



Oregon

John Kitzhaber, MD, Governor

Department of Transportation

Traffic – Roadway Section

Office of Project Letting

4040 Fairview Industrial Dr SE MS #1

Salem, OR 97302

(503) 986-4040

June 19, 2014

Mr. Mike Morrow
Field Operations Engineer
Federal Highway Administration
530 Center St NE
Suite 420
Salem OR 97301

Subject: Public Interest Findings – Programmatic Request

Mr. Morrow:

In October 2012, ODOT submitted a request to FHWA for approval of a programmatic Letter of Public Interest Finding (LPIF) for five frequently performed work items on construction contracts. We are now requesting FHWA approval to add Paint Coating Inspection Service (by third party) as a sixth work item.

These six work items have been consistently shown to be in the best interest of the public. This programmatic LPIF is for work performed by forces other than the construction Contractor, with the services procured using non-competitive procurement methods.

1. Use of APHIS for Migratory Bird Monitoring – Performed by APHIS Forces

In order to comply with the Migratory Bird Treaty Act (MBTA), bird management activities are required to prevent birds from nesting or to remove successful nests in vegetation that will be removed as part of the project construction. ODOT feels that allowing the U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS) to perform these activities is in the public's best interest. APHIS is the only agency that currently has a "take" permit for birds, and will only agree to remove successful nests if they have been responsible for the bird management activities. If bird management activities were done by the construction Contractor, and birds were to establish a nest in the vegetation, the construction Contractor, by law, would not be permitted to remove the nest containing migratory birds. The construction Contractor would be required to postpone construction activities until the nest was abandoned, delaying construction and possibly missing the contract completion date.

APHIS services are secured through a separate contract using non-competitive procurement methods. Services are paid for through the establishment of an Anticipated Item in the construction authorization.

2. Utility Connections / Hookups – Performed by Utility Forces

Many utility companies require connections or hookups to their facilities be performed with their own forces, and not by the construction Contractor. It is therefore in the best interest of the public to allow the utilities, when required, to perform the utility connection / hookup work on the project.

Reimbursement for utility connection charges are paid through the establishment of an Anticipated Item in the construction authorization.

3. Public Affairs/Public Outreach - Performed by ODOT Forces

In certain instances ODOT may choose to perform the Public Affairs/Public Outreach functions on a project instead of having the Contractor do it under the construction contract. Politically sensitive projects which are considered high risk are best suited for handling by ODOT Public Affairs staff. The ODOT Public Affairs staff is usually involved in the public involvement process for these projects from project initiation and has developed relationships with the stakeholders and is aware of related issues. Allowing ODOT Public Affairs staff to perform the Public Affairs/Public Outreach functions on certain projects is in the public's best interest because of their familiarity with the stakeholders and issues related with the project.

Costs for ODOT staff to perform Public Affairs/Public Outreach functions are charged to the project through the establishment of an Anticipated Item in the construction authorization.

4. Railroad Flagging – Performed by Railroad Forces

Construction activities that require the construction Contractor to work on active Railroad property must be included in the project special provisions. Prior to bid the ODOT Railroad Liaison consults with the Railroad regarding railroad agreements and flagging services needed for a project. The construction Contractor is required to contact the Railroad, who determines if railroad flagging or other safety measures are required to be performed by Railroad forces. Railroad agreements are established prior to project advertisement for bid. The Railroad reserves the right to decide who will perform Railroad flagging on active Railroad property. Allowing the Railroad to perform the railroad flagging services on a project is in the best interest of the public because it is required by the Railroad agreement for the project.

Reimbursement for Railroad Flagging services are paid through the establishment of an Anticipated Item in the construction authorization.

5. Monitoring of Archaeological Sites

Frequently archaeological monitoring is required during construction due to a variety of factors such as the presence of existing cultural material within construction boundaries or highly sensitive areas that may reveal buried archaeological deposits not identified during project development. ODOT maintains contracts with the University of Oregon's Museum of Natural and Cultural History (MNCH) and Southern Oregon University's Lab of Archaeology (SOULA) to provide cultural resource evaluations including archaeological monitoring. In addition, ODOT maintains agreements with several of Oregon's Federally recognized Tribes to perform cultural resource evaluations and archaeological monitoring. This monitoring and oversight ensures any artifacts discovered during construction activities are handled only by qualified people. Having the oversight and monitoring performed by MNCH, SOULA, and Tribal partners when construction activities are ongoing is in the public's best interest because of the sensitivity associated with archaeological monitoring.

