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## Construction Back-Log Solution Begins With Proposal Stage

Developing the Job Order Contract  
Request for Proposal (RFP)

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### Developing the Job Order Contract Request for Proposal (RFP)

In order to understand the characteristics of a well constructed Job Order Contract RFP, one must first understand the basic principles of Job Order Contracting (JOC); where and why it was developed and what it has manifested into over time.

In the early 1980's while struggling and burdened with a significant back-log and delay in completion of small to medium sized projects, the Department of the Army needed a tool to better manage and complete complex multi-trade renovation and repair projects. The typical design-bid-build method, although satisfactory for large new construction projects, was ineffective and costly for projects in the \$50,000 to \$500,000 range.

With continued pressure from internal customers to complete projects more quickly and less expensively, the Chief Engineer of the Army Corps of Engineers for NATO Operations, in 1981, developed what is known today as Job Order Contracting:

*"A competitively bid, open ended, indefinite-delivery indefinite-quantity contract (IDIQ), providing for firm fixed pricing, based on a detailed joint scope of work, a unit price book and a pre-determined coefficient for the purpose of managing and completing complex multi-trade renovation, repair, rehabilitation and minor construction projects."*

As JOC developed, other branches of the military followed with their own versions such as the Air Force's Simplified Acquisition of Base Engineering Requirements (S.A.B.E.R.). No matter the name or acronym, a procurement tool and construction delivery method was born that has transgressed across the federal market into the public sector with numerous local, county and state agencies as well as K-12 districts, colleges and universities across the United States utilizing this unique and beneficial construction delivery method.

Once in place, a **JOC Program** helps reduce an owner's overall procurement costs as well as reduces the time to complete each delivery order placed through the JOC contract. A successful JOC Program should help increase the overall safety standards for the owner as well as help meet socio-economic goals by building a large database of small, minority-owned and women-owned subcontractors who will be able to benefit from the owner's construction needs.

"JOC takes into consideration the ability of the JOC contractor to perform."

By its very nature JOC is not a low bid contract, but one that takes into consideration the ability of the JOC contractor to perform. As stated in the publication, "Best Practices for Use of Best Value Selections" co-authored by the National Association of State Facilities Administrators and the Associated General Contractors of America, "In a Best Value Selection, judges of comparative value seek to choose the provider offering the best combination of performance qualifications and price. Seeking enhanced value, public owners are turning more often to selections that are not tied inflexibly to price. A Best Value Selection is a selection process for construction services where total construction cost, as well as other non-cost factors, are considered in the evaluation, selection, and final award of construction contracts."

The ability to manage multiple subcontractors and projects while at the same time providing the highest quality and safety, defines a quality JOC contractor. Because continued successful performance is a key determining factor for delivery orders being issued by the owner, a good JOC contractor will provide additional value added services to the owner at no additional costs. These may include project scoping during budget cycles, even though the contractor knows some projects may not be awarded, incidental design work and value engineering to help reduce the owners total cost of the project, while providing the same quality of work and constructability reviews and life cycle costs analyses. The JOC contractor is looking to build a long-term relationship with the owner and the owner's staff; one that will allow for collaboration and trust to build and develop over time.

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### **As an owner how will you ensure you will receive quality responses to your JOC solicitation while being an effective steward of public funds?**

Key to receiving successful responses is the understanding of what makes a quality JOC RFP and thus ensuring a successful JOC Program. Although construction and IT procurement are different, in his 'Eight Best Practices' discussed in the "ABCs for RFPs", published in Government Procurement Magazine, February 2008, John P. Weidenhammer identifies eight key practices for purchasing professionals that can overlap into construction solicitations; 1) Selecting software is a business decision, not an IT Issue, 2) Get input upfront from key people, 3) Narrow the playing field, 4) Create reasonable expectations, 5) Don't make your budget a mystery, 6) Identify all pricing upfront, 7) Determine the vendor's implementation process for proper planning and 8) Maximize the relationship with your software supplier. Similar to those listed above, the next sections will help define what an owner should expect and require from a qualified and quality JOC Contractor and what the JOC Contractor looks for when reviewing the solicitation.

### **The Owner's Expectations**

**A Track Record of Success:** The single most important and reliable indicator of success in Job Order Contracting is successful past performance of the JOC Contractor. Owners should ensure the highest degree of success for their program by requiring in the RFP the respondents to submit several years (5 or more) of reference contracts that are similar to the owners intended program. Information such as relevant experience with prior JOC or similar contracts, past performance history, claims history, and on-time project completion percentages should be key elements of the reference performance history and should be a crucial part of the owner's RFP evaluation criteria.

