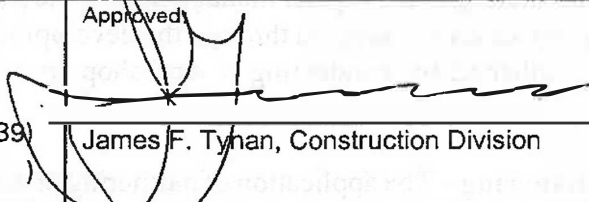


SUPERSEDED BY EI 06-021 EFFECTIVE 1/11/07		New York State Department of Transportation ENGINEERING INSTRUCTION	EI 99-004
Title: PROJECT LEVEL PARTNERING (CONSTRUCTION CONTRACTS)			
Distribution: ☐ Manufacturers (18) ☒ Main Office (30) ☐ Local Govt. (31) ☒ Regions/Agencies (32)		Approved:  James F. Tynan, Construction Division Date <u>4-5-99</u>	

ADMINISTRATIVE INFORMATION. This Engineering Instruction supersedes Engineering Instruction 93 -036, PROJECT LEVEL PARTNERING (CONSTRUCTION CONTRACTS).

PURPOSE. The purpose of this Engineering Instruction (EI) is to issue and transmit revised item 15637.98M, PARTNERING WORKSHOP, and to provide designers with guidance for determining which construction contracts to include the item. It is to be used with new Standard Specifications Section 103-02A , PARTNERING which has been included in the Section 100 addendum announced by Engineering Bulletin 99-003. Also a separate Engineering Bulletin is being issued to provide guidance and instruction to construction personnel by an addendum to the Contract Administration Manual.

EFFECTIVE DATE. For contracts meeting the criteria herein and scheduled for letting before September 9, 1999 , Item 15637.98M may be added by Order-on-Contract. For those contracts scheduled for letting on or after September 9, 1999, Item 15637.98M will be inserted into proposals by the Design Quality Assurance Bureau.

TRANSMITTED MATERIALS.

1) Item 15637.98M, PARTNERING WORKSHOP

SUMMARY OF CHANGES.

- Increases the criteria for selecting projects for formal partnering in Regions 10 & 11 from \$5million to \$10million.
- Increases the amount of the fixed price lump sum for the formal partnering workshop from \$4,000 to \$5,000.
- Recognizes and provides guidance for informal partnering.

DEFINITIONS. Standard Specification Section 103-02A, PARTNERING, contains the Department's policy to implement partnering concepts and principles on construction contracts. Project partnering will be categorized as either "formal" or "informal" partnering.

Formal partnering - A process by which an organization and structure is created by the interested parties to incorporate partnering in the regular management of the project. The partnering structure and organization and its operating processes are adopted through the development and signing by the parties of a partnering charter. This is accomplished by conducting a workshop in accordance with the requirements outlined in item 15637.98M.

Informal partnering - The application of partnering principles to the management of the project by the mutual agreement of the interested parties to the project. Although the principles of partnering are to be applied, it is not required that a fixed organization or structure be adopted for that purpose.

BACKGROUND. The Department has formally partnered on many of its construction contracts since the issuance of E.I. 93-036 in December 1993. The Construction Division recently completed an evaluation of the success, impacts, obstacles, and suggested improvements to the partnering process. In general, the Regions believed if used in the appropriate circumstances, the partnering effort is worthwhile and beneficial. The consensus of the Regions is that formal partnering should be used on projects that are large, complex, controversial or have substantial third party involvement, such as utilities, railroad, other agencies, and community groups. The Regions also felt that in other circumstances, an informal partnering arrangement with the Contractor can be just as effective as the more formal partnering. The construction industry, through their contractors associations, have also endorsed the use of informal partnering.

To incorporate the Regions' feedback and communicate to the contracting community the Department's philosophy concerning partnering concepts and principles, a new §103-02A of the Standard Specifications has been developed in conjunction with the update of Section 100.

