

## Chapter 8

# Fiscal Management & Audit Procedures

### 8.1 General Discussion

All billing must be submitted to the MDT contact by the local agency in accordance with the terms of the Project Specific Agreement (PSA). Typically, the terms within the PSA will provide for quarterly reimbursements during each phase requiring either 1) a retainage of 25% from the local agency or 2) bonding from the local agency. MDT will review, on a case-by-case basis, for any exceptions to the reimbursement process. Acceptance will be made by MDT and FHWA.

The execution of the Project Specific Agreement does not constitute approval of federal funds. Project authorization from MDT is made in a separate notification (see Chapter 5 – Project Approval Letter).

MDT assigns a contract number on all federal aid construction projects that identifies the project. This number should be used in addition to the federal aid project number when corresponding with MDT.

Indirect cost recovery is accomplished through the Indirect Cost Accounting Plan (ICAP). As of July 1, 2007, MDT recovers indirect costs (IDC) on the federal funds of urban-funded projects and on any local participation or match on projects that are completed by local agencies through the LAG process. Projects will have language in the PSA regarding the application of IDC. The IDC rate will be applied to the federal (urban) funding portion of project costs and will also be applied to the required local match funding. Additional funds that the local agency may put into the project may have the IDC rate applied.

### 8.2 Billing Procedures

Once MDT has executed the PSA and has given the local agency written authority to proceed, the agency accumulates billings in accordance with the PSA. Any work performed before the official authorization date does not qualify for federal participation.

The final project billing is submitted as follows:

#### ***Cost Reimbursement***

Reimbursement can only be requested after expenses have been incurred and work is certified as being complete in the local agency letter to MDT. The reimbursement request must:

- Detail the total amount of claims received
- Indicate the federal aid reimbursement amount expected
- Attach a copy of all supporting claims
- Certify the work has been satisfactorily completed
- Be delivered to the District Liaison for work occurring after MDT construction contract award concurrence has been issued. The request for PE account expenses should be directed to the LAG Certification Liaison
- Indicate to whom and where the warrant must be delivered. After completion of construction activities, notify the District Liaison who will perform a final project review and perform other closeout activities prior to submitting the final reimbursement request to the Helena office for processing. The reimbursement request should be mailed to the:

Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

After receipt of the letter requesting reimbursement, a review by the LAG Certification Liaison will be conducted

- The LAG Certification Liaison will review the request and check:
  - a. The federal aid project name and number for correctness;
  - b. The appropriateness of the amount requested. The amount requested must be consistent with the approved budget and reported progress;
  - c. The eligibility of all costs and their consistency with the scope of services and project location; and
  - d. The financial numbers for accuracy.
- The LAG Certification Liaison will approve the request for payment and forward it to the Engineering Financial Contact. The Engineering Financial Contact collects the reimbursement requests and forwards them to the Engineering Accountant. The Engineering Accountant prepares the invoice for payment and forwards the claim to the Engineering Financial Contact for final approval
- A warrant is prepared and mailed within five business days
- If the information is unsatisfactory, the local agency will be notified as to the reason(s)

### 8.3 Identification of Federal Aid Participating and Nonparticipating Charges

Reimbursement of costs eligible for Federal Highway Administration's (FHWA) participation is provided under Title 23 of the United States Code. The following is an overview of participating and nonparticipating charges by FHWA.

- a. Participating (Eligible for Federal Aid). The following criteria must be met for charges to be considered participating when charged directly to a federal aid project:
  - The work must be programmed with FHWA.
  - The costs must have been incurred after the FHWA authorization date to proceed with the work.
  - The costs must be wholly for the benefit of the project being charged, e.g.: labor performed directly for that project, supplies used up in the course of a project, etc.

Examples of federal aid participations follow. This list is not limiting or all-inclusive.

