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Caltrans' Local Hiring Preference SEP-14 Workplan

Special Experimental Project No. 14 (SEP-14) Workplan to Evaluate the Use of a Local Hiring Preference

State of California, Department of Transportation

Location: Interstate-5 in Los Angeles County from PM 13.8 to 19.2

Federal-aid Project Number: ACNHPI-005-2(979)E

A. Introduction

[Provide a brief general statement that introduces the basis for the SEP-14 proposal.]

Historically, FHWA prohibited its recipients from using Local Hiring Preference (LHP) provisions that do not directly relate to the bidder's performance of work. Caltrans is requesting FHWA's approval for the use of these provisions on a Federal-aid project for the rehabilitation of Interstate 5 pavement per the experimental authorities under [23 U.S.C. 502](#) and SEP-14. Caltrans also requests that FHWA approve the proposed use of the hiring preference incentive provision, as the incentive costs associated with the approval are eligible for participation as surface transportation workforce development and training costs, authorized by [23 U.S.C. 504\(e\)](#), which provides for the use of Federal-aid formula funds for surface workforce development and training.

In the transmittal letter requesting SEP-14 approval of this workplan, Caltrans has provided a conforming certification required by Section 192 of Title I, Division L of the Consolidated Appropriations Act, 2016 (the Department of Transportation Appropriations Act, 2016), "the FY 2016 Appropriations Act."

To implement the LHP provisions, California State Department of Transportation (Caltrans) is providing this work plan under the Notice: [Contracting Initiative](#) announced in the March 6, 2015 Federal Register. Caltrans submits this work plan for review and approval to utilize a geographic local hiring preference under the provisions of Special Experimental Project No. 14 (SEP-14) for the use of innovative contracting practices. Caltrans has traditionally used the lowest responsible bid based procurement for construction contracts, and will continue to do so under this pilot program. It is understood this SEP-14 pilot program is one year in duration, and the selected pilot project must be advertised prior to close of business on March 5, 2016.

The prime contractor will not be required to meet a local hiring goal. The prime contractor will be granted an incentive of \$10.00 per hour for every prime contractor local labor hour above 10% local labor hours performed on the project by prime contractor employees, with a maximum total incentive of \$350,000. To obtain the incentive, the prime contractor must submit a request for incentive each month showing local labor hours worked by the prime contractor was greater than 10% of the total labor hours. In addition, the prime contractor must submit certified payrolls and a self-certifying disclosure form with residency information of local employee labor hours worked. The certified disclosure form will be sorted to show local labor hours from non-local labor hours.

Contractor's utilization of local hiring currently varies from contractor to contractor. This variation ranges from as much as 100% to as little as zero percent. However, for construction contracts of similar cost and scope, most contractors currently have more than 10% hires already on staff that may fall within the project's local area. Because the goal of the pilot project is to promote local hiring rather than maintaining current local staff, the incentive is intended to apply to those contractors for whom performing local hiring makes their staff

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more locally based. Without the 10% threshold, contractors would be able to receive incentive payment on current local staff, without performing any local hiring. This minimum threshold should in effect help to incentivize local hiring more than without the threshold.

The main goal of this pilot project is to analyze the specific effect of the LHP on the local economy. The general effect is anticipated to increase local employee income and decrease local unemployment without limiting bidder competition.

Pilot Project Description: The I-5 Pavement Rehabilitation project (Project) extends from PM 13.8 to 19.2 in Los Angeles County. The Project is in and near the City of Commerce, and Los Angeles from Route 5/710 Separation to the Main Street Undercrossing. The Project is a CAPM (Capital Maintenance) \$16.2 million pavement rehabilitation that will cold plane 0.20 feet of asphalt concrete pavement and place 0.20 feet of Rubberized Hot Mix Asphalt (RHMA) Type G on mainline and all auxiliary lanes from PM 13.8 to PM 16.0. The Project will replace all damaged slabs (approximately 533 slabs) and grind Portland cement concrete pavement on mainline and connectors from approximately PM 16.0 to PM 19.2. The Project will replace, install or upgrade to ADA standards existing curb ramps at intersections where pedestrian facilities exist.

B. Purpose

[Provide a description of the reason for developing the proposal.]

