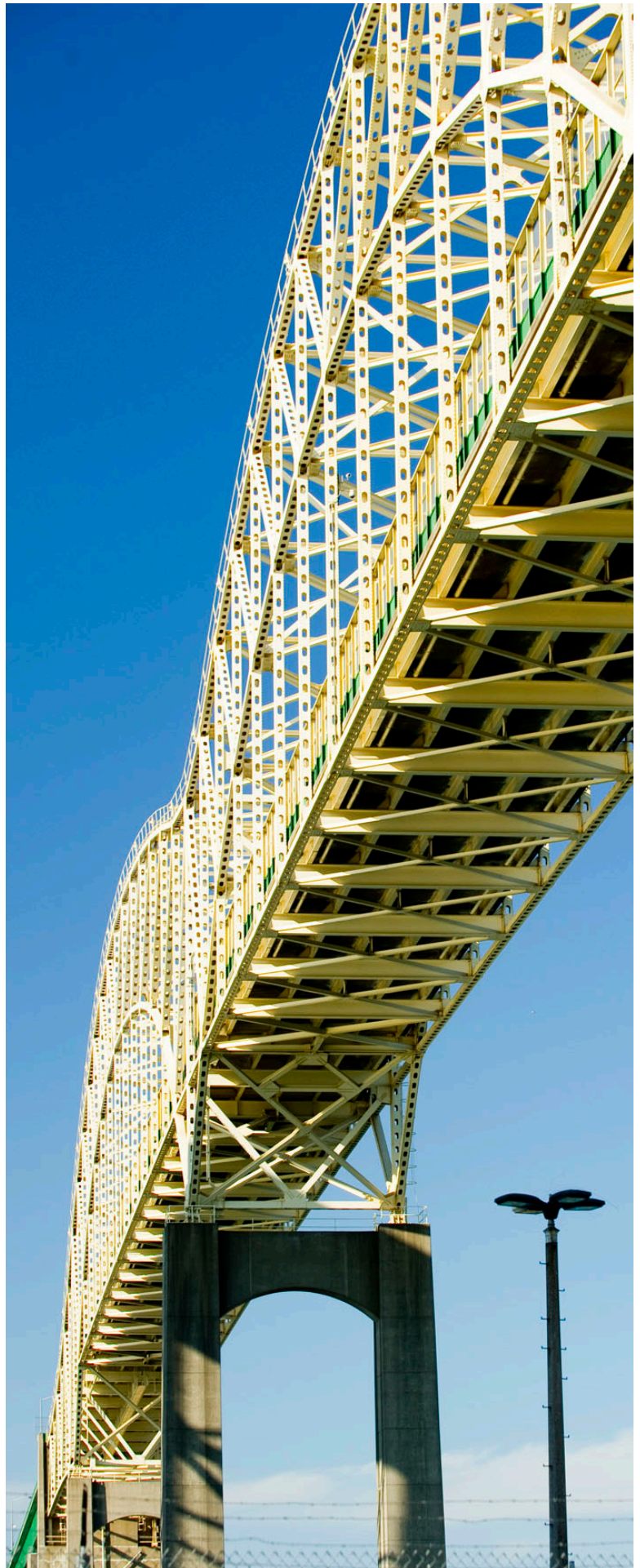


OFFICE OF BUSINESS DEVELOPMENT



Voluntary Incentive Program (VIP) Pilot



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PILOT OBJECTIVE

As an extension of the Michigan Department of Transportation's (MDOT) current On-the-Job Training (OJT) Program, MDOT's Voluntary Incentive Program (VIP) Pilot will offer equal opportunity for the training and upgrading of minorities, women, and disadvantaged persons toward journey-level status in the highway construction trades in accordance with 23 CFR 230, Appendix B to Subpart A.

MDOT intends to help achieve improved outcomes for minority and disadvantaged individuals' entry and participation in the construction skilled trades by applying a specific approach based on the contractor-centered model of how MDOT currently administers the federal-aid OJT program. MDOT's proposal is to pilot a VIP across a range of projects to assess the impact of contractual bid incentives to increase workforce participation from historically under-represented populations (minority and low income).