1. Labor—to design, survey, prepare plans, appraise right-of-way, inspect construction activities, audit agreements, etc. (see Section 8.32a).
2. Travel and Per Diem — of employees involved in any participating activity related to the project (see Section 8.32 b).
3. Materials — incorporated into a federally approved project
4. Supplies purchased and consumed entirely on a federally approved project. Supplies might include: cloth tapes, cylinder molds, drafting supplies, film including developing and printing, hubs, paint (marking spray), stakes, long distance telephone calls identified by project, royalty on

materials, and initial or new costs of temporary traffic control devices.

5. Services for material testing, document reproduction, mapping, computer, and equipment usage charges. All of these will be based upon Federal guidelines, as defined in 48 CFR, Chapter 1, Part 31.
  6. Office Rental – including utilities and telephone service.
- b. Nonparticipating. For specific projects, the following items are not eligible for federal aid participation:
1. Equipment Purchase and Repair – unless specifically approved by FHWA, e.g., engineering, safety, or office equipment and supplies.
  2. Supplies purchased and consumed on a number of projects or for the general management or operation of the organizational unit or in administration signs, small tools, and temporary traffic control devices.
  3. Labor for activities not directly related to the project nor programmed with FHWA. Labor activities pertaining to the general operation of an agency are not eligible for federal participation.
  4. Travel and Per Diem of employees performing activities classified as nonparticipating or unrelated to a specific federal aid project.

### 8.3.1 Participating Functions

Classifications of work programmed with FHWA and eligible for federal aid:

- a. Preliminary Engineering (PE). The work of locating and designing, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right-of-way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction. The work may also include traffic counts, studies undertaken to determine traffic demands, holding of public hearings, preparation of right-of-way cost estimates, legal, and other costs incidental to the location and design of a highway project necessitating the acquisition of right-of-way thereon up to, but not including the appraisal of individual parcels for acquisition purposes.

These engineering costs are generally incurred prior to the date of construction approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering. During the construction phase of a project when a major change takes place that requires additional design or PE effort, the appropriate job can be reopened on a case-by-case basis after approval from FHWA.

Also, any construction staking done in advance of the award should be charged to construction engineering, not PE.

- b. Acquisition of Rights-of-Way. The continuation of preparation of right-of-way plans; appraisal for parcel acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishing of relocation advisory assistance; and other related

labor expenses.

- Excess land (appraised value) including uneconomic remnants.
  - Improvements (appraised salvage value).
  - Right-of-way acquired after certification by the local agency that right-of-way necessary for a designated federal aid highway project has been acquired.
  - Judgments in condemnation cases not appealed when the attorney's closing report indicates a basis for appeal. The amount in excess of the review appraiser's determination of value is nonparticipating.
  - Landowners:
    - Attorneys' fees;
    - Witness fees; Expert witness fees; or
    - Similar costs to a landowner based on value of the services rendered to him which are paid by the local agency in connection with acquisition of rights-of-way, regardless of whether such costs are included in court judgments or court costs in litigated condemnation cases, e.g., statutory evaluation allowance.
- c. Construction Engineering (CE). The work of supervising construction activities: the inspection of construction and related mechanical aspects (e.g., staking necessary to review construction plans together with those staking activities necessary for the local agency to control construction operations); testing of materials incorporated into construction, checking shop drawings and measurements for and preparations of progress and final estimates, and as-built drawings. Construction engineering costs are generally incurred only after approval of the PS&E and acquisitions of Rights-of-Way, and a contract number is issued, but incurred prior to:
- Completion date of the final contract pay estimate and its submission to the contractor;
  - The final date of charges for required material testing; or
  - Completion date of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.
- d. Administrative Settlement Costs-Contract Claims. FHWA will participate, up to the appropriate Federal matching share, provided that: (1) The FHWA was consulted and concurred in the proposed course of action; (2) All appropriate courses of action had been considered; and (3) The local agency pursued the case diligently and in a professional manner.
- e. Construction Costs. Construction costs, other than those described in item (8.32 h.) are comprised of contractor payments. Contractor payments are the full compensation for all resources (materials, equipment, labor, etc.) necessary to complete the work described in the contract plans package. Mobilization of personnel, equipment and supplies to the project site, miscellaneous work, temporary erosion control features, and traffic control are also included. The basis of payment is the unit prices and lump sum items in the Contract. Partial payment of the unit price or lump sum bid may be considered for materials furnished to the contractor and stockpiled prior to installation. Extra work beyond that described in the contract package is authorized by a change order signed by both parties.
- f. Construction Costs for Other than Contractor Payments.
- Royalty expenses for material furnished by the local agency that are used by the contractor.

