



Mid-Atlantic Meeting: JOC Legislative Updates

What changed?
Job Order Contracting in Virginia



September 29, 2016

Stepping Back to Remember the Origins of JOC

Federal (DoD) Definition of Job Order Contracting

“Job order contract” means an **indefinite-delivery, indefinite-quantity contract** which is **awarded on the basis of full and open competition and effective competition** ...The JOC includes a comprehensive collection of detailed repair, maintenance and minor **construction task descriptions or specifications**, units of measure and **pre-established unit prices**...

[AFARS Revision #15, dated February 17, 2005]



AFARS - PART 5117; SPECIAL CONTRACTING METHODS

(Revised September 23, 2015); Subpart 5117.2 -5117.9003 Use of job order contracts;
5117.9003-1 Characteristics.

JOC involves the following unique characteristics:

- (a) Use of a “**Unit Price Book**” to pre-price...coupled with “coefficient(s)”
- (b) A **solicitation and contract which contain a large volume of pre-priced, detailed tasks** that are normally available on an automated database;
- (c) Competitive source selection based on ...(b**est value**).
- (d) An **indefinite-delivery, indefinite-quantity (task order) contract** which provides for the use of negotiated, definitive, bilateral orders; and
- (e) Each task order becomes, in effect, a **fixed price, lump sum contract** and is managed accordingly.



Drilling Down to the State Legislation

Job Order Contracting in Virginia

Virginia Public Procurement Act (VPPA) Definition:

“Job order contracting” means a method of procuring construction by **establishing a book of unit prices** and then **obtaining a contractor to perform work as needed using the prices**, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either **competitive sealed bidding or competitive negotiation**... A minimum amount of work **may** be specified in the contract. The contract term and the project amount **shall not exceed the limitations** specified in § 2.2-4303 or 2.2-4303.2.



Virginia A&E Contracts & Job Order Limits

(limitations specified in § 2.2-4303 or 2.2-4303.2)

Type of Contract	Old Limit	New Limit
Default Annual Limit, A&E (county, city or town or any local or regional governmental authority)	\$400,000	\$500,000
Default Single-Project Limit, A&E	\$100,000	\$100,000
Default Annual Limit, A&E for State agency (any authority, board, department, instrumentality, institution, agency or other unit of state government) § 2.2-4303.1		\$1 million
Default Annual Limit, Job Orders	\$400,000	\$5 million
Default Single-Order Limit, Job Orders	\$100,000	\$500,000
Localities, authorities, and sanitary districts over 78,000 in population, and cities in Planning District 8, A&E Limit	\$2 million	\$2.5 million (single task); \$6 million (total)

Note: Airport, Rail & Transportation omitted. Higher Education omitted due to effects of the Restructured Higher Education Financial and Administrative Operations Act effective Oct. 1, 2016



Code of Virginia, Virginia Public Procurement Act

§ 2.2-4303.2. Job order contracting; limitations

- A. (iii) the contract is limited to a **term of one year or when the fees reach the maximum authorized, whichever occurs first.**
- Contractors may be selected through **competitive sealed bidding or competitive negotiation.**
- B. Renewable for **two additional one-year terms...** (total = 3 years)
- Fair and reasonable prices as negotiated shall be used in determining the cost of each job performed
 - Volume **not to exceed \$5 million annually**
 - Individual job orders shall **not exceed \$500,000.**
- F. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass.



Is Your JOC Contract Included in the Changes?

The provisions shall not apply to any solicitation issued or contract **awarded before July 1, 2015**, except that the provisions of subsection B of § 2.2-4303.2, as added by the bill, shall apply to any **renewal of a job order contract**.



§ 2.2-4304. Joint Procurement in Virginia

Any public body may participate in, sponsor, conduct, or administer a **joint procurement** agreement **on behalf of or in conjunction with** one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the U.S. General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, **or construction**.



Timeline of Cooperative Purchasing of Construction in Virginia

2009: VPPA, cooperative procurement was allowed for construction without limit.

2010: Cooperative procurement for construction contracts over \$200,000 in value was limited to other public bodies within 75 miles of the original soliciting body.

2015 & 2016: Cooperative procurement for construction was eliminated, but was added to small purchases as an outlet valve.

1) Reasoning: Practical matter as a preference for local and small, women, and minority-owned (SWaM) businesses.

Current Conditions: Joint Procurement for JOC is specifically allowed and the use of cooperatives for construction is not allowed.

