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ENGINEERING INSTRUCTION

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

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SUBJECT: CONSTRUCTION CONTRACT ADVERTISING

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Distribution:

30 Main Office 32 Regions 34 Special

Code: EI 91-14

Date: 8/12/91

APPROVED:



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Supersedes:

EI 88-30

EI 87-19 (revised by EI 88-30) established a requirement for executive management approval for advertisement lengths shorter than four weeks in length (to implement a practice of increasing bid preparation time for DOT's project contractors). This policy is unchanged, except that Regional Directors are to be delegated the authority to approve shorter ad lengths with a brief memo to the Chief Engineer documenting reasons for the approval decision. Procedural details for "short ads" are included on the second page of this EI.

Contract advertisements must provide enough time for bidders and suppliers to determine estimated costs of work to be performed. Guidelines are presented below:

AD LENGTH

PROJECT PARAMETERS

6 Weeks

Engineers Estimate over \$10,000,000. Complex projects (Examples: unusual designs, alternate bridge designs, several stages utilized in traffic control plans).

5 Weeks

Engineers Estimate \$5,000,000. to \$10,000,000.

4 Weeks

Engineers Estimate under \$5,000,000.

Judgment must be exercised in application of these guidelines. For example, a ten-mile freeway resurfacing contract would probably exceed the 4 week advertisement cost parameter, yet would not be materially more difficult to estimate than a similar project half as long. Another example would be contracts where special expertise is required, as in comfort station construction with associated plumbing, HVAC and electrical specialties. In such cases, the longer advertisement would be used if the plans were progressed to print in time, in keeping with the Department's intent to lengthen advertisements, where feasible to do so, beyond the existing four week ad "standard".

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Shorter ad lengths (three weeks or less) may be approved by the Regional Director as exceptions to this policy and will be limited to small, non-complex projects and "quick award" contracts let pursuant to MAP 7.1-7-3 in response to emergency situations, such as storm erosion imperiling bridge foundations. The Regional Director must document reasons for the short ad decision in a brief memo to the Chief Engineer. Copies of the memo should be sent to the Design Quality Assurance Bureau, Contract Management Bureau, Project and Fiscal Management Bureau, Construction Division and Office of Equal Opportunity Development and Compliance. In addition, FHWA's approval - obtained by the PS&E Review and Control Section of DQAB - is needed for advertising federal-aid projects for less than three weeks.

The quick award process (and a request for exemption from D/WBE goals pursuant to EI 85-52) will be required for advertisements less than three weeks long. Because quick award execution requires several steps to be in place, approval for these advertisements is predicated on the following:

1. OEODC will either waive D/WBE goals or will provide DQAB with a proposal note requiring the low bidder to submit the goal participation plan within 24 hours of bid opening.
2. All utility, maintenance and railroad agreements have been obtained.
3. All permits (COE, USCG, Right-of-Entry, etc.) have been obtained.
4. All ROW clearances have been obtained.
5. All municipal, utility, or special appropriation funds as well as the normal construction program funds are readily available.

Keep in mind that short advertisements limit the amount of time for bidders' review of the proposed contract. Higher bid prices and limited competition may result. Additionally, amendments to correct errors discovered during the advertising period may not be feasible without letting postponement to allow time to issue them. However, in those situations where a contract must be completed quickly, a reduced ad length may be necessary for a contractor to meet the assigned completion date.

The PS&E transmittal shall include recommended ad length for all contracts and will also include a reference to the Regional Director's "short ad" approval/decision memo.

Letting schedule PS&E deadlines are to be followed. If a project is to be advertised for six weeks or longer, or three weeks or less, PS&E submission and printing dates will be affected accordingly.

Please note that it's necessary to telephone or telefax short ad project advertisement information to DQAB's PS&E Review and Control Section before PS&E transmittal - at least six weeks before letting date - to allow time for publication in the New York State Contract Reporter (a legal requirement for all contracts).