by contractor personnel in connection with official company business are allowable subject to limitations including:

- Cost principle covers- per diem (lodging and meals and incidentals), miscellaneous expenses, transportation
- Travel cost principle does not incorporate government travel regulation in their entirety; only incorporates: definition of lodging, meals, and incidentals; maximum per diem rates-combination of hotel and meals/incidentals; one ceiling covering total; special or unusual situations when higher per diem amounts may be justified.
- Hotel, meals, and incidentals are allowable up to daily per diem ceilings (in total) for lodging and meals/incidentals specified in: FTR- travel within conterminous 48 states; JTR- travel in other states, and US possessions outside 48 states; Dept. of State Standardized Regulations- overseas locations.

- Airfare is restricted to lowest priced airfare available to contractor during normal business hours. Exceptions are provided- medical conditions, prolonged travel, unreasonable travel hours- and regulations should not be interpreted to allow Business or First-Class travel.
- Car rental- no specified restrictions, but should be reasonable
- Regardless of reimbursement plan, contractor must document: date and place of trip; purpose of trip; name of employee and relationship to contractor.
- Adequate documentation necessary to demonstrate: costs have been incurred; costs are allocable to contracts; and, costs comply with cost principles.
- Documentation should show nature and purpose of expense (agendas if applicable), names of persons traveling, dates of travel.

VEHICLES & EQUIPMENT

Vehicle costs in the indirect cost pool must exclude personal use, direct project costs, and travel associated with unallowable business-related activities (e.g., lobbying general advertising, etc.). Engineering consultants are required to maintain adequate documentation, such as vehicle mileage logs completed in accordance with IRS requirements, to separate and establish that the vehicle costs in the indirect cost pool are allowable and exclude unallowable portions noted above. Expenses associated with the operation of a vehicle for personal use or job-related activities such as depreciation, repairs and maintenance and insurance should also be disallowed. (Examples of job related vehicle and equipment use are survey trucks and equipment, paving equipment, etc.) A sample vehicle tracking system is noted below. The contracting officer may disallow all or part of a claimed cost that lacks adequate support.

FAR 31 states that for reasons of practicality, the contractor may treat any direct cost of a minor dollar amount as an indirect cost if the accounting treatment provided that; a) the cost is consistently applied to all final cost objectives; and, b) it produces substantially the same results as treating the cost as a direct cost. Some Contractors use this to lump all vehicle expenses into an indirect cost pool for vehicles. However, this is *only* after all vehicle costs directly associated with the performance of a contract, or that further or benefit the performance of a contract, have been excluded. What are left are the true general and administrative costs of the vehicles of which the personal usage of the vehicles must be adjusted. Records of such costs must be maintained by the consultant as noted below in the Vehicle Tracking Schedule or like system.

Direct and indirect expenses including insurance, depreciation, fuel, repairs and maintenance, etc. for vehicles/equipment used in the performance of jobs/contracts are directly associated expenses and are project related. The contracting officer may disallow all or part of a claimed cost that lacks adequate support.

[SAMPLE VEHICLE TRACKING SCHEDULE \(EXCEL SPREADSHEET\)](#)