In recent years, MDOT and other industry partners have placed increased importance on skills training, on-the-job training, apprenticeships, and career pathway programs that involve and require active, aggressive and collaborative input from industry, contractors, labor, and state, federal, and local community-based organizations. Rather than set traditional project-level goals or targets, this proposal seeks to encourage contractor innovation and competitiveness to leverage these recent collaborations through bid incentives. The purpose of this proposal is to explore the effectiveness of bid incentives to expand the recruitment, development and retention of qualified labor from traditionally under-represented populations (minority and low income) in the heavy construction skilled trades that build federal-aid highway construction projects.

MDOT and other federal-aid recipients have successfully applied innovative contracting techniques that enhance or encourage contractors to achieve the goals of the agency's customers and taxpayers. As an example, one such technique is cost plus time, or A+B, bidding, where the supplemental value proposition is associated with reducing the duration and traffic impacts of construction. MDOT's experience has been that A+B contracts are highly effective in achieving both the value objective of accelerating the work as well as achieving a highly competitive bidding environment that encourages each contractor to leverage their strengths and maximize their creativity in achieving the desired outcome.

MDOT proposes to evaluate the effectiveness of an approach that uses bid incentives to reward behaviors that result in long-term recruitment, development and retention of quality, skilled labor from the targeted populations. The model proposed herein would incentivize contractors for applying efforts and creative techniques, allowing them to leverage their approach as a competitive advantage in the bidding of federal-aid projects. Building off MDOT's existing contractor-centered OJT program, the proposed OJT VIP Pilot procedures provide for bid incentives for selected projects to bidders who voluntarily elected to hire more OJT employees, and/or collectively provide their current OJTs more qualified work experience than normally occurs.

PILOT SUMMARY

MDOT's OJT Program Manual should be referenced with this VIP Pilot Manual and can be obtained at www.michigan.gov/ojt.

The pilot is voluntary and available to all MDOT prequalified contractors. MDOT's Office of Business Development (OBD) will administer the VIP Pilot.

The pilot will offer a bid incentive, used solely for determining the lowest responsive bidder, based on a contractor's OJT Program performance in the calendar year the pilot is in effect.

This pilot will be piloted starting calendar year 2018, where a contractor's performance in calendar year 2018 will determine the bid incentive earned and applicable to selected VIP Pilot projects in the 2019 calendar year and administered in the same manner in subsequent years. The pilot will run through 2021, with 2020 being the final pilot performance year and 2021 the final pilot incentive year.

CONTRACTOR ELIGIBILITY

A contractor wanting to participate in the OJT VIP Pilot must be an OJT Program contractor. Eligibility requirements are as follows:

- 1) A prequalified contractor who is in compliance with the MDOT OJT Program and is an equal employment contractor, or
- 2) A prequalified contractor who is not required to participate in the MDOT OJT Program but has voluntarily accepted an OJT assignment and is subject to the requirements outlined in the MDOT OJT Program Manual.

An OJT Program contractor will not earn a bid incentive for the performance year in which the contractor was noncompliant with the OJT Program.

NOTE: Should a contractor place OJT(s) in the same performance year an assignment waiver(s) was submitted or approved, the OJT will be placed in the waived assignment(s) and the waiver(s) will be rescinded.

All OJT participating in the VIP program are voluntary and will not become a part of the contractors' assignments, except in cases noted above or at the contractors' request.

NEWLY PARTICIPATING CONTRACTORS

To participate in the VIP Pilot, newly participating contractors must meet the contractor eligibility criteria as detailed above, meet the requirements of MDOT's OJT Program, and be compliant with their home state's OJT Program.

A newly participating contractor is a contractor who has participated for less than three years in MDOT's standard OJT Program.

The newly participating contractor will submit documentation to support OJT Program compliance in their home state and documentation that supports meeting the eligibility criteria for the MDOT VIP Pilot to MDOT's OBD prior to April 30 each year the VIP Pilot is in effect. All MDOT OJT Program and MDOT OJT VIP Pilot requirements apply.

MDOT's OJT Program Manual can be obtained at www.michigan.gov/ojt.

BID INCENTIVE

Bid incentives for all OJT Program contractors will be determined by OBD. Contractors will be notified of their earned bid incentive, including \$0 bid incentive, prior to Feb. 1 of each incentive year the pilot is in effect.

The list of all OJT Program contractors and their determined bid incentive will be made public on the MDOT OJT webpage within the first week of February each incentive year. This list will be timely updated with changes made due to contractor-requested reviews or other actions taken by MDOT.

