

# **Work Plan for Utilizing Job Order Contracting in a Task Order Assignment for ITS and Traffic Control Device Emergency Maintenance and Preservation**

## **Purpose and Scope**

The purpose of this work plan is to provide a format to evaluate the use of Federal-aid for Job Order Contracts (JOC) to address ITS and Traffic Control Device maintenance and preservation needs through Task Order Assignments. With approval of this work plan, the WVDOH will use federal aid for a JOC under the Federal "alternative contracting" SEP-14 program.

Growing congestion, an aging infrastructure, as well as a shortage of technical staff makes it imperative that West Virginia supports and maintains a safe and sustainable transportation plan for maintenance and preservation of its traffic control systems/devices statewide. To this end, scheduled preventative maintenance for ITS and other traffic control device systems (traffic signal/lighting systems, sign structures, etc.) must be performed either by state forces or through the issuance of numerous purchase orders in accomplishing these tasks. Contractors are currently procured through the use of the traditional contracting process or purchase order, whereby the WVDOH identifies the locations and provides detailed estimates for each item of work. Although suitable for large ITS and traffic control systems, it is grossly inefficient for small to mid-size preservation projects, and completely ineffectual with regard to emergency maintenance repairs – which can be numerous.

The primary goal of this contract is to produce a platform that provides a statewide sustainable plan for both preventative and emergency maintenance of ITS and traffic control devices through the use of Task Order Assignments (TOA) envisioned within West Virginia's JOC. Some specific aspects of the WVDOH JOC include the following:

- An estimated cost of approximately \$6,000,000 over the next three years.
- Task Order Assignments are expected to range from \$300 - \$20,000.
- Numerous Task Orders (approximately 500-2000) may be scheduled under this program.
- The general scope of the JOC will be for scheduled and preventative/emergency ITS and Traffic Control Devices preservation and maintenance activities.
- Federal STP, CMAQ, or other Federal funds are asked to be applied to this JOC.
- Contracting firms shall be pre-qualified based on past performances, experience and qualifications in order to bid the JOC
- There shall be a mandatory pre-bid meeting reviewing the scope and purpose of this JOC.

## **Proposal**

The WVDOH wishes to initiate a JOC program in order to implement an innovative facility-focused contracting mechanism for preventative and emergency maintenance of our ITS and traffic control devices statewide.

Job Order Contracting would allow for a non-determinate location / non-determinate quantity type contract. The JOC contract would utilize a listing of Task Order Assignments (TOA) consisting of numerous pre-bid work activities. The bid price for each TOA would be based on the estimated labor, equipment, traffic control, materials and all associated overhead costs to perform the work. The bidder submitting the total summation of low bid prices of TOAs would secure the contract. Projects are ordered through the issuance of a TOA to the successful contractor.

The JOC contract is built around a set of contract documents. The WVDOH contract document would consist of the following three (3) sections:

1. Section One is a preventative/emergency and preservation listing of Task Order Assignments (TOA), that would contain a wide variety of emergency maintenance and preservation related tasks. Each task has a complete and detailed description, a unit of measure, and a fixed unit price. For example, a NEMA TS-2 Controller, Ethernet modem, or a lineal foot of rigid conduit would have their certain replacement associated price. Again, the unit prices would include the direct cost

of labor, material, traffic control, mobilization, equipment, contractor's overhead for that that particular task item.

2. Section Two of the contract documents is a set of performance based technical specifications, standards, special provisions, approved products listing, labor requirements, or any other measures that would be pertinent for the maintenance tasks put into place.
3. Section Three would consist of Information for Bidders, construct of contract, General Conditions, bond forms, wage rate information, etc.

## **Compliance with Federal and State Regulations**

The WVDOH is requesting approval to use federal funds (STP, CMAQ, or other federal funds) to fund the JOC for scheduled and emergency ITS and Traffic Control Device preservation, maintenance, and operational level activities under the SEP-14 "Alternative Contracting" program. The following provides the criteria for the program:

The JOC shall be bid competitively. The JOC will include the following features:

- Shall include appropriate federal provisions with regard to pertinent work under this agreement. Additionally, within the JOC, funded directly by or assisted in whole or in part by and through the Federal government, the Contractor shall comply with the following:
  - The Copeland "Anti-Kickback" Act (18 U.S.C. Section 874) as supplemented in Department of Labor regulations (29 CFR part 3); the "Anti-Kickback" Act of 1986 (41 U.S.C. Section 51 et seq.); sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5); the Federal Fair Labor Standards Act (29 U.S.C. Section 201 et seq.); and other applicable Federal laws, rules and regulations.
- FHWA 1273 shall be included in the JOC contract.
- The JOC will be administered in accordance with the guidelines established in the WVDOH Standard Specifications for Roads and Bridges, adopted 2010, as amended by the West Virginia Department of Transportation, Supplemental Specifications, Dated January 1, 2013.
- The Traffic Engineering Division will act as project manager and administrator for this project.
- The Traffic Engineering Division will submit an annual status report to the FHWA.
- The Traffic Engineering Division will submit a final evaluation report to the FHWA within six months after the completion of the program.

## **Opportunities for Improvement**

### Increased Responsiveness

Independent studies show that under JOC, work can start between 75-85% faster than traditional contracting methods. These studies show that, for small projects (less than \$20,000), the average procurement time using the traditional system is as much as 233 days compared to only 42 days under JOC - a savings of 82%. Essentially, JOC contracts provide a timely response to identified preservation and maintenance needs as the time frame for each job order is eliminated and design time truncated. By its very nature, JOC contracts can be limited in scope. The WVDOH intends to accelerate procurement time to within a week's timeframe, and much more rapidly for emergency operations.

