Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.
SECRETARY

January 24, 2012

Mr. Martin Knopp
Florida Division Administrator
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, FL 32303

Subject: Construction Management at Risk (CM@Risk)

Dear Mr. Knopp:

The Florida Department of Transportation requests the use of the CM@Risk contracting technique as approved in Special Experimental Project No. 14 (SEP 14) dated May 12, 2003 for the proposed Traffic Management Center located in the City of Jacksonville in Duval County. This project meets the requirement of being a non-traditional highway project such as vertical buildings and Intelligent Transportation System (ITS) type projects.

The District has coordinated with Chris Richter, Monica Gourdine and Greg Hall in the early stages of project development to foster project understanding and alignment of project goals. The District understands that this will be a full FHWA oversight project. The District has also previously completed two pilot CM@Risk projects. The District understands the reporting requirements associated with this SEP 14 and will work with Central Office to ensure the appropriate data is collected and included in the annual report summary for CM@Risk Projects

We believe this project to be acceptable for participation in SEP 14 and ask your concurrence to proceed with delivery of the Traffic Management Center as a CM@Risk contracting technique.

Sincerely,

Brian Blanchard, P.E.
Assistant Secretary for Engineering and Operations

U.S. Department of Transportation
Federal Highway Administration

Florida Division

545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Phone: (850) 553-2200
Fax: (850) 942-9691 / 942-8308

www.fhwa.dot.gov/fldiv

February 8, 2012

In Reply Refer To:
HPO-FL

Mr. Brian Blanchard, P.E.
Assistant Secretary for Engineering and Operations
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32399-0450

Attention: Mr. Alan Autry

Dear Mr. Blanchard:

Subject: Special Experimental Project No. 14 (SEP-14) Approval for use of CM@Risk Innovative Contracting Method for the Traffic Management Center in Jacksonville, FL

This letter is in response to the Florida Department of Transportation's (FDOT) letter of January 24, 2012 requesting approval for the use of the Construction Manager at Risk (CM@Risk) innovative contracting method for the Traffic Management Center project in Duval County in Jacksonville, FL (FIN# 217417-8). With this letter, the Federal Highway Administration (FHWA), under the provisions of FHWA's SEP-14, hereby approves the implementation of CM@Risk for the Traffic Management Center project. This approval facilitates the use of Federal-Aid Funds on a non-traditional highway project involving vertical construction and Intelligent Transportation System (ITS) components in accordance with the FDOT's previously submitted work plan (attached for reference) and expanded to include the same conditions approved in 2003/2004 for similar projects:

1) Cost comparisons between the CM@Risk and the traditional design-bid-build deliver method using:

    i. Unit prices (average unit prices such as cost/square foot) or other units of measurement as appropriate.
    ii. Total cost (including all design, construction and administrative costs) between the CM@Risk and the traditional design-bid-build delivery method.

2) Schedule comparison between the CM@Risk and the traditional design-bid-build delivery method considering the total project delivery time from preliminary engineering through final acceptance for construction.

3) Quality comparison between the CM@Risk and the traditional design-bid-build delivery method (to the extent that quantitative measurements are available).

4) Degree of innovation (including increased constructability or value engineering) that resulted from the CM@Risk method in comparison with the traditional design-bid-build delivery method.

The "Scope" and "Schedule" sections of the previously approved and attached SEP-14 work plan are to be modified as appropriate to reflect the construction of the JTMC and submitted to the Florida Division Office of FHWA for our files. As mentioned in FDOT's letter, this project will be classified as a FHWA Oversight project in accordance with our Partnership Agreement with FDOT. We acknowledge that FDOT has been coordinating closely with this office in developing the various procedures necessary to effectively implement the CM@Risk contracting method for this project, and we look forward to continued coordination efforts for this project. Examples of items that will need to be addressed in the procedures developed for this project include, but are not limited to: Project Authorization, Concurrence in Award, Design Reviews, GMP Negotiations, Construction Inspections, etc.

We thank you for the opportunity to review and provide comments on this request, and we look forward to working closely with FDOT on this truly innovative contracting method. If you have any questions, please contact Mr. Greg Hall at (850) 553-2232.

Sincerely,

For: Martin Knopp
Division Administrator

cc: Mr. Alan Autry, FDOT (MS-31)
Mr. Tom Byron, FDOT (MS-57)
Mr. David Sadler, FDOT (MS-31)
Mr. Rudy Powell, FDOT (MS-31)

INNOVATIVE CONTRACTING PRACTICES
SPECIAL EXPERIMENTAL PROJECT NO. 14
CM@Risk

Introduction

The Florida Department of Transportation (FDOT) proposes the use of Construction Management at Risk (CM@Risk) type of contracting for transportation projects. This is a qualification-based selection contracting method.

