



395 John Ireland Boulevard
Saint Paul, Minnesota 55155

September 24, 2024

Consultant Partners,

The Minnesota Department of Transportation greatly values its relationship with its consultant community and strives to be responsive in order to maintain a competitive environment while considering our taxpayers, customers and partners.

All states, including Minnesota, must comply with the Federal cost principles in the Federal Acquisition Regulations (FAR) when calculating overhead rates on federal-aid Professional Technical (PT) contracts, as required by the Code of Federal Regulations Title 23, part 172. Minnesota Statutes §174.23, Subd. 9 requires MnDOT to apply these same cost principles for state-funded contracts.

The Federal Highway Administration's Brooks Act Memo, "Awarding Engineering and Design Services Contracts Based on Brooks Act Requirements," dated December 12, 2005, states that Minnesota is granted an exception "from the requirements relating to audits [and] indirect cost rates."

- *West Virginia and Minnesota are granted exceptions from the requirements relating to audits, indirect cost rates, pre-notification and confidentiality of data.*

This past year, MnDOT has had discussions with other state departments of transportation, the consultant community and internally within MnDOT on topics such as controlling costs, how other state departments of transportation apply overhead and calculate fixed fee and the impact to MnDOT, Minnesota taxpayers and our consultant partners.

MnDOT understands the cost of doing business has increased over the last several years and, therefore, will increase its overhead rate cap from 170% to 175%. This will go into effect for contracts that start the contracting process on or after October 1, 2024. Contracts already in process will maintain the current overhead rate cap of 170%. Amendments to existing contracts will continue to use the cap that was in place in the original contract. There will be no adjustments to the fixed fee calculations.

MnDOT appreciates its partnership with the consultant community. The candid conversations and time spent gathering information and providing input is invaluable to MnDOT. We appreciate all you do to help us deliver on MnDOT's mission.

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Please share this letter and information regarding MnDOT's increased overhead rate cap with our consultant partners.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jean Wallace". The signature is fluid and cursive, with a large initial "J" and "W".

Jean Wallace, P.E.
Deputy Commissioner & Chief Engineer

cc: Nancy Daubenberger, Commissioner, Minnesota Department of Transportation
Michael Beer, Assistant Commissioner, Engineering Services Division, MnDOT
Jay Hietpas, Assistant Commissioner, Operations Division, MnDOT
Lynn Clarkowski, Assistant Division Director, Engineering Services Division, MnDOT
Chris Roy, Assistant Division Director, Operations Division, MnDOT
Melissa Brand, Consultant Services Director, MnDOT
Ryan Gaulke, General Counsel, Office of the Chief Counsel, MnDOT
Robert Timmerman, Assistant Office Director, Acting Director, Office of Audit, MnDOT
Fatema Haji-Taki, Staff Attorney Supervisor, Office of the Chief Counsel, MnDOT