

**BALTIMORE CITY DEPARTMENT OF TRANSPORTATION  
MARYLAND STATE HIGHWAY ADMINISTRATION**

**LOCAL LABOR HIRING PREFERENCE  
SEP-14 WORKPLAN**



City of Baltimore, Maryland

Location: The project is bounded on the west by Fulton Avenue, the north by Franklin Street, the east by Calhoun Street, and the south by Mulberry Street.

Federal-aid Project Number: NHPP-234-1(46) E

Local Project Number: SHA No. BC420005; Baltimore City Contract No. TR12310 Reconnecting West Baltimore/Fulton Avenue Bridge over U.S. 40

**A. Introduction**

The City of Baltimore and Maryland State Highway Administration submit this work plan for FHWA approval for a design-bid-build project incorporating a Local Labor Hiring Preference (LLHP) contract provision. This work plan 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 Baltimore has successfully used LLHP contract provisions since 2013 on its city-funded contracts, and is requesting FHWA's approval for the use of these provisions on a Federal-aid project for the Reconnecting of West Baltimore/Fulton Avenue Bridge over US Route 40 under the experimental authorities under [23 U.S.C. 502](#) and SEP-14.

**B. Purpose**

Many local governments recognize the importance of encouraging local hiring through their capital program construction contracts. 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 Baltimore to evaluate the effectiveness and efficiency of the use of Federal-aid and local funds in achieving the desired objectives.

### **C. Scope**

The Reconnecting of West Baltimore project, spanning from Fulton Avenue to Calhoun Street and from Franklin Street to Mulberry Street, is an approximate \$4.7 million reconstruction project. The project involves reconfiguration of the Fulton Avenue Bridge to enhance bicycle and pedestrian accessibility, including installation of planters on both sides of the bridge and a shared-use path. In addition, the project includes a shared tree lined pedestrian path loop, landscaping, streetscape elements (benches, trash receptacles, etc.), ADA improvements, storm water management, roadway and pedestrian lighting, signing, pavement markings, and signal replacement. The proposed features will provide a safer and more efficient vehicle, pedestrian and bicycle movement inclusive of traffic and pedestrian signal replacements at the following intersections: Fulton Avenue at Franklin Street, Fulton Avenue at Mulberry Street, Gilmore at Franklin Street, and Gilmore Street at Mulberry Street. Approximately, \$3.75 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.

The City proposes to apply Article 5, Section 27 of the Baltimore City Code to this project, which requires that at least 51% of new hires required to complete the contract be filled by Baltimore City residents. Prior to disbursement of City funds, the contractor will be required to perform an employment analysis to determine the number of jobs required to complete the contract and the number of new jobs required to complete the contract. This employment analysis must be developed with and submitted to the Mayor's Office of Employment Development (MOED). In each month of the project, required reports must be submitted by the contractor to MOED providing detailed employment and hiring information. Both waivers of the 51% new hire requirement and sanctions for non-compliance with the law will apply to the contract. If at the conclusion of the contract the contractor has complied with the City's requirement that 51% of new hires are Baltimore City residents, an incentive of \$3.50 per hour for each local labor hour used will be given to the contractor with a not-to-exceed amount of \$100,000.00. If the contractor seeks and receives a waiver of the City's local hire law, an incentive of \$1.75 per hour for each newly hired employee that resides within Baltimore City will be given to the contractor at the end of the contract, with a not-to-exceed amount of \$100,000.00. The incentive applies to all Baltimore City resident 'new hire' hours worked on the contract. The contract specification will contain a bid item for the Local Labor Hiring Pilot specifying incentive payments will be paid at the end of the contract. See Attachment A for additional details.

To date, \$832 million in contracts were subject to Baltimore City's local hire law. These contracts resulted in 153 new employees hired to complete contracts, of which 103 (67 percent) were Baltimore City residents.

#### D. Schedule:

An estimated schedule for the project follows:

- Advertisement: September 2015
- Letting: October 2015
- Award: January 2016
- Project completion: Fall 2017

#### E. Evaluation Measures:

The City of Baltimore 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.*** This project is located in Baltimore City for the reconfiguration of the Fulton Avenue Bridge to include 3 -11 foot northbound lanes, a 15 foot shoulder, installation of planters on both sides of the bridge and an addition of a shared bike/pedestrian path/ The project also includes a tree lined shared pedestrian/bicycle path with additional landscaping, streetscape elements such as benches, trash receptacles, ADA ramp upgrades, signal upgrades, pedestrian and street lighting, signing, pavement markings, and storm water management. The estimated contract value is \$4.7 million, with \$3.7 million funded by FHWA.
- 2) ***Describe the proposed contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.***

**Local Labor Hiring Preference:** The City of Baltimore implemented a local hiring mandate in 2013 on projects funded with 100% City funds. 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 contract will require that 51% of all new hires required to complete the project be filled by Baltimore City residents.

**Incentive:** If the Contractor complies with the City's Local hiring Law, the Department will pay an incentive of \$3.50 per hour for each local labor hour for each newly hired employee that resides within Baltimore City with a not-to-exceed incentive amount of \$100,000.00. If the contractor seeks and receives a waiver of the City's local hire law, an incentive of \$1.75 per hour for each newly hired employee that resides within Baltimore City will be given to the contractor at the end of the contract, with a not-to-exceed amount of \$100,000.00. Incentives will only be paid at the end of the contract. See Attachment A for more details.