Costs for both Tribal partners and MNCH/SOULA oversight and monitoring functions will be charged to the project through the establishment of an Anticipated Item in the construction authorization.

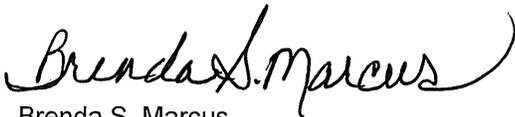
6. Paint Coating Inspection Service

Third Party Inspection for bridge protective coating has been proven to be more cost effective for the Agency. Coating inspection is a highly specialized discipline that requires regular testing, training and certifications. ODOT has determined that this discipline be part of all bridge painting projects throughout the state. The required specific skills and ongoing nationwide certifications of coatings inspections can be expensive for ODOT project management staffs due to the out-of-state classroom and off-site testing. ODOT has successfully used independent 3rd Party Inspection services in past bridge painting projects and determines that it is an effective measure to reduce risk to construction engineering budgets and to minimize expensive contractor claims.

Costs for the third party inspection services will be paid out of the anticipated item. ODOT will use a separate sole source contract administered through a separate construction engineering work order contract (WOC) for the procurement of these services.

Project-specific requests for use of these six work items will be submitted for approval by the Area Manager, the Office of Project Letting Manager, and the FHWA Area Engineer (for FFO projects only) using the Programmatic LPIF / AI Template document (see Attachment "A"). Approved Programmatic LPIF's will also be posted on the eBIDS bidding system and the Office of Project Letting internet website.

Regards,



Brenda S. Marcus
ODOT Traffic-Roadway Section
Office of Project Letting Manager
(503) 986-3796

ATTACHMENT "A"
Programmatic LPIF and Anticipated Item Request Template

INSERT REGION / LOCAL AGENCY LETTERHEAD

(This document is maintained by OPL's Pre-Letting unit. E-mail update and change requests to: ODOTPre-Letting@odot.ark.gov)

DATE: May 29, 2014

TO: Brenda S. Marcus
Office of Project Letting Manager

FROM: [Redacted]

SUBJECT: PROGRAMMATIC LETTER OF PUBLIC INTEREST FINDING and
ANTICIPATED ITEM REQUEST

Project Name: [Redacted]

Highway: [Redacted]

County: [Redacted]

Key Number: [Redacted]

PS&E Date: [Redacted]

Control Number (OPL use only): _____

Bid Date: [Redacted]

Per ODOT's 2012 programmatic LPIF request and FHWA's letter of approval dated []
the following item(s) of work are requested for this project:

APHIS Migratory Bird Monitoring (by APHIS forces) Anticipated Item Amt: [Redacted]

Utility Connection / Hookup (by Utility forces) Anticipated Item Amt: [Redacted]
Utility Name: [Redacted]

Public Outreach / Public Affairs (by ODOT forces) Anticipated Item Amt: [Redacted]

Railroad Flagging (by Railroad forces) Anticipated Item Amt: [Redacted]

Monitoring of Archaeological Sites (by third party) Anticipated Item Amt: [Redacted]

Paint Coating Inspection Service (by third party) Anticipated Item Amt: [Redacted]

Project Description – Give a brief description of the project including the project purpose, general
location and other key details.

[Redacted]

Submitted By: _____ Date: _____
Name Title

Concurred By: _____ Date: _____
Name Area Manager

Concurred By: _____ Date: _____
*Heather C. Howe, State Utility and Railroad Liaison
(Required for Utility Connections / Hookups and Railroad Flagging Only)*

Approved By: _____ Date: _____
Brenda S. Marcus, OPL Manager

Approved By: _____ Date: _____
Name, FHWA Area Engineer (FFO Projects Only)

cc.: *Name, Email Address (for non-ODOT employees only)*