### Lower Costs

Independent studies further show that using JOC can save a facility owner between 8-15 percent in total costs compared to traditional contracting methods. These cost savings occur from reduced design costs, lower procurement costs, lower direct construction costs, and reduced post award costs.

### Reduced Design Costs

Design costs are reduced because the scope of a majority of the task orders can be documented without having to develop full design documents. In those cases where some design is required, the design only needs to be completed to the point of being priced and capable of being permitted, not biddable. For every task order, the technical specifications are already developed as part of the basic JOC contract. The WVDOH is anticipating savings range with respect to design costs in excess of 5-10% within each task order assignment.

### Lower Procurement Costs

Procurement costs are reduced because the State does not have to develop, advertise, and award individual contracts for every small to medium sized project. The cost of reproducing the contract documents alone can range from 0.5-1% of the overall cost of construction. The average procurement cost using traditional procurement methods for medium sized projects is 4%. The WVDOH is anticipating much less procurement costs due to the nature of a task assignment for small to medium projects.

### Lower Direct Construction Costs

Studies show that when analyzing comparable work, the JOCs are 4-8% less expensive because of reduced indirect costs, the absence of large contingencies, and volume discounts provided by contractors. For example, if you consider a single project that is advertised under the traditional system, bidders will include in their bid anticipated overhead costs for the full duration of the project. These costs will represent both field and home office costs. Under JOCs, the contractors spread their anticipated overhead over the entire contract and, therefore, the individual overhead allocation against any one project is a small percentage of the total overhead considered. Other studies show that when developing their JOC bid, contractors will lower their contingency costs because they have the opportunity to participate in Joint Scope Meetings and inspect each project prior to developing the final cost proposal for that project.

### Reduced Post Award Costs

The JOC reduces costs by eliminating change orders and the resulting negotiations post award costs primarily result from change orders and claims. Post award costs are further reduced because the JOC is a series of individual task orders, and it is generally not in the contractor's best interest to submit frivolous claims that may affect its future volume of work under the contract.

### Enhanced Opportunities for Minority Businesses

The JOC is designed to enhance the participation of local, minority, and women-owned businesses. Because no commitment is made to the JOC contractor regarding specific projects or the exact types of work that will be required, the contractor cannot develop an in-house work force to do all the work and is forced to maximize the use of subcontractors. This increases the opportunities for the contractor to use local, minority, and female owned businesses.

In addition, minority businesses strongly support the JOC because they are able to receive large amounts of work without the official red tape normally associated with bidding. They also support JOC because it does not tie up their bonding capacity. They get the work fast and get paid fast. JOC has enabled many minority firms to do government work for the first time.

### Incorporation of Multiple Funding Sources

Under the JOC, the obligation document is the individual task order and not the basic contract. Therefore, individual Job Orders can be paid from different funding sources. This capability is not available with any other form of competitively bid, firm fixed priced maintenance or construction contract.

The JOC provides the State with a single, highly flexible and responsive tool for accomplishing a majority of its annual maintenance and preservation projects regardless of the source of the funds.

Additionally, Federal legislation allows all ITS and Traffic Control Devices to be eligible for federal-aid funding. The FHWA Special Experimental Project No 14 (SEP-14) may be used to evaluate promising non-traditional contracting techniques.

### Higher Quality Construction

Because the structure of the JOC is a series of individual task orders, the contractor has an ongoing financial incentive to provide a quality project. If the contractor fails to maintain the desired level of service and quality, the owner can elect to give future projects to other JOC contractors or to complete the projects using traditional contracts.

The "contractual motivation" under the JOC is the complete reverse of the traditional system where the contractor has been awarded a one time, fixed priced contract. Under the traditional procurement system, the contractor is motivated to make as much money as possible off that one opportunity. The contractor typically does so by cutting corners and submitting frivolous requests for claims and change orders. This sort of behavior does not occur under JOC because it would convince the facility owner not to give the contractor future task orders.

### Goals and Benefits-Contractors

Contractors bid Job Order Contracts because of the rewards. The primary reward is that JOC can be profitable. The level of profit, however, depends upon many variables. A few of these variables include the contractor's Adjustment Factor, management capability, volume of work, and consistency of workflow. The contractor does not have to expend business development resources to find the next project. As long as the contractor meets or exceeds the State expectations, it will likely continue to receive projects up to the Maximum Contract Value.

Ideally, a long-term partnership will develop between the State and the contractors. The JOC contract structure fosters a continuing, non-adversarial relationship that allows the contractor to function as a partner in the development of each task order. The contractor becomes an important source of information with regard to construction expertise during task order development. There is normally a high level of diversity among the task orders and an ability to help solve the State facility and infrastructure problems keeping the overall contract interesting and rewarding.

## **JOC Contract Structure**

### Guidance to Bidders

During the bidding process, bidders are told the exact tasks that they will be asked to perform. No commitments are made about specific quantities that will be ordered from the TOA.

The State shall inform bidders of some specific contract characteristics that are unique to JOC, such as:

1. The JOC contract will have a definitive term. This contract will feature an initial base term of 1 year from the date of contract award. In addition, the contract also includes an option for

additional years based on the contract issued. The total term of the JOC contract cannot exceed the specified number of years which is anticipated to be five (5) years.

2. The JOC contract shall have no minimum contract values in the contract. Bidders are advised that the State of West Virginia is not obligated to award any predetermined amount of work during the entire term of the contract.
3. The JOC shall qualify bidders and provide for a pre-bid meeting with all pre-qualified bidders. The contractors are given an overview of the JOC and encouraged to ask questions about how task order assignments work. The pre-bid meeting will explain the mechanics of how the JOC will be exercised, and how TOA are implemented. Contractors shall be given notice and guidance on the contract requirements, the pricing proposal per task order, personnel and time requirements to staff the Job Order Contract, and generally how to be successful under the JOC system.