CM@Risk may be defined as an integrated team approach applying modern management techniques to the planning, design and construction of a project in order to control time and cost, and to assure quality for the project owner. The team consists of the owner, the architect/engineer and the construction manager (CM). CM@Risk includes pre-construction and construction services. The CM is selected about the same time as the architect/engineer and in his role as the owner's agent; his task is to represent the interests of the owner in all phases of the project. The CM is selected using the standard Consultant Selection Process. Negotiations are based upon cost of staff assigned over the pre-construction time period plus profit and related expenses. The CM performs "value engineering or constructability reviews" for the owner during the pre-construction phase. Pre-construction services include CM cost estimates and budget recommendations, which may play a major role in cost containment, and requires CM review of contract document preparation for constructability. The owner still has complete approval of all changes or design decisions. The CM, using the budget given by the Owner, provides suggestions for alternatives for design, construction materials, and processes. His experience and skill provide a clearer picture to the owner of the cost of different alternatives/methods/materials. At about the 50% contract documents phase, the CM submits a Guaranteed Maximum Price (GMP) for acceptance to the owner. The CM warrants to the owner that the project will be built at a price not to exceed the GMP. The CM assumes the risk of meeting the GMP by holding all of the subcontracts.

Many governmental agencies have begun using CM@Risk as a standard contracting practice, such as Florida Department of Management Services, US General Services Administration and University of Florida. These agencies have reported that CM@Risk assists in achieving the goals of: eliminating an adversarial environment, meeting budgets, reducing delivery time, and improving project quality. In addition, FDOT has been granted approval to use CM@Risk on the Miami Intermodal Center, a project estimated at $1.5 billion.

Purpose

The traditional linear approach to managing transportation projects has used the design-bid-build process. This system works well on conventional transportation projects that do not require innovative approaches to the design and construction phases of the projects. The majority of projects that a state department of transportation faces fall into this traditional category.

There are however certain types of projects that require a unique approach to construction management; projects that are better managed in a non-linear approach. These projects fall into several categories:

- Building type projects (such as the two pilot projects identified), where construction methods and specifications vary between professional groups (i.e. engineer/architect and construction trades).
- Innovative funding scenarios, where multiple owners may dictate final project criteria.
- Complex construction phasings, where the actual contractors timely input is invaluable.
- Projects where limiting budgets threaten the delivery of the project and where CM alternatives can help to contain costs.
- Other projects where construction input is required during early phases of design.

Scope

This request is to approve the two CM@Risk pilot projects and provide authorization for the Florida Division to approve additional CM@Risk projects. The FDOT will provide project reports for the two pilot projects. Thereafter, individual project milestones will be reported on an annual basis. CM@Risk is authorized under Florida State Statutes 337.025 Innovative Contracting, which is limited to an annual cap. All projects administered under SS 337.025 require approval from the Central Office, Project Management, Research and Development. It is intended that FDOT use this technique on various project types to evaluate its effectiveness.

The two pilots projects, a Welcome Center on I-75 and a Rest Area on I-10, are not traditional FDOT projects. They are specialized projects that require expertise in building code/permits and different trades (i.e.: Electrical, Plumbing, HVAC, etc.) as well as the roadway tie ins. Building projects are commonly done by other state agencies using CM@Risk. FDOT currently has roadway contractors and roadway inspection staff building/inspecting projects similar to the pilot projects. This practice has lead to inefficiency between trades, quality performance issues, and cost and time overruns. The CM@Risk method fosters teamwork between the Architect/Engineer, Construction Manager, and FDOT, which is expected to result in a better final product for the FDOT. Note: The two pilot projects will be full FHWA Oversight.

Schedule

The following is a draft schedule for the implementation of CM@Risk.

- April 03: Draft CM@Risk Pilot Project Documents for FHWA approval
- Pilot projects awarded:
  July 03: 213403-1-52-01 I-75 Welcome Station Rehabilitation, $8.147M,
  Dec 03: 213442-1-52-01 I-10 Madison County Rest Area Rehab, $2.165M
- April – October 03: Modification and update of the draft CM@Risk Pilot Project Documents
- Milestone Pilot Project Reports: CM Selection, GMP Execution, And Final Project Closeout. It is anticipated that since these projects will be full FHWA oversight that all major issues will be addressed throughout the life of the contract.
- July 2003 - 2007: Add appropriate projects for evaluation, FHWA, Florida Division approval required.
- Fall 2004 - 2007: Annual Reports of milestone project activities, including, lessons learned, corrective actions taken, data measures.
- Sometime after July 2005: When FDOT determines they have enough data, develop CM@Risk guidelines and request Programmatic Authorization from FHWA.

Measures

The performance of the CM@Risk contracting method will be measured by:

1. Number of Supplemental Agreements for Errors & Omissions Items
2. Reduction in Cost Overruns
3. Reduction in Time Overruns
4. Reduction in Number of Requests for Information (RFI's)
5. Ease of Contract Administration (Subjective)

Each item above is quantifiable except Ease of Contract Administration. FDOT proposes use of a Performance Evaluation of the Construction Manager to assess this area.

Reporting

Initial and final reports will be prepared for the two identified projects. The initial report will be prepared at the time of each project award. This report will discuss industry reaction and response and any identifiable effects on the bids received. A copy of the GMP will be submitted when negotiated. The final report will be submitted upon completion of each of the two projects, and will discuss the overall evaluation of each project citing the successes and the areas of concern.

Thereafter, an annual report will be prepared identifying the number of projects and the five measurement areas.