Sources: Chandra Lantz, Hirschler Fleischer's Construction & Suretyship Practice Group & PUBLIC PROCUREMENT ACT AMENDMENTS by Michael Lockaby, Guynn & Waddell. P.C.

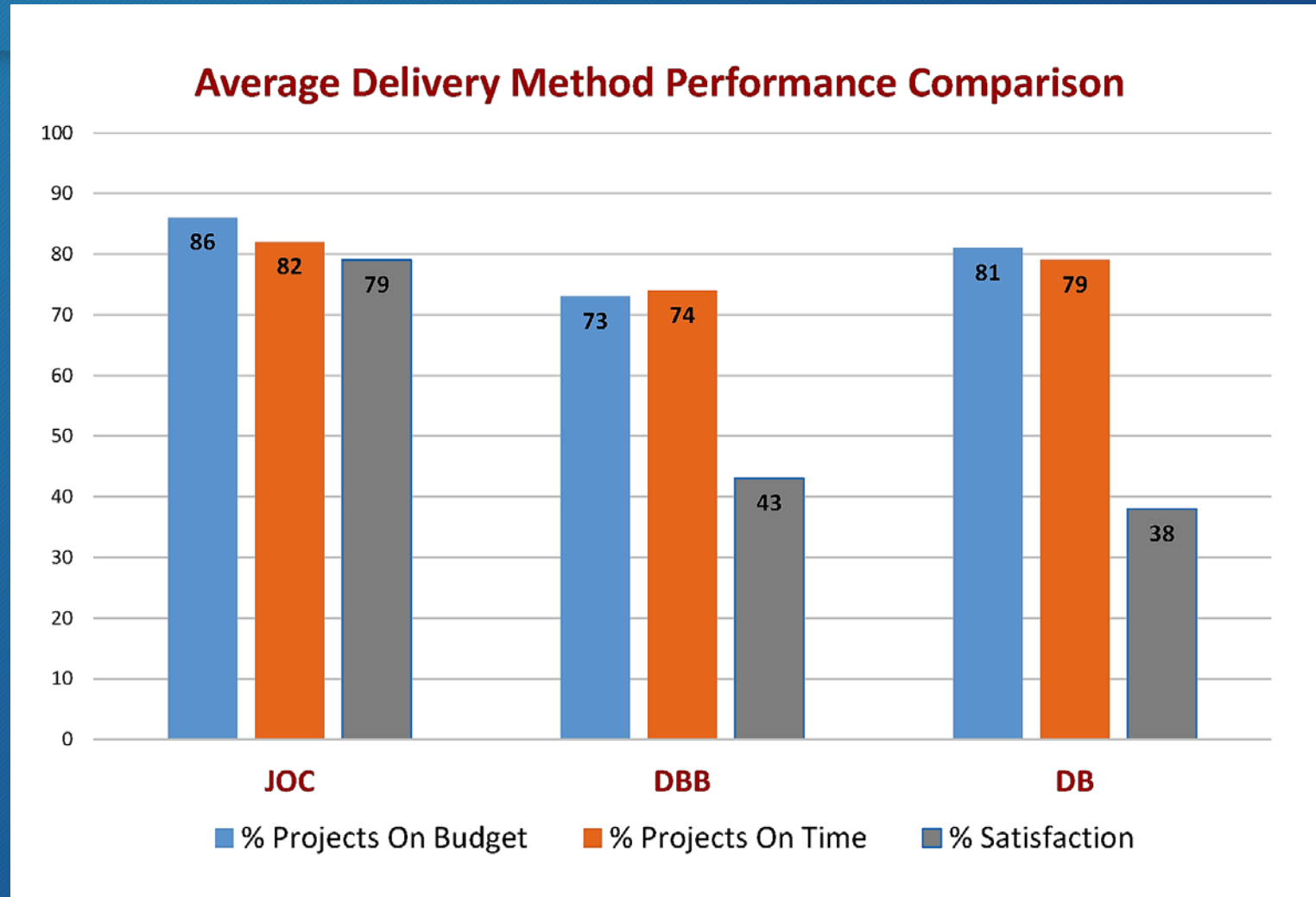


Reports on JOC Usage: Due to the General Assembly Subcommittees by 10-1-2017

The enacting clauses of 2015 Va. Acts c. 760 provide a couple of unusual provisions. First, the Department of Small Business and Supplier Diversity, public colleges and universities with level 2 or 3 procurement authority, state agencies using **job order contracts**, VACO, VML, and Virginia Association of Governmental Purchasing were all required to submit reports to the General Assembly subcommittees not later than October 1, 2017. The reports are on job order contracting in general, project cost limitations, and A&E term contracts.



