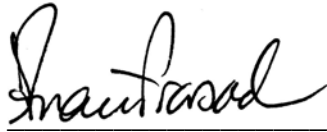


Approved:



Department of Transportation

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Office: Construction

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DESIGN-BUILD PROCUREMENT AND ADMINISTRATION

SECTION 1 INTRODUCTION

1.1 PURPOSE

To establish the Department's process for procuring and administering the design and construction of a project(s) within one contract.

1.2 AUTHORITY

Sections 20.23(4)(a) and 334.048(3), Florida Statutes (F.S.)

1.3 SCOPE

This procedure affects all offices associated with the design and construction of transportation or building projects.

1.4 BACKGROUND

Design-build combines into a single contract the design and construction requirements for a project, in accordance with standard Florida Department of Transportation (Department) criteria (if applicable), specifications (if applicable), and contract administration practices. These projects allow the contractor to participate in the design in an effort to reduce costs and expedite construction.

The Department is authorized to use the design-build process on buildings, major bridges, limited access facilities, and rail corridor projects (***Design-Build Major, Section 337.11(7), F.S.***). The Department's authority is further expanded to include all project types as a part of the "innovative" practices package (***Design-Build Minor, Section 337.025, F.S.***). The Department is required to comply with the annual contracting monetary cap set by the statute for innovative projects let under ***Section, 337.025, F.S.***

The design-build contracting process and contract administration will follow standard

Department practices, unless differences are otherwise identified. Districts are responsible for conducting the design-build contracting process for projects within the managing District; whereas, Central Office Contracts Administration, in coordination with the appropriate office, is responsible for contracts originating in the Central Office.

1.5 REFERENCES

Section 337.11(7), F.S., Design-Build Statute; Rule Chapter 14-22, Florida Administrative Code (F.A.C), Contractors-Highway-Qualification to Bid; Rule Chapter 14-91, F.A. C, Administration of Combined Design and Construction Contracts (Design-Build)

Section 287.055, F.S., Consultants Competitive Negotiation Act; Rule Chapter 14-75, F.A. C. Consultants Qualification

Section 337.025, F.S., Innovative Highway Projects

Section 339.135(2), F.S., Work Program Legislative Budget Request

23 Code of Federal Regulations (CFR) Part 636, Design-Build Contracting

FDOT Procedure Topic No. 375-000-001, District Contracts

FDOT Procedure Topic No. 375-030-002, Acquisition of Professional Services

FDOT Procedure Topic No. 575-000-000, Right of Way Procedures Manual

FDOT Procedure Topic No. 350-020-200, Contract Funds Management Funds Approval

FDOT Design-Build Guidelines

FDOT Standard Specifications for Road and Bridge Construction & Implemented Modifications.

SECTION 2 DEFINITIONS

For purposes of this procedure, the following definitions apply:

Adjusted Score Design-Build (ASDB) means the contract award is based on the lowest adjusted score, which is determined by dividing the price proposal by the combined **Expanded Letters of Interest** score and technical proposal score. Under the ASDB procurement, a two phase process is used which combines the evaluation scores of the **Expanded Letters of Interest** (phase I) and the technical proposal (phase II). A maximum of 20 points may be awarded for the Phase I **Expanded Letter of Interest**, which would be added to the maximum of 80 points awarded for the Phase II technical proposal submittal.

Advertisement is the standard advertisement for professional services (**Internet**). Additionally, the Department may utilize other forms of communication to announce the project. On ASDB projects, the advertisement will include a draft **Request for Proposal** (RFP). At the advertisement stage, the other RFP attachments including plans are not required to be posted. On Low Bid Design-Build projects the advertisement will include a final RFP.

The advertisement will include the requirements stated in the procedures, any additional technical qualifications desired, the criteria on which **Expanded Letters of Interest** will be evaluated, and time frames for submitting **Expanded Letters of Interest**, technical proposals and bid proposals as appropriate.

The advertisement for ASDB procurements will include, as part of the schedule of events, dates which accommodate Alternative Technical Concept meetings.

Bid Proposal, hereinafter referred to as "Proposal", means a technical proposal and a separately sealed price proposal submitted by each Design-Build Firm.

Contracting Unit is the unit in the Districts that have been given the responsibility of procuring design-build contracts. This unit may mean either the Contracts Administration Office or the Professional Services Unit, whichever is appropriate for the task required.

Contracts Administration Office is the District or Central office that is responsible for the contracts awards process.

Consultant Construction Engineering and Inspection (CCEI): A consulting engineering firm pre-qualified by the Department to perform Construction Engineering and Inspection (CEI) and under contract to perform such services on a project or series of projects.

Department CEI: The Department employees who perform construction engineering and inspection services.

Design-Build means combining the design and construction phases of a project into a single contract.

Design-Build Firm, means any company, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice engineering, architecture and construction contracting, as appropriate in the State of Florida. The entity may include a construction contractor as the primary party with the design consultant as the secondary party or vice versa. The contractor or lead design consultant cannot team with other partners to submit more than one bid per project. The secondary (i.e., designer or contractor) of a Design-Build Firm cannot change, after award, without the written approval of the Department. Consultant firms that developed the Request for Proposal for a design-build project cannot be part of a design-build team proposing on that project.

Design-Build (Major), as authorized by **Section 337.11(7), F.S.**, is a contracting technique, which allows the Department to combine the design and construction phases of a building (FCO and non-FCO), a major bridge, limited access facilities, or a rail corridor project into a single contract with an estimated cost of \$10 million or more. Such contract is referred to as a Design-Build contract.

Design-Build (Minor), as authorized by the Innovative Contracting statute (**Section 337.025, F.S.**), is a technique which allows road contracting projects and other types of construction projects that are not covered by **Section 337.11(7), F.S.**, and have an *estimated cost of less than \$10 million*. There is a statutory cap annually on all innovative contracts (statewide).

Design-Build Hybrid: This method stipulates a maximum price. Design-Build Firms compete on project scope, qualifications, quality, innovation, schedule, and costs (not to exceed the maximum price). The Department prepares and assembles a set of contract plan sheets for the project and the plan sheets are attached to the RFP. Every proposal has a stipulated price and the competition is on price, scope, quality, innovation, and schedule. This method has the advantage of allowing the Department to determine if the required scope is realistically achievable within the limits of a tight budget. It is responsive to the efficient use of funds by committing virtually all available funding up front and using the scope, schedule, and quality of project proposals to determine the most attractive offer.

Design-Build Maximum Price: This method stipulates a maximum price. Design-Build Firms compete on project scope, qualifications, quality, innovation, schedule, and costs (not to exceed the maximum price). Every proposal has a stipulated price and the competition is on price, scope, quality, innovation, and schedule. This method has the advantage of immediately allowing the Department to determine if the required scope is realistically achievable within the limits of a tight budget. It is responsive to the efficient

use of funds by committing virtually all available funding up front and using the scope, schedule, innovation, and quality of project proposals to determine the most attractive offer.

Design-Build Pushbutton: A design-build method which establishes a defined scope of work to be completed by the Design-Build Firm and also includes establishing a price for pre-determined work items which may be completed by the Design-Build Firm pursuant to the Department's issuance of Task Work Orders. The original scope of work is approximate and represents estimated planned work requirements based on historical or specific project needs. Task Work Orders will identify the location, description and amount of work to be performed. Under Design-Build Pushbutton contracting, the Department does not guarantee any maximum quantity, minimum quantity or range of quantities of work to be performed. Design-Build Pushbutton contracts shall be ASDB procurements. Design-Build Pushbutton contracts shall adhere to the requirements of **Section 337.025, F.S.**, will be classified as Design-Build Minor projects and will be accounted for in the \$120 million cap. Contract renewals must be reviewed and approved by the Chief Engineer prior to issuance by the district.

Design-Build with Options: This process provides a method to build a project to a lesser scope versus not letting the project due to the bids coming in higher than what the Department can afford. The Department plans to construct the entire project as stipulated in the Contract Documents. However, the Department intends to establish priorities for the Contract award in the event the goals of the Department cannot be achieved with the funds determined available by the Department. If funding is a limitation on a project based on bids received, the Department can exercise options established for a project.

Design and Construction Criteria Package: The design and construction requirements that clearly define the criteria essential to ensure that the project is designed and constructed, and if applicable, right of way services are provided to meet the needs determined by the Department. This package is part of the **Request for Proposal**.

Fixed Capital Outlay (FCO) Building Projects provide for land purchases, building additions, replacements, major repairs or renovations to materially extend the useful life or improve/change the functional use (including furniture and equipment) necessary to furnish a new or improved facility.

Expanded Letters of Interest refers to the initial submittal required by the Department for the Phase I procurement process for ASDB projects. Criteria required for **Expanded Letters of Interest** is stated in the advertisement. Design-Build Firms desiring to submit bid proposals on ASDB projects must submit a **Expanded Letters of Interest** setting forth the qualifications of the members of the Design-Build Firm and provide any other information required by the announcement of the project.

Low Bid Design-Build (LBDB) means the contract award is based on the lowest

responsive bid. Use of LBDB requires review and approval of the Chief Engineer prior to programming of the project.

Non-FCO Building Project means a project to provide toll facilities, rest areas, weigh-in-motion facilities, Turnpike Service Plazas, welcome centers, and other buildings incidental to the roadway system.

Non-Responsive refers to any *Expanded Letters of Interest* non-compliant with the criteria identified in the phase I process or any technical proposal non-compliant with the criteria defined in the *Request for Proposal* in the phase II process of the ASDB procurement. On LBDB procurement, this refers to any technical proposal non-compliant with the criteria defined in the *Request for Proposal*.

Professional Services Unit is the District or Central office that maintains the Department's staff responsible for proper procurement of professional services in its program area.

Project means the project to be designed and constructed as described in the public announcement.

Project Manager (PM) is the Department's designee responsible for the administration of the design-build project.

