



Enhancing Worker Safety During Roadway Construction

Purpose

This proposal will help protect workers and motorists from injury and death during roadway construction projects through the use of innovative contracting methods that enhance work zone safety. Specifically, state transportation agencies would be able to employ an innovative contracting mechanism to create a safety contingency fund to implement work zone safety enhancements that are not foreseen during the project planning and design stages.

Issue

On average, over the past three years, 135 occupationally related roadway construction work zone fatalities have occurred annually <<https://www.workzonesafety.org/crash-information/work-zone-fatal-crashes-fatalities/#national>>. The majority of these incidents were the result of third-party/distracted-driving intrusions into the work zone. During the same time-frame, an additional 600 fatalities occurred annually within roadway construction or maintenance work zones. While motor vehicle fatalities within a work zone have decreased slightly for the driving public over the last decade, injuries and fatalities of road construction workers have increased slightly during the same time period. Roadway construction work zones are dangerous places to work, and inattentive behavior on the part of drivers makes them even more dangerous.

As the U.S. Federal Highway Administration (FHWA), state departments of transportation (DOTs), and private sector construction contracting firms have sought to improve worker safety through the use of improved temporary traffic control provisions, one impediment remains constant — funding. In a low-bid roadway construction contracting environment, work is often awarded based on the lowest cost proposal that meets minimum agency specifications and requirements. The primary challenge for stakeholders arises when the contractor and agency realize that enhanced safety equipment or practices are needed beyond those originally specified in the bidding process. This can occur if mandatory work zone requirements are deemed unsatisfactory once road construction or maintenance begins, necessitating changes.

Unfortunately, at present, no federal funding mechanism is available to accommodate these types of modifications to an existing contract, and DOTs may be reluctant to

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approve such changes once a contract is accepted, if additional project-specific funds are not available to offset the cost of necessary increased safety measures.

Recognizing this shortcoming, the Texas Department of Transportation (TxDOT) has developed an innovative contracting method for road construction work projects whereby a “safety contingency fund,” an amount incidental to the roadway construction project’s total budget, is set aside to cover the cost of needed enhancements to ensure roadway work zone safety

<https://www.udot.utah.gov/main/uconowner.gf?n=28162109449105546> (starting on slide 9)>. The TxDOT safety contingency fund is typically 2–5 percent of the original engineer’s estimated total project cost; the percentage depends on the size of the project and is mutually agreed upon by the state and the contractor.

The road construction industry calls on Congress to encourage states to explore the use of such innovative contracting methods, which can mitigate or eliminate the funding barriers often associated with incorporating enhanced work zone safety measures. In particular, states should establish road construction safety contingency funds for all projects.

Solution

Title 23 of the United States Code, Section 120, Subsection (c)(3)(B), provides several examples of Innovative Project Delivery, including those that use innovative procurement and contracting procedures, and provides for an increased federal share payable up to 100 percent for innovative projects. This section should be amended to specifically include innovative project delivery methods that improve work zone safety for motorists and workers. Add as follows:

In general. — Section 120(c)(3)(B) of title 23, United States Code is amended by adding at the end, the following clause:

“(vii) contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction and maintenance activities.”

This amendment would add the establishment of a safety contingency fund to enhance work zone safety as a further example of an innovative project delivery technique that would improve safety for workers and the public.