DESIGNER INFORMATION. Project designers shall include Item 15637.98M, PARTNERING WORKSHOP : in all contracts that meet the following criteria

- Projects located in Regions 1- 9 that are estimated to cost \$5 million or more.
- Projects located in Regions 10 & 11 that are estimated to cost \$10 million or more.
- Projects that are complex, controversial or involve new or unusual technology, regardless of cost.
- Projects with substantial involvement of utilities, railroads, community groups, other agencies etc., regardless of cost.
- 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 other program needs.
- Projects that contain time related provisions (A+B, Incentive/Disincentive, Lane Rentals, etc.)

The designer will include Item 15637.98M, PARTNERING WORKSHOP in all estimates for contracts that meet the above criteria in the amount of a fixed price lump sum of \$ 5,000.

COST IMPACT. The inclusion of a \$5,000 fixed price lump sum in all contracts that meet the criteria discussed herein results in an increase in contract obligations. However, this is a contingent item which is expected to be actually expended relatively infrequently. In addition, the increase will be offset by the anticipated savings due to fewer disputes and completing projects ahead of schedule, the primary objectives of partnering.

ACTIONS FOR THE MAIN OFFICE. The Design Quality Assurance Bureau will issue an addendum, containing Section 103-02, to the Standard Specifications in all contracts initially scheduled for letting on or after April 8, 1999. Additionally, when indicated by the designer in the estimate, DQAB will insert Item 15637.98M, PARTNERING WORKSHOP.

ACTIONS FOR THE FIELD. In the event the designer does not include item 15637.98M in the contract proposal and the contractor wishes to formally partner, and the Region agrees, the EIC may add the item by an order-on-contract in accordance with section 109-05 of the Standard Specifications.

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ITEM 15637.98M PARTNERING WORKSHOP

DESCRIPTION. Standard Specification Section 103-02A - PARTNERING, contains the Department's policy to implement partnering concepts and principles on construction contracts. Project partnering will be categorized as "formal" and "informal" partnering. This item relates to formal partnering only.

The Department is offering to progress this contract with formal partnering. Should the Contractor voluntarily accept the Department's offer and agree to partner this contract, then this item will be utilized.

Under this item, the Contractor will provide the services of an independent Facilitator to coordinate and facilitate an initial partnering workshop for this contract. In the spirit of partnership, the State and the Contractor will equally share the cost of the partnering workshop. The Contractor is responsible for initially paying the entire cost of the Facilitator and the associated workshop costs. The intent of this item is to reimburse the Contractor 50 percent of those costs.

MATERIALS. None Specified.

CONSTRUCTION DETAILS. The Contractor and the Regional Construction Engineer will jointly select a Facilitator and a location for the workshop. A list of potential Facilitators is available from the Department. The Facilitator shall present a 1 to 2 day Partnering Workshop for this project between the time of award and the start of the project. For long duration, multi year projects, a subsequent follow-up workshop may be convened, with the agreement of the Contractor and the Regional Construction Engineer, at an appropriate point during the progression of the project. The associated costs for this subsequent workshop will be reimbursed under this item.

METHOD OF MEASUREMENT. Payment for costs incurred will be computed by Force Account for 50 percent of the actual and reasonable receipted costs of completing this item in accordance with Section 109-05 of the Standard Specifications. Receipted costs eligible for 50% reimbursement under this item shall include the fee for the Facilitator and the costs for the Facilitator's travel and expenses; associated workshop costs, such as charges for the rental of the meeting room, required audio/visual equipment, and any handouts, notes or workshop materials.

The costs for travel, lodging, meals and salaries of workshop attendees, other than those of the facilitator, will not be eligible for full or partial reimbursement under this item.

BASIS OF PAYMENT. The fixed price lump sum shown in the itemized proposal for this work will be considered the price bid even though payment will be made only for 50 percent of the actual cost of the Facilitator and associated workshop costs.

The fixed price lump sum for this item is believed to be sufficiently large enough to include 50 % of the eligible receipted partnering workshop costs. Should the amount of the fixed price lump sum not be sufficient, the State will supplement it as necessary through the order-on-contract process as approved by the Engineer.

The fixed price lump sum figure is not to be altered in any manner by the bidder. Should the bidder alter the amount shown, the altered figure will be disregarded, and the original price will be used to determine the total amount bid for the contract.