Proposal Evaluators shall evaluate and score the *Expanded Letters of Interest* and evaluate and score the technical proposals received on ASDB projects. On ASDB projects the Proposal Evaluators evaluating and scoring the *Expanded Letters of Interest* in phase I of the procurement process shall also evaluate and score the technical proposals submitted in phase II of the procurement process. On LBDB projects the proposal evaluators review technical proposals for the purpose of determining responsiveness.

Proposal Evaluators are comprised of the PM, District Construction Engineer, District Design Engineer, or their designees, and others as agreed upon by the preceding identified members, or as appointed by the District Secretary or his or her representative. There shall be a minimum of three members. For the success of the project, it is essential that the Proposal Evaluators be involved in the development of the Design and Construction Criteria Package.

For bridge projects, the Proposal Evaluators shall include the District Structures Design Engineer, and for Category II bridges, the State Structures Design Engineer, or their designees.

For rail corridor projects, the Proposal Evaluators may include the Public Transportation Manager (or District Rail Corridor Manager) and the State Rail Office or their designees.

For building projects requiring major renovations, additions, or new facilities, which are intended for general public access, the Proposal Evaluators shall consist of an architect (District, Central Office, or General Consultant), as well as appropriate Directors, or designees, based on the nature of the work requested, the complexity of the project, and the availability of personnel for a timely selection. The Proposal Evaluators for FCO buildings will also include the District/ Central Office FCO Coordinator.

For projects including right of way services, the Proposal Evaluators shall include the District Right of Way Manager, or their designee.

Rail Corridor Project means a project which involves design and construction of, improvements to, or replacement of tracks and track components such as rails, ties, turnouts, crossings, bridges, trestles, culverts, signals, communication lines, poles, radio masts, buildings, structures, facilities, and all other improvements or fixtures required for the operation of the railway.

Request for Proposal (RFP) is the package to be provided to the short-listed Design-Build Firms in the ASDB method and to those Design-Build Firms requesting an RFP in the low bid design-build method. FHWA approval of the RFP is required on FHWA oversight projects prior to authorization and the release of the final RFP. Central Office (Office of Construction) should also review RFP documents on FHWA oversight projects prior to submittal to FHWA for approval. On ASDB projects, a draft RFP (excluding attachments) shall be made available as part of the project advertisement. On LBDB projects, the final RFP shall be made available as part of the project advertisement. The RFP must clearly define all functions and responsibilities required by the Design-Build Firm. This RFP should consist of the following:

- (A) **Dates:** Technical proposal due date; Department's selection schedule; delivery of services/products date; Department's submittal reviews (if required) time period; and payout schedule.
- (B) **Design and Construction Criteria:** The design and construction requirements clearly define the specifications essential to ensure that the project is designed and constructed, and if applicable, right of way services are provided to meet the needs determined by the Department.
- (C) **Guidelines** for preparation/presentation of technical proposals, including the technical proposal evaluation criteria:
 1. Price proposal requirements.
 2. Identification of the Design-Build Firm's Project Manager.
 3. Insurance requirements.
 4. Subcontract services.
 5. MBE/DBE requirements.
 6. Bonding requirements.

Responsive refers to any **Expanded Letters of Interest** compliant with the criteria identified in the phase I process or any technical proposal compliant with the criteria defined in the RFP in phase II of the ASDB procurement. On LBDB procurement, this

refers to any technical proposal compliant with the design and construction criteria defined in the RFP.

Selection Committee reviews and confirms the scored **Expanded Letters of Interest** of Design-Build Firms that may submit proposals. On ASBD projects, after the Proposal Evaluators evaluate and score the **Expanded Letters of Interest** and technical proposals the Contracting Unit will submit their findings along with the bid price proposals and lowest adjusted scores to the Selection Committee, the Selection Committee will approve an award to the Design-Build Firm with the lowest adjusted score. On LBDB projects, the Selection Committee will approve an award to the Design-Build Firm with the lowest bid that has a responsive technical proposal.

In the District, as a minimum, the Selection Committee is comprised of the District Secretary (who will serve as Chairperson), the appropriate Director, and the appropriate Office Head or as appointed by the District Secretary. A representative from the Contracting Unit will be a non-voting member and will serve as Recording Secretary at all meetings. Each member of the Committee may appoint an appropriate management level alternate as appropriate.

In the Central Office, the Selection Committee will be comprised of the appropriate Assistant Secretary or their designee (who will serve as Chairperson), the appropriate Director, and the appropriate Office Head or as appointed by the Chairperson. The Manager of the Procurement Office will be a non-voting member and will serve as Recording Secretary at all meetings. Each Committee member may appoint an appropriate management level alternate as appropriate.

Short-list is defined as the responsive and affirmatively declared Design-Build Firms.

Value of Time Factor means an adjustment to the price proposal to reflect the worth of completing a project in as short a time as possible. This adjustment factor is based on the Design-Build Firm's proposed number of days to complete the project multiplied by a value per day established by the Department in the **Request for Proposals**, i.e., number of days multiplied by the dollar value per day equals the price proposal adjustment (increase). This factor will be used for selection purposes only and shall not affect the Department's liquidated damages schedule or affect any special provisions that apply for incentives/disincentives.

SECTION 3 ADMINISTRATIVE RESPONSIBILITIES

3.1 ROLE OF THE DEPARTMENT'S PROJECT MANAGER (PM)

The Department's Project Manager will be responsible for coordinating the procurement of design-build services as well as overseeing the engineering/inspection/construction of the project, and if applicable, the right of way services provided on the project. A team approach, with a PM from Production and a PM from Operations, is a viable solution to fulfilling the responsibilities associated with this role. The responsibilities may include, but are not limited to:

- Working with Contracting Unit and other appropriate offices in establishing the pre-qualification categories and advertisement
- Coordinating with the Federal Highway Administration representative on oversight and exempt projects
- Participating in the Proposal Evaluators review of **Expanded Letters of Interest** submitted by responsive Design-Build Firms
- Participating in the development of the RFP
- Working with the Contracting Unit in responding to Design-Build Firm's inquiries
- Participating in the pre-bid meeting, if applicable
- Coordinating the Proposal Evaluators review of technical proposals
- Coordinating the submittal of technical evaluations to Selection Committee
- Acting as the Department's liaison with the Design-Build Firm during the construction of the project in general and as person in responsible charge of the project
- Coordinating the review of the Design-Build Firm's submittals by FDOT during design and construction
- Working with the assigned Right of Way Project Manager to ensure right of way services are provided as specified in the contract and in compliance with applicable state and federal requirements.
- Making periodic site reviews
- Reviewing and approving periodic progress payments
- Monitoring MBE/DBE participation
- Ensuring the Department receives final documents as specified in the contract
- Ensuring that proper CEI is performed during construction
- Ensuring Materials Acceptance Program requirements are met

- Working with appropriate offices to develop supplemental agreements if applicable
- Ensuring that the Design-Build Firm's Quality Control (QC) plan is being followed
- Ensuring that all environmental commitments are followed through
- Ensuring that appropriate documentation takes place at each step in the process
- Furnishing the Design-Build Firm an adequate supply of all Department standard forms necessary to carry out the terms of the project contract
- Conducting performance evaluations

The PM must rely heavily on a multi-disciplined team in order to: (a) determine the pre-qualification requirements, (b) develop the design and construction criteria, (c) evaluate the **Expanded Letters of Interest** and technical proposals, and (d) oversee the design, construction, and CEI of the project and if applicable, right of way services provided on the project. The District Secretary or the District Directors should assign the appropriate people to serve on this team. Due to the complexity of coordinating a design-build project, the PM and members of the multi-disciplined FDOT team must work in concert to successfully complete all elements of the contracting and administrative process required by design-build projects.

SECTION 4 ADJUSTED SCORE DESIGN-BUILD (ASDB) PROCESS

The adjusted score approach may be used when overall outcomes can be clearly defined; however, a number of alternatives may exist which could provide the outcomes desired. An example of this method is a bridge project where alternative foundations, spans, and material types are acceptable.

4.1 PROJECT IDENTIFICATION

4.1.1 District and Central Office Management must first decide if contracting a specific project through the design-build method would benefit the Department and the Department's customers. The project will then be identified and included in the work program. Design-build contracts will be identified in the Financial Management System (FM System) as Phase 52, Contract Class 9 for the fiscal year in which bids are to be received. For FCO projects, design-build contracts will be identified in the FM System in the fiscal year for which the appropriation is received. Phase 52 will include all work associated with preliminary engineering, construction, and if applicable, right of way services provided on the project. In-house CEI estimates that will initially be automatically generated (based on the overall Phase 52 level) must be manually revised to represent only the in-house effort required to manage the CEI consultant. District Program Development staff will code the Item Group as A3 (Design-Build Minor) or B8 (Design-Build Major) based on project description and authorization.

4.1.2 If incentives are used on a design-build project, the appropriate Item Group Code will be used in the FM System. The incentive payment should be programmed in the fiscal year in which the incentive payment is expected to be made. Expected payout will occur when the Contractor has met the early completion dates/days noted in the contract. Use Phase 5A to program these payments and the same program number as on the construction Phase 52 (02, 05, etc.).

4.1.3 All projects with right of way services included in the Design-Build contract must be bid using the adjusted score bid process unless an exception is granted by the Chief Engineer.

4.2 DEVELOPMENT OF PRE-QUALIFICATION REQUIREMENTS

4.2.1 The Project Manager, with the assistance of a multi-disciplined team including the Contracting Unit, will determine the pre-qualification requirements. The Department's standard technical qualification requirements apply to each entity providing professional services (***Rule Chapter 14-75, F.A.C.***). Pre-qualification is required for contractors performing specialty work, as described in ***FDOT Standard Specifications***. Pre-qualification is required prior to the closing date for the submittal of ***Expanded Letters of Interest***.