A contractor's bid incentive can be applied to selected VIP Pilot projects and is only valid in the incentive year following the performance year in which it was earned.

- 1) To earn a bid incentive, a contractor's assigned OJT Program trainee(s) must have worked no less than 1,000 hours per training slot assigned per performance year toward training program completion. Cumulative training hours are not considered until the contractor's assigned OJT Program slot hours have been met.

The contractor may, at their own discretion, do any combination of the following:

- If the assigned OJT does not complete the 1,000 required hours, a contractor may use additional hours accumulated by assigned OJTs.

OR

- If an assigned OJT does not complete the 1,000 required hours, a contractor may fulfill the assignment by a new hire.

OR

- If an assigned OJT does not complete the 1,000 required hours, a contractor may fulfill those hours by placing a VIP OJT into the assignment

- 2) For each performance year, a contractor's cumulative training hours will be determined.

Example 1:

Contractor EFG Contracting has three OJT slots assigned: A1, A2, and A3.

The required training hours for EFT Contracting: 3 X 1,000 hours = 3,000 hours

In the performance year, OJT trainees work the following hours:

A1 ... 1,500

A2 ... 1,800

A3 ... 900

Total 4,200

Cumulative training hours = 4,200 – 3,000 = 1,200

Example 2:

Contractor EFG Contracting has three OJT slots assigned: A1, A2, and A3.

Contractor EFG Contracting voluntarily adds one OJT-VIP trainee: V1

The required training hours for EFG Contracting: 3 X 1,000 hours = 3,000 hours

In the performance year, OJT trainees work the following hours:

| | |
|---------------|------------|
| A1 ... | 1,000 |
| A2 ... | 1,300 |
| A3 ... | 1,400 |
| <u>V1 ...</u> | <u>900</u> |
| Total | 4,700 |

Cumulative training hours = 4,700 – 3,000 = 1,700

Example 3:

Contractor EFT Contracting has three OJT slots assigned: A1, A2, and A3.

Contractor EFG Contracting voluntarily adds one OJT-VIP trainee: V1

The required training hours for EFG Contracting: 3 X 1,000 hours = 3,000 hours

In the performance year, OJT trainees work the following hours:

| | |
|---------------|--------------|
| A1 ... | 1,200 |
| A2 ... | 1,200 |
| A3 ... | 500 |
| <u>V1 ...</u> | <u>1,200</u> |
| Total | 4,100 |

Cumulative training hours = 4,100 – 3,000 = 1,100

Example 4:

Contractor EFG Contracting has three OJT slots assigned: A1, A2, and A3.

The required training hours for EFG Contracting: 3 x 1,000 hours = 3,000 hours

OJT A3 quits EFG Contracting after getting 400 training hours.

EFG Contracting replaces OJT A3 with new OJT A3a.

In the performance year, OJT trainees work the following hours:

| | |
|----------------|------------|
| A1 ... | 1,500 |
| A2 ... | 1,600 |
| A3 ... | 400 |
| <u>A3a ...</u> | <u>900</u> |
| Total | 4,400 |

Cumulative training hours = 4,400 – 3,000 = 1,400

- 3) Once the cumulative total hours have been determined, the contractor's bid incentive will be awarded using the chart below:

| Cumulative Hours (above required hours) | Contractor Bid Incentive |
|---|---------------------------------|
| Hours required per training slot assigned not met | \$0 |
| 0 - 999 | \$0 |
| 1,000 - 1,999 | \$50,000 |
| 2,000 - 2,999 | \$100,000 |
| 3,000 - 3,999 | \$150,000 |
| 4,000 - 4,999 | \$200,000 |
| 5,000 - 5,999 | \$250,000 |
| 6,000 - 6,999 | \$300,000 |
| 7,000 - 7,999 | \$350,000 |
| 8,000 - 8,999 | \$400,000 |
| 9,000 - 9,999 | \$450,000 |
| 10,000 – 10,999 | \$500,000 |

NOTE: The contractors bid incentive defined above will be used solely for determining the lowest responsive bidder. The awarded contractor will be compensated for the work performed according to their bid price and the other terms of the contract relating to measurement and payment. The maximum total contract bid incentive capped for each contract will be the advertised net classification required multiplied by 50, not to exceed \$500,000 on any individual contract.

