JOINT CIRCULAR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY

NO.: 19-03-OMB/DPMC	ORIGINATING AGENCY: OFFICE OF MANAGEMENT & BUDGET DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION	PAGE 1 OF 5
EFFECTIVE DATE: 11-01-2018	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 94-34-GSA
SUBJECT: CAPITAL CONSTRUCTION FEES AND CONTINGENCIES AND REQUISITIONING PROCEDURES		
ATTENTION: ALL DIRECTORS OF ADMINISTRATION, CHIEF FISCAL OFFICERS, AND FACILITIES		
FOR INFORMATION CONTACT: RICHARD FLODMAND, DEPUTY DIRECTOR DPMC		PHONE: (609) 984-3629 E-MAIL: Richard.flodmand@treas.nj.gov

I. PURPOSE

The purpose of this circular is to establish procedures to be followed by Departments and State Agencies in the procurement of architectural, engineering, and construction services provided by the Division of Property Management and Construction (DPMC) and the Department of the Treasury.

II. BACKGROUND

The Annual Appropriations Act empowers the Director, Office of Management and Budget (OMB) to transfer or credit to the Construction Management Services revenue account from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence, and other expert services in connection with such work. Operation fees will be assessed on all projects regardless of fund source by DPMC in accordance with the schedule listed below.

III. SUMMARY OF CHANGES

These procedures provide for fees to be assessed at various phases of construction projects. Additionally, these procedures provide for assessing fees for DPMC services in conjunction with other activities associated with construction, consultation, and inspections projects.

IV. DESIGN AND CONSTRUCTION MANAGEMENT FEES (GENERAL)

The annual Appropriations Act authorizes the Director, OMB to credit from the various appropriations for construction, renovations, additions to and betterment of State buildings to DPMC sufficient sums to pay for the cost of architectural/engineering and supervision of construction. The collected fees will be deposited/credited to the appropriate revenue account (XX-100-082-2065-3717) by Treasury's Chief Fiscal Officer and will be considered revenue in accordance with the Appropriations Act.

V. DESIGN AND CONSTRUCTION MANAGEMENT FEES ON CONVENTIONAL PROJECTS

The following construction management fee schedule shall be assessed on all conventional projects regardless of fund source and shall be in effect for design and construction contracts awarded after November 1, 2018.

- A fee equal to 8% of the construction cost as determined at the time of award of construction contracts will be assessed on all projects regardless of funding source. Payment of the 8% will be made in increments as follows:

  At the time of Project Initiation, 1% of the projected construction cost estimate (CCE) or $10,000, whichever is less, will be assessed. A fee equal to 5% of the CCE, reduced by the amount previously paid at Project Initiation, will be assessed upon award of the consultant (A/E) contract. The balance of the 8% fee will be assessed at the time of award of construction contracts and shall be calculated as 8% of the construction contract award amount less the fees previously assessed on the project.

  An 8% fee will be assessed on the contract cost of all studies, project support contracts, and purchase orders including design amendments at the time of award regardless of the agency managing the project.

  The Director, DPMC reserves the right, with the concurrence of the Director, OMB, to assess a lower fee if an outside private construction or project management firm is engaged by DPMC and funded by the Client Agency to monitor the project.

- On projects with a CCE greater than $65,000 but less than or equal to $250,000, if the Client Agency assumes project management for design and construction, the 8% fee will be reduced to 3% of the construction cost. This fee is intended to cover the administrative costs incurred in providing consultant selection, financial management, and construction bidding services.

- An 8% fee will be assessed for all change order processing including agency scope changes.

- A $1,000 fee will be assessed to initiate an Agency Consultant contract. The fee is intended to partially cover the cost of administering the selection of the agency consultant, processing invoices and monitoring the agency consultant contract.

- A $55 per hour fee will be assessed for all DPMC plan reviews related to agency consultant projects, annual permits, small construction projects completed under the DPMC delegated authority provisions, and special inspections requested by the Client Agency. The hourly rate for DPMC plan reviews shall be subject to review and adjustment annually.

VI. FEES ON ENERGY SAVINGS IMPROVEMENT PROJECTS

The following construction management fee schedule shall be assessed on all projects undertaken under the Energy Savings Improvement Program (ESIP) Act, N.J.S.A. 52:34-25, et seq. (the ESIP Act), regardless of fund source and shall be in effect for ESIP contracts awarded after November 1, 2018.