Pre-qualification requirements for ***Design-Build Advertisements*** for the contractor and

design consultant members of the Design-Build Firm must be in accordance with the following:

1) Contractors submitting as a lead or prime with the Design-Build Firm must be qualified in all advertised construction contractor work classes, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** In this case, where the design consultant is not the lead of the Design-Build Firm, the design consultant will be utilized to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-75, F.A.C.** The design consultant may utilize subconsultants to meet the advertised Professional Services Work Type requirements.

(2) Design consultants submitting as lead or prime with the Design-Build Firm may utilize subcontractors to meet all advertised construction contractor work class requirements, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** The design consultant may utilize subconsultants to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-75, F.A.C.**

(3) When a joint venture party submits **Expanded Letters of Interest**, one of the contractor members of the joint venture party must be assigned to meet the advertised construction contractor work class requirements, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** In this case, the design consultants member of the Design-Build Firm will be utilized to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-75, F.A.C.**

4.2.2 FCO building pre-qualification requirements for contractors include the following:

- Applicable Contractor License,
- State Corporate Charter Number, if Corporation, and
- Added requirements, if necessary for specialized needs.

4.3 DEVELOPMENT OF DESIGN AND CONSTRUCTION CRITERIA

4.3.1 Development of the design and construction criteria for a design-build project shall be undertaken by individuals knowledgeable of the contracting requirements and design consultants experienced in the application of the performance criteria appropriate to meet the facility needs. It is essential to the success of the project that the Proposal Evaluators are involved in the development of the design and construction criteria. The Proposal Evaluators early involvement is a key to smooth and timely procurement of design-build services.

4.3.2 The Districts shall use the approved RFP as shown on the State Construction Office web page. An electronic copy of the RFP, with changes clearly identified, shall be submitted to the State Construction Office on all projects for review and approval prior to submittal to short listed Design-Build Firms. The intent of the State Construction Office's review is to assure these documents are in general conformance with the

commitments made to FHWA and the Industry and to coordinate any suggested changes with FHWA and the Industry.

4.3.3 If the project is subject to FHWA oversight, the draft RFP shall be submitted for FHWA approval concurrently with the advertisement. It is critical that FHWA be involved throughout the development of the design and construction criteria in order to expedite FHWA's final RFP approval. Prior to sending the final RFP to affirmatively declared Design-Build Firms, the Department must have FHWA approval of the RFP on oversight projects.

4.3.4 Design and construction criteria should clearly and completely identify design-build requirements/services, including any information, data, and services to be furnished by the Department. Rail projects that have Federal Transit Authority (FTA) oversight must submit a management plan.

4.3.5 The design and construction criteria shall provide a summary of the project's objectives and furnish sufficient information upon which Design-Build Firms may prepare bid proposals (i.e. technical and price proposals). Criteria may include geotechnical analysis, surveying, permitting, right of way mapping, title searches, utility coordination, etc. The design and construction criteria shall state the specifications, design criteria, and standards to be used in the design and construction of the project, and if applicable standards are to be used in providing right of way services on the project, unless otherwise noted in the RFP.

4.3.6 The Design-Build Firm is subject to the Independent Assurance (IA) procedures. The Department's IA procedure will be used for comparison tolerances and actions. IA will be performed on Quality Control and Quality Assurance personnel.

4.4 CONTRACT NUMBER ASSIGNMENT

The Contracting Unit will obtain a contract number and enter the project into the Department's data system for monitoring.

4.5 ENCUMBRANCE

4.5.1 The contracting Unit or Project Manager will request a MEMO Encumbrance through the Contract Funds Management (CFM) system before submitting the **Request for Proposal** (RFP) to the vendor. The CFM system will generate an approved Funds Approval email, once the funds are successfully encumbered in Florida's Accounting Information Resources (FLAIR). The requestor must have the funds approval email in hand before the RFP can be issued.

4.5.2 Prior to awarding the contract to the vendor, the contracting Unit or Project Manager will request the award encumbrance through the Contract Funds Management system. The requestor must have the approved email in hand before the contract can be awarded.

4.6 ADVERTISEMENT

4.6.1 A minimum of 60 days is allowed from the date of advertisement to the receipt of a design-build proposal. The actual length of time that the advertisement is publicized is at the discretion of the District. Advertisements will be publicized on the Internet web site at <http://www2.dot.state.fl.us/procurement/ads/advdbld.htm>. Additionally, the Department may utilize other forms of communication, such as newspapers or magazines, mail-outs, or television or radio to announce the project.

4.6.2 The advertisement will include, as a minimum, the name and description of the project, the District and County location of the project, the major type(s) of work required, any minor types of work that are required for the project (but not normally associated with the major work), the estimated construction cost of the project (if applicable), how and where Design-Build Firms can respond, any additional technical qualifications desired, the criteria on which **Expanded Letters of Interest** will be evaluated for the phase I process, the time frames for submitting **Expanded Letters of Interest**, technical proposals and bid proposals, the number of copies to be received, how respondents will be selected, and tentative dates for short-list and final selection.

4.6.3 All advertisements should summarize the Department's selection schedule for the prospective Design-Build Firms. The selection schedule should provide an outline of specific calendar dates, and clearly identify the time allotted for the preparation of qualification statements for design-build proposals. Advertisements should also include the "posting" date and bid solicitation protest rights. Each project advertisement should be drafted to fit the unique needs of that particular project.

4.6.4 The advertisement shall include date, time, and location of when the Selection Committee announces the short-listing of Design-Build Firms (if applicable), announcement of technical scores (if applicable) and opening of price proposals.

4.6.5 Consultant Construction Engineering and Inspection contracts procured to provide administrative oversight of Adjusted Score Design-Build projects shall be advertised after the notification deadline for responsive Design-Build Firms to declare their intent to participate in Phase II of the procurement process. Prior approval from the Chief Engineer shall be obtained, should the District elect to deviate from this process.

4.7 EXPANDED LETTERS OF INTEREST

On Adjusted Score Design-Build (ASDB) projects, **Expanded Letters of Interest** will be required from interested Design-Build Firms. **Expanded Letters of Interest** should be sent to the Contracting Unit. The Department is required to receive at least three (3) **Expanded Letters of Interest** in order to proceed with the **procurement**. If three (3) **Expanded Letters of Interest** are not received, then the Department will re-advertise, or alternatively review its list of pre-qualified Firms deemed to be the most highly qualified, based on qualification data on file, past performance grades, and location. The

Department will then contact each of the listed Firms and conduct similar discussion concerning the project. **Expanded Letters of Interest** shall be no more than ten (10) pages in length and include a Contact Person, with name, phone number, and e-mail address (if available). Buildings, rail, or complex projects may require longer **Expanded Letters of Interest**. The **Expanded Letters of Interest** will be evaluated based on the required criteria stated in the advertisement.

4.8 EVALUATION AND SCORING BY PROPOSAL EVALUATORS

The Proposal Evaluators comprised of members, as identified in **Section 2: Definitions**, shall evaluate and score the **Expanded Letters of Interest** received from responsive Design-Build Firms. The Contracting Unit will evaluate the pre-qualifications of the construction contractor(s) and design consultant members of the Design-Build Firm, and the capacity of the construction contractors who are members of the Design-Build Firm. Pre-qualifications and capacity are to be assessed by the Contracting Unit. Prior to making a determination that any Design-Build Firm submitting a **Expanded Letters of Interest** is non-responsive on the basis of prequalification or capacity, the Contracting Unit shall contact the Prequalification Specialist of the State Construction Office. The appropriate Contracting Unit will provide the Proposal Evaluators with a copy of all **Expanded Letters of Interest**, and information to be used for evaluation purposes. Based upon this information, the Proposal Evaluators will evaluate and score all responsive Design-Build Firms submitting **Expanded Letters of Interest** to be considered. The evaluation process for long-listing should include all entities within the Design-Build Firm - including contractor, designer, Right of Way Consultant (if applicable), as well as any major subcontractors listed in the **Expanded Letters of Interest**.

The evaluation criteria apply to construction contractor(s) and design consultant members of the Design-Build Firm, and Right of Way professionals, when applicable. The Proposal Evaluators should take into consideration the following criteria as it applies to the project. Not all criteria will apply or may have little value for the particular project. The Proposal Evaluators should determine and advertise in advance the criteria and its importance in the evaluation of the **Expanded Letters of Interest**. The criteria are:

- (1) Past Performance Evaluations:
 - Contractor Grades
 - Design Consultant Grades
 - Performance history with other states or agencies if none with the Department

- (2) Project Experience and Resources
 - Design-Build experience of the Contractor and Design Consultant
 - Similar types of work experience.
 - Contractor Experience Modification Rating
 - Firm organization, staffing plan, resources, location
 - Environmental record

- (3) Project Approach and Understanding of Critical Issues
 - Outline plan for completing the work
 - Approach and understanding
 - Coordination Plan
- (4) Other content in the ***Expanded Letters of Interest***

4.9 REVIEW AND CONFIRMATION BY SELECTION COMMITTEE AND SHORT-LIST DEVELOPMENT

4.9.1 Evaluations and scores of ***Expanded Letters of Interest*** will be developed for each responsive Design-Build Firm. This information will be compiled and presented to each Selection Committee member for their review prior to or at the scheduled Selection Committee meeting. At the minimum, a quorum of the Proposal Evaluators shall be in attendance at the Selection Committee meeting, to confirm the ***Expanded Letters of Interest*** evaluations and scoring. A proposal evaluator may attend the Selection Committee shortlist meeting by phone when travel or other circumstances prevent in-person attendance.

4.9.2 The Selection Committee will review and confirm the evaluations and scores of all responsive Design-Build Firms submitting ***Expanded Letters of Interest*** as part of phase I of the procurement process.

