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ENGINEERING INSTRUCTION

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

JECT: PROJECT LEVEL PARTNERING (CONSTRUCTION CONTRACTS)

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Partnering

This Engineering Instruction describes the Department's policy and procedure for implementation of a formal partnering process between the Department and Contractor. It also provides an attached Special Note for contracts selected as candidates for partnering.

Background

The concept of partnering has been introduced in the U.S. construction industry over the last several years as a means of improving the chance of having successful projects -- meaning a quality project delivered on time, within budget, and without significant claims. At the simplest level, the owner and contractor agree voluntarily to work together to identify and solve problems before they affect a project's budget and schedule. On larger projects, a more formalized, but voluntary charter or partnering agreement and an initial facilitated seminar would be used, involving the owner, contractor, typically the designer and any other potentially affected key parties.

Partnering is a strategy for building relationships based on mutual respect and trust. All members of the construction team must work together to encourage cooperation, promote timely and effective communication and issue resolution, establish common goals, and to acknowledge risks of other team members.

The Association of General Contractors, at both the national and local levels, has been a strong proponent of partnering. The Department and the Contractor Associations will jointly sponsor training in the development of partnering skills for our EIC's and contractor superintendents. The Department's Partnering Handbook will be distributed at these training sessions.

Policy

It is the Department's policy to use the principles of partnering to guide the management of construction contracts and the construction program, within the parameters covered by the laws, regulations and other policies that govern work in the public sector. Over the last several years, revised specifications have been adopted regarding differing site conditions, quantity variations, disputed work and related matters. These changes have more fairly allocated risk, resulting in a better balance in our contractual approach to risk-sharing.

Partnering goes beyond risk sharing and accelerated dispute resolution by providing the relationship, skills and framework to anticipate and avoid potential problems.

The Department recognizes that many projects are relatively routine and are awarded to contractors with a long track record of performing high quality work without claims. In essence, contractors, Regions and many of their individual employees already routinely use the principles of partnering in their day to day working relationships. By introducing Partnering as a Department Policy, we seek to build on this success by extending the concepts to every project. Smaller, less costly projects may not warrant a formal partnering arrangement, but never the less may benefit from the application of the principles of partnering.

IT IS THE DEPARTMENT'S POLICY THAT formal project partnering shall be included on our large, more complex projects. These include any contract meeting one or more of the following criteria:

- Large projects that are estimated to cost 5 million or more to construct.
- Projects that are complex or involve new or unusual technology, regardless of cost.
- All Group C projects as defined by the Program and Project Management System.
- All projects of statewide significance as defined by the Program and Project Management System.
- All projects of regional significance, as determined by the Regional Director, such as projects critical to local safety, traffic or program needs.

The Regions should also entertain requests by successful low bidders to incorporate formal partnering on projects which do not meet the above criteria. The partnering costs for all projects will be shared by the State and the Contractor.

Procedure

Assessment of the need for formal project partnering shall be made during the advance detail plan review phase. Each Region is encouraged to utilize project partnering as a management tool to facilitate the successful completion of its construction projects.

This instruction is effective immediately. The attached Special Note shall be used for projects selected for formal partnering. Additionally, partnering can be undertaken on contracts that have already been bid and/or awarded if appropriate. The Construction Division will provide assistance as needed for project specific proposals.

SPECIAL NOTE:

Partnering

The goal of the Department is to complete this project in the most efficient, timely and cost effective manner, to the mutual benefit of the Contractor and the Department.

The Department intends to pursue the management of this project in a cooperative and non-adversarial manner with the Contractor utilizing the generally accepted procedures of project partnering. We hereby offer the opportunity for the Contractor and the Department, including any designated Construction Inspection Consultant, to approach the project as voluntary partners. In order to act as a team, all parties must establish a relationship of shared trust, equality, commitment, communication and goals. This cooperative attitude will extend to all contract issues, including such issues as timely response to changes or variations in field conditions. Additionally and most importantly, we will seek to work as partners to anticipate and solve potential problems before they negatively impact the project.

The Department offers to establish with the successful low bidder, a more formalized and structured plan to promote this relationship of cooperation and partnership. This effort will be completely voluntary on the Contractor's part, is non-legal and not binding, and all efforts will be progressed by both parties in a mutual fashion. All provisions of the Standard Specifications will remain in effect whether or not a Partnering relationship is established. A workshop with an independent facilitator will be scheduled if this proposal is accepted by the low bidder. The successful low bidder will be asked to share in the expense of this workshop. A typical workshop should cost less than $2000.

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