**8.3.2 Standards for Selected Items of Costs**

The following are standards for determining that the selected items of cost are allowable. In general, costs must be reasonable, necessary, and allocable to the specific project. The allowability of the selected items of cost is subject to the general policies and principles stated above.

- a. Salaries and Wages.
  1. Subject to appropriate authorization requirements, federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project-related activities.
  2. Salaries, wages, and related payroll expenses of a local agency for maintenance, general administration, supervision, and other overhead are not eligible for reimbursement except as provided for in Section 8.32 e2.
- b. Travel and Transportation.
  1. Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence essential to the prosecution of the project and is performed in accordance with prescribed procedures.
  2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence incurred in conformance with the established reimbursement policy and mileage of the local agency.
- c. Employee Leave and Holidays.
  1. A local agency may claim reimbursement for the costs of leave, e.g., annual, sick, military, jury, etc., that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the local agency, must be equitably distributed to all activities, and the proportional costs distributed to a federal aid project must be representative of the amount that is earned and accrued while working on the project.
  2. Compensatory leave granted by a local agency in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (1) of this section.
  3. Costs for other leave of a similar nature which may be peculiar to a specific local agency may also be reimbursed provided it meets the criteria set forth in paragraph (1) of this section.
- d. Social Security, Retirement, and Other Payroll Benefits.
  1. Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work in federal aid projects.
  2. The costs for such benefits must be a liability of the local agency and must meet the criteria set forth in paragraph 1 of c above.

- e. General Administration and Other Overhead Costs Are Not Allowed.
1. General administration, supervision, and other unallowable overhead costs of a local agency are those considered necessary for the management, supervision, and administrative control of a suitably equipped, staffed, and operational agency. Examples of such unallowable costs may include, but are not limited to: the following types of personnel, related payroll benefit costs, and other administrative or support services (refer to CFR 23, 1.11):
    - Directors, department heads, legal, accounting, budgeting, personnel, and procurement units.
    - Related clerical, secretarial, and other support services for officials and personnel listed immediately above.
    - Management, supervision, and administrative overhead costs incurred by other units or departments of the state, local agencies, or governmental organizations.
  2. Costs incurred for services rendered by employees generally classified as administrative may, however, be considered eligible for reimbursement for:
    - A highway planning unit and a research development unit, in the ratio of time spent on the participating portion of work in the unit to the total unit's working hours; and
    - Other operating units if such employees are assigned for specific identifiable periods of time to perform project-related activities in the same manner as other operating personnel.
- f. Use of Cost Accumulation Centers and Cost Distribution Methods.
1. Cost accumulation centers, i.e., cost centers, cost pools, or other acceptable cost accumulation methods, may be used to capture related types of costs for later distribution to all projects or other benefiting activities for which work was performed during the accounting period. The accounting and cost distribution procedures must be in accordance with paragraph (2) of this section for types of costs incurred under the following general criteria:
    - Salaries, wages, and related payroll benefit costs may be incurred during a payroll accounting period which affects a number of projects and, therefore, may not be easily adaptable to charging directly to individual projects due to such factors as (i) incompatibility of time increments for individual projects; (ii) an inordinate amount of time or an additional number of documents to provide separate project coding; or (iii) a documented reduction of overhead costs in the elimination of processing source and coding required, increased electronic data processing applications, and additional accounting requirements.
    - Small cost items may be incurred which affect several projects and would result in a disproportionate amount of time and number of documents for separate project accounting in relation to the amount of costs involved.
    - Items of costs may otherwise be eligible for reimbursement but, due to their nature and the small amounts involved, they are not being claimed for reimbursement, since the additional overhead costs required for separate project coding and effective internal controls are not cost beneficial relative to separate project reimbursable amounts.
    - Cost items must be directly attributable to and properly allocable to the projects to which they are distributed. They must not lose their identity, i.e., type, amount, purpose for which incurred, whether federally participating, input source, etc.

