Establishing CMGC Fixed-Markup Percentage
(Construction Services Fee)

1. Introduction

In CMGC Contracting, the CMGC Contractor’s fee for their services is comprised of both (1) their fee for preconstruction services as part of their role as the Construction Manager (CM) prior to being awarded a construction contract and (2) their fee for construction services as part of their role as the General Contractor (GC) after being awarded a construction contract. The fee for preconstruction services is negotiated in accordance with Consultant Service’s standard practices for Professional/Technical (P/T) Services contracts. The construction services fee consists of the amount paid to the CMGC contractor above and beyond the direct construction costs and consists of the CMGC Contractor’s profit plus the portion of home office overhead (G&A: General and Administrative Costs) allocated to the Project, where home office overhead (G&A) is defined as the cost of activities that are necessary to the overall operation of the contractor’s business allocated to all of the Contractor’s ongoing projects. This construction services fee (or fixed-markup percentage) becomes a part of the Contractors Guaranteed Maximum Price (GMP) bid for the work.

The purpose of this document is to outline MnDOT’s process for establishing the fixed-markup percentage on CMGC projects. The process of establishing the CMGC fixed-markup percentage on CMGC projects varies depending on the procurement method. Section 2 describes the process for Best-Value (BV) CMGC procurements and Section 3 describes the process for Qualifications Based Selection (QBS) CMGC procurements.

2. Establishing CMGC Fixed-Markup Percentage (BV Procurements)

2.1. For Best-Value procurements, the CMGC fixed-markup percentage is established through the RFP process. The RFP provides instructions to Proposers that define the fixed-markup percentage and clarifies what are considered project indirect costs vs. home office overhead (G&A) costs. Fixed-markup proposals are to be submitted in a sealed envelope to MnDOT in response to the RFP and shall remain sealed until after the Qualitative Proposals are evaluated by the Technical Review Committee (TRC). Once the Qualitative Proposals have been evaluated, MnDOT opens the sealed envelopes containing the fixed-markup percentages and evaluates them based on one of two options. The first option is to evaluate fixed-markup percentages by comparing with the lowest proposed fixed-markup percentage. The second option is to evaluate fixed-markup percentages by comparing to the average percentage from all Proposers. There are advantages and disadvantages to each option. The MnDOT CMGC Executive Committee including the CMGC Program Manager,
should be consulted when assigning the final scoring approach to fixed-markup proposals for best-value proposals, including weighting and comparison methodologies. Regardless of which option is used, careful consideration should be placed on the weight assigned to the fixed-markup proposal vs. the qualitative portion of the proposal. Care must be taken to set the evaluation weighting appropriately in order to motivate competitive fixed-markup proposals, while ensuring that a qualified CMGC Contractor is selected. Generally, a proposal weighting value of approximately 20% is recommended for the fixed-markup portion of the technical proposal to accomplish this objective.

2.2. Because the fixed-markup percentage is part of the proposal evaluation process, MnDOT’s estimating parties (including the ICE) utilize the proposed fixed-markup percentage for the selected contractor during the Opinion of Probable Construction Costs (OPCC) and Guaranteed Maximum Price (GMP) processes on the project.

3. Establishing CMGC Fixed-Markup Percentage (QBS Procurements)

3.1. For QBS procurements, Proposer’s are not required to submit a fixed-markup proposal in response to the RFP. The RFP should still define the fixed-markup percentage and clarify what are considered project indirect costs vs. home office overhead (G&A) costs. However, MnDOT does not request or evaluate the fixed-markup percentage as part of the proposal evaluation process. Instead, prior to awarding a professional/technical services contract, the CMGC Contractor submits their proposed fixed-markup percentage to MnDOT’s Project Manager for review using the following process:

3.2. MnDOT Establishes competitive expectations for the CMGC fixed-markup percentage
Prior to receiving the proposed fixed-markup percentage from the CMGC Contractor, MnDOT’s Project Manager shall consult with a qualified estimating specialist (such as the GEC or the Owner’s Estimator1) to provide an independent analysis identifying a competitive range for the fixed-markup percentage. When preparing the analysis, the estimating specialist will use existing market conditions regarding profit and overhead rates and take into consideration the project’s unique characteristics (such as risks, contract conditions, competition, specialty, complexity, and size of the project). The summary report of the analysis will be submitted to the Project Manager.