4.9.3 The Contracting Unit will document the outcome of the Selection Committee meeting. The Contracting Unit will complete ***Form 375-030-2B, Design-Build Selection Package***, which will become part of the permanent project file. The Contracting Unit will post the list of responsive Design-Build Firms along with ***Expanded Letters of Interest*** scores developed by the Proposal Evaluators as reviewed and confirmed by the Selection Committee. NOTE: Consultant Construction Engineering and Inspection contracts procured to provide administrative oversight of Adjusted Score Design-Build projects shall be advertised after the notification deadline for responsive Design-Build Firms to declare their intent to participate in Phase II of the procurement process. Prior approval from the Chief Engineer shall be obtained, should the District elect to deviate from this process.

4.9.4 The responsive Design-Build Firms may elect to continue to participate in phase II of the procurement process by submitting notification to the procuring agent of its intent. Notification shall be provided by the deadline established in the advertisement. The Short-list will be made up of all responsive Design-Build Firms satisfying the election and notification requirements identified in the advertisement.

4.10 COMPENSATION TO SHORT-LISTED DESIGN-BUILD FIRMS

4.10.1 For Adjusted Score Design-Build projects, where appropriate, the Department intends to contract directly with each shortlisted Design-Build Firm for preparation of a

responsive written technical, oral technical, and price proposal in response to the Design-Build RFP.

All districts should use the referenced ***Design-Build Stipend Agreement, Form No. 700-011-14*** between FDOT and the Design-Build Firm. Where the Department intends to reimburse Design-Build Firms for submitting a responsive proposal, the Department must enter into the ***Design-Build Stipend Agreement, Form No. 700-011-14 (Contract Type E9)*** directly with the non-selected Design-Build Firm immediately after short listing. All non-selected shortlisted Design-Build Firms submitting a responsive proposal will ultimately be compensated for their proposals. An agreement is required to document the terms and conditions of compensation. The intent is to compensate the amount that is noted in the RFP package. The amount is not intended to compensate the Design-Build Firms for the total cost of preparing the bid package.

Each district should create sequences under the phase 32 for each non-selected shortlisted Design-Build Firm submitting a responsive proposal. Each sequence will be programmed for the agreement amount. The funds should be encumbered under each of the sequences. This is due to the fact that the Department has a contract with each non-selected shortlisted Design-Build Firm submitting a responsive proposal. Therefore, all have to be encumbered and programmed in WPA. The agreements will be executed with all non-selected shortlisted Design-Build Firms submitting a responsive proposal. The non-selected shortlisted Design-Build Firms are to submit an invoice for payment of services on a Lump Sum basis after the selection/award process is complete. The invoice should include the following statement: "All work necessary to prepare technical and price proposals in response to the Department's RFP for the subject project". Compensation is intended to be on a pass/fail basis (i.e., responsive or non-responsive). If a proposal is deemed to be non-responsive, then no compensation shall be made.

GUIDELINES FOR ESTIMATING PROPOSAL COMPENSATION AMOUNTS FOR DESIGN-BUILD PROJECTS

Contract Value	Complex Urban & Rehabilitation	New Construction Projects	Compensation Range
<\$5 M	0.0050 * Estimate	0.0040 * Estimate	\$15 K - \$25 K
\$5 M - \$20 M	0.0030 * Estimate	0.0025 * Estimate	\$15 K - \$60 K
\$20 M - \$50 M	0.0020 * Estimate	0.0018 * Estimate	\$36 K - \$100 K
\$50 M - \$100 M	0.0015 * Estimate	0.0012 * Estimate	\$60 K - \$150 K
> \$100 M	0.0012 * Estimate	0.0010 * Estimate	\$100 K+

EXAMPLE: 1 - A \$4M rehabilitation project would have a recommended compensation of \$20,000. $\$4,000,000 \times (0.0050) = \$20,000$.

EXAMPLE: 2 - A \$30M complex urban project would have a recommended compensation of \$60,000. $\$30,000,000 \times (0.0020) = \$60,000$.

EXAMPLE: 3 - A \$175M new bridge project would have a recommended compensation of \$175,000. $\$175,000,000 \times (0.0010) = \$175,000$.

4.10.3 The actual compensation in the above examples could vary based on the nature of the work. This decision will be at the discretion of the contracting District or Central Office. The amount and conditions of the compensation must be included in the Department's advertisement.

Federal funds MAY be used to compensate the short-listed Design-Build Firms.

4.11 PREPARATION OF REQUEST FOR PROPOSALS (RFP)

If the project is subject to FHWA oversight, the RFP shall be submitted for FHWA approval prior to authorization and release of the RFP to the short-listed Design-Build Firms.

4.11.1 Project Time/Schedule

All RFPs shall state a time period in which the services and/or products are to be delivered. Time of performance requirements in the RFP are best stated in elapsed consecutive calendar days from the date identified in the notice-to-proceed. In this way, changes in the schedule to solicit, receive, evaluate, and select an award can be changed without affecting the project schedule. In those instances where the completion date is critical, the RFP must include a "but-not-later-than" qualifier in the project schedule. An outline of the selection schedule should be included in the RFP. The Department's selection schedule is the schedule of the entire selection process and should include all activities from initial advertisement to notice to proceed. The schedule should be stated in specific calendar dates and it should clearly identify the time allotted for the preparation of design-build technical proposals.

4.11.1.2 The Design-Build Firm's project schedule should depict at what stage in the design-build process the Design-Build Firm intends to build each element/phase of the project. The Design-Build Firm's project schedule shall be developed using critical path method (CPM) techniques (or other appropriate scheduling techniques based on the type of project) and specify the time frame for interim events. These events may include submittal requirements of the Design-Build Firm, such as design development drawings or construction documents. They may also include requirements of the Department directly or through a third party, e.g., site availability, completion of an environmental report/permits or the delivery of Department-furnished equipment or materials.

4.11.1.3 Again, the interim deadline requirements should be stated in elapsed days and may be an obligation of the Design-Build Firm or Department. The obligation of the Department to complete specific submittal reviews (if required) within a specified time period may also be included in the project schedule.

4.11.1.4 It is recommended that the RFP require a 60 to 90 day plans preparation and the review period be front-loaded into the schedule prior to allowing the contractor to begin actual construction. This will allow the design process to advance ahead of the contractor as well as providing sufficient time for the Department to conduct its conformity reviews. This plans preparation time must be clearly spelled out in the RFP so that the Design-Build Firm can include it in their contract time calculation.

4.11.1.5 It may be appropriate to allow certain construction activities (such as geotechnical investigations and clearing and grubbing) during this plans preparation period. Specifics should be included in the RFP.

4.11.2 Payout Schedule

The RFP must clearly address the invoicing and payment process including a payout schedule. The payout schedule should be based on major, well-defined tasks related to the Design-Build Firm's CPM (or other appropriate) schedule. The payout schedule should also include provisions for tracking MBE/DBE participation. Generally, the details of the payout schedule are to be developed between the selected Design-Build Firm and the Department after the project is awarded. Examples of payout schedules are based on monthly or percentage of completion of work schedules. For FCO building projects, the schedule of values will be used as a payout schedule.

4.11.3 Technical Proposal

The RFP shall include well-defined technical proposal requirements. This should include detailed instructions regarding the content and format.

4.11.4 Price Proposal

The RFP shall include well-defined Price Proposal requirements. Design-build projects are bid lump sum and are paid through a payout schedule based on major work items or tasks. The Design-Build Firm's price proposal shall include the lump sum price, a breakdown for major items (for progress payment purposes) as well as the standard bid blank forms. This breakdown of major tasks shall be consistent with the major tasks/functions used in the payout. The Department shall determine to either make progress payments based on: a) work accomplished during a specified period of time (i.e., monthly), b) specific tasks completed, c) or both.

4.11.5 Partners/Teaming Arrangement

Partners/Teaming Arrangements of the Design-Build Firm (i.e., contractor or designer or right of way consultant, if applicable) cannot be changed after submittal of the ***Expanded Letters of Interest*** on ASDB projects without written consent of

the Department. Failure to receive approval on such a change will result in the proposal being declared non-responsive.

4.11.6 MBE/DBE Requirements

The RFP shall address the Department's commitment to diversity in contracting. Utilization of disadvantaged and minority-owned businesses is encouraged by the Department.

4.11.7 Technical Proposal Evaluation Criteria

The RFP shall include the evaluation criteria and point system to be used by the Proposal Evaluators to evaluate technical proposals on adjusted score design-build projects. The criteria shall be established by the Proposal Evaluators to meet the specific needs of a particular project.

4.11.8 Insurance, Professional Liability and Contract Bonding

Insurance: The RFP must include current Standard Specifications regarding Insurance.

Professional Liability: The RFP shall stipulate the amount of professional liability insurance required and term (the length of time) of coverage.

Contract Bonding: The RFP must require applicants to be capable of providing a performance and payment bond in the full amount of their total design-build contract (see *Design-Build Contract Bond, Form No. 327-020-14*).

4.11.9 Public Involvement

Since public involvement is an important aspect of the project development (design) process, it is imperative that the PM, working with the appropriate District staff, defines in the RFP the level of coordination/involvement required for a particular project. Public involvement includes communicating to all interested persons, groups and government organizations information regarding the development of the project.

4.12 PRE-BID MEETING FOR SHORT-LISTED DESIGN-BUILD FIRMS

4.12.1 A pre-bid meeting may be held in order to discuss the project in detail and to clarify any concerns. If the project is subject to FHWA oversight, the RFP shall be submitted for FHWA approval prior to authorization and release of the RFP to the short-listed Design-Build Firms. A pre-bid meeting should take place shortly after the determination of short-listed Design-Build Firms. Affected Utility Agency/Owners shall be invited to the pre-bid meeting. This meeting is considered a public meeting and shall be conducted accordingly.