**Waivers:** As stated above, the contract will require that 51% of all new hires required to complete the project be filled by Baltimore City residents. Waivers are granted by the Local Hire

Review Committee under certain conditions. Conditions that may warrant a waiver include a demonstrated good faith effort to comply with the law, a special workforce development training or placement arrangement has been reached with MOED, or there are an insufficient number of City residents who possess the skills required by the new job(s).

**Employment Analysis:** Prior to disbursement of City funds, the contractor will be required to perform an employment analysis to determine the number of jobs required to complete the contract and the number of new jobs required to complete the contract. New hires needed for the contract must be posted through MOED for 7 days prior to being publically advertised. In each month of the project, required reports must be submitted by the contractor providing detailed employment and hiring information.

**Consequences for Intentional Violations:** Intentional violation of these provisions may subject the contractor to debarment from bidding on City contracts for 1 year, and a \$500 fine. See Attachment A for more details.

- 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 tabulation of bids will be compared to projects with a similar size and scope
- Contractor post-project interview - 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.
- Net economic benefit evaluation - 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.
- Skilled labor increase - 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 Baltimore is committed to maintaining the integrity of the competitive bidding process. To that end, the Maryland State Highway Administration (SHA), 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 Maryland SHA. 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.

The City of Baltimore has used the Local Labor Hiring Preference on a number of its 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 Maryland SHA 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**

The City of Baltimore 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. At least 51% of the new jobs required to complete the project must be filled by Baltimore City residents in accordance the Baltimore City’s Local Hiring Law (<http://www.oedworks.com/> ).
  - a. This requirement may be waived or lowered upon a finding that:
    - i. A good faith effort to comply has been made by the beneficiary;
    - ii. The beneficiary has entered into a satisfactory special workforce development training or placement arrangement with MOED; or
    - iii. There are insufficient numbers of Baltimore City residents in the labor market who possess the skills required by the new jobs needed to be filled for the project.
      1. Data on the Baltimore City labor market can be accessed at <http://www.dllr.state.md.us/lmi/areas/baciwia.shtml>
  - b. Waivers are subject to the approval of the Local Hire Review Committee, and details on the waiver process may be found at <http://www.oedworks.com/>
2. If at the conclusion of the contract the contractor has complied with the City’s requirement that 51% of new hires are Baltimore City residents, an incentive of \$3.50 per hour for each local labor hour used will be given to the contractor with a not-to-exceed amount of \$100,000.00. The incentive applies to all Baltimore City resident ‘new hire’ hours worked on the contract. The contract specification will contain a bid item for the Local Labor Hiring Pilot specifying incentive payments will be paid at the end of the contract
  - a. If the contractor seeks and receives a waiver of the City’s local hire law, an incentive of \$1.75 per hour will be given for each newly hired employee that resides within Baltimore with a not-to-exceed amount of \$100,000.00. Incentives will only be paid at the end of the contract.
3. Before the disbursement of any City funds, the contractor must perform an employment analysis with MOED to determine how many jobs will be required to complete the project and how many of those jobs will require new hiring.
4. In each month of the project the contractor must submit a report to MOED, on the form designated by MOED, that includes the following:
  - a. The number of employees needed for the project;
  - b. The number of current employees transferred;
  - c. The number of new job openings created;
  - d. The number of job openings listed with MOED;
  - e. The total number of Baltimore City residents hired for the reporting period and the cumulative total number of Baltimore City residents hired;
  - f. The total number of all employees hired for the reporting period and the cumulative total of employees hired; and

- g. For each new hire during the reporting period, the new hire's:
  - i. Name;
  - ii. Employee number
  - iii. Job title;
  - iv. Hire date
  - v. Address, including City State Zip Code
  - vi. Phone number (home and cell if available)
  - vii. Email address
  - viii. Referral source
- 5. If the Board of Estimates, on recommendation from MOED, and after notice and hearing determines that any beneficiary has violated the provisions of this subtitle and that the failure was intentional, no contract may be awarded to that beneficiary, or to any firm, corporation, or partnership in which that beneficiary has an interest, until 1 year has elapsed from the date of the determination.
- 6. An intentional violation of the above described local hiring provisions is a misdemeanor, and, on conviction, is subject to a fine of not more than \$500 for each offense.
- 7. Good faith efforts towards Local Hiring consists of the following:
  - a. Document and maintain a record of all solicitations or job offers and recruitment efforts  
Allow candidates to apply on site
  - b. Advertise job openings with MOED first
  - c. Maintain a current file of the names, addresses, and email and telephone numbers of each off-the-street applicant
  - d. Advertise job openings in the community such as local stores, library, recreation center, schools and/or community associations
  - e. When seeking to fill specific opening contractors will give MOED a reasonable amount of time to locate and refer applicants, preferably one month prior to closing date for receipt of applications.
  - f. Applications and application filing procedures will be as simple as is consistent with business requirements.