

## ODOT NEGOTIATED BILLING RATE (NBR) GRADUATION GUIDANCE

Going from Negotiated Billing Rates to Direct and Indirect Cost Rates

### HOW DOES THIS APPLY TO YOUR FIRM?

At the point your firm has developed its own Indirect Cost Rate (ICR, also known as overhead), as required through [ODOT's Billing Rate Policy](#), and have submitted that information to [ODOTBillingRateUpdates@odot.oregon.gov](mailto:ODOTBillingRateUpdates@odot.oregon.gov) for review.

*Firm's actively providing services to ODOT are required to submit their indirect cost rate information within 180 days of the firm's fiscal year end (FYE) closing date. If for example you have a FYE of December 31, you should submit your ICR for review prior to June 30 of the following year (this applies to sub-consultants as well as prime consultants).*

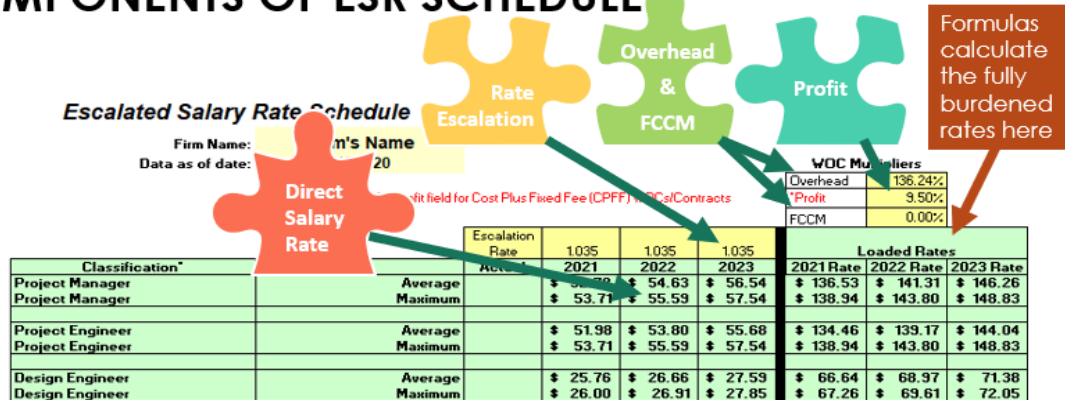
### WHAT HAPPENS NEXT?

Once you've provided your Indirect Cost Rate (ICR) information to ODOT Procurement Office (OPO) Billing Rate Oversight, ODOT Audit Services will review the data and reach out with any questions or to request additional information. The review will also include that for Facilities Capital Cost of Money (FCCM), if applicable to the firm.

ODOT Billing Rate Oversight will review the Direct Salary Rate (DSR) data provided. Consultants complete the [Direct Salary Rate \(DSR\) schedule](#) which is used to develop an Escalated Salary Rate (ESR) schedule which set the average and maximum direct salary rates for each job classification. ESRs may be updated annually and are escalated in three-year increments to allow for multiple year contracts. At a minimum, an updated DSR schedule will need to be submitted every third year to avoid being capped at the rates listed on the ESR. Revisions made prior to one-year are limited to new classifications, promotions or new employees that exceed current maximums.

The typical review period is 2-4 weeks depending upon the information received and collaboration throughout the review. This timeline varies depending on the firm, responsiveness, and capacity of each review team. Once an ICR review has been completed ODOT Audit Services provides a recommendation to OPO Billing Rate Oversight. Your firm will receive an email with the accepted ICR and Escalated Salary Rate (ESR) schedule from OPO Billing Rate Oversight. The image of an ESR schedule below depicts the classification and direct salary data our team would approve. The schedule is also a tool that calculates loaded/fully burdened hourly rates.

## COMPONENTS OF ESR SCHEDULE



**Loaded/Fully Burdened Rate = DSR x (1 + ICR%) x (1 + profit%) + (DSR x FCCM)**

**Example: \$138.94 = \$53.71 x (1 + 136.24%) x (1 + 9.5%) + (\$53.71 x 0%)**

## HOW DOES THE INDIRECT COST RATE (ICR) APPLY ONCE APPROVED?

Once an ICR is approved and made effective by ODOT Billing Rate Oversight, the rate is effective as follows (unless otherwise identified in the contract):

The new **Indirect Cost Rate (ICR)** will now apply to:

- Active, existing Time-And-Materials (T&M), Cost-Plus-Fixed-Fee (CPFF), or any mixed method contracts (fixed-price is not impacted); and
- New contracts regardless of type.