4.12.2 The purpose of this meeting is to provide a forum for all concerned parties to discuss the proposed project, answer questions on the design and construction criteria, CPM schedule, method of compensation, instructions for submitting proposals, and other relevant issues. Since the RFP is the working document on which a pre-bid meeting is based, the short-listed Design-Build Firms should be furnished a copy of the RFP one week before the pre-bid meeting. The Contracting Unit, or appropriate entity, will establish an information cutoff date at the meeting, which should be less than seven calendar days prior to the proposal submittal deadline. No questions should be answered relating to the project objectives after the information cutoff date. The Design-Build Firms should be instructed to direct all questions after the meeting to one entity, either the Project Manager or the Contracting Unit.

4.12.3 During and after the meeting, it is the responsibility of the Contracting Unit to ensure that each short-listed Design-Build Firm develops their technical proposal with the same information. If a Design-Build Firm receives information from the Department relating to the project prior to the information cutoff date, the Department will ensure that all short-listed Design-Build Firms receive the same information in a timely fashion. The project file will clearly document all communications with any Design-Build Firm regarding the design and construction criteria by the Contracting Unit or the Project Manager.

4.12.4 At the conclusion of the meeting or when it is reasonable to assume that no further changes regarding design and construction criteria will be required, the Contracting Unit, along with the Project Manager, will update the criteria, as necessary. The updated criteria should be made available to each of the Proposal Evaluators prior to the evaluation of the technical proposals. Also, should significant changes result from the meeting, the short-listed Design-Build Firms should be provided the updated criteria or any changes occurring in the RFP.

4.13 ALTERNATIVE TECHNICAL CONCEPTS

For Adjusted Score Design-Build projects the Department shall allow the Short-Listed Design-Build Firm to use the Alternative Technical Concept process.

4.13.1 Alternative Technical Proposal Concepts (ATC's)

The ATC process allows innovation, flexibility, time and cost savings on the design and construction of Design-Build projects. ATC's allow the Department to obtain the best value for the public. ATC meetings may be held (maximum of two meetings per Design-Build Firm based on a standard procurement schedule), in order for the Design-Build Firm to propose changes to supplied basic configurations, project scope, design criteria, or construction criteria. The schedule of events portion of the advertisement shall include dates which accommodate two ATC meetings. ATC meetings shall be recorded by the Department. Recordings of ATC meetings, information presented to the Department by the Design-Build Firm

during an ATC meeting and ATC Proposals submitted by the Design-Build Firm shall be exempt from disclosure pursuant to a ***Public Records Request*** until such time as the Department has posted the intended Award notification or thirty (30) days after Price Proposal opening, whichever occurs first. The proposed changes shall provide a solution that is equal to or better than what is required by the RFP, as determined by the Department. A concept is not an ATC if it reduces quality, performance, reliability or scope. The RFP shall indicate ATC areas that are off limits (i.e. The Department is not open to changing pavement types, reduction in scope, etc.).

The purpose of an ATC meeting is to discuss the proposed changes, answer questions and other relevant issues. Each Design-Build Firm with proposed changes may request an ATC meeting to describe the proposed changes. The ATC meeting should be between representatives of the Design-Build Firm and District/Central Office staff as needed to provide feedback on the ATC concepts. Proposal Evaluators should attend each ATC meeting requested by each Short-Listed Design-Build Firm. On FHWA Full-oversight projects, FHWA shall be invited to participate in the ATC meetings. All ATC meetings should take place prior to the ATC due date noted in the RFP.

4.13.2 Submittal and Review of ATC'S

After the ATC meeting, the District Design Engineer (DDE), or designee, will communicate with the appropriate staff (i.e. District Structures Engineer, District Construction Engineer, District Maintenance Engineer, State Structures Engineer, State Roadway Design Engineer, FHWA, as applicable) as necessary, and respond to the Design-Build Firm in writing as to whether the proposed concept is acceptable, not acceptable, needs additional information or does not qualify as an ATC within two weeks of the ATC meeting. If the DDE, or designee, determines that more information is required for the review of an ATC, questions should be prepared by the DDE, or designee, to request and receive responses from the Design-Build Firm. The review should be completed within two weeks of the receipt of the ATC. If the review will require additional time, the Design-Build Firm should be notified in advance with an estimated timeframe for completion.

If the ATC will result in changes to design standards or criteria, require Design Exceptions or require Design Variations, the changes will need to be approved in accordance with the Department's procedures prior to responding to the Design-Build Firm and a determination of any required addendum to the pending RFP document made.

The project file will clearly document all communications with any Design-Build Firm.

ATC's are accepted by the Department at its discretion and the Department reserves the right to reject any ATC submitted.

The schedule for ATC submittals and reviews will need to be coordinated with and identified in the Schedule of Events of the RFP.

4.13.3 Contents of ATC Submittal

All ATC submittals shall be sequentially numbered and include the following information and discussions:

- a) Description: A description and conceptual drawings of the configuration of the ATC or other appropriate descriptive information, including, if appropriate, product details and a traffic operational analysis;
- b) Usage: The locations where and an explanation of how the ATC would be used on the project;
- c) Deviations: References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from the requirements and a request for approval of such deviations or a determination that the ATC is consistent with the requirements of the RFP;
- d) Analysis: An analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed;
- e) Impacts: A preliminary analysis of potential impacts on vehicular traffic (both during and after construction), environmental impacts, community impacts, safety, and life-cycle Project and infrastructure costs, including impacts on the cost of repair, maintenance, and operation;
- f) Risks: A description of added risks to the Department or third parties associated with implementation of the ATC;
- g) Quality: A description of how the ATC is equal or better in quality and performance than the requirements of the RFP; and
- h) Operations: A description of any changes in operation requirements associated with the ATC, including ease of operations;
- i) Maintenance: A description of any changes in maintenance requirements associated with the ATC, including ease of maintenance;
- j) *Handback: A description of any changes in Handback Requirements associated with the ATC;

- k) Anticipated Life: A description of any changes in the anticipated life of the item comprising the ATC;
- l) *Project Revenue: A preliminary analysis of potential impacts on Project Revenue;
- m) *Payments: A preliminary analysis of potential impacts on the Upfront Concession Payment and Annual Lease Payment

* These submittal requirements will be needed for Public Private Partnership (PPP) projects only.

After the ATC meetings, the Contracting Unit, along with the Project Manager, will update the RFP criteria or issue an Addendum, if the ATC deviates from the RFP and is approved by the Department (**FHWA must approve such change as applicable**). Approved Design Exceptions or Design Variances will require an update to the RFP. Proposal Evaluators should be informed of all approved or denied ATC's.

The Department reserves the right to disclose to all Design-Build Firms any issues raised during the ATC meetings, except to the extent that the Department determines, in its sole discretion, such disclosure would reveal confidential or proprietary information of the ATC.

4.13.4 Incorporation into Proposal

The Design-Build Firm will have the option to include any ATC's to which it received approval in their proposal and the Proposal Price must reflect any incorporated ATC's.

By submitting a Proposal, the Design-Build Firm agrees, if it is not selected, to disclosure of its work product to the successful Design-Build Firm, only after receipt of the designated stipend if applicable or after award of the contract, whichever occurs first.

4.14 PROPOSALS SUBMITTED BY SHORT-LISTED DESIGN-BUILD FIRMS

The Department shall submit a final RFP to all responsive Design-Build Firms submitting **Expanded Letters of Interest** which have satisfied the election and notification requirements of the advertisement. The final RFP will identify all responsive Design-Build Firms submitting **Expanded Letters of Interest** which have satisfied the election and notification requirements of the advertisement. The Department may continue to phase II of the procurement process if at least two proposals are received. As part of phase II of the procurement process, Design-Build Firms will be asked to develop and submit proposals based on the RFP. Proposals will be segmented into two

parts: **Technical Proposals** and **Price Proposals**. Technical and price proposals will be received by the date, time and appropriate office, as noted in the announcement. Technical and price proposals shall be submitted in separate packages (with the price proposal sealed) and appropriately labeled. Price proposals shall include all standard bid package forms (i.e., **Bid Bond**, **DBE Utilization Summary Form**, etc. See **Forms, Section 8** for details.) The office receiving the proposals will send the technical proposals to the Proposal Evaluators and hold sealed price proposals until technical proposal scores are provided by Proposal Evaluators.

4.14.1 Technical Proposals

A technical proposal shall include a detailed project schedule using CPM (or other techniques as appropriate), preliminary design plans, preliminary specifications, technical reports, calculations, permit requirements and other data requested in response to the RFP. The package shall indicate clearly that it is the technical proposal and shall identify clearly the Design-Build Firm's name, project description, or any other information required.

4.14.2 Price Proposal

Price proposals shall include one lump sum cost for all design and construction of the proposed project. The package shall indicate clearly that it is the price proposal and shall identify clearly the Design-Build Firm's name, project description, and any other information required.

4.15 PROPOSAL EVALUATORS REVIEW PROPOSALS

4.15.1 The Proposal Evaluators (**Section 2, Definitions**) will evaluate each Design-Build Firm's technical proposal based on the rating criteria provided in the Request for Proposal. The rating or technical evaluation process is extremely important and should be accomplished using one of two methods:

Method 1: Each Proposal Evaluator is responsible for scoring the Design-Build Firm's proposals in the areas of their expertise only. In other words, a roadway design engineer would not develop scores for evaluation criteria related to bridge design, but rather only score items, such as approach roadways, MOT, and environmental impacts appropriate to their level of expertise. A minimum of three (3) scores are required for each evaluation criteria prior to averaging the scores for the development of a final technical proposal score.

Method 2: Each Proposal Evaluator is responsible for obtaining a score for each evaluation criteria by selecting other persons to assist them in those areas where they do not possess an appropriate level of expertise. As an example, a bridge designer may call upon a roadway designer for assistance in scoring each Design-Build Firm's roadway approach details and MOT, and a permitting or environmental person for input on environmental mitigation details.