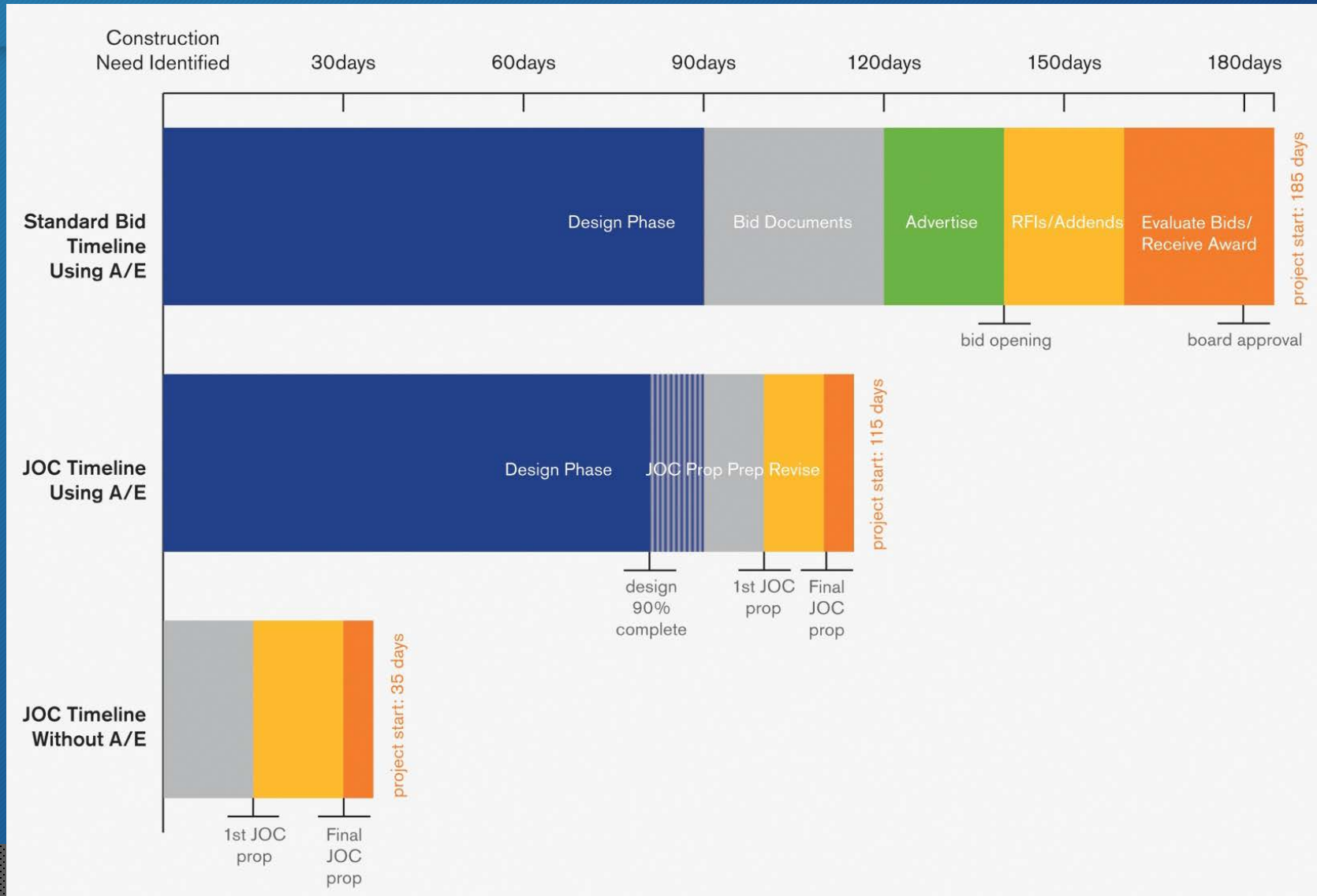
JOC in Review: National Performance Data