#### Contractor Selection Process

A selection of eligible contractors shall be contacted with regard to statement of qualifications that demonstrate certain skill sets, licenses, and similar experiences in order to be determined responsible, as well as pre-qualify contracting firms with respect to the criteria listed below under "Best Value Procurement" in a pre-qualification process. Only Contracting firms that score a minimum of seventy (70) points shall be eligible to bid for the proposed JOC.

Contractors shall be evaluated based on technical criteria in order to pre-qualify acceptable contracting firms that may bid this JOC. The following grading system is included as an example of how West Virginia may evaluate and pre-qualify bidders:

- A. The extent to which the Prime Contractor provides a clear, concise, and high probability for success for task order assignments in meeting performance standards set forth in this document. This would include staffing, materials, and equipment, as well as work methods, environmental protection, functional efficiency and flexibility, traffic management and protection, coordination with utilities, government agencies, and other organizations, and quick response and/or emergency asset management and maintenance activities to make the roadway safe for the traveling public. **(5 Points)**
- B. The extent to which the proposed Prime Contractor demonstrates experience, knowledge, and understanding of preservation, and maintenance for all of the ITS and Traffic Control Device/System assets referenced in this document. Experience, knowledge, and understanding should be demonstrated in each of the specific task areas. **(5 Points)**
- C. The extent to which proposed subcontractors, for the specific activities that they will conduct, demonstrate experience, knowledge and understanding of operations and maintenance for the assets referenced in the contract. **(5 Points)**
- D. The extent to which the proposed Prime Contractor and subcontractors demonstrate experience, knowledge and understanding of key safety issues, including work zone safety, worker protection, safety for pedestrians, bicyclists, and other non-vehicle uses, and the safety implications of poorly maintained or repaired assets. **(5 Points)**
- E. Experience, knowledge and understanding in using innovative techniques, processes, or materials related to operations and maintenance of the assets referenced in this document. **(5 Points)**
- F. **PAST PERFORMANCE (15 Points)**
  - a. Experience to the past performance of the Prime Contractor's and subcontractor's experience on asset preservation, maintenance, and management contracts of comparable size demonstrates a likelihood of successfully performing all of the tasks set forth within the contract.

- b. The quality of the past performance management experience examples provided by the Contractor.
- c. The extent and quality of references provided by identifying experience contract personnel.
- d. The extent to which personnel from the referenced projects are proposed on this project.

**G. STAFFING (15 Points)**

- a. The adequacy and relevance of the qualifications and experience of the proposed program manager.
- b. The qualifications and experience of key personnel by task area, for the proposed Prime Contractor related to the rehabilitation of ITS and Traffic Control Device/Systems.
- c. The extent to which key and non-key personnel are available for the term of the proposed contract.
- d. The extent to which the Prime Contractor adequately trains their personnel.

**H. MANAGEMENT (15 Points)**

- a. The extent to which the Prime Contractor's management plan demonstrates the ability to maintain and preserve ITS/Traffic Control Devices in compliance with the performance standards set forth in this contract.
- b. The extent to which the management plan demonstrates the ability to control prices and reduce financial risks to the State of West Virginia.
- c. The extent to which the management plan demonstrates the ability to effectively manage the proposed subcontractors.
- d. The extent to which the management plan demonstrates an adequate approach for ensuring the availability of staff and resources, over the term of the contract for routing and emergency/fast response activities.
- e. The extent to which the management plan demonstrates a process that will ensure availability of materials that the Contractor proposed to keep on hand.
- f. The ability of the Contractor to attend project meetings on short notice.
- g. The ability of the contractor to demonstrate an understanding of asset management and to the adherence of a good understanding for management relationship with the WVDOH.

**I. QUALITY CONTROL/QUALITY ASSURANCE (10 Points)**

- a. The extent to which the Prime Contractor's QC/QA is likely to ensure that all tasks meet the performance standards set forth in this contract document.
- b. The adequacy of the Prime Contractor's plan for ensuring quality work.
- c. The adequacy of the Prime Contractor's plan that the equipment repaired stays in good working order.

**J. FACILITIES (20 Points)**

- a. The extent to which the proposed Prime Contractor's and major subcontractor's facilities, labor force, equipment and materials demonstrate a likelihood of successfully performing all of the tasks within this contract in an efficient and timely order.

Based on the Task Order Item sheet, the other bid documents, and the guidance provided at the pre-bid meeting, bidders competitively bid the task orders based on their anticipated work to include all labor, equipment, traffic control, mobilization, all incidental materials, as well as overhead and profit for that task order to be executed.

The successful, "pre-qualified" contractor will be awarded the contract based on the lowest overall priced, responsible and responsive bid.

### Contract Execution

Once the State has executed a JOC with a contractor, they are standing by available to perform work when called upon. The task order execution process begins with the identification of a project/problem, an understanding of the general scope of work associated with the project/problem, and the assignment by the Project Manager. After these preliminary steps are completed, the Project Manager may conduct a joint scope meeting with the Contractor to review the proposed general scope of work and/or evaluate the work site conditions. The contractor is invited to ask questions and make suggestions.

After the joint scope meeting, the Project Manager provides the contractor with a written Detailed Scope of Work. The level of detail and design included in the Detailed Scope of Work is a function of the difficulty and type of the particular project. The contractor then breaks the work down into individual items of work and prepares a pricing Proposal by selecting the unit price tasks contained in the TOA to accomplish the Detailed Scope of Work. The total price is calculated by multiplying each unit price by the required quantity. Along with the Proposal, the contractor also develops a schedule, a list of subcontractors, and any required drawings or sketches.