4.15.2 The Proposal Evaluators will then submit a final technical proposal score for each Design-Build Firm to the Contracting Unit. During this technical review process, The Proposal Evaluators shall not meet together to discuss their thoughts on each proposal unless they do so in a public meeting. If **Method 2** is used then a fact finding meeting may be held. As there are many different disciplines involved with a design-build project it is not reasonable to expect one person to be familiar with all the disciplines involved with the design and construction of a project. Therefore, Non-voting Technical Experts may be used for needed expertise.

4.15.3 The purpose of the fact finding meeting is to give each reviewer a better understanding of the technical merits of each proposal, not to develop a group score. There should be no discussion of scores or discussion between the proposal evaluators at this meeting. If these conditions are followed then this meeting is not considered a public meeting. The following guidance applies to design-build contract acquisitions and describes the process for fact finding meetings held between the Proposal Evaluators and technical advisors:

Meetings of two or more Proposal Evaluators, including those with one or more technical experts for the purpose of fact finding will be properly noticed.

4.15.4 The Contracting Unit shall notify all short-listed Design-Build Firms of the date, time, and location of the public announcement of technical scores and the opening of the sealed bids.

4.15.5 The Contracting Unit shall publicly open the sealed price proposals and divide each Design-Build Firm's price by the combined **Expanded Letters of Interest** score and technical proposal score given by the Proposal Evaluators to obtain an adjusted score. The Design-Build Firm selected will be that Design-Build Firm whose adjusted score is lowest. The following example shows how the selection formula would work:

Firm	ELOI Score	Technical Score	Price	Adjusted Score
A	20	70	\$6.7 Million	74,444
B	18	62	\$6.5 Million	81,250
C	19	51	\$6.3 Million	90,000

4.15.6 Value of Time Factor in the Technical Evaluation for ASDB

The adjusted score bid may include a bid adjustment for the value of time. This adjustment will be based on the Design-Build Firm's proposed number of days to complete the project multiplied by a value per day established by the Department (number of days times cost/day = price proposal adjustment [increase]).

4.15.7 This adjustment will be used for selection purposes only and shall not affect the Department's liquidated damages schedule or constitute an incentive/disincentive

to the contract. The Department shall establish the cost/day value and include it in the RFP package. The Design-Build Firm will determine the contract time necessary to perform all design-build functions. Using zero base line, the Design-Build Firm shall multiply its contract time by the cost/day contained in the RFP package. This value added to the price proposal will constitute the time-adjusted price. The following example is how this selection process would work using \$2,000/day:

Firm	ELOI Score	Tech Score	Contract Time (Days)	Time Value (Days x \$/day)	Price Proposal	Time Adjusted Price (Time Value + Price Proposal)	Adjusted Score
A	20	70	300	\$600K	\$6.7 M	\$7.3 M	81,111
B	18	62	250	\$500K	\$6.5 M	\$7.0 M	87,500
C	19	51	400	\$800K	\$6.3 M	\$7.1 M	101,428

4.15.8 Under the adjusted score design-build bid, the time adjusted price would be divided by the combined **Expanded Letters of Interest** score and technical proposal score to determine the lowest adjusted score. In the above example, Design-Build Firm A would be awarded the contract under this scenario.

4.15.9 If the value of time factor is used, an incentive/disincentive or no excuse bonus clause shall also be included in the contract with a dollar amount per day equal or greater than the value of time factor amount. The incentive/disincentive will create a more balanced approach by helping to eliminate the manipulation of proposed contract time.

4.16 SELECTION COMMITTEE AWARDS ASDB BID

4.16.1 Unless all proposals are rejected, the Selection Committee will approve an award to the Design-Build Firm with the lowest adjusted score. At the minimum, a quorum of the Proposal Evaluators shall be in attendance at the Selection Committee Awards meeting. A Proposal Evaluator may attend the Selection Committee Awards meeting by phone when travel or other circumstances prevent in-person attendance. The Department will enter into a contract for the price proposed. In the advertisement and pertinent bid documents, the Department shall reserve the right to reject all proposals and waive minor proposal irregularities.

4.16.2 The Department shall post the results and send notification of posting to each Design-Build Firm submitting a proposal of the award of the project or rejection of all proposals within thirty (30) days of final selection or determination to reject all proposals.

4.16.3 The Contracting Unit shall provide justification for the selection, or upon request by the non-selected Design-Build Firms, arrange a formal meeting to explain and review technical scores to clarify the selection of the Design-Build Firm awarded the contract.

4.16.4 After the bid opening date and following the defined protest period but prior to Award of the contract, the Department may negotiate changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the selection order. Negotiated changes should be accomplished prior to the contract being awarded.

SECTION 5 LOW BID DESIGN-BUILD (LBDB) PROCESS

As a general rule, the low bid approach should be used on projects where the design and construction criteria are concise, clearly defined, and innovation or alternatives are not being sought. This might include bridge projects with a specified foundation type, span lengths, and beam type. Use of LBDB requires review and approval of the Chief Engineer prior to programming of the project. LBDB is generally limited to projects addressing safety concerns or on those projects where conventional procurement methods will prohibit commitment of project funding advancements, Resurfacing projects are restricted to the use of the LBDB process. Projects, which are awarded based on the LBDB approach, will not utilize the **Expanded Letters of Interest** and short-listing process. Projects with right of way services included in the Design-Build contract may not be bid using the low bid process unless an exception is granted by the Chief Engineer.

5.1 PROJECT IDENTIFICATION (same as for **ASDB: Section 4.1**)

5.2 DEVELOPMENT OF PRE-QUALIFICATION REQUIREMENTS

5.2.1 The Project Manager, with the assistance of a multi-disciplined team including the Contracting Unit, will determine the pre-qualification requirements. The Department's standard technical qualification requirements apply to each entity providing professional services (**Rule Chapter 14-75, F.A.C.**). Pre-qualification is required for contractors performing specialty work, as described in **FDOT Standard Specifications**.

On Low Bid Design-Build projects, pre-qualification is required at the time the bid proposals are due.

Pre-qualification requirements for Design-Build Advertisements for the contractor and design consultant members of the Design-Build Firm must be in accordance with the following (**Rule Chapter 14-91, F.A.C.**).

1) Contractors submitting as a lead or prime with the Design-Build Firm must be qualified in all advertised construction contractor work classes, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** In this case, where the design consultant is not the lead of the Design-Build Firm, the design consultant will be utilized to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-75, F.A.C.** The design consultant may utilize subconsultants to meet the advertised Professional Services Work Type requirements.

(2) Design consultants submitting as lead or prime with the Design-Build Firm may utilize subcontractors to meet the advertised construction contractor work class requirements, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** The design consultant may utilize subconsultants to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-**

75, F.A.C.

(3) When a joint venture party submits **Expanded Letters of Interest**, one of the contractor members of the joint venture party must be assigned to meet the advertised construction contractor work class requirements, in accordance with the provisions of **Rule Chapter 14-22, F.A.C.** In this case, the design consultant member of the Design-Build Firm will be utilized to meet the advertised Professional Services Work Type requirements, in accordance with provisions of **Rule Chapter 14-75, F.A.C.**

5.2.2 FCO building pre-qualification requirements for contractors includes the following:

- Applicable Contractor License,
- State Corporate Charter Number, if Corporation, and
- Added requirements, if necessary for specialized needs.

5.3 DEVELOPMENT OF DESIGN AND CONSTRUCTION CRITERIA (same as for **ASDB: Section 4.3**)

5.3.1 In addition to the requirements in **Section 4.3** the following applies to Low Bid Resurfacing Projects:

- 1) The Criteria Package shall include a topographic survey and pavement cross-sections, or cross-slope and profile data at a minimum.
- 2) The Criteria Package shall include pavement cores and traffic data in accordance with standard FDOT procedures, at a minimum. Preferably a Pavement Design Package or the minimum pavement design criteria.
- 3) The scope shall specifically detail any improvements other than resurfacing of pavements. If existing structures violate clear zone, the scope shall note that the violation needs to be remedied, or that an exception/variance will be granted.
- 4) If signal work is included, the scope shall identify if strain poles or mast arms are required.
- 5) For all Low Bid Design-Build Resurfacing Projects, the Criteria Package should include survey and geotechnical information.

5.4 CONTRACT NUMBER ASSIGNMENT (same as for **ASDB: Section 4.4**)

5.5 ENCUMBRANCE (same as for **ASDB: Section 4.5**)

5.6 ADVERTISEMENT

5.6.1 A minimum of 60 days is allowed from the date of advertisement to the receipt of a design-build proposal. The actual length of time that the advertisement is publicized is at the discretion of the District. Advertisements will be publicized on the Internet website at <http://www2.dot.state.fl.us/procurement/ads/advdbld.htm>. Additionally, the Department may utilize other forms of communication, such as newspapers or

magazines, mail-outs, or television or radio to announce the project.

5.6.2 The advertisement will include, as a minimum, the name and description of the project, the District and County location of the project, the major type(s) of work required, any minor types of work that are required for the project (but not normally associated with the major work), the estimated construction cost of the project (if applicable), how and where Design-Build Firms can respond, any additional technical qualifications desired, the criteria on which technical proposal will be evaluated, the time frames for submitting technical proposals and bid proposals, the number of copies to be received, how respondents will be selected.

5.6.3 All advertisements should summarize the Department's selection schedule for the prospective Design-Build Firms. The selection schedule should provide an outline of specific calendar dates, and clearly identify the time allotted for the preparation of design-build proposals. Advertisements should also include the "posting" date and bid solicitation protest rights. Each project advertisement should be drafted to fit the unique needs of that particular project.

5.6.4 The advertisement shall include date, time, and location of the opening of price proposals.

If a pre-bid meeting is to be held, the announcement must also provide the date, time, and location of the pre-bid meeting. Affected Utility Agency/Owners shall be invited to the pre-bid meeting.