2. The use of separate cost accumulation centers for comparably related types of costs is a prerequisite to the use of percentages, or other acceptable distribution methods, for cost distribution to benefiting projects or other activities. The accounting procedures and methods of distribution used must have prior concurrence of the FHWA, be representative of average actual costs, and must assure that (1) costs are uniformly and equitably distributed to all projects and activities for which work was performed during the accounting period irrespective of source of funds, (2) provisions are established for an adequate segregation of costs and separate distribution methods for similarly related types of costs, (3) actual costs and liabilities are fully accounted for and controlled, and (4) that reviews are made periodically, and the rates or other distribution methods are adjusted at least once annually by any over or under distributed accumulated costs from the cost accumulation center for the preceding accounting period.
3. Percentages representative of average actual costs may be used to distribute leave, social security, and other payroll benefits. These rates are based on prior cost experience adjusted by anticipated known factors which will affect overall costs during the current year, e.g., scheduled salary increases, changes anticipated in insurance premiums, etc.

#### g. Audit Expense

Project related audits performed in accordance with generally accepted auditing standards (as modified by the Comptroller General of the United States) and applicable federal laws and regulations are eligible for federal participation.

The local agency may use other state, local public agency, and federal audit organizations as well as licensed or certified public accounting firms to augment its audit force.

Audits performed in accordance with the requirements of 23 CFR Part 172, audits of third party contract costs, and other audits providing assurance that a recipient has complied with FHWA regulations are all considered project related audits. Audits benefiting only nonfederal projects, those performed for local agency management use only, or those serving similar nonfederal purposes are not considered project related.

1. Federal funds may be used to reimburse a local agency for the following types of project related audit costs:
  - Salaries, wages, and related costs paid to public employees in accordance with Section 8.32 a;
  - Payments to any federal, state, or local public agency audit organization; and
  - Payments to licensed or certified public accounting firms.
2. Audit costs incurred by a local agency will be equitably distributed to all benefiting parties. The portion of these costs allocated to the Federal Aid Highway Program which are not directly related to a specific project or projects will be equitably distributed, as a minimum, to the major FHWA funding categories in that state.

#### h. Administrative Settlement Cost Contract Claims.

Administrative settlement costs are costs related to the defense and settlement of contract claims including, but not limited to, salaries of a contracting officer or their authorized representative,

attorneys, and/or members of state boards of arbitration, appeals boards, or similar tribunals. These costs are allocable to the findings and determinations of contract claims, but they do not include administrative or overhead costs.

1. Federal funds may participate in administrative settlement costs which are:

- Incurred after notice of claim;
- Properly supported as reasonable costs;
- Directly allocable to a specific federal aid or federal project;
- For employment of special counsel for review and defense of contract claims, when recommended by the State Attorney General or local agency legal counsel, and approved in advance by the FHWA Division Administrator, with advice of FHWA Regional Counsel; and
- For travel and transportation expenses, if in accordance with established policy and practices.

2. Federal funds will not participate: (1) If it has been determined that local agency employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual State practices in project design, plan preparation, contract administration, or other activities which gave rise to the claim; (2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and (3) In tort, inverse condemnation, or other claims erroneously styled as claims "under a contract".

#### **8.4 Audits**

The local agency shall establish a reasonable accounting system, which enables ready identification of compliance with the requirements stated above. MDT may audit the local agency's records anytime during the project to verify use of the federal funds. The right to audit shall include subcontractors that are used during the project. The local agency shall insure MDT has these rights with the subcontractor(s).

#### **8.5 Tools**

Link to FHWA training videos regarding Finance:

<http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=55>