3.3. Evaluate the CMGC Contractor’s Proposed Fixed-Markup Percentage
Prior to executing a professional/technical services contract, MnDOT’s Project Manager requests that the CMGC Contractor submit their proposed fixed-markup percentage. MnDOT’s Project

---

1 To be qualified to do this task, the estimating specialist should be an experienced contractor estimator with extensive experience estimating heavy highway civil projects.
Manager reviews the fixed-markup percentage and compares it with the market expectations analysis that has been prepared by the estimating specialist from section 3.2 above.

3.4. **Accept the Proposed Fixed-Markup Percentage**

If the proposed fixed-markup percentage from the CMGC Contractor falls within the market expectations noted by the estimating specialist, then the Project Manager may recommend that the CMGC Program Manager review the fixed-markup percentage by consulting with the Independent Cost Estimator (ICE). If the CMGC Program Manager is able to validate the fixed-markup percentage, they will then notify the Project Manager that all parties estimating/bidding the construction cost, including the ICE, may subsequently utilize the proposed fixed-markup percentage as the basis for the construction services fee that will be a part of the estimates and GMP bid(s).

3.5. **Fixed-markup Percentage Reconciliation Meetings (if needed)**

If the proposed fixed-markup percentage from the CMGC Contractor does not fall within the recommended market expectations, or is not validated by the CMGC Program Manager, MnDOT’s Project Manager enters into reconciliation meeting(s) with the CMGC Contractor.

- If the reconciliation meeting(s) results in the CMGC Contractor’s proposed fixed-markup percentage being within the market expectations and is subsequently validated by the CMGC Program Manager, then MnDOT will proceed with negotiations for a P/T Services contract and the fixed-markup percentage will become the basis for the construction services fee that will be a part of the estimates and GMP bid(s).

- If the reconciliation meeting does not result in the CMGC Contractor’s proposed fixed-markup percentage being within market expectations and/or being validated by the CMGC Program Manager, the Project Manager will notify the CMGC Contractor that their proposed fixed-markup percentage was not validated by all estimating parties and, therefore, an agreed to fixed-markup percentage will not be utilized by all parties estimating/bidding the cost for construction. The CMGC Contractor may proceed with entering into a professional/technical services contract with the knowledge that they may be at greater risk to have their bid for construction validated and, ultimately, to be awarded a contract(s) for construction by MnDOT.
MnDOT CMGC Fixed Markup Percentage (QBS Process)

Evaluate Proposals and Select CMGC Contractor

Prepare Report Summarizing Competitive Fixed-Markup Expectations (Estimating Specialist)

CMGC Contractor Submits Proposed CMGC Fixed-Markup Percentage to MnDOT Project Manager

MnDOT PM Reviews CMGC Contractor’s Proposed Fixed-Markup Percentage

Scenario 1: Proposed Fixed-Markup Percentage Falls Within Market Expectations and is Approved by the OPMTS.

Scenario 2: Proposed Fixed-Markup Percentage Does NOT Fall Within Market Expectations or is NOT Approved by the OPMTS.

Hold Fixed-Markup Percentage Reconciliation Meeting(s)

YES


NO

Reconciliation Meeting(s) results in Agreement Between MnDOT and Contractor to a Fixed-Markup Percentage within Competitive Range?

CMGC Contractor’s Fixed-Markup Percentage is NOT Adopted by all Estimating Parties. CMGC Contractor May Proceed at Risk with P/T Services Contract and Validate CMGC Pricing during OPCC and GMP Bid Validation Processes.