



MIAMI-DADE EXPRESSWAY AUTHORITY

3790 NW 21 St. // Miami, FL 33142

www.mdxway.com

REQUEST FOR PROPOSAL (RFP)

**MDX PROCUREMENT/CONTRACT NO.:
RFP-23-02(B)**

**MDX PROJECT/SERVICE TITLE:
GENERAL ENGINEERING CONSULTING (GEC A AND B)
SERVICES**

**EXHIBIT E
METHOD OF COMPENSATION**

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1. PURPOSE:

This exhibit to the Professional Services Agreement (the “Agreement”) defines the method in which MDX will compensate the Consultant for the Services (the “Method of Compensation”). In any conflict between the Method of Compensation and the Agreement, the language of the Agreement shall govern.

This Method of Compensation has been negotiated pursuant to MDX’s Policies and FDOT’s Negotiation Handbook for Professional Services Contracts, effective at the time Consultant Selection is approved by the MDX Board. For negotiations, MDX will utilize the Consultant’s Notice of Qualification letter in effect at the time the MDX Board approves the Consultant Selection. At MDX’s discretion, if an updated Notice of Qualification letter is issued within thirty (30) days of Board Selection of the Consultant, the updated Notice of Qualification letter may be utilized in negotiations.

2. COMPENSATION:

MDX agrees to pay the Consultant for the Services, as authorized via a written Task Authorization issued by MDX, and compensation is to be made in any of the manner described herein as may be outlined in the Task Authorization.

MDX will compensate the Consultant for all reasonable and allowable costs, which have been properly allocated, incurred in the categories defined below. The compensation as described herein sought under the Agreement is expressly made subject to the terms of the Agreement; Federal Acquisition Regulations, if applicable; Office of Management and Budget Circulars A-21, A-87, A-102, A-110, if applicable; and any applicable and pertinent federal and state laws and MDX Policies and Procedures.

2.1 Compensation Type

2.1.1. Lump Sum Amount

MDX and the Consultant may negotiate the fees of a Task Authorization and arrive at a Lump Sum amount to be compensated to the Consultant. Lump Sum amounts are the total amount MDX will compensate the Consultant to accomplish the specific task. The Consultant shall not be entitled to any other compensation for such task, regardless of resulting time and efforts to accomplish the task and deliver the end product.

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2.1.2 Limiting Amount

MDX and the Consultant may negotiate a Task Authorization with a dollar Limiting Amount and MDX may compensate the Consultant against the Limiting Amount using the current Contract Hourly Rate(s) and approved multiplier based on time expended in accomplishing the task.

2.2 Elements of Compensation

MDX will determine the compensation due to the Consultant for the Services using the following elements:

2.2.1 Contract Hourly Rates

Contract Hourly Rates will be determined on an annual basis as part of the Fiscal Year Transitional Process detailed herein, based on the following components:

- Actual hourly rate for all approved personnel
- MDX Rate Schedule of Established Caps
- Approved Percentage of Escalation

MDX will pay the lesser of the actual hourly rate for all approved personnel or the cap allowed for the job classification pursuant to the MDX Rate Schedule of Established Caps.

Any approved percentage of escalation, pursuant to the Contract Performance Evaluation as further detailed herein, will be applied to the MDX Rate Schedule of Established Caps, or the actual hourly rate as described herein.

Personnel shall meet the Job Classification Minimum Qualifications for the Job Classification/Title to which they are assigned. MDX at their sole discretion may elect, where applicable, to substitute years of relevant work experience with required education, or vice versa. MDX may also make reasonable exceptions that would provide MDX with qualified and experienced personnel.

Specialized services for which a Job Classification and established rate cap are not included in the MDX Rate Schedule of Established Caps and which MDX has determined necessary for the Contract will be negotiated with the Consultant.

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2.2.2 Multiplier

A) *FDOT Audited Reimbursement Rates*

MDX will apply a multiplier to the Contract Hourly Rates of employees in the payroll of the Consultant and Subconsultants comprised of the following:

- Overhead (home/field)
- Operating Margin,
- Facilities Capital Cost of Money (FCCM)
- Direct Expenses (home/field)

All Multipliers for the Agreement are subject to a 3.0 Cap.

The Multiplier of the Consultant and Subconsultants will be determined on an annual basis as part of the Fiscal Year Transitional Process detailed herein using the current Consultant's Notice of Qualification letter issued by the Florida Department of Transportation (FDOT), and the Operating Margin table found in FDOT's Negotiation Handbook for Professional Services Contracts, in effect at the time of the Fiscal Year Transitional Process. MDX will allow the use of Provisional Reimbursement Rates issued by FDOT, as may be applicable, to determine the multiplier. MDX will round off the calculated multiplier to the hundredth decimal place.

MDX shall not apply a multiplier to contract employees' hourly rate. For the purpose of this provision, a contract employee is an individual that is NOT on the payroll of the Consultant or its Subconsultants and does not receive benefits from the Consultant or its Subconsultants.

B) *Non-Audited Expenses*

For Consultants that do not have audited Reimbursement Rates from FDOT, MDX will use the low of the Current Averages for Audited Overhead, Expenses and FCCM Rates as released by FDOT.

