

STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION

FROM: William J. Oldenburg, PE
Consultant Selection Committee Chair

DATE: 3/22/2022

SUBJECT: **Salary Cap Elimination**

AT: Dept. of Transportation
Executive Office

TO: All Project Managers and Contract
Managers

Effective immediately all new consultant agreements will have no salary benchmark (cap) requirements.

In 2016 the Department set the salary benchmark (cap) a consultant firm could charge at \$60/hour. Any salary over that amount required a formal salary cap waiver. In October 2021 ACEC-NH firms requested an adjustment in the \$60/hour salary cap. Over the last several months Department staff on the Consultant Selection Committee have been working to analyze different payment scenarios that are affected by the salary cap, as well as the overhead and profit consultants charge. This was reviewed so the Department could limit costs, assign risk appropriately, and review how project hour distribution has changed over the last several decades. The Committee reviewed numerous projects, both standalone and task orders, to understand how the salary cap affected these projects.

With the approval of Director Stamnas, the Commissioners decided to eliminate the salary cap, based upon our review and recommendation.

Existing Contracts:

- **Standalone Contracts:** Any consultant fee that has been approved by the Assistant Commissioner will not be changed to remove the salary cap. The contract language, that includes the salary cap information will not be amended. Any salary cap waivers that have been approved will be honored. Any existing contract with an approved fee using the \$60/hr. cap will not be re-calculated or amended for the sole purpose of adjusting the contract to remove the salary cap.
- **Statewide On-Call Contracts:** Any contract that has an approved Technical Review will not be changed to remove the salary cap. The contract language, that includes the salary cap information will not be amended. Any salary cap waivers that have been approved will be honored. If a new task order assignment requires specialty or niche work the consultant may request a salary cap waiver for that assignment. The “old rules” apply, the PM or Contract Manager must formally recommend/deny the salary rate request and the salary cap waiver memo must be approved by the Assistant Commissioner.

New Contracts or New Parts of a Multi-Part Contract:

The elimination of the salary cap shall be applied to any new contract where the fee hasn't been approved yet by the Assistant Commissioner. This would relate to removing the cap for any new contracts, any contract fee amendment even if the original fee had the \$60/hr. cap included (new rate only applies to the amendment), or any future contract of a multi-phased contract (currently in a Preliminary Design contract (old cap) but when negotiating the Final Design, we would remove the cap). Depending on how far the contract has been developed, please remember that a change to the consultants' salaries will require a revised Technical Review.

Profit (Fixed Fee):

The base rate of 10% profit should be used as a negotiating starting point on all our cost-plus fixed fee contracts. The Contract Manager/Project Manager can negotiate the profit based upon the risk, complexity of the work, required timeframes, etc. For all standalone contracts the Consultant Selection Committee will discuss the appropriate profit rate with the Project Manager/Contract Manager during fee negotiations and recommend the profit rate at that time. As is customary any request to adjust the profit rate from 10% shall be vetted through the Front Office for Assistant Commissioner approval as part of the Fee Approval submission process.