NEW YORK STATE DEPARTMENT OF TRANSPORTATION
CONSULTANT INSTRUCTION

SUBJECT: USE OF CONR 385 FINANCIAL DISCLOSURE AS BASIS FOR OVERHEAD BILLING ADJUSTMENT

DATE: DECEMBER 10, 1991 CODE: 91 - 02 SUPERSEDES:

APPROVED: ______________________________________________________
R. GRATHWOL, DIR., CONTRACT MANAGEMENT BUREAU

Many consultants have experienced the negative financial impact of large audit exceptions found at the final audit stage of Agreement close-out. In order to reduce audit adjustments due to the most prevalent negative factor, namely the variations in overhead rate during the term of an Agreement, we are initiating a new policy based on your annual submission of form CONR 385, Contract Service Firm Financial, Ownership and Accounting Practice Report.

Each consulting firm having an active Agreement with the Department, and its associated subconsultants, are currently required (in accordance with a March 6, 1990 letter to all consultants) to submit the CONR 385 on an annual basis within six months of the end of the firm’s fiscal year. Within thirty days of receipt of the CONR 385, the Department will notify your firm, all your prime consultants if you are a subconsultant, and all appropriate State Consultant Managers of the approved provisional overhead billing rate for the fiscal year submitted. Your subsequent payment estimate must adjust overhead billed on cost reimbursement contracts (CPFF) to the provisional overhead billing rate approved for the fiscal year that has been reviewed and for all billing periods in the next year until an approved provisional overhead billing rate is established for that year.

Failure to submit the CONR 385 within six months after the end of your fiscal year will result in the suspension of overhead payments in future billings until the form is submitted and a provisional rate established.

Please note that increases in the provisional overhead billing rate or actual applied overhead based on audit are not a basis for an increase in the fixed/net fee or in maximum amount payable in any Agreement.

The provisional overhead billing rate is subject to post audit prior to contract settlement and pre-award review for pricing other agreements. Pre-award rate of post audit rates will be used for adjusting overhead billing when these rates are available.

So that we may be able to check our current information in implementing this procedure for your firm, please advise us of your current fiscal year end date at your earliest convenience.