The Proposal, if significant, is then reviewed to make sure the contractor selected the correct tasks and appropriate quantities. If the Project Manager is satisfied that the Proposal is accurate and the price is reasonable then a firm fixed priced, lump sum Job Order can be issued to the contractor. The contractor is required to complete the Detailed Scope of Work for the lump sum price within the agreed upon schedule.

Once the work begins, the Project Manager reviews submittals, inspects the work, monitors progress, approves payments and closes out the project. No variations from the procedures are permitted.

### Specific Items of Interest

During the proposal period the Division will evaluate the effectiveness of the JOC concept to meet ITS and Traffic Control Devices preservation and maintenance needs. Additional concerns will also be reviewed during this time, such as:

- Does the JOC help the Department meet the forecasted Traffic Control Device preservation and maintenance/operational needs?
- Is the contracting community willing to accept the JOC format?
- What changes in contract language would be necessary to meet the Federal Title 23 requirements?
- What affect will these changes have in the administration of JOC?
- Will the changes impact the JOC process?
- What other transportation activities could be effectively contracted through the JOC?
- Can the JOC be scoped to meet Federal-aid requirements for additional assets?
- How best can Federal requirements such as Buy America, Changed Condition clauses, Davis-Bacon wage rates, and MWBE participation be met?

### Evaluation and Measures

Records will be kept of each item, the quantity, location, costs and project scope for each job order within each JOC contract using federal aid. Interviews with staff involved with the letting and execution of a JOC contract, along with contractors, will be conducted to determine how the JOC process compared to the traditional contracting mechanism. Some additional specific areas of interest are:

- Staffing requirements for the oversight and administration of the JOC contracts,

- The contractor's ability / willingness to prepare and accept task order proposals in a timely manner,
- The thoroughness of the maintenance and operations task listing
- The ability to add items and the ability to extend the contract within the Federal clauses.
- Can the benefits of the JOC contracting mechanism be quantified? What can be measured?
- What are the limitations of JOC versus state forces? Versus traditional contracting methods used for preservation and preservation and maintenance work?
- How can cost savings and/or time reduction be determined?
- How does the quality of the work compare to that performed by state forces or other traditional contracting methods?

## **Conclusion**

In summary, Job Order Contracting would enable the WVDOH to more rapidly engage contractors and complete emergency/preventative maintenance and preservation projects while lowering costs, with the intangible savings brought about with increased safety. The JOC does not replace any of the existing contracting systems including traditional bidding, but would address the shortage of state forces and timeliness of traditional contracting methods for small to medium sized emergency and/or preventative maintenance operations. The JOC would provide the WVDOH an excellent tool by implementing an efficient and effective program in delivering timely maintenance and preservation within its statewide program.

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**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Division of Highways is soliciting bids to establish an open-end contract for Bituminous Asphalt for use on preventive maintenance and repair projects throughout the state of West Virginia which includes materials, delivery and labor, by the Vendor, to a WVDOH project site.
  
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Item”** or **“Contract Items”** means the list of items identified in Section 3.2.
  
  - 2.2 **“Pricing Pages/E-Catalog Spreadsheet”** means the schedule of prices attached hereto as Exhibit A and used to evaluate the Solicitation responses.
  
  - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services.
  
  - 2.4 **“WVDOH”** used throughout this Solicitation means the West Virginia Division of Highways.
  
  - 2.5 **“Hot Mix Asphalt”, “HMA”, “Warm Mix Asphalt” and “WMA”** used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, as modified by all subsequent annual Supplemental Specifications, shall mean Bituminous Asphalt and shall be referenced as **“Asphalt”** throughout this Solicitation.
  
  - 2.6 **“Contractor”** or **“Vendor”** used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, as modified by all subsequent annual Supplemental Specifications are interchangeable.
  
  - 2.7 **“Standard Specs”** used throughout this Solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, as modified by all subsequent annual Supplemental Specifications.

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**3. GENERAL REQUIREMENTS:**

- 3.1** The following sections of the Standard Specs, but not limited to, shall apply to the administration of this contract: Sections 101, 102.4, 102.5, 105.1, 105.3, 105.4, 105.10, 105.11, 105.12, 105.13, 106.3, 106.4, 106.5, 106.6, 106.7, 106.9, 107.1, 107.2, 107.3, 107.12, 107.14, 107.15, 107.16, 107.19, 107.20, 107.23, 108.3, 108.5, 108.6, 108.7, 108.8, 109.1, 109.2, 109.9, 109.10, 109.20, 401.4.2.1, 401.9.3, 401.9.7, 401.10.1, 408 and 636.

A complete hard-copy of these Standard Specs may be obtained from:

West Virginia Division of Highways  
Contract Administration Division  
Building 5, Room 722  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305  
(Phone) 304-558-2885

An electronic copy of these Standard Specs may be obtained by sourcing:  
<http://www.transportation.wv.gov/highways/Contractadmin/specifications/2010StandSpec/Pages/default.aspx>

- 3.2 Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

- 3.2.1 Materials:** Items A through O on the Pricing Sheet are considered Materials. Materials from this contract SHALL ONLY be purchased when delivery by the Vendor and labor by the Vendor are required on a Delivery Order.
- 3.2.2** There shall be no Item P for this contract.
- 3.2.3 Performance Grade Binder:** Items Q and R are surcharges to compensate the Vendor for supplying Asphalt when the referenced binder is substituted for the standard binder.
- 3.2.4 Excavation for Shoulder Paving:** Item S work shall consist of removing existing shoulder material for a length and width as directed by the WVDOH District Engineer in two inch (2") vertical increments. Cost of loading, hauling and disposing of the excavated materials shall be included in the bid price for this item.