For Consultants that provide services that are not subject to Reimbursement Rates from FDOT, MDX will negotiate a loaded hourly rate comparable to reasonable rates in the industry and payable by other governmental agencies.

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C) Direct Expenses

The only Direct Expenses not covered in the multiplier for which MDX will reimburse the Consultant with prior written approval from MDX are the following:

- Subconsultant services
- Direct Expenses for unusual and infrequently occurring items that as such were not included in the FDOT audit to calculate the direct expense rate, and which cost in excess of Ten Thousand Dollars and Zero Cents (\$10,000.00)
- When using the Field Direct Expense rate, the Field Office Overhead rate will apply for calculating the multiplier

3. ESCALATION

MDX will apply an annual escalation to the MDX Rate Schedule of Established Caps. The escalation shall be tied to the Consultant's Annual Contract Performance Evaluation completed by MDX. MDX will determine the allowable escalation to the MDX Rate Schedule of Established Caps as follows:

Annual Performance Rating	CPE Score	Percentage of Increase
Outstanding	4	3% Maximum
Excellent	3	2%
Good	3	1%
Unsatisfactory	1	0%

For personnel whose actual hourly rate is below the established cap for the classification, the Consultant may increase the actual hourly rate of such personnel by the approved percentage of escalation.

Should the Consultant wish to increase the actual hourly rate of an individual in excess of the approved percentage of escalation, the Consultant shall obtain prior written approval from MDX. Such approval is solely at the discretion of MDX.

MDX shall only pay approved Contract Hourly Rates.

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4. OVERTIME

The Consultant shall not be compensated for overtime without the prior written approval from MDX. Overtime is considered time worked in excess of the approved maximum allowable hours for the monthly billing period pursuant to the FY Billing Cycle approved by MDX as part of the Fiscal Year Transition Process.

Approved overtime will be compensated at the regular Contract Hourly Rate with the applied multiplier, if applicable.

5. FISCAL YEAR TRANSITION PROCESS

As the fiscal year ends (June 30), the Consultant and MDX must determine the Contract Hourly Rates and the multipliers to be approved for compensation effective at the beginning of the new fiscal year.

The following schedule of events must be followed:

- May 30 Completion of Annual CPE by MDX.
- June 30 Approval of preliminary Contract Hourly Rates, multipliers, and personnel classifications (Certified Wage Rate Form), pending verifications (i.e., payroll registry, updated Consultant's Notice of Qualification letters).
- June 30 Approval of all required Task Authorizations for the beginning fiscal year
- August 1 Approval of Final Certified Wage Rate Form.

All financial records relating to the Agreement shall be reconciled no later than ninety (90) Calendar Days after the end of every MDX fiscal year (June 30 of the current year).

6. INVOICING PROCEDURE:

The Consultant will perform the Services in a prompt and efficient manner and complete the Services pursuant to the requirements of the Contract Documents.

The Consultant is to track its staff hours and submit invoices per Project number, and Task Authorization numbers.

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Payments to the Consultant will be made by MDX on the basis of monthly invoices submitted by the Consultant for appropriate costs during the billing period. Consultant shall submit invoices on a monthly basis covering the Services provided from the first to the last day of the preceding billing period no more than thirty (30) Calendar Days after the end of the billing period.

All invoices shall be submitted to the Authority in detail sufficient for a proper pre-audit and post-audit thereof.

MDX reserves the right to withhold payments for Services not completed, Services completed unsatisfactorily, or Services deemed inadequate or untimely by MDX. Any payment(s) withheld shall be released and paid to the Consultant promptly when Services are rendered and performed to the satisfaction of MDX in accordance with the Contract Documents.

Invoice submittals shall include the following:

- a) MDX Work Program Invoice Submittal Form
- b) Certificate of Partial/Final Payment, Waiver and Release from Contractor/ Consultant
- c) MDX Invoice Tracking Form
- d) Certification of Disbursement to Subcontractors/Subconsultants/Suppliers
- e) Contractor's/Consultant's Final Release and Affidavit (at final invoice only)
- f) Original invoice
- g) Monthly status progress report
- h) Signed timesheets or a cost system generated time report (for both the Consultant and the Subconsultant staff providing the Services)
- i) Approved overtime (when applicable)
- j) Supporting documentation for pre-approved direct expenses (when applicable)

Failure to submit the most current MDX forms, filled out and executed accordingly, may be cause for rejection of the invoice and subsequent delay in payment.

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When submitting any invoice, the Consultant shall certify under oath and in writing with its invoice, in accordance with the formalities required by Florida law, that the invoice is submitted in good faith, that the supportive data is accurate and complete to the Consultant's best knowledge and belief, and that the amount of the invoice accurately reflects what the Consultant, in good faith, believes to be MDX's liability for payment. Such certification must be made by an officer or director of the Consultant with authority to bind the Consultant. The Consultant also agrees to indemnify MDX for any costs and expenses, including but not limited to audit costs, attorneys' fees and expert witness fees that MDX incurs due to any fraudulent submissions made by Consultant in said invoices.

