

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.