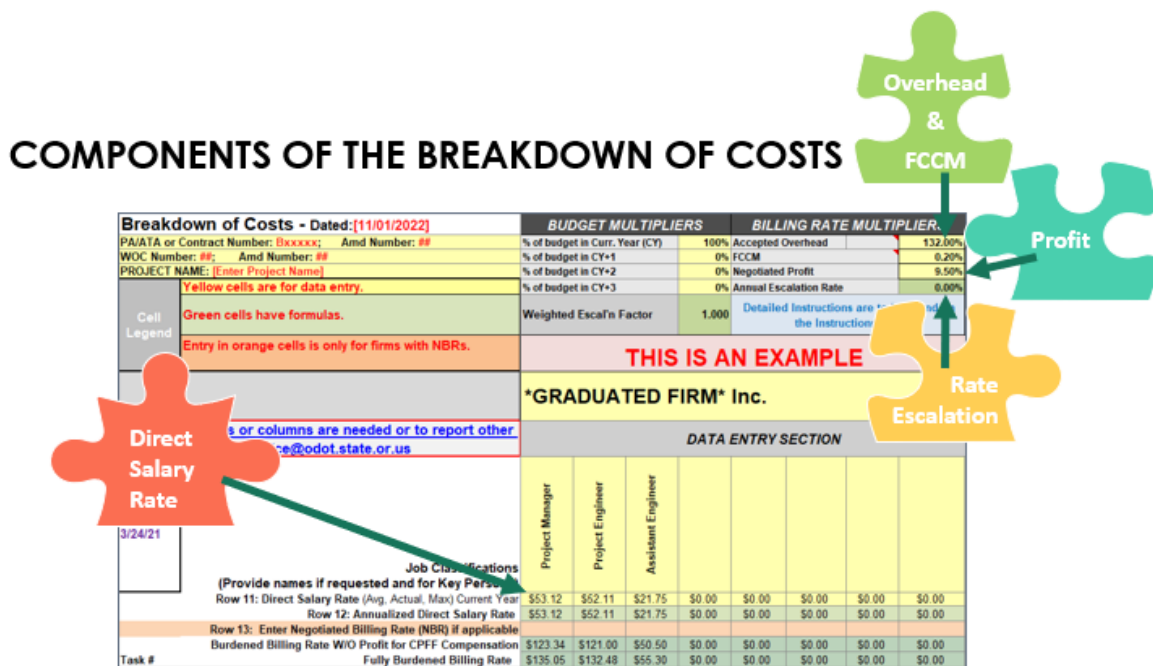
The **Negotiated Billing Rate (NBR)** schedule will no longer apply to any ODOT or Local Public Agency (LPA) contracts where ODOT approved billing rates are required.

Please note:

- This is only applicable for firms graduating from their NBR. All other ICR approvals apply to active T&M and CPFF contracts, unless otherwise identified in the contract.
- This change does not require a contract amendment. However, if an amendment is processed, the updated billing rates will be applied at that time.
- Changes to billing rates shall not impact the contract not-to-exceed (NTE) amount.
- Certified LPA contract provisions may vary, please refer to the contract for applicability.

## WHAT ELSE DO WE NEED TO KNOW?

**Application to the contract and Breakdown of Costs (BOC)** will change. Direct salary rates will be applied for each classification, use of the average rate per classification is the standard, unless otherwise negotiated. The approved indirect cost rate and FCCM will be input in the BOC separately and are to be reimbursed separately. See depiction below of rate data inserted into a BOC:



**Profit (fixed-fee)** is negotiated for all contracts. Firms that have graduated from an NBR schedule to an indirect cost rate will need to either negotiate or obtain the profit rate, as outlined:

New contracts:

Original Effective Date: 06-22-2023

- The profit/fixed-fee is negotiated between ODOT and the prime consultant, and is calculated based on factors within the [Profit Fee Worksheet](#), which must be completed prior to contract negotiations and may be used by each negotiating party. The final agreed to profit rate is then applied to the BOC at contract execution. Reimbursement for profit on time and materials contracts is spread across each labor hour worked; fixed fee for cost plus contracts is reimbursed at a fixed amount; each contract type is capped at the contracted not-to-exceed value.

Active, existing contracts:

- Prime consultant 'graduates' will negotiate the profit rate with the ODOT project manager or contract administrator for the contract utilizing the [Profit Fee Worksheet](#).
- Sub consultant 'graduates' will obtain the profit rate from the prime consultant.

Please note:

- Profit negotiated between ODOT and the prime consultant will be applied to the prime and their sub-consultants, except those with NBR schedules, as profit.
- Prime and their sub-consultants may have agreed to a different profit rate; the rate negotiated and input into the final BOC is the maximum reimbursable rate.
- These changes to billing rates shall not impact the contract not-to-exceed (NTE) amount.

**Escalation** is estimated into the contract not-to-exceed (NTE) for only multi-year contracts, for firms with an ICR. Escalation is based on direct labor and is calculated within the BOC.

Please note:

- The BOC does not include escalation for NBRs; escalation on an active, existing contract is subject to approval by the ODOT Contract Administrator. If approved, any change to the overall contract NTE will incur a contract amendment.
- Direct labor rates may exceed the ODOT standard while updating a firm's ESR. However, these changes to billing rates shall not impact the contract not-to-exceed (NTE) amount.

**Invoice submittal requirements** will change. Now your firm will be required to breakout and submit the actual direct hourly salary rate per employee, ICR, FCCM and negotiated profit. See the invoice submittal resources below.

[Consultant A&E Invoice Requirements Training Video](#)

[Procurement Standard for Invoice Requirements - Consultant \("Invoice Requirements"\)](#)

- [A&E Cost-Plus-Fixed-Fee Invoice Checklist](#)
- [A&E Time & Materials Invoice Checklist](#)
- [T&M Invoice Example](#)

[Consultant Invoice FAQ](#)

**Contact** [ODOTBillingRateUpdate@odot.oregon.gov](mailto:ODOTBillingRateUpdate@odot.oregon.gov) with any questions on billing rates and [OPOInvoiceInquiries@odot.oregon.gov](mailto:OPOInvoiceInquiries@odot.oregon.gov) for invoice compliance questions.