The Consultant shall, on a monthly basis via monthly status progress reports, provide documentation to the Authority as justification for invoices submitted. Such monthly status progress reports shall include, among other things, activities/tasks/deliverables of the Consultant for the billing period, information with respect to the Consultant's compliance with the Small Businesses Participation Requirement, and the Local Business Participation Requirement, as applicable. The Authority shall be entitled, at all times, to be advised, at its request, as to the status of Services being performed by the Consultant, and the details thereof.

The Consultant guarantees the payment of all just claims for material, supplies, tools and/or labor, as may be applicable, and/or any other just claims against the Consultant or any Subconsultant in connection with the Agreement.

Invoices shall be paid in accordance with Florida Statutes and the Professional Service Agreement, as may be amended from time to time. The Consultant agrees to be bound by MDX's Invoice Dispute Resolution Procedure.

The Consultant will promptly pay all Subconsultants their proportionate share of payments received from MDX. Payments to Small Businesses shall be paid pursuant to applicable Florida Statutes and the Section entitled "Prompt Payment" of the MDX Small Business Participation Policy. Payments to Local Businesses shall be paid pursuant to applicable Florida Statutes and in accordance with MDX Policies. The Consultant shall not markup the Subconsultant's invoice for any additional compensation to the Consultant.

The Consultant will maintain for this purpose an accounting system that is acceptable to MDX. The final invoice for the Agreement will be accompanied by a job cost summary report generated by the Consultant's accounting system. The report will include, at a minimum, the total number of direct salary hours actually worked on the Agreement, the total direct salary and wage cost for the Agreement, and the total miscellaneous direct expenses for the Agreement.

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The Agreement will be considered completed when all Services, as well as any corrections to the Services, if required, have been accepted by MDX. The Consultant will then be released from further obligation, except as provided herein.

The MDX Contract Manager and the Consultant shall monitor the cumulative invoiced billings to insure the reasonableness of the billings compared to the Services accomplished and accepted by MDX against the Task Authorization/Contract Amount. It is the Consultant's responsibility to ensure there is current Task Authorization/Contract capacity to cover the required Services remaining.

7. PAYMENT TO THE CONSULTANT

Payment or use of any deliverables or portions thereof by MDX shall not constitute an acceptance of any Services not in accordance with the Contract Documents. MDX may refuse to make, in whole or in part, any payment because of subsequently discovered evidence, or the result of subsequent inspections or tests that nullify any previous payment, to the extent that is reasonably necessary to protect MDX with regard to the following:

- Any deliverables of the Services is defective, deficient and/or completed Services have been deemed unsatisfactory requiring correction or replacement; or
- The Services do not comply with MDX procedural requirements; or
- The amount of payment due to the Consultant has been reduced by a Supplemental Agreement; or
- MDX has been required to correct defective Services, or complete Services in accordance with the provisions setting forth MDX's right to correct defective Services; or
- MDX has actual knowledge of the occurrence of any of the events that constitute cause for termination of the Agreement; or
- Claims have been made against MDX on account of Consultant's performance or furnishing of the Services; or
- Other items entitling MDX to set-off against the amount for which application is made.
- Nothing in this section is intended to replace or amend the section of the Professional Services Agreement entitled Disputes, Dispute Resolution and Claims.

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8. CONTRACT CLOSEOUT

8.1 Final Audit:

If requested, the Consultant shall permit MDX to perform or have performed an audit of the records of the Consultant and any or all Subconsultants to support the compensation paid the Consultant. The audit will be performed as soon as practical after completion and acceptance of the Services. In the event funds paid to the Consultant under the Agreement are subsequently properly disallowed by MDX because of accounting errors or charges not in conformity with the Agreement, the Consultant agrees that such disallowed funds are due to MDX upon demand. Furthermore, MDX shall have the right to deduct, from any amount due the Consultant under any other contract, any amount due MDX under the Agreement. Final payment to the Consultant shall be adjusted for audit results.

8.2 Certificate of Completion:

Subsequent to the completion of the final audit, a Certification of Completion will be prepared for execution by both parties stating the total compensation due to the Consultant, the amount previously paid, and the difference.

Upon execution of the Certificate of Completion, the Consultant shall either submit a termination invoice for an amount due, or refund MDX any overpayment, provided the net difference is not zero.

9. ATTACHMENTS:

E-1 Certified Wage Rate – for current Fiscal Year

E-2 Rate Schedule of Established Caps

E-3 Invoice Submittal Forms*

- a) MDX Work Program Invoice Submittal Form
- b) Certificate of Partial/Final Payment, Waiver and Release from Contractor/Consultant
- c) MDX Invoice Tracking Form
- d) Certification of Disbursement to Subcontractors/Subconsultants/Suppliers
- e) Contractor's/Consultant's Final Release and Affidavit



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E-4 FDOT Negotiation Handbook Professional Services Contracts (Effective 1-27-2023)

Current Forms available on the MDX website at: [Business | Procurement Documents \(mdxway.com\)](http://www.mdxway.com/Business/Procurement/Documents)