For LBDB projects, approval of the RFP (and the federal authorization request) must occur prior to project advertisement since the RFP is distributed to Design-Build Firms during the contract advertisement period.

5.7 PRE-BID MEETING FOR LOW BID DESIGN-BUILD

If the LBDB project is complex, a pre-bid meeting may be held in order to discuss the design-build project and clarify any concerns (see **ASDB: Section 4.12**). This meeting may be waived if the complexity of the project does not warrant such a meeting. Affected Utility Agency/Owners shall be invited to the pre-bid meeting.

5.8 LBDB PRE-QUALIFIED DESIGN-BUILD FIRMS MAY REQUEST RFP

5.8.1 Firms should request a copy of the Request for Proposal (RFP) from the name and address identified in the advertisement. Design-Build Firms must be pre-qualified before submitting LBDB proposals.

5.9 PREPARATION OF REQUEST FOR PROPOSALS (RFP) (same as for **ASDB: Section 4.11**)

5.10 PROPOSALS SUBMITTED BY LOW BID DESIGN-BUILD FIRMS

The Department may continue if at least two proposals are received. Design-Build Firms will be asked to develop and submit proposals based on the RFP. Proposals will be segmented into two parts: **Technical Proposals** and **Price Proposals**. Technical Proposals and Price Proposals will be received by the date, time and appropriate office, as noted in the announcement. Technical Proposals and Price Proposals shall be submitted in separate packages (with the Price Proposal sealed) and appropriately labeled. Price Proposals shall include all standard bid package forms (i.e., **Bid Bond**, **DBE Utilization Summary Form**, etc. See **Forms, Section 8** for details.) The office receiving the proposals will send the technical proposals to the Proposal Evaluators.

5.10.1 Technical Proposals

A technical proposal shall include a detailed project schedule using CPM (or other techniques as appropriate), preliminary design plans, preliminary specifications, technical reports, calculations, permit requirements and other data requested in response to the RFP. The package shall indicate clearly that it is the technical proposal and shall identify clearly the Design-Build Firm's name, project description, or any other information required.

5.10.2 Price Proposal

Price proposals shall include one lump sum cost for all design and construction of the proposed project. The package shall indicate clearly that it is the price proposal and shall identify clearly the Design-Build Firm's name, project description, and any other information required.

5.11 BID OPENING FOR LOW BID DESIGN-BUILD

Under the LBDB process, the appropriate District or Central Office will publicly open the price proposals on the day, time, and location noted in the advertisement, and send the Proposal Evaluators the technical proposals.

5.12 THE PROPOSAL EVALUATORS REVIEW RESPONSIVENESS OF PROPOSALS

5.12.1 The Contracting Unit will evaluate the pre-qualifications of the construction contractor(s) and design consultant members of the Design-Build Firm, and the capacity of the construction contractors who are members of the Design-Build Firm. Pre-qualifications and capacity are to be assessed by the Contracting Unit. Prior to making a determination that any Design-Build Firm is non-responsive on the basis of prequalification or capacity, the Contracting Unit shall contact the Prequalification Specialist of the State Construction Office.

5.12.2 The Proposal Evaluators shall review the design concepts and preliminary designs of the lowest bidder in order to assess the responsiveness of the lowest bidder's technical proposal compared to the Design and Construction Criteria Package.

5.12.3 In the event the lowest bidder's technical proposal is found to be non-responsive, the Proposal Evaluators will then review the next lowest bidder's technical proposal to determine its responsiveness. On all federally funded projects, FHWA concurrence must be obtained prior to evaluating the next lowest bidder's technical proposal. A Bid Proposal is considered non-responsive if it does not contain all the required information and level of detail, or is non-compliant with the design and construction criteria defined in the RFP. Prior to the department declaring the Design-Build Firm non-responsive, it may be appropriate for the Department to contact the Design-Build Firm to discuss/clarify its concerns before moving on to the next lowest bidder. However, once determined that the low bidder is non-responsive, the process will continue until the lowest bidder having a responsive proposal is found.

5.12.4 The Proposal Evaluators will then notify the Selection Committee of the lowest bidder having a responsive technical proposal. Unless all proposals are rejected, the Selection Committee will approve the award bid to the Design-Build Firm with the lowest responsive bid. The Department will then enter into a contract for the price proposed. The Department reserves the right to reject all proposals.

5.12.5 Value of Time Factor for Low Bid Design-Build

Low Bid Design-Build (LBDB) may include a bid adjustment for the value of time. This adjustment will be based on the Design-Build Firm's proposed number of days to complete the project multiplied by a value per day established by the Department (number of days times cost/day = price proposal adjustment [increase]).

5.12.6 This adjustment will be used for selection purposes only and shall not affect the Department's liquidated damages schedule or constitute an incentive/disincentive to the contract. The Department shall establish the cost/day value and include it in the RFP package. The Design-Build Firm will determine the contract time necessary to perform all design-build functions. Using zero base line, the Design-Build Firm shall multiply its contract time by the cost/day contained in the RFP package. This value added to the price proposal will constitute the time-adjusted price. Below is an example of how this selection process would work using \$2,000/day:

Firm	Contract Time (Days)	Time Value (Days x \$/day)	Price Proposal	Time Adjusted Price (Time Value + Price Proposal)
A	300	\$600K	\$6.7 M	\$7.3 M
B	250	\$500K	\$6.5 M	\$7.0 M
C	400	\$800K	\$6.3 M	\$7.1 M

5.12.7 In the example, under LBDB, Design-Build Firm B would be awarded the contract based on the lowest time-adjusted price, if the proposal was deemed responsive by the Proposal Evaluators.

5.12.8 If the value of time factor is used, an incentive/disincentive or no excuse bonus clause shall also be included in the contract with a dollar amount per day equal to the value of the time factor amount. The incentive/disincentive will create a more balanced approach by helping to eliminate the manipulation of proposed contract time.

5.13 SELECTION COMMITTEE AWARDS DESIGN-BUILD FIRM WITH THE LOWEST RESPONSIVE BID

5.13.1 Unless all proposals are rejected, the Selection Committee will approve an award to the Design-Build Firm with the lowest bid that has a responsive technical proposal. The Department will enter into a contract for the price proposed. In the advertisement and pertinent bid documents, the Department shall reserve the right to reject all proposals and waive minor proposal irregularities.

5.13.2 The Department shall post the results. Due to the number of potential bidders in the LBDB process, individual notification to each Design-Build Firm will not occur, as in the ASDB. After the bid opening date and following the defined protest period but prior to award of the contract, the Department may negotiate changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the selection order. Negotiated changes should be accomplished prior to the contract being awarded.

5.14 PARTNERING/TEAMING ARRANGEMENTS

5.14.1 Partners/Teaming Arrangements of the Design-Build Firms for LBDB projects cannot be changed after contract award without written consent of the Department. Failure to receive approval on such a change will result in contract cancellation.

SECTION 6 GUIDELINES FOR DEVELOPING THE DESIGN AND CONSTRUCTION CRITERIA PACKAGE FOR THE RFP

6.1 DESIGN SERVICES REQUIREMENTS

The design requirements (criteria) are essential to ensure that the project is constructed to meet the needs as determined by the Department. The following guidance is provided as to various design requirements that should be in the design and construction criteria for each project type:

- (1) Bridge project requirements may include but are not limited to alignment, prescribed typical section elements, design criteria, design guidelines, aesthetic requirements, project schedule, standard detail drawings, subsurface soil data, minimum vertical and horizontal clearance requirements, load rating, hydraulics, scour predictions, ship impact, roadway approach needs, and maintenance.

The Traffic Control Plan specifying Maintenance of Traffic (MOT) requirements, such as the number of lanes to be maintained and the lane closure times, should be noted as well.

- (2) Building project requirements may include but are not limited to building size, net and gross interior space provisions, building systems, material quality standards, allowed budget amount, project schedule, site development requirements, aesthetic requirements, landscaping, domestic water requirements, sanitary sewage requirements, storm water disposal, parking provisions, ADA requirements, regulatory, environmental and permitting requirements, and maintenance.
- (3) Rail corridor project requirements may include but are not limited to the track master plans which specify the track configuration (number of tracks and horizontal and vertical alignments) required to support both current and anticipated future rail operations for each operating rail corridor, rail design criteria, signal and communications criteria, minimum horizontal and vertical clearance requirements (tracks, sidetracks, bridges and building), standard detail drawings, air rights, wire line agreements, right of way, available geotechnical data, structural requirements to minimize harmonic motion and allow high speed operation, special car design requirements, safety requirements, and maintenance. Rail projects that have Federal Transit Authority (FTA) oversight must submit a management plan.
- (4) Roadway project requirements may include but are not limited to alignment, project limits, prescribed typical section elements, design controls and criteria, controlling roadway and traffic design standards,

traffic signal, project schedule, drainage, pavement design, signing and pavement marking, traffic control plan design, traffic control plan, bicycle and pedestrian designs, including ADA requirements, lighting, landscaping, controlling access management standards, and maintenance.

- (5) Traffic systems project requirements may include but are not limited to Intelligent Transportation Systems (ITS) elements involving location of field infrastructure, location of central control center, communication plant, software requirements for traffic management software and operating software, traffic control plan, and maintenance. The Design and Construction Criteria Package shall address design, procurement, installation, integration testing and warranty.

6.2 CONSTRUCTION SERVICES/REQUIREMENTS

6.2.1 The criteria shall reference any applicable Department specifications, including standard specifications, supplemental specifications, or special provisions, etc. as deemed appropriate by the PM. In addition, it may be necessary to reference local or state building codes, national standards, or other specification requirements pertinent to the specific project.

6.2.2 Also, the PM should consider whether there are any particular construction processes or techniques that need to be specified in order to satisfactorily construct the project. (For example: top-down bridge construction to lessen the environmental impacts.) As a general rule, it is better to describe unique social, environmental, and community values desired and let the Design-Build Firm select the construction method/technique.