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**3.2.5 Asphalt Base I Shoulder Paving:** Item T is a surcharge for work performed to pave road shoulders consisting of installing and compacting Asphalt Base I to the elevation of the existing pavement in the shoulder that is to be paved. NOTE: Asphalt Base I will be paid as Item A. The Hauling of Asphalt Base I will be paid for with Item V. The Lay Down will be paid for with Item W. The Excavation will be paid for with Item S.

**3.2.6 Asphalt Base II Shoulder Paving:** Item U is a surcharge for work performed to pave road shoulders consisting of installing and compacting Asphalt Base II to the elevation of the existing pavement in the shoulder that is to be paved. NOTE: Asphalt Base II will be paid as Item C. The Hauling of Asphalt Base II will be paid for with Item V. The Lay Down will be paid for with Item W. The Excavation will be paid for with Item S.

**3.2.7 Haul by Vendor:** Item V is the distances allowed for haul costs which will be over suitable routes selected by the WVDOH District Engineer that will provide the lowest total cost to the WVDOH and shall be measured from the Vendor's plant location, which shall be identified on the Information Attachment form, to the WVDOH's mid-point of the project utilizing the WVDOH Straight Line Diagrams. These Diagrams for WV Primary Routes and WV Secondary Routes are available in each WVDOH District office and the WVDOH Central Office. WVDOH will determine the route to be taken due to bridge and/or road restrictions which shall have acceptable load limits for both roads and bridges.

Out-of-state delivery route mileage will be calculated by the WVDOH, the shortest route, by utilizing "Google Earth" or a similar source for routing from the Vendor's plant location to the WV State line at which time, the Straight Line Diagrams will be sourced to the WVDOH mid-point of the projection location.

Haul by Vendor will only be requested in combination with other awarded items.

**3.2.8 Lay Down of Materials:** Item W shall provide lay down services for materials items A through O. Lay Down shall be provided by the Vendor at projects designated by the WVDOH District Engineer. When directed in the Delivery Order, the Lay Down contractor shall construct the Asphalt Lay Down with a safety edge at no additional cost to the WVDOH.

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**3.2.9 Cleaning and Sweeping:** Item X, the Vendor shall perform cleaning and sweeping in accordance with Subsection 401.10.1 of the Standard Specs. Payment shall be calculated as the paving length times the width swept in accordance with Subsection 401.10.1. The WVDOH may perform cleaning and sweeping details at times.

**3.2.10 Tack Coat:** Item Y, Bituminous Material for Tack Coat or Prime Material furnished and applied shall be in accordance with Section 408 of the Standard Specs as directed by the WVDOH District Engineer.

**3.2.11 Mobilization for Paving Limits:**

**3.2.11.1 Daytime Paving Mobilization:** Item Z is a mobilization for paving charge which may be made when the Delivery Order quantity per paving location is less than 500 tons of Asphalt and night-time paving is not requested.

**3.2.11.2 Nighttime Paving Mobilization:** Item AA is a mobilization for paving charge which may be made when the Delivery Order directs that the paving is to be done at night.

Only one mobilization for paving per day of operation will be paid, unless moves of over five (5) miles between individual paving locations are required. In cases where a Vendor is required to move from one roadway to the adjacent roadway of a divided highway, additional mobilization for paving will only be paid if the nearest interchange or crossing point that will accommodate the Vendor's equipment is over five (5) miles from the paving locations. NOTE: This provision may require roundtrip moves of up to ten (10) miles with no additional mobilization for paving payment. An individual paving location shall be defined as a paving job where no skips exceeding 2,500 feet are involved, except between the approach slabs of a bridge or parallel pair of bridges.

**3.2.12 Off-Season Plant Opening:** Item AB, if the Vendor is required to open his plant in the off-season to service the needs of the WVDOH, an additional payment will be made for this item. The Vendor will be paid additional day charge for each additional consecutive day that the plant is open after the first day to service the needs of the WVDOH. If the plant produces no material for any use on any calendar day, either during the week or on the weekend, the WVDOH will pay the first day rate for off-season plant opening on the next day of the WVDOH usage. Payment for this item is subject to the following conditions:

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- 3.2.12.1** Payment for this item can only be authorized and made during the winter months, i.e., between December 15<sup>th</sup> and March 15<sup>th</sup>, and then only if the plant would not have otherwise been open. These dates may be revised by the WVDOH District Engineer, if necessary, to meet specific needs in the field. Any such revision of dates will be in writing and shall be attached to the Vendor's invoice at the time payment is requested.
- 3.2.12.2** Payment will always be made at the full contract awarded bid price for the first day of plant opening; however, the amount paid from each additional day of plant opening will be reduced as follows:
- a) Payment for additional day charge will not be made if the plant has produced over 500 tons on that particular day. If between 300 and 500 tons have been produced, payment for additional day charge will be made equal to one-half of the contract awarded bid price for the additional day charge. The quantity produced to make this determination shall include all material produced that day, which includes tonnage bought by the WVDOH, other local governments and all private work.
  - b) The WVDOH will only pay its share of the amount determined to be due for additional day charge as described above. For example, if the plant produces 375 tons and the WVDOH takes 150 tons of the total, 40% of the plant's daily production, payment for additional day charge would be calculated as follows: Since the total daily production is between 300 and 500 tons, the Vendor is due 50% of the additional day charge. Because the WVDOH's share of this daily production is 40%, the WVDOH would pay 40% of one-half of the additional day charge, or in this case, 20% of the additional day charges.
- 3.2.12.3** A certified statement shall accompany the invoice stating the total quantity produced on the additional day. If payment does not qualify due to tonnage produced, the next consecutive day of plant operation, if any, will qualify for payment at the additional day rate rather than the first day rate for plant opening.