- A fee equal to 8% of the dollar amount of the contract for preparation of the preliminary independent energy audit and/or cogeneration study will be assessed at the time of contract award.
- A fee equal to 8% of the fee payable to the retained Energy Savings Contractor (ESCO) to prepare the Investment Grade Audit (IGA) and Energy Savings Plan (ESP) will be assessed at the time that the ESCO contract is awarded.
- A fee equal to 8% of the fee payable to the retained ESCO to prepare design documents for the ESIP project, to be assessed at the time that the ESCO contract is amended for the preparation of such design documents.
- A fee equal to 2% of hard construction costs, less the fees previously assessed on the project, to be assessed at the time that DPMC and the retained ESCO execute an amendment to the ESCO contract for construction of the ESIP project.
- The fee assessed on ESIP projects is intended to compensate DPMC for the cost of providing construction management services only. DPMC shall not be entitled to a fee for review or approval of the ESIP project, as provided under N.J.S.A. 52:34-25.1(c).
- If an ESIP project is financed through a lease purchase agreement or any other financing agreement as provided under N.J.S.A. 52:34-25(c), the fee assessed by DPMC may be financed if permitted under the terms of the applicable financing agreement.
- The fees referenced under paragraphs VII, VIII and X below shall not be assessed on ESIP projects.

VII. ARCHITECT/ENGINEER FEES

A fee for outside architect/engineer services will be assessed against the client agency for the design of buildings, facilities and other projects. Fees shall be based upon: (1) a factor of direct salary costs; (2) cost competitive proposals; (3) lump sum proposals; (4) negotiated fees. These fees are considered a component of the overall project cost and are not part of the management fee structure.

VIII. ARTS INCLUSION FEES

The Fine Arts Inclusion Act (NJSA 52:16A-25) provides for the dedication of a fee up to 1½% of the CCE for inclusion of fine arts works to enhance the quality and aesthetic effects of State buildings by use of sculptures, murals, monuments, frescoes, fountains, and other art forms. Whether the Act is applicable to a project or not will depend upon recommendations of the DPMC Director, in coordination with the New Jersey Council of the Arts and the client agency. Unexpended balances for this component are returned to the client agency during project close-out or sooner.

IX. AFFIRMATIVE ACTION FEES

Under current law (P.L. 1975, c.127), DPMC is required to assess ½% of all projects with a CCE of $1,000,000 or more for affirmative action programs. These funds shall be paid to the Department of Labor and Workforce Development at the time of construction contract award.

X. CONTINGENCIES

On all projects a contingency of 10% of the consultant (A/E) contract shall be established in the project budget and shall be used to cover design amendments.

On New Construction and Alteration and Renovation Projects with a CCE greater than $500,000 a contingency of 5% of the CCE shall be established in the project budget and shall be used to cover change orders resulting from job-related conditions. For Alteration and Renovation Projects with a CCE of less than $500,000 a contingency of 10% shall be used. Scope changes registered by the Client Agency will not be included in the contingency but must be authorized by means of a separate requisition/encumbrance. Where trust fund accounts are involved, procedures for the transfer of funds as required by the Bond Appropriation Act shall be followed. Agencies will be requested to provide additional contingencies when the contingency balance reaches 33% of its original level and the project is less than 75% complete. Unexpended balances in the contingency funds will be returned to the Client Agency at the completion of the project.

XI. OTHER PROCEDURES

If the Client Agency requires assistance in preparation of the Intergovernmental payment vouchers forms or documentation to support its request for design or construction of a project, the Division of Administration, Fiscal Management, in the Department of the Treasury should be contacted. All requisitions will be electronically submitted by the client agencies. The Division will place approval electronically and process through NJCFS.

The Division of Administration, Fiscal Management will act only after requisitions (RD's) have been processed through the State accounting system (NJCFS). The amount of funds requisitioned should only be for those project components of the appropriation which are the responsibility of DPMC (e.g. A/E services, program planning, or construction). However, in the description section of the requisition, the agency must indicate the total amount of funds appropriated, regardless of source (e.g. Federal, State, other), along with costs associated with every project component. The total appropriation may exceed the total amount of funds encumbered to DPMC in cases where other State agencies are responsible for furniture acquisition, equipment, land acquisition, etc. These project component costs will be reviewed by the OMB prior to the time the requisition is entered into the accounting system. Requisitions for projects which have not been approved as part of the annual capital budget process or which have not received prior OMB approval will be returned to the client agency by OMB, unapproved, for further justification.

Total funds for each phase of the construction project, including Architect/Engineer fees, contingencies, construction management services, and construction contract costs must be encumbered utilizing one sole account number prior to the initiation of work by DPMC. Under normal circumstances, only one account number per project will be accepted. The primary exception to this requirement will be for projects where multiple fund sources are utilized and accounting/statutory regulations prohibit the commingling of funds in one account.

RD's not complying with this procedure will not be approved or processed by the Division of Administration, Fiscal Management. The Director, DPMC, will administer all funds for the design, engineering, construction and management of projects. Client Agencies will be kept informed on the status of projects by means of information copies of all pertinent documents.

Christopher Chianese
Director
Division of Property Management and Construction

David Ridolfino
Acting Director
Office of Management and Budget