**Predictable Costs:** The utilization of a unit price book allows the owner to know up-front what the expected cost of the project will be. If the JOC Contractor's estimate is higher than expected, the owner has the ability to negotiate the scope of work with the contractor to help align the cost to the budget.

**Scope of Work Negotiations:** The owner should expect to be provided with a narrative scope of work within a pre-determined time frame from the date the project is walked, as defined in the RFP (the RFP should allow for flexibility, dependent on the size and complexity of the project). Once received the owner has the ability to review and discuss the scope of work with the JOC Contractor. Any changes are made and agreed upon so that each party fully understands the make-up of the project. Once the scope of work is approved, the JOC Contractor will provide a detailed line item estimate, again the time frame is defined in the RFP and should allow for flexibility, dependent on the size and complexity of the project.

**Reduction/Elimination of the Change Order Philosophy:** Since the due diligence of the JOC Contractor is heavily utilized in the scoping of the project to ensure that all aspects of the project are known (unforeseen circumstances aside), 99% of change orders typically come from the owner. A successful JOC Contractor will rely on the experience of their staff to ensure the project is scoped correctly, knowing that any change orders that are not owner requested will cost the JOC Contractor money.

**Rapid and Reliable Execution of each Delivery Order:** Again the RFP will define timelines for the JOC Contractor's first site visit, Scope of Work due date and project start date. Keeping in mind that JOC is about building long-lasting relationships the owner should provide for flexibility and allow for discussions if delays arise.

**Minimal Design with Maximum Value Engineering:** Most JOC type projects are of the nature where full A/E design is not required, unless for permitting or jurisdictional needs. The owner needs to insure the JOC Contractor has the experienced personnel and ability to produce incidental design work as well as any value engineering requirements. Although not as much, many owners are moving toward Green building for their renovation projects and thus are looking to the JOC Contractor for LEED accredited professionals and experience.

**Additional Requirements Owners Should Consider in an RFP:** An owner may want to consider additional evaluation criteria within their JOC RFP such as a Technical Capabilities section. Technical Capabilities can include Contractor Staff resumès and experience, the Job Order Management System proposed by the JOC Contractor, as well as detailed safety and quality control procedures. Lastly the owner could require evaluation of the financial capability of the contractor to ensure he has the financial resources to be successful. This would include proof of the ability to bond up to the project maximum. Owners may want to consider including a requirement for a bid bond or bid guarantee to protect the investment in the procurement effort.

**What is Safety Worth?** An owner should be interested in the safety record of the JOC contractor and what steps they take to ensure safety in the environment for their personnel, construction workers, subcontractors, the owner's staff and the facility users. It is important to include safety processes, procedures, metrics and culture into the value of what is being procured.

#### The JOC Contractor's Perspective

**Owner's Volume History:** The JOC contractor will review the owner's projected volume during the term of the contract (base year plus option years) as well as researching the owner's history for similar type work. Even though there is typically only a small guarantee of work (\$50,000 - \$75,000), the JOC contractor is looking for a long-term relationship and continued delivery order opportunities with the owner. Additionally, depending on the location of the owner, the JOC Contractor could expect to experience a period of 6 – 12 months of negative cash flow while establishing a job site location, thus needs to feel comfortable that if they perform and the owner is satisfied, they will continue to be issued delivery orders.

**Duration:** Again, the JOC contractor is looking to establish a long-term relationship with the owner; one that will develop to a point where they can practically be considered a part of the owner's staff. An RFP that allows for a longer term based on the number of option years (4 – 5) will be more enticing to a JOC Contractor who will open a job site office solely for the purpose of servicing the owner opposed to a short term potential (1 – 3 years).

#### **Owners Should Take Into Consideration**

- Technical Capabilities
- Staff Resumes
- Safety Record
- Financial Capabilities

**Type of Work:** The JOC contractor will look at the type and size of projects the owner plans to place through the contract when determining whether to pursue. Although JOC can be used for a wide value range of projects, they typically range from \$50,000 - \$1,000,000. The contractor will review to see if the owner allows for the right of first refusal for projects less than or greater than a certain threshold, for example less than \$10,000 or greater than \$1,000,000. Since the goal of the JOC Contractor is to provide the best service and performance for the owner, knowing that projects outside certain thresholds are optional will allow the contractor to work within their business model. The contractor will also consider if the owner plans to limit the types of projects to single or multi-trade. As defined, JOC is best suited for complex, multi-trade projects. Contracts that are trade/work specific (roofing, concrete, paving) are not typically attractive to the JOC Contractor. Depending on the owner, the contractor will review to determine if a geographic area is defined or will work be required over a large region, which may hinder their ability to perform.