6.3 PERMITS

6.3.1 The Department must determine who will be responsible for permits and how the coordination process will be handled. (FHWA holds FDOT responsible for all permits on Federal Aid Projects.) The RFP will clearly state when the Design-Build Firm is to be responsible for identifying and obtaining all required permits. All permits requiring additional permanent right of way easements must comply with ***Right of Way Procedures Manual, Topic No. 575-000-000***. When the RFP identifies that the Design-Build Firm is responsible for obtaining permits, all potentially impacted Permitting Agencies should be invited to attend the mandatory pre-proposal meeting. Following the mandatory pre-proposal meeting, the Department should establish meeting schedules between each affected Permitting Agency and each Short-Listed Design-Build Firm. The District Permits Engineer is responsible for facilitating these meetings and for facilitating meetings with Permitting Agencies reluctant to coordinate with each Short-Listed Design-Build Firm.

6.3.2 Bridge projects often require an easement from the Trustees of the Internal

Improvement Trust Fund (TIITF) for use of sovereign submerged lands. This easement must be obtained in conjunction with the **Environmental Resource Permit** issued by the State. When the Design-Build Firm is responsible for obtaining permits for the project, the Design-Build Firm is required to obtain the TIITF easement where use of sovereign submerged lands is necessary before physical construction. Although, the facilitation of this process may be the responsibility of the Design-Build Firm, FDOT, as holder of the submerged lands easement, must sign the **Environmental Resource Permit** application. The RFP shall identify what permits/easements are required and whom the Department contact will be, that must approve commitments made by the Design-Build Firm on behalf of the Department as a result of obtaining permits.

6.3.3 Certain projects may require easements from the Trustees of the Internal Improvement Fund (TIITF) for uplands. The contract must specify that the easement must be obtained before any physical construction may commence. Because of the complexity of the process, the Department must be responsible for obtaining the upland easement; however the Design-Build Firm may be responsible for the coordinating efforts between the various parties.

6.3.4 The Design-Build Firm cannot be responsible for making decisions involving conditions and requirements placed on the granting of the easement that the Department may or may not be able to accept.

6.3.5 The need for an easement from the Trustees of the Internal Improvement Trust Fund is considered an administrative transfer between agencies of the State of Florida. A permit requirement, which generates the need to obtain an easement other than an administrative transfer between agencies of the State of Florida, would require the services of a licensed real estate broker under the provisions of **Chapter 475, F.S.**

6.3.6 All known permit requirements, especially those affecting the Design-Build Firm's construction options and costs, should be clearly defined and supplied to the Design-Build Firms prior to preparing technical proposals. Initial permit coordination meetings should begin as the design package is developed. The Department needs to contact agencies up front to find out what will not be permitted for the project. This does not alleviate the Design-Build Firm's responsibility to acquire the necessary permits or to modify existing project permits as necessary. Some examples of permitting issues/concerns are:

- Dredging restrictions for construction access,
- The extent of required removal below the mud line of the existing bridge,
- Horizontal and vertical requirements for the main span,
- Blasting restrictions or requirements for bridge removal,
- Special turbidity control requirements,
- Mitigation ratios and special requirements,
- Other site specific permitting restrictions,
- Local ordinances, including noise and hours of operation,
- Building permits.

6.4 DESIGN PLANS AND ENGINEERING CALCULATIONS REVIEW

The design criteria shall clearly define any documentation (included but not limited to design plans, shop drawings or engineering calculations) that is to be received by the Department. Under design-build, these submittals are not for the Department's approval but rather for verification of compliance with the ***Design and Construction Criteria Package***. The ***Criteria Package*** shall also clearly state any requirements for packaging submittals and backup information that the Department may desire in order to avoid fragmented submittals. The ***Criteria Package*** should also define the shop drawing review (routing) process.

6.5 UTILITIES

6.5.1 The Design-Build Firm shall be responsible for identifying the existence, features and locations of any and all utilities within the limits of construction; for coordinating any required utility relocations or adjustments necessary for satisfactory completion of the Contract work; and for any and all work necessary to otherwise accommodate any and all utilities within limits of construction during construction and upon satisfactory completion of the work.

6.5.2 The Department will make available to the Design-Build Firm for inspection all utility permits and utility relocation information upon written request; however, the Department makes no representation as to the completeness or accuracy of such information and the Design-Build Firm relies on the completeness or accuracy of such information at its own risk.

6.5.3 The Department should gather initial Utility Agency/Owner (UA/O) contact information and this information should be provided as part of the RFP. The Department, in coordination with each UA/O, should perform sufficient advanced utility coordination to identify the tentative project impacts to the existing utilities, identify payment responsibilities associated with the potential utility design and relocation efforts and identify those time-line impacts during construction that result from the tentative utility relocation impacts which are expected by the project. Each affected UA/O should provide documentation which describes the locations of existing facilities. The Department should include this information as part of the concept plans attached to the RFP. The Department shall provide to the Design-Build Firms a summary which identifies the location of existing utility facilities, information related to whether those facilities are allowed in Department Right of Way by Utility Permit and identify those facilities which are related to a compensable property interest or other right for reimbursement. All determinations related to compensable property interest or other rights to reimbursement shall be coordinated with the Department's Office of General Counsel and State Utilities Office. When utility relocation is anticipated, a mandatory pre-proposal meeting with the Short-Listed Design-Build Firms, followed by mandatory site visits with the Short-Listed Design-Build Firms and the UA/O's within the project limits should be conducted. Following the mandatory pre-proposal meeting, the

Department should establish meeting schedules between each affected UA/O and each Short-Listed Design-Build Firm. The District Utility Engineer is responsible for facilitating these meetings and facilitating meetings with UA/O's reluctant to coordinate with each Short-Listed Design-Build Firm. The schedule for these meetings shall be identified in the Schedule of Events portion of the RFP.

6.5.4 To the extent that there is found, within the limits of construction, one or more utilities that after reasonable pre-construction coordination and investigation by the Design-Build Firm is found to be either materially mislocated vertically or horizontally, materially different in features, or existing when previously undisclosed, the Design-Build Firm may pursue recovery of actual damages against the utility involved, up to and including the compensation formulas provided for in **Section 4-3.2** and **Section 5-12**, and the Department will grant the Design-Build Firm an assignment of rights the Department may have by permit or as a property right as to the utility, expressly limited however to only those rights necessary for the Design-Build Firm to pursue recovery of actual damages directly against the utility, and as limited above.

6.5.5 The Utility Agency/Owner will be responsible for all relocation costs except when a determination is made by the Department's Office of General Counsel that prior compensable interests exist.

6.6 EASEMENTS/RIGHT OF WAY

6.6.1 Prior to advertisement, for a Design-Build project, it must be determined if the project can be built within the existing right of way. If no additional right of way is required for the project, the District Right of Way Manager must provide a right of way certification for construction stating that no additional right of way was acquired for the project or that additional right of way was acquired and all right of way activities were completed in compliance with the applicable federal and state laws and regulations. If the Department has determined that no additional right of way is required for the project, the RFP should address how additional right of way is to be acquired should a Design-Build Firm propose to purchase additional right of way based on an innovative approach to the project. In those situations, the RFP should clearly demonstrate that the Design-Build Firm is responsible for all additional cost and time related to the acquisition of this right of way, regardless of whether the right of way is acquired by the Department or the Design-Build Firm.

6.6.2 If additional right of way is required for the project and the acquisition of that right of way is to be included as part of the Design-Build project, the **Request for Proposal** and ultimately the Design-Build contract shall include appropriate controls to insure that all right of way is acquired in compliance with the applicable federal and state laws and regulations and that construction activities do not commence until all property is acquired and relocation activities are complete.

6.6.3 If a determination is made that additional right of way will be required, the Project Manager shall consult with the District Right of Way Manager and the head of the

District Office(s) responsible for right of way mapping, title searches and conveyance documents, to determine what if any of these services will be included in the Design-Build contract. The ***Design and Construction Criteria Package*** must clearly identify those services, the standards that are required, and the documentation that must be received by the Department which are mandatory during the right of way process.

6.6.4 If right of way services are included in the Design-Build contract, negotiations for the acquisition of right of way may not begin until a ***Notice to Commence Right of Way Acquisition*** is issued by the Department. Environmental approval (NEPA) and completion of right of way maps, title information and legal descriptions are required before the notice to commence may be issued.

6.6.5 On every project requiring additional right of way, the Department must issue a ***Notice to Commence Construction Activities*** prior to the start of any construction activities on any portion of the project for which additional right of way was required. This requirement is applicable whether the right of way services are included in the Design-Build contract or will be handled separately. The ***Notice to Commence Construction Activities*** may not be issued until such time as the right of way certification for construction is executed by the Department. Right of way may be certified on any portion of a Design-Build project that is deemed to be a buildable section by the contractor.

6.6.6 The ***Design and Construction Criteria Package*** should note that the contractor is responsible for obtaining any leases or licenses required for storage of construction equipment, materials, or for operations. No portion of the project can be constructed on these leases or licenses.

6.7 EXISTING PROJECT FEATURES OR SYSTEMS

The ***Design and Construction Criteria Package*** shall include a section, which specifies the responsibility for demolition and disposal or retainage of existing features or systems that are no longer necessary to the project.

6.8 QUALITY CONTROL (QC) REQUIREMENTS

The ***Design and Construction Criteria Package*** shall address any QC requirements that the Design-Build Firm must follow which are in addition to those already in the referenced specifications, policies and procedures. The criteria should also note any standard QC practices that do not apply (such as the designer submitting phase plans to the Department for review). This part of the criteria shall also require that the Design-Build Firm explain their program that will assure quality products (plans, construction, etc.).

6.9 INDEPENDENT ASSURANCE

Whether the Department performs the CEI or hires the CCