

Indiana Department of Transportation
Application for Special Experimental Project Number 14
Utilizing an Indefinite Delivery / Indefinite Quantity Mark-up Contract for Bridge Preservation
May 17, 2021

In accordance with the Special Experimental Project Number 14 (SEP-14) alternative contracting requirements detailed by Federal Highway Administration (FHWA), the following items are addressed in this proposal:

1. Purpose
2. Scope
 - a. Proposed Preservation Strategy
 - i. IDIQ Job Order Contract
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1. Purpose

The Indiana Department of Transportation (INDOT) submits this work plan for review and approval to evaluate the use of Federal-Aid for an Indefinite Delivery / Indefinite Quantity (IDIQ) Mark-up Contract to address bridge preservation needs. The IDIQ Mark-up Contract should result in a fair bidding environment, while allowing INDOT to expedite project delivery and use of the tax payer's dollars efficiently. With approval of this work plan, the Indiana Department of Transportation (INDOT) will use federal aid for IDIQ Contracts under the Federal SEP-14 program.

The current IDIQ Line Item Contracting strategy is intended to shorten the development process and create a fair construction contract. Although this strategy is being achieved in pavement preservation, it is falling short in bridge preservation. The purpose of this application is to shorten the development process for bridge preservation and bring in in-line with the pavement preservation process.

2. Scope

Bridge preservation projects allow for a wide variety of work types, which creates more uncertainty and risk for the contractor. The IDIQ line item contract does not accommodate the broad scope of potential bridge projects. This inefficiency in the contract increases contractor risk and therefore, cost to INDOT. As a result of this increased risk, 2-IDIQ Bridge contracts (out of 6) did not have any bids. Due to the large diversity in scope of bridge contracts, it is difficult to create line item contracts which correspond with the project work types. This is resulting in very few IDIQ bridge projects. This causes increased strain on asset managers to preserve bridges while the development of projects progresses.

a. Proposed Preservation Strategy

In evaluating INDOT's current Preservation Program, it was determined that innovative procurement methods should be evaluated. To accomplish these goals, INDOT

identified an IDIQ Mark-up Contract as a potential tool for procuring Preservation Projects.

INDOT established an initial IDIQ program in 2016 which utilized Job Order Contracting procurement methodology. The IDIQ Job order costing program was replaced in 2018 with an IDIQ program utilizing line items which established INDOT pay items for road and bridge projects. This change was made in order more align the IDIQ construction process and administration with the typical INDOT construction project. This eliminated significant errors in administration of the projects. This difference between IDIQ Line Item Contracting and Mark Up contracting is as follows:

i. IDIQ Line Item Contract:

The IDIQ line item contracts are bid with anticipated quantities and the contractors bid the unit prices. The winning bidder is based on the total low bid of the anticipated quantities and the contractors bid of the unit prices. The unit prices of the winning bidder are contractual, yet the anticipated quantities are not contractual. IDIQ line item contracts are still anticipated to be used for pavement preservation.

ii. IDIQ Mark-up Contract:

The intention is for the contract to be very similar to a routine extra work agreement performed using guidelines from INDOT's Standard Specifications section 109.05 (b). INDOT's Standard Specifications outlines how to track such costs, and establishes allowable mark-up percentages for labor, materials, and equipment. The contractor shall submit a written proposal for the work prior to the start of the work. The proposal shall include the planned labor, materials, equipment and schedule for the work. The work performed shall be documented on an approved work order and compensated in the approved manner:

Labor Costs:

For labor costs, the contractor will receive the contract wage rate for each hour that said labor engaged in work. In addition to the labor costs, an amount equal to the agreed upon markup will also be paid to the contractor. The Contractor shall furnish satisfactory evidence of the rate or rates paid for insurance premiums and tax and actual costs will be paid.

Materials:

The Contractor will receive the actual cost of materials delivered on the work, including transportation charges paid by the Contractor. Additionally the agreed upon markup will be added to the cost of the material.

Equipment:

For Contractor owned equipment, the rates shall be not more than those listed in the current Rental Rate Blue Book. For equipment not owned by the contractor, the rate shall be as shown on invoices. The Contractor will receive payment for the total costs agreed upon plus the mark up price agreed upon in the contract.

Contract:

INDOT will provide a package that generally describes the work to be done. Generally locations, and anticipated quantities based on previous IDIQ contracts will be described. An estimate will be developed using previous IDIQ contracts and INDOT's current percentages listed in the INDOT standard specifications for Force Account work.

Contractors will be asked to bid mark-up percentages for labor, materials, and equipment. INDOT would require contractors to bid these percentages, then award the contract to the bidder with the lowest composite percentage. The percentages they bid, are used as their allowable mark-up during the contract.

As an example:

For bridge maintenance and rehabilitation type of work, it is typical that the cost of work is typically comprised of 30% labor, 30% materials, and 40% equipment.

Bidder #1

Labor – 18%

Materials – 15%

Equipment – 11%

Composite Markup – $18(.30) + 15(.30) + 11(.40) = 14.3\%$

Bidder #2

Labor – 20%

Materials – 12%

Equipment – 9%

Composite Markup – $21(.30) + 13(.30) + 9(.40) = 13.8\%$

In this example each bidder bids different percentages for each of the three categories, and once a composite percentage is calculated, Bidder #2 has the lowest composite markup and would be the successful bidder.

INDOT will instruct bidders to structure their bids according to the 30% labor, 30% materials, and 40% equipment project composition. The bid mark ups would be used on the change orders in the contract going forward.

iii. IDIQ Process:

Once a contract is awarded to the lowest, responsive, responsible bidder, and projects are identified, the contractor and INDOT will meet at the project site and discuss the work to be performed. After the site meeting, INDOT will develop a detailed Scope of Work and issue a Request for Proposal to the contractor. The contractor will then build a proposal package which includes the price proposal, a construction schedule, and a list of subcontractors and will submit the Proposal Package to INDOT for review and approval. INDOT will develop a project estimate based on historical pricing as a comparison. Once the Proposal Package is approved by INDOT, a task order will be issued to the contractor. The contract will

include a no excuse clause within the district. This will ensure the contractor is aware of the risks prior to bidding.

With approval of this work plan, the Indiana Department of Transportation (INDOT) will use federal aid for IDIQ Contracts under the Federal SEP-14 program. It is anticipated that the ability to resolve deficiencies within months rather than years will increase the frequency with which deficiencies are reported and will improve customer satisfaction by expediting the resolution of customer complaints.

IDIQ provides a timely response to preservation and maintenance needs on an as-needed basis while the time frame for procuring each project is drastically reduced. IDIQ contracts can be limited in scope and thus the scope of work for each project can be tailored to the type of asset for which work is required. Federal aid eligibility is also constrained by the type of work being performed.

It is anticipated that work performed by the IDIQ contract would include:

- Repair Or Replace Barrier Wall
- Bridge Rehabilitation Or Repair
- Bridge Deck Overlay
- Bridge Deck Patching
- Bridge Deck Sealing
- Bridge Deck Barrier Wall
- Bridge Thin Deck Overlay
- Substructure Repair And Rehabilitation
- Bridge Maintenance And Repair
- Straighten Beam
- Railing Replace Or Repair
- Repairs To Approach Slab
- Remove & Replace Beam
- Truss Reconstruction Or Repair
- Arch Reconstruction Or Repair

INDOT is proposing to utilize an IDIQ Mark-up Contract for bridge preservation projects with short duration time frames. Federal legislation allows all highway bridges 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.

3. Proposal

INDOT requests \$12,000,000 of federal funds to fund up to 6 IDIQ contracts for bridge preservation and maintenance activities under the SEP-14 "Alternative Contracting" program. At the outset \$1M will fund the initial year of the Pilot Program in the Fort Wayne District. This will replace rather than be in addition to the \$1,000,000 currently being used in the Fort Wayne District for the current Bridge Preservation IDIQ Unit Pricing Contract. Throughout the course of the first year of the Pilot Program, INDOT will coordinate with FHWA to evaluate the

effectiveness of the program. The contract will be renewable for both time and money. If it is determined that the contract is successful, it will be renewed. Additionally, if the contract is successful, it would be used in INDOT's 5 other districts as well. Therefore, the total request is for \$12 million for 6 two year contracts at \$2 million each. The following provides the criteria for the program:

- a. FHWA 1273 will be included in all IDIQ bid documents.
- b. The contract will meet all federal requirements
- c. INDOT will initially bid one IDIQ Mark-up Contract in the Fort Wayne District for Bridge Preservation.
- d. The IDIQ Mark-up contract will have a scheduled completion date of one year from the date of award.
- e. The contract will include a provision to extend the contract for one additional term (the contract award amount and a completion date one year from approval).
- f. The extension is to be mutually agreed upon between the Department and the contractor.
- g. The general scope of the IDIQ Mark-up contract will be for bridge preservation activities. Based on the success of the pilot program, INDOT may explore the use of IDIQ Mark-up in other districts subject to the concurrence of FHWA.

4. Schedule

- a. INDOT has identified the district to utilize the IDIQ Mark-up Contract.
- b. INDOT will solicit bids through its traditional bidding process. Each contract will be awarded to the responsible bidder with the lowest composite mark-up.
- c. We expect to have the IDIQ Mark-up Contract ready for Letting by July 2021.
- d. The IDIQ contract will be administered in accordance with Federal Highway Administration and INDOT guidelines for the Federal Bridge Preventative Maintenance Program.

Year 1: Notice to Proceed Fort Wayne District: September 2021

Year 2: Notice to Proceed Additional Districts: September 2022

Contract Renewal Fort Wayne District: September 2022

Year 3: Contract Renewal Additional Districts: September 2023

Contract Closeout Fort Wayne District: September 2023

Year 4: Contract Closeout Additional Districts: September 2024

5. Measures

- a. INDOT will review and evaluate the following during the pilot IDIQ program:
 - i. Time from project identification to project completion
 - ii. Time for bidding and award execution
 - iii. Responsiveness of contractors
 - iv. Cost effectiveness to perform the work
 - v. Contractor/industry reaction to this method.
 - vi. What worked well, what did not, and suggestions for improvement.

6. Reporting

- a. The INDOT IDIQ Program Manager will submit an annual status report to FHWA.
- b. The INDOT IDIQ Program Manager will submit a final evaluation report to FHWA within four months after completion of the pilot program.