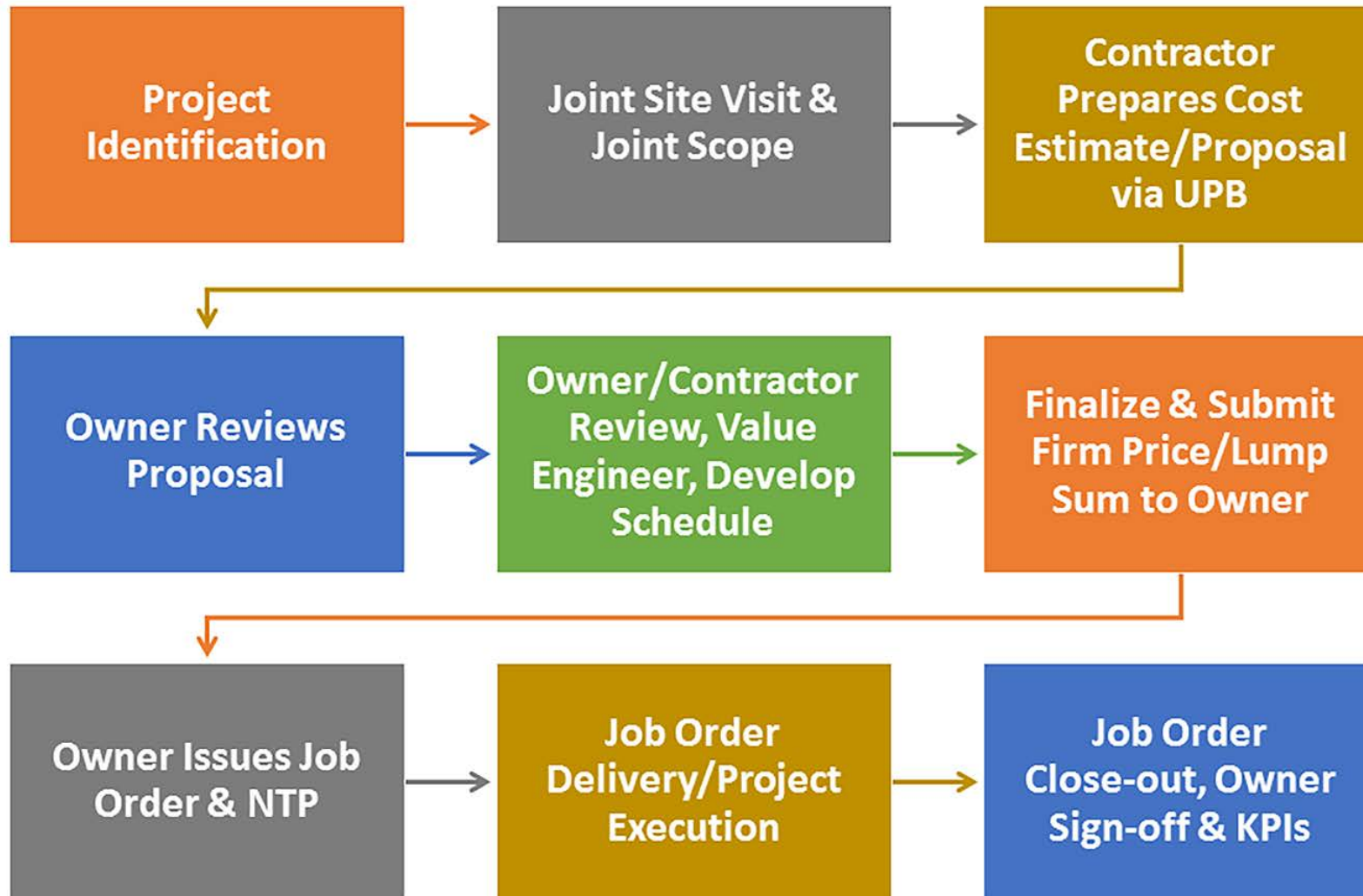
Source: ASU, Performance Based Studies Research Group, National Research Results 2015



Typical Project Timeline Comparison



The Job Order Process



Primary Ingredients For JOC Success

- Teamwork/Partnering
- Collaboration & Full Transparency
- Standardized Processes & JOC Procedures Manual
- Accurate and Current Unit Price Data
- Integrated and Collaborative Technology
- Detailed Scoping, Estimating, Scheduling & Communications
- QA/QC Program, Guidelines, & Key Performance Indicators
- Each job order becomes a fixed price, lump sum contract

Performance = Customer Satisfaction = Successful Program



Open Discussion

