

Sample Local Labor Hiring Preference SEP-14 Workplan

This workplan is provided for illustrative purposes only. Recipients must use contract provisions that are consistent with their own procurement policies and requirements.

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

City of Hometown, Kansas

Location: Main Street, from Walnut Street to Market Street

Federal-aid Project Number: STP-4444(51)

Local Project Number: xxxx-5555

A. Introduction

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

The City of Hometown submits this work plan for FHWA review and approval as a design-bid-build project incorporating a Local Labor Hiring Preference (LLHP) contract provision. This workplan is provided under the Notice: [Contracting Initiative](#) announced in the March 6, 2015 Federal Register. Historically, FHWA prohibited its recipients from using LLHP provisions that do not directly relate to the bidder's performance of work. The City of Hometown has successfully used LLHP contract provisions for many years on its city-funded contracts, and is requesting FHWA's approval for the use of these provisions on a Federal-aid project for the reconstruction of Main Street under the experimental authorities under [23 U.S.C. 502](#) and SEP-14.

Section 192 Certification Requirements

The City of Hometown hereby provides the following certification statements 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."

- (1) that except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the City of Hometown, Kansas;
- (2) that the City Of Hometown will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; (This is satisfied in Attachment A, Special Provision, Notice To Bidders, Item 4.) and
- (3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Kansas Statewide Transportation Improvement Program or Transportation Improvement Program.

B. Purpose

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

Many local governments recognize the importance of encouraging local hiring through their capital program construction contracts. While FHWA has viewed such requirements as a constraint on competition, the Contracting Initiative announced in March 2015 provides Federal-aid recipients with an opportunity to evaluate such requirements on federally assisted construction projects on a pilot-project basis. These requirements have a variety of worthwhile local objectives, such as ensuring that the communities in which the projects are located benefit from the jobs that result from the investment of their funds, particularly for workers in low income areas.

This pilot project will enable the City of Hometown to evaluate the effectiveness and efficiency of the use of Federal-aid and local funds in achieving the desired objectives.

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.]

The reconstruction of Main Street, from Walnut Street to Market Street, is an approximate \$7 million reconstruction project involving extensive grading, drainage, paving, sidewalk work as well as utility relocation and roadway lighting work. Approximately, \$5.6 million of the total project amount will be funded by FHWA. This project is typical of other City street reconstruction projects completed over the past ten years and will provide a suitable project for comparison purposes.

In addition, the City proposes to use a contract provision that requires 20% of all contract labor hours that are performed by Kansas residents are to be performed by residents of the City of Hometown. The Contractor will receive an incentive of \$3.50 per hour for each local labor hour used on the project with a not to exceed incentive amount of \$50,000. See Attachment A for additional details.

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 follows:

- Advertisement: August 1, 2015
- Letting: September 1, 2015
- Award: October 1, 2015
- Project completion: October 1, 2016

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.]

The City of Hometown 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.***

See the “Scope” section above.

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

The City of Hometown has been utilizing a LLHP contract provision on its City-funded projects for many years. Previous discussions with State DOT and FHWA staff have indicated that the use of such provisions were limited by the competitive bidding requirements of Title 23 U.S.C.; however, the City is interested in evaluating this requirement on a Federal-aid project on a pilot project basis under SEP-14. The project will utilize a requirement that 20% of all contract labor hours performed by Kansas residents are to be performed by residents of the City of Hometown (see the attached contract provision for details). Contract labor hours performed by non-Kansas residents will not be restricted.

- 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 other City street reconstruction projects, a comparison with similar size and scope projects (projects using the preference and projects not using the 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, etc.) will be provided for the increase / 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 LLHP requirement on the workforce will be made by comparing the percentage of total local labor hours on the pilot program with the percentage typically achieved on a similar Federal-aid project that did not use the LLHP 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 LLHP requirement will be made through an analysis of the following information:

- A comparison of unit bid prices - An evaluation of the unit prices for five bid items with the highest total value on the pilot project will be compared to unit prices for projects with a similar size and scope.
 - The prime contractor will be interviewed at the conclusion of the contract to obtain its opinion of the effectiveness and efficiency of the LLHP provision on its construction operations and to discuss any potential concerns or recommendations for the program. This will provide one measure of the relative efficiency of the contractor in meeting the contract requirements.
 - The City will provide an evaluation of the net economic benefit of employing additional City 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 City's unemployment rolls, payments for uninsured health insurance costs, etc.). The economic analysis will address the extent to which other Federal funds may be impacted by reducing unemployment in the City's workforce.
 - The City will provide an evaluation of the potential increase 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.***
- The City of Hometown is committed to maintaining the integrity of the competitive bidding process. To that end, the Kansas Department of Transportation (KDOT), in cooperation with the FHWA, has approved the City's project administration procedures, thus allowing the City to administer its own state and federally-funded projects with oversight from KDOT. The administration encompasses the project development process from "cradle to grave", and in particular, addresses the process from PS&E approval through project letting and award of contract. See Section 15 of the Local Public Authority (LPA) Project Development Manual.
- The City of Hometown has used the Local Labor Hiring Preference on a number of its State and locally funded projects, and has not encountered issues in maintaining the integrity of its competitive bidding process. Should there be issues with this project, the City is confident that its approved project administration process, with KDOT to assist if necessary, 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.***
- The City's LLHP requirements have not been subject to litigation.

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.]

The City of Hometown will prepare and submit initial and final evaluation reports for the project. The initial report will be prepared shortly after the award of contract. The initial report will include a

description of any concerns raised by stakeholders following approval of the proposal and any identifiable effects on the bids received.

A final report will be submitted upon completion of the contract. The final report will contain an overall evaluation of the contracting technique along with any suggestions and recommendations for improving the process.

Attachment A – Contract Provision

NOTICE TO BIDDERS

1. 20% of all Construction Worker Hours performed by Kansas residents must be performed by Hometown Residents.
2. Throughout the course of the contract, the prime contractor and all subcontractors shall submit certified payroll reports documenting all construction worker hours performed on the project.
3. The Contractor will receive an incentive of \$3.50 per hour for each local labor hour used on the project with a not-to-exceed incentive amount of \$50,000.00.
4. The prime contractor and subcontractors shall not displace, layoff, or fire any of their existing employees in order to satisfy the local labor hiring incentive.