**Which Unit Price Book Utilized:** Although not as significant, the JOC contractor will want to make sure that the Unit Price Book being utilized will fit within their business model and their ability to perform. In addition, the contractor will review how the owner will handle escalation, non-pre-priced items (items not found in the unit price book), which city cost index, and which cost column (bare cost or overhead and profit) will be used.

**Additional Key Items Reviewed by the JOC Contractor:** The contractor will review requirements for liquidated damages, design requirements and reimbursement, self-performance requirements (Results indicate that high percentages of self performance requirements can increase the cost to the agency on IDIQ contracts. Due to the indefinite nature of Job Order Contracting, it is difficult to predict the variety and type of staff required. The ability to maintain a large craft crew at 100% efficiency is very difficult with periods of no work between each delivery order. Thus, the inefficiency is passed to the agency in the contract pricing. Subcontracting eliminates this inefficiency as the contractor only starts the work when the projects are available.), as well as the owner's small and minority subcontracting goals or requirements, permitting needs and who is responsible for obtaining, retainage, prevailing wage requirements and how taxes and invoicing are handled.

### Simple Check List for a Successful JOC RFP

- Do you understand your needs and what projects will be set aside for the JOC contract?
- Do you know the anticipated volume of work that will go through the program?
- Do you have a JOC champion within your agency?
- Will you choose the contractor based on "Best Value", to ensure you have selected a qualified contractor who is experienced with this type or similar contract?

**Solicitations:** Most JOC RFP's are advertised publicly via a single step or a two-step RFP. The single step allows for the qualifications/evaluation criteria and the price components to be included in one document and contractors submit a single response. Under the two-step RFP the price component is not revealed or requested until a short list of approved JOC Contractors is selected based on qualifications. The owner will review the contractors' JOC experience, past performance, technical capabilities, project management experience, quality control, safety program, sub contractor support and other proprietary criteria. Once a short

### Job Order Contract Characteristics:

- Competitively Bid
- Indefinite Delivery/ Indefinite Quantity
- Project costs based on unit price book
- Provides for targeted design
- Quick response
- Reduces procurement costs
- Reduces project completion time
- Eliminates change order philosophy

list of respondents are defined, the owner requests the contractors prepare pricing coefficients and possibly a formal presentation, with the award being given to the JOC Contractor who has shown they can provide the best value to the owner, not necessarily the one with the lowest coefficient.

Since Job Order Contracting is not focused on low bid procurement the JOC Contractor will review the RFP to determine how the owner will evaluate and assign points to the qualification criteria they will use to award the contract. A heavily weighted past performance criteria will reveal the contractors' JOC history to the owner. Similarly, the more technical capabilities the RFP requires, the more the contractor must think through, plan and explain how they will manage the JOC program. With carefully thought out and weighted evaluation requirements it is less likely the owner will receive responses based on a "low bid" mentality. These procedures will require more proposal preparation effort on the part of the contractor, but reduce the risk to the owner of the selection of a contractor who cannot perform or provides low quality, untimely, or unsafe work.

A successful JOC Program goes beyond the success of the RFP. It involves trust and communication from all parties from within and with each other. Both the owner's and the contractor's staff must be aligned to a common goal: **To Build a Long-Term, Relationship based on Collaboration, Performance and Trust.** JOC Champions (those that understand and accept Job Order Contracting as an alternative construction delivery method) should exist throughout the owner's organization, not only in the Construction, Facilities and Maintenance departments but also in Procurement and Accounts Payable as well as any other departments that may be involved in the process.

A properly drafted JOC RFP will allow the owner to select the best and most qualified JOC Contractor; one that will work hand-in-hand with the owner's staff to ensure that each delivery order is completed on-time, within budget with the highest quality and safety foremost.

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### About the Authors

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#### Vince Duobinis

Vince Duobinis, Sr. Market Development Manager for Centennial Contractors Enterprises, Inc., is responsible for market development for the mid-Atlantic and mid-west regions of the U.S. Along with this article, Duobinis has successfully written and published, "Performance-based contracting advances small-business goals", "Job Order Contracting: Trust, Partnering, Relationships" and "Job Order Contracting, An Alternative Construction Delivery Method – The Art of Thinking Outside the Box".



#### Kelvin King

As a former Air Force Contracting Officer and now a Director of Market Development for Centennial Contractors Enterprises, Kelvin King understands the needs and requirements for a successful Job Order Contract from both the owner's perspective as well as the JOC contractor. Prior to Centennial, King was responsible for procurement and contracting for electricity and natural gas for Siemens U.S.A. Currently overseeing market development in the southeast region of the U.S., King is entering his fifth year with Centennial.

