

**NATMEC / INTERNATIONAL WIM CONFERENCE
INNOVATIVE CONTRACTING METHODS
DAYTON BURLARLEY-HYLAND
VMS, INC.
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I work for a company named VMS, Inc. We are officially a contractor, and we perform highway asset management, via lump sum fixed price contracts for our clients. Once we are awarded a contract, we become the “owner” of the facility and function similar to a DOT in that all routine maintenance of the highway from ROW fence to ROW fence becomes our responsibility. We are currently performing highway asset management in Florida (4 contracts), Virginia, Washington D.C., Oklahoma, Alaska, and Texas (4 contracts)

Our asset management contract in Washington D.C. includes the maintenance of existing WIM sites. At the time the D.C. contract was awarded both WIM sites were not operational and needed complete rebuilding. Additionally, my company was contractually bound to have both systems fully operational within 12 months. Knowing the difficulties in collecting WIM data in an urban environment caused me to approach this issue with an open mind.

I will explain the process VMS used to get to the contract stage and then how a similar contract can be developed using low bid criteria that is not proprietary in any way.

I started the process by inviting the WIM vendors I had worked with in NYSDOT to visit the DC project and review the site with me. We all met in the DC office to discuss what my company’s overall object was and then all proceeded to each WIM site for an on site assessment. We then went back to the DC office for a question and answer time with all involved vendors. The DC Area Engineer, Project Engineer, and myself answered questions regarding scheduling of construction, traffic control during and after construction, system performance, and duration for required full system maintenance.

Proposals were submitted from all of the vendors that attended the D.C. meeting. What we received were three very different proposals. Cost effectiveness and system performance were paramount factors in our proposal evaluation process. System operation and accuracy specifications were the same as when the system was originally specified by the District.

The proposal that VMS choose is innovative, cost effective and guaranteed to meet the performance criteria. The traditional 4 lane bending plate WIM installation contract costs in excess of \$100,000 Usually the installation is covered by an all inclusive one-year warranty. After the warranty many States contract the maintenance of these sites to the original vendor or other private contractor for a specified multi year term.

Our D.C. contract was traditional in its approach to the reconstruction of the system but that is where the similarity ends. The full expense of the installation was borne by the vendor. Quarterly payments are made the vendor at the beginning of every quarter for a period of (in this instance) four years. As part of the proposal submitted by this vendor, quarterly costs (considerably less than the for the first four years) for an additional five years were also provided. The duration of the original contract is four years with an annual renewal clause for up to five additional years. The amortized cost of our WIM contract is similar to the cost of traditional WIM contracting methods. In other words, spreading the cost of the installation over the four-year time frame did not increase the total cost of building and maintaining the system over a four-year period.

The contract specifies that:

- i. The contractor is required to respond to any service or operational issue that may arise within 48 working hours to any notification the system is not functioning as specified. The response will consist of an acknowledgement of the notification, and connection to the system with remote diagnostics. If possible the contractor will adjust the WIM system to regain operational status over the remote link.
- ii. If remedy of the situation is not possible over the remote link, the contractor will perform a site visit to evaluate the problem within 10 working days of the initial notification of the problem. At this time, any on site repairs will be initiated if possible, or an action plan for repair will be presented to a VMS representative (in the event that a lane closure is required for further work on the road sensors).
- iii. Site repairs will be initiated within an agreed timeframe based on local issues of traffic control and road access. It is the intent of this contract to have all site repairs accomplished within 15 working days of the initial notification of a problem. This maximum repair window will be adjusted according to restrictions on site access due to traffic control restraints resulting from special events and weather restrictions.

Now for the best part:

In the event the contractor cannot remedy an indicated problem within the time frames as indicated in (iii above), due to a problem with materials or manpower by the contractor, a reduction of the quarterly payment for the system will take effect. The quarterly payment for operation of the system will be reduced by 25% for any delay in maintaining system operation outside of the adjusted 15 day working window.

Additionally, The quarterly payment will be reduced by 50% if the system is not available for at least 45 calendar days in the quarter. No quarterly payment will be owed if the system is not available for at least 30 days in the quarter.

This type of contract transfers the risk for the quality, quantity and operation of the total system to contractor. Also, this type of contract will work for any type of WIM you are interested in building (Load Cell, Piezo, or Bending Plate).

All that is necessary to develop and let this type is requiring an amortized payment of the system and performance based outcomes, i.e. with diminishing payments if the

performance criteria are not met, and a modified bid sheet. Standard contractual boilerplate, safety issues, traffic control, system specifications are unchanged from traditional contracting methods.

Many states plan their work using a five-year program. This type of contract would allow the utilization of your five year WIM budget to build all the sites planned for five years, the first year and pay them off over the five year period, with virtually no risk. And the cost is fixed. Five times the data the first year for the same cost. And the system is guaranteed to provide accurate data or the cost is diminished (or eliminated).