The main goal of this pilot project is to analyze the specific effect of the LHP on the local economy. The SEP-14 pilot project will examine and analyze the utilization of a cash incentive, applied to the prime contractor local labor hours above 10% local labor hours worked by the prime contractor, and to increase the number of local area residents that the construction contractor employs. The Project will provide the potential to enhance the use of each tax dollar and potentially reduce the unemployment rate in the local area without significantly increasing the cost of completing transportation improvements.

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C. Scope

[Provide a description of the project(s) covered by the proposal. If the proposal is for all projects meeting specific criteria, provide a description of the criteria to be used.]

Caltrans proposes a pavement rehabilitation project on I-5 to be included in this pilot program. The Project is programmed for \$16.2 million in the 2014-15 SHOPP (State Highway Operational Protection Program) which is anticipated to be ready to advertise by Caltrans District 7 on February 29, 2016, and before the FHWA pilot period ends on March 6, 2016.

Caltrans is proposing to award this contract to the lowest responsible bidder. The local hiring preference initiative will allow the prime contractor to receive an incentive of \$10.00 per hour for each local labor hour above 10% local labor hours used on the project with a maximum total incentive of \$350,000. Caltrans proposes to use a contract provision with this incentive (See attachment A for additional details).

Local hire workers will be required to have resided in the local area for a minimum of 60 days prior to bid opening. The local area is defined as the following cities: Los Angeles, Commerce, East Los Angeles, Vernon, Bell, Maywood, Huntington Park, Cudahy, Bell Gardens, Pico Rivera, and Montebello. Local hire workers will be required to provide a valid California Driver's License or comparable form of identification for address verification purposes in addition to a recent utility bill mailing that proves the worker resides at their stated address.

The pilot program will evaluate the incentive's ability to impact the following:

- the response to the contract's Advertisement
- the construction cost
- the number of local residents employed on the construction of the project
- the number of local residents newly hired for this project
- support costs

This project is typical of other pavement rehabilitation projects in District 7 completed over the past year and will provide a suitable project for comparison purposes.

D. Schedule:

[Provide key dates for the project(s). If specific projects are not known at the time of the proposal, provide anticipated dates and describe the methods to be used to track projects meeting the criteria.]

An estimated schedule for the project is as follows:

- Advertisement: February 29, 2016
- Bid Opening: April 30, 2016
- Award: June 30, 2016
- Start of Construction: August 15, 2016
- Initial Evaluation Report: October 31, 2016
- Interim Evaluation Report: October 1, 2017
- Contract Acceptance: June 30, 2018
- Final Evaluation Report: October 1, 2018

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E. Evaluation Measures:

[An important part of the pilot is to measure and evaluate the effectiveness and efficiency of the proposed local preferences. The following six criteria must be addressed within the proposal. Items 1-5 were taken directly from the Federal Register Notice that established the pilot program.]

Caltrans will evaluate the following criteria (as referenced in [USDOT Q&A # 21](#)), to determine the effectiveness and efficiency of this pilot project:

- 1) Describe the project(s), including the amount of FHWA funding involved in the as well as the estimated total project cost.**

Caltrans only has the I-5 Pavement Rehabilitation Project included in this pilot program. The Project is programmed in the 2014-15 SHOPP (State Highway Operational Protection Program) which is anticipated to be ready to advertise by Caltrans District 7 on February 29, 2016, and before the FHWA pilot period ends on March 5, 2016. The Project is a \$16.2 million pavement rehabilitation of I-5 that will rehabilitate both asphalt concrete pavement and Portland cement concrete slabs. The Project will also include extensive replacement or upgrade of metal beam guard railing, three beam barriers, dikes and curbs, and loop detectors to current design standards. The project funding split is 98% Federal funds and 2% State funds.

- 2) Describe the proposed contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.**

Previous discussions with FHWA staff have indicated that the use of LHP provisions were limited by the competitive bidding requirements of Title 23 U.S.C.; however, Caltrans is interested in evaluating this requirement on a Federal-aid project on a pilot project basis under SEP-14. The project local hiring will be incentivized by providing to the prime contractor a bonus of \$10.00 for every local labor hour used above a threshold of 10% local labor hours performed by the prime contractor's staff, up to a maximum total incentive of \$350,000. Providing only an incentive will not restrict the full and open competition of the bidding process, but it will reward the lowest responsible bidder if they choose to participate by hiring local employees.

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- 3) Describe how the applicant will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the applicant should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.**

As this project is similar in size and scope to another Caltrans District 7 pavement rehabilitation project in Los Angeles County to be likewise advertised in the month of February 2016, Contract number 07- 30260 on Route 57 from PM 4.5 to PM 12.12, a comparison with this \$12.7 million rehabilitation project that excludes a local hiring preference will be provided based on the following evaluation criteria:

- The number of bidders (including the location of the home office) - An explanation will be provided for the apparent increase or decrease in the average number of bidders. Specific competitive reasons (e.g. other bidding opportunities, apparent risk for local hiring, etc.) will be provided for the increase or decrease in competition. The evaluation will discuss the impact on the number of bids received by local and non-local firms.
- A comparison of the impact of the LHP requirement on the workforce will be made by comparing the percentage of total local labor hours on the pilot program with the percentage achieved on the similar Federal-aid project in Los Angeles County that did not use the LHP provision. An explanation of any significant differences will be provided.

- 4) Describe and quantify how the proposed contracting requirement would lead to increases in the effectiveness and efficiency of Federal funding for the project(s).**

An analysis of the effectiveness and efficiency of the LHP requirement will be made through an analysis of the following information:

- A comparison of unit bid prices. An evaluation of bid data from a suitable number of projects of similar scope and cost. This data analysis would include, but is not necessarily limited to comparisons of unit cost information for five bid items with the highest total value.
- The prime contractor will be interviewed at the conclusion of the contract to obtain their opinion of the effectiveness and efficiency of the LHP provision on its construction operations and to discuss any potential concerns or recommendations for the program. This interview will provide one measure of the relative efficiency of the contractor in meeting the contract requirements.
- Caltrans will provide an evaluation of the net economic benefit of employing additional local area residents by analyzing the potential monetary benefits that might be related to the receipt of funds from other federally assisted programs (e.g. reductions in the local area's unemployment rolls, payments for uninsured

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health insurance costs, etc.). The economic analysis will address the extent to which other Federal funds may be impacted by reducing unemployment in the workforce of the local area.

- Caltrans will provide an evaluation of the potential increase or decrease in the pool of skilled labor available to all contractors.

5) Describe and quantify how the proposed experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

Caltrans is committed to maintaining the integrity of the competitive bidding process. Use of solely an incentive for local hiring should not restrict or unduly limit competition for bidders. The contractor would not need to meet a required goal or preference and therefore, issues with union halls' required order of hiring priority would not be a problem for prime contractors.

Caltrans has provided oversight on a number of locally funded projects with a local labor hiring preference, and has not encountered issues in maintaining the integrity of its competitive bidding process. Should there be issues with this project, the Department is confident that its approved contract administration processes will provide satisfactory safeguards.

6) Describe whether or not the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the requirement has been threatened.

Caltrans' oversight of LHP requirements on locally funded projects with no federal aid has shown that this proposed contracting requirement has not been subject to litigation to date. There have been no Caltrans projects with federal-aid to date in which Caltrans is the contracting agency that have used this contracting requirement.

F. Reporting

[Periodic reporting on the status of the SEP-14 proposal is important. Flexibility is provided to the proposer to determine the frequency of reporting. At a minimum, initial and final reports are required.]

Caltrans will prepare and submit initial, interim, and final evaluation reports for the project. All reports will be submitted to the FHWA California Division Office.

The interim report will be submitted once the project is approximately 50 percent complete. The interim report will contain a summary of project progress regarding the LHP to that date, as well as a discussion of issues that have arisen related to the LHP and its implementation.

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A final report will be submitted upon completion of the contract. The final report will contain an overall evaluation of the contracting technique, a comparison with one other pavement rehabilitation project in Los Angeles County on Route 57 from PM 4.5 to 12.12 (contract number 07-30260), along with any suggestions and recommendations for improving the process of administering contracts with a LHP.

NOTICE TO BIDDERS

1. Throughout the course of the contract prior to expectation of incentive payment, the prime contractor shall submit certified payroll reports documenting all construction worker hours performed on the project, sorting local labor and non-local labor hours for ease of checking.
2. The Contractor will receive an incentive of \$10.00 per hour for prime contractor local labor hours above and beyond 10% local labor hours performed on the project by the prime contractor's staff with a maximum incentive amount of \$350,000.

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