

Project Administration Manual - Amendment #2, Revised September, 2007

GUIDELINES FOR "STALE" CONSULTING SERVICES CONTRACTS

BACKGROUND

Engineering services on Department projects are provided based on the terms and conditions of the Consulting Services Contract. Extensions and scope changes are processed in accordance with Department policies. An Escalation clause is employed to account for the impact of inflationary influences on fees over the term of the project. The Department has reviewed and updated the Escalation clause for improved response to changing industry market conditions to reduced Consultant risk and increase cost efficiencies on Department projects.

ISSUE

With the Department's direction to have project designs completed earlier, the possibility of impacts on Consulting Services Contracts through scope changes or project delays has increased. In the case of significant project delays or changes in project priorities which the Consultant may not reasonably be able to account for in his proposal, Contract rates can be adjusted in accordance with the Escalation clause, however there may be situations on long duration Consulting Services Contracts or where there have been significant delays on a project beyond the Consultant's control where the Escalation clause may not provide appropriate compensation to the Consultant. In some cases, revised/renegotiated rates may be more applicable to current industry market conditions.

RECOMMENDATION

The Department's intent continues to be to work within the terms and conditions of the current Consulting Services Contract for extended services. If a concern regarding a "stale" Consulting Services Contract is identified by the Consultant, the Project Sponsor should direct the Consultant to present their case to the Department. **The Department may consider a request for negotiation of new rates and/or preparation of a new Consulting Services Contract under condition that the request meets all of the following conditions:***

- 5 years or more have elapsed from the date of execution of the Consulting Services Contract to the date of the request for negotiation of new rates (**Note: Requests for additional costs retroactive to the date of request for negotiation of new rates will not be considered**);
- The current upset fee limit for the Consulting Services Contract at the time of the request is greater than \$250,000;
- The difference in total dollars between the remaining Contract services under the **Current Contract** hourly rates, lump sum prices, and sub consultant prices (rates and prices as per the original Contract or as amended through application of the Escalation clause) versus the remaining Contract services under the **Consultant's Current Market** hourly rates and **Correspondingly Adjusted** lump sum and sub consultant prices, is a minimum of 2% of the current Contract upset fee limit, and a minimum of \$10,000.

Note 1: Consultant's Current Market hourly rates are the Consultant's standard hourly rates for other similar Department work during the current calendar year – consistent with Industry's Current Market hourly rates, or negotiation may be required to adjust the Consultant's Current Market hourly rates for consistency with Industry's Current Market hourly rates.

Note 2: Correspondingly Adjusted lump sum and sub consultant prices refers to original Contract lump sum and sub consultant prices (or as amended through application of the Escalation clause) adjusted based on the % difference in total dollars for remaining hourly Contract services under the Current Contract hourly rates versus the Consultant's Current Market hourly rates (or as adjusted for consistency with Industry's Current Market hourly rates).

If a new Consulting Services Contract is required, it would incorporate the most current Escalation clause/process.

CONTACT

Questions with regard to this amendment should be directed to Alberta Infrastructure and Transportation's Professional Services Section (Attention: Allan Donovan @ (780) 422-4202).

Recommended 
Director, Professional Services Section

Approved 
Executive Director, Program Management Branch

***Revision to Project Administration Manual Amendment #2 document – Revised statement clarifies that all conditions must be met.**