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- 3.2.13 Additional Heel-In Joints:** Heel-In Joints at the beginning and the end of each paving location will be performed by the Vendor in accordance with the “Resurfacing Heel-In Detail”, Figure 2, at the end of these specifications. Additional Heel-In Joints, Item AC, in accordance with the Resurfacing Heel-In Detail may be required as directed by the WVDOH District Engineer at intersecting roadways, at the beginning and end of each paving skip and other designated locations. Payment of Additional Heel-In Joints shall be paid per lineal foot as measured along the joint, which shall be full payment for complete construction of the joint.
- 3.2.14 Skip Paving Surcharge:** Item AD, when the distance between the end of one skip and the beginning of the next does not exceed 2,500 feet, Skip Paving may be requested by the WVDOH District Engineer. Payment shall be made for each ton of final surface course material completed in place on the project. Patching and leveling in preparation for resurfacing of a project shall not be considered Skip Paving.
- 3.2.15 Pavement Profiling:** This work shall consist of profiling the existing pavement to the specified grade and cross slope by grinding, planing or milling. The profiling equipment shall be capable of accurately establishing profile grades of 1/4” plus or minus, along each edge of the machine by reference from the existing pavement by use of ski or matching shoe or by reference to independent grade control. The equipment shall have an automatic system for controlling grade and cross slope. The Vendor shall provide adequate manpower and auxiliary equipment to control dust and remove cuttings from the project site. Stockpiling of cuttings on the project site will not be permitted. All cuttings shall become the property of the Vendor. The Vendor shall be responsible for damage to drainage facilities, manholes or other appurtenances within the pavement area.
- 3.2.15.1 Mobilization for Profiling:** Item AE, all preparatory operations including movement of necessary personnel and equipment onto the project site to begin the profiling work. Only one Mobilization for Profiling per Delivery Order shall be paid when Pavement Profiling (Milling), Item AF, is required.
- 3.2.15.2 Pavement Profiling (Milling):** Item AF, milling shall be measured as the total number of square yards planed or ground to a depth not exceeding two inches (2”). Should the required removal depth exceed two inches (2”), additional quantities shall be measured for each additional two inches (2”) increment.

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Hauling of Profiled Cuttings from project site to the Vendor's nearest production facility shall be paid under Haul by Vendor, Item V and weighed on truck scales in accordance with Section 401.9.3 of the Standard Specs.

- 3.2.16 Maintenance of Traffic:** While undergoing improvement, the project site shall be kept open to traffic in such condition that both local and through traffic will be adequately and safely accommodated. All construction operations shall be scheduled by the Contractor to keep traffic delay to a minimum.

Traffic Control and Temporary Pavement Marking Paint may be furnished by the WVDOH. When Pilot Truck and Driver, Item AG, Traffic Control Devices, Item AH, Flagger, Item AI and/or Arrow Board, Item AJ are requested by the WVDOH for a project, traffic shall be maintained by the Vendor in accordance with Section 636 of the Standard Specs.

- 3.2.17 Milled Rumble Strips:** Item AK, shall be in accordance with the "Rumble Strip Special Detail", Figure 1, at the end of these specifications.

- 3.2.18 Mobilization for Milled Rumble Strips:** Item AL, work shall consist of preparatory operations including movement of necessary personnel and equipment onto project site to begin the work of Milling Rumble Strips. Only one mobilization for Milling Rumble Strips per Delivery Order shall be paid when Milled Rumble Strips are required.

- 3.2.19 Pavement Repair:** Item AM, work shall consist of squaring up the repair area, removing damaged material to a depth directed by the WVDOH District Engineer, hauling and disposing of existing pavement, tacking of existing surfaces and placing and compacting Asphalt Base II in lifts not exceeding two inches (2") to the level of the existing pavement. The cost for these requirements shall be bid per Item AM. There will be no price adjustment to the asphalt used for Pavement Repair.

All labor, equipment and material to complete Item AM shall be included in the unit bid price for Item AM. Any traffic control required shall be charged separately per section 3.2.16 as Item AG, AH, AI and/or AJ.

- 3.2.20 Parking Lot and Facility Paving Surcharge:** Item AN, is a surcharge which shall be provided when material is used to pave parking lots.

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**3.2.21 Special Provisions:**

**3.2.21.1 Section 401:** Asphalt Base, Wearing and Patching, and Leveling Courses. Item AO, has been written to address the use of increased amounts of reclaimed asphalt pavement (RAP) used within mixes produced for projects in the WVDOH construction program. A copy of SP401 is attached. When Item AO is requested on a Delivery Order, there shall be no pay item.

**3.2.21.2 Section 307:** Crushed Aggregate Base Course. Item AP, reclaimed asphalt pavement (RAP) may be substituted for Class 10 Shoulder Stone materials on roadways where edge line pavement markings exist or are installed. A copy of SP307 is attached. When Item AP is requested on a Delivery Order, there shall be no pay item.

**3.2.21.3 Section 496:** Asphalt High Performance Thin Overlay. Item AQ, shall consist of constructing a single course of an asphalt high performance thin overlay (HPTO), mixed mechanically in a plant, composed of aggregate and asphalt material designed in accordance with the Superpave Design System, on a prepared foundation in accordance with the specifications and in reasonable close conformity with the lines, grades, weights or thicknesses and cross sections shown on the Plans or established by the WVDOH Engineer. A copy of SP496 is attached.