VIP SUBCONTRACTORS

Bid incentives will be allowed for major subcontractors (performing 25 percent or more of the awarded contract amount) who meet all the requirements of the VIP Program. All other subcontractors will not be considered for purposes of the bid analysis. The maximum total bid incentive capped for each contract will be the advertised net classification required multiplied by 50, not to exceed \$500,000 on any individual contract. VIP subcontractors must meet all requirements of the OJT Program.

VIP PRIME CONTRACTOR JOINT VENTURES

Prime contractor joint ventures, if formed, will be allowed to claim the cumulative bid incentives of each joint venture partner without reapplication. The subcontracting provisions stated above will still apply. The maximum total bid incentive capped for each contract will be the advertised net classification required multiplied by 50, not to exceed \$500,000 on any individual contract. Prime contractor joint ventures must meet MDOT's criteria for joint ventures in order to qualify to use the cumulative incentive.

INCENTIVE REVIEW

A contractor who disagrees with its bid incentive award may submit a formal request for an incentive review by submitting a written request along with supporting documentation to OBD within seven calendar days of receiving notification of its bid incentive award.

OBD will respond to a request for an incentive review within 14 calendar days of receiving the request. To prevent delaying the review process and in some instances preclude the contractor from bidding on a selected VIP Pilot project, the written request and supporting documentation (i.e., trainee monthly reports, OJT approvals, certified payrolls, payrolls, etc.) must be complete at the time of submission to OBD.

Refer to MDOT's OJT Program Manual.

PROJECTS

MDOT projects with the VIP Pilot special provision will be selected by the Contract Selection Committee using the following criteria:

1. Large enough to have a significant labor demand and multiple work crews,
2. Large enough to likely attract potential bidders who already participate in the federal-aid OJT Program,
3. Are located within the proximity of the population of OJT participants, per 23 CFR 230 Appendix B; and
4. Eligible projects within MDOT's Metro, University, and southern Bay regions.
5. MDOT will publish the list of eligible projects no later than Nov. 15, 2017, for Incentive Year March 2019 – February 2020; Nov. 15, 2018, for Incentive Year March 2020 – February 2021; and Nov. 15, 2019, for Incentive Year March 2021 – February 2022. This list is subject to revision.
6. In the advertisement for each project that will be included in the VIP Pilot, MDOT will:
1) clearly identify the project as an "OJT VIP Pilot Project", and 2) include a statement that establishes the maximum bid incentive for that project (i.e., "Contract Maximum Bid Incentive = \$_____").

CONTRACTOR RESPONSIBILITY

A contractor who has required OJT assignment(s) must remain in compliance with the MDOT OJT Program. MDOT's OJT Program Manual is available online at www.michigan.gov/ojt.

Trainee eligibility, approvals, and OJT reporting will be followed as outlined in the OJT Program Manual, with the exception detailed below:

In each calendar year the VIP Pilot is in effect, December training hours will be completed and submitted to OBD no later than Dec. 31 for purposes of determining a contractor's bid incentive earned. Training hours submitted after Dec. 31 or incomplete training report(s) (i.e., no payroll documentation, no signature) will not be included in the calculation of a contractor's bid incentive.

In cases where a contractor loses a trainee beyond the contractor's control, as outlined in the OJT Program Manual, it is the responsibility of the contractor to fill the vacant OJT slot.

OJT Program assignments are determined as outlined in the OJT Program Manual. OJT Program trainees exceeding the contractor's assigned OJT Program slot(s) are voluntary; there is no required commitment beyond the VIP Pilot.

OJT Program forms can be found online at www.michigan.gov/ojt.

PENALTIES

Bid incentives are earned based on a contractor's previous year OJT Program performance. A contractor who has earned a bid incentive may lose its bid incentive or may be assessed a penalty as described herein.

MDOT reserves the right to revoke, at any time, the bid incentive of any contractor found to be fraudulent and/or debarred by the Federal Highway Administration (FHWA). If a contractor is found to be fraudulent and/or debarred by FHWA, that contractor will no longer be eligible to participate in the VIP Pilot.

A contractor who has earned a bid incentive may lose its bid incentive if that contractor is determined to be noncompliant with the OJT Program during the incentive year. Other penalties for OJT Program noncompliance as outlined in MDOT's OJT Program Manual apply. MDOT's OJT Program Manual can be found online at www.michigan.gov/ojt.

Potential Penalty Scenarios:

Scenario 1: If the prime contractor does not to execute a subcontract to perform a minimum of 25 percent of the contract work with the major subcontractor they submitted at the time of bid, MDOT may:

- Penalize the prime contractor the value of the bid incentive that was applied to the project.
- Disqualify the prime contractor for 12 months from receiving an incentive on any project bid as a prime contractor or major subcontractor.

Scenario 2: If the major subcontractor does not complete the full 25 percent of the contract work because the subcontractor did not or could not meet the subcontract obligations, MDOT may:

- Penalize the prime contractor an amount not to exceed the bid incentive that was applied to the project.
- Disqualify the major subcontractor for 12 months from receiving an incentive on any project bid as a prime contractor or major subcontractor.

Scenario 3: If, through no fault of the prime contractor or the major subcontractor, there are changes to the contract work that reduce the major subcontractors work to any amount less than 25 percent of the contract work, MDOT will not:

- Assess penalties to the prime contractor or the major subcontractor.

The financial penalty assessed to a contractor on a project will not exceed the bid incentive amount that was applied to the project. All penalty determinations will be made to the contractor in writing. The contractor may appeal a penalty determination in accordance with the OJT Program Manual.

EVALUATION PROCESS

MDOT proposed to evaluate this pilot program, as follows:

1. At the conclusion of the bidding of each contract within the pilot program, MDOT will evaluate the bidding process.
2. At the end of each year of the OJT VIP Pilot, starting in 2019, MDOT will evaluate the overall program impacts of the OJT VIP Pilot program, pursuant to the processes defined in the SEP14.

ACRONYMS AND DEFINITIONS

Advertised Net Classification – The amount of prequalification (truncated three places) a contractor has to have available in order to bid as a prime contractor. A contractor's net amount is determined by subtracting their uncompleted work from their overall financial rating.

Advertised Net Classification Required Multiplied by 50 – The maximum bid incentive on the selected project, not to exceed \$500,000 on any individual contract.

Assignment – The OJT slot(s) assigned to an MDOT prequalified contractor by OBD based on the contractor's three previous fiscal year average total dollar value of MDOT federal-aid gross receipts.

Bid Incentive – The total incentive an contractor has earned based on its training program performance in a particular calendar year that may be used as a bid incentive on their project bid price in the subsequent year. The bid incentive will be used solely for determining the lowest responsive bidder.

Contract Bid Incentive – Determined by MDOT using the calculation of the advertised net classification.

Calendar Year – January through December.

CFR – Code of Federal Regulations.

Contractor – The individual or legal entity contracting with MDOT for performance of prescribed construction work and supplying materials.

Cumulative Hours – The total number of training hours a contractor's assigned OJT Program trainee(s) and additional OJT Program trainee(s) worked toward training program completion exceeding the required training hours per training slot assigned per performance year and is used to determine the bid incentive a contractor earns.

Department – The Michigan Department of Transportation.

EEO – Equal Employment Opportunity.

Incentive Year – The 12-month period (March through February) following the performance year associated with the earned bid incentive. A contractor may apply its bid incentive earned in the associated performance year to selected VIP Pilot projects. Bid incentives cannot be carried over to other incentive years. The first incentive year for the VIP Pilot will be March 2019 – February 2020.

MDOT – The Michigan Department of Transportation.

MDOT Prequalified Contractor – One who has received MDOT work classifications to perform on prequalification-required construction projects and the maximum contractor amount a vendor may perform for MDOT through a contract or subcontract (at any tier). Construction and service prequalification applications and related information are linked to the MDOT “Doing Business” website at www.michigan.gov/mdot, under the “How To” section.

Newly Participating Contractors – Contractor who has participated for less than three years in MDOT’s standard OJT Program.

OBD – MDOT’s Office of Business Development.

OJT – a) On-the-Job Training, b) On-the-Job Training Program Trainee.

Performance Year – The calendar year (January through December) that precedes the incentive year. A contractor’s OJT Program, VIP Pilot performance, and OJT training hours in this calendar year are used to determine the bid incentive a contractor has earned. The first performance year for the VIP Pilot will be calendar year 2018.

Selected Projects – Projects selected by MDOT that allows the contractor to use its earned bid incentive on the project bid price.

SEP14 – Innovative Contracting Practices Special Experimental Project No. 14 Work Plan.

VIP – Voluntary Incentive Program.

Voluntary – OJTs who are not part of MDOT’s OJT program assignments.

OJT

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