**3.2.21.4 Section 498:** Ultra-Thin Asphalt Overlay. Item AR, covers the materials, equipment, construction and application procedures for placing Ultra-Thin Asphalt Overlays on existing paved surfaces in accordance with the specifications and in reasonable close conformity with the lines, grades, weights or thicknesses and cross sections shown on the plans or established by the WVDOH Engineer. A copy of SP498 is attached.

**3.2.21.5 Section 497:** Fine Milling and Micro-milling of Asphalt Pavement Surfaces. Item AS, shall govern for the fine milling or micro-milling of existing and/or new asphalt pavement at locations shown on the plans or as directed by the WVDOH engineer in accordance with the requirements and MP 401.07.24. A copy of SP497 is attached.

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**3.2.22 Vendor's Plant Location:** The Vendor **shall** provide the Vendor's Plant Location on the Information Attachment form for the Plant that will be supplying the materials listed on the Pricing Page/E-Catalog Spreadsheet.  
NOTE: Please refer to Section 6.2.2 of these Contract Specifications.

**4. PRICE ADJUSTMENTS:**

**4.1 Price Adjustment of Asphalt Cement:** Due to the uncertainty in estimating the cost of petroleum products that will be used during the life of this contract, adjustment in compensation for Contract Items A through O is provided for in the Standard Specs. Refer to the table below:

<b>Item</b>	<b>Description</b>	<b>AC (Average Asphalt Content)</b>
A	Section 401 – Base I	3.9
B	Section 401 – 37.5mm Superpave	3.9
C	Section 401 – Base II	4.9
D	Section 401 – Patch and Level	5.0
E	Section 401 – Wearing IV	4.9
F	Section 402 – Wearing IV	5.3
G	Section 401 – 19mm Superpave	4.9
H	Section 401 – Scratch Course	5.7
I	Section 402 – 9.5mm Superpave	6.2
J	Section 401 – Wearing I	5.9
K	Section 402 – Wearing I	5.9
L	Section 401 – 4.75mm Superpave	7.6
M	Section 402 – 4.75mm Superpave	7.6
N	Section 401 – Wearing III	7.3
O	Section 402 – Wearing III	7.6

**4.2 Price Adjustment of Fuel Oil No. 2 (Diesel Fuel):** Due to the uncertainty in estimating the cost of diesel fuel that will be used during the life of this contract, adjustment in compensation for Contract Items A through O is provided for in the Standard Specs.

**The bidding index for asphalt binder will be listed on the Contract Administration website for Fuel and Asphalt adjustments for January 2016.**

**5. ACCEPTANCE PLAN:** Quality control at the plant and in the field shall be the responsibility of the Vendor and shall meet the requirements of MP 401.03.50.

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Compaction quality control shall be in accordance with MP 401.05.20. Acceptance testing shall be the responsibility of the WVDOH. Quality assurance of the material shall be as set forth in MP 401.02.27 for Marshall Mix designs or MP 401.02.29 for Superpave mix designs.

**6. CONTRACT AWARD:**

**6.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price on all Contract Items. All qualified responsible Vendors shall be awarded a contract for those Contract Items bid which meet all mandatory requirements of this Contract.

**6.2 Pricing Pages/E-Catalog Spreadsheet and Information Attachment form:**

**6.2.1 Pricing Pages/E-Catalog Spreadsheet:** Vendor should complete the Pricing Pages/E-Catalog Spreadsheet by providing the following information, per each Contract Item Bid. Vendor should not modify or add any information into the Column Headers. Vendor should not place formula or any type of Excel calculations into the List Price column, only the actual bid price, per each Contract Item Bid.

1) Column 1 – Vendor Customer Code should identify the Vendor’s wvOASIS vendor/customer number. If the Vendor does not know this number, please leave this column blank, 2) Column 3 – Supplier Name should identify the Vendor’s Plant name, 3) Column 10 – List Price shall identify the Vendor’s unit prices per Contract Items bid and 4) Column 20 – Picture File Name shall remain blank. Vendors may bid any or all items on the Pricing Pages/E-Catalog Spreadsheet. Bidding on any one Contract Item may not be conditioned on the acceptance of the bid on any other Contract Item or Items.

**6.2.2 Information Attachment Form:** The Information Attachment form shall identify the Plant and its location that will be supplying the materials bid on the Pricing Page/E-Catalog Spreadsheet. The Vendor shall provide the 911 address or the most recent physical street address, city and state, for the Plant Location. If the Vendor fails to provide the Plant Location information as requested, the Vendor’s bid will be disqualified for that bid submission.

**NOTE:**

- If a Vendor will be supplying materials from multiple Plant Locations, and ALL pricing is the same, ALL Plant Locations can be listed on

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one Information Attachment Form and one Pricing Page/E-Catalog Spreadsheet submission is acceptable.

- If a Vendor will be supplying materials from multiple Plant Locations, at varying prices, *additional*, separate Information Attachment Forms and Pricing Pages/E-Catalog Spreadsheet must be submitted. Multiple Plant Locations, with varying prices, shall be submitted on separate bid submissions.
- A bid submission **SHALL** include the Pricing Pages/E-Catalog Spreadsheet **AND** the Information Attachment form. Any bid submitted without the Information Attachment form **WILL BE DISQUALIFIED**.

The Pricing Pages/E-Catalog Spreadsheet contains a list of the Contract Items with no guarantee that any Contract Item will be purchased throughout the life of this contract. Estimated quantities are not available.

Vendor should type or electronically enter the information into the Pricing Pages/E-Catalog Spreadsheet to prevent errors in the evaluation. In most cases, the Vendor can request an electronic copy of the Pricing Pages/E-Catalog Spreadsheet for bid purposes by sending an email request to the following address: [angie.j.moorman@wv.gov](mailto:angie.j.moorman@wv.gov).

- 6.3 Contract award transition:** Upon the award of this contract, whether the effective date or the completed and encumbered date or an established date by the WVDOH, the WVDOH Maintenance Division will announce the effective date of use of this contract to the Districts and the Vendors. Upon the announced effective date of use by the WVDOH Maintenance Division to the Districts and Vendors, any Delivery Order issued toward the 2015 Contracts shall remain in effect and should not be cancelled until that Delivery Order is filled; however, after ten (10) working days of the Districts' and Vendors' notice, any Delivery Order that has not been completely filled by the Vendors from the 2015 Contracts shall NOT be completed, but a cancellation notice will be sent to that Vendor from the issuing District for cancellation of the balance of that Delivery Order only. No Delivery Order from the 2015 Contracts should be held open by the District or the Vendor longer ten (10) working days after the notice to the Districts and the Vendors of the effective date of use of the new contracts.

This directive is issued to assist the Districts and the Vendors when fulfilling open Delivery Orders only. It is NOT issued to cause harm or to take contracts from one Vendor to give to another Vendor, but to establish a transition process from one contract into another contract.

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- 7. DETERMINING LOW BID PER PROJECT:** To determine the low bid Vendor per project for individual repair paving projects, the WVDOH District Engineer will calculate the lowest overall total cost of the price of material, Item A through O, plus any additional cost items. Charges for hauling will be calculated according to Section 3.2.7 of this contract.

WVDOH reserves the right to request any one or combination of items for which bids are awarded at the lowest overall total as set forth in this section.

**8. ORDERING AND PAYMENT:**

**8.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

**8.2 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract.

**9. PROJECT ACCEPTANCE, DELIVERY AND RETURN:**

**9.1 Project Acceptance:** Upon receipt of a Delivery Order, the Vendor shall advise the WVDOH, in writing, within five (5) calendar days of their acceptance of the project work of the Delivery Order. Failure on the Vendor's part to acknowledge acceptance of the project work may result in cancellation of the Delivery Order and re-award of the project to the next lowest bidder.

**9.2 Delivery Time:** All Delivery Orders shall specify a starting date and a completion date based on the Vendor's acceptance of the Delivery Orders. If work is not started by the Vendor by the specified starting date on the Delivery Order, the Delivery Order may be cancelled and issued to the next low bidder. If work is not completed by the completion date as specified on the Delivery Order, liquidated damages may be assessed in accordance with Section 108.7 of the Standard Specs. Vendor shall deliver emergency orders within an agreed upon acceptable timeframe

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after orders are received. Vendor shall ship all orders in accordance with the dates assigned to each project per the Delivery Order and shall not hold orders until a minimum delivery quantity is met. No Vendor is authorized to ship, nor is the WVDOH authorized to receive materials prior to the issuance of a Delivery Order.

- 9.3 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.
- 9.4 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. Vendor's Plant Location. Haul by Vendor, Item V shall be requested on the Delivery Order. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.
- 9.5 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 9.6 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.
- 10. Prevailing Wage:** Pursuant to West Virginia Senate Bill No. 361 (2015), effective April 13, 2015, the Prevailing Wage applies only to contracts let for public improvements whose cost at the time the contract is awarded will be paid with public money in an amount greater than \$500,000. Whereas the cost of this Contract will not be ascertainable at the time the contract is awarded, WVDOH understands Senate Bill No. 361 to not require payment of the Prevailing Wage under this Contract. However, Vendor is ultimately responsible for compliance with applicable Prevailing Wage laws. To the extent that Prevailing Wage shall apply to

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this Contract, Vendor is directed to the WV Secretary of State's website, the most current year, Full Set of Building and Construction and Heavy and Highway Construction Prevailing Wage Rates at the following website:  
<http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>

**11. VENDOR DEFAULT:**

- 11.1** The following shall be considered a vendor default under this Contract.
  - 11.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
  - 11.1.2** Failure to comply with other specifications and requirements contained herein.
  - 11.1.3** Failure to comply with any laws, rules and ordinances applicable to the Contract Services provided under this Contract.
  - 11.1.4** Failure to remedy deficient performance upon request.
- 11.2** The following remedies shall be available to Agency upon default.
  - 11.2.1** Immediate cancellation of the Contract.
  - 11.2.2** Immediate cancellation of one or more Delivery Orders issued under this Contract.
  - 11.2.3** Any other remedies available in law or equity.

**12. MISCELLENOUS:**

- 12.1 No Substitutions:** The Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 12.2 Vendor Supply:** The Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, the Vendor certifies that it can supply the Contract Items contained in its bid response.

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- 12.3 Vendor's Invoices:** Separate invoices must be submitted for Items A through R and for Items S through AS. The Vendor's invoices must be submitted as an original and one copy containing the following information:
- a) All weigh ticket numbers for material delivered and cuttings hauled during the invoice period.
  - b) WVDOH Delivery Order number and this contract number.
  - c) Total quantity and unit price with the total cost of each type of material furnished.
  - d) No payment will be made to a Contractor for Daytime Paving Mobilization, Item Z or Nighttime Paving Mobilization, Item AA unless the Contractor performs the Lay Down operation and the quantity involved is less than 500 tons for Item Z.
- 12.4 Reports:** The Vendor shall provide quarterly reports and annual summaries to the Agency showing the Contract Items purchased, quantities of Contract Items purchased and the total dollar value of the Contract Items purchased. The Vendor shall also provide reports, upon request, showing the Contract Items purchased during the term of this Contract, the quantity purchased for each of those Contract Items and the total value of purchases for each of those Contract Items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 12.5 Contract Manager:** During its performance of this Contract, the Vendor must designate and maintain a primary contract manager responsible for overseeing the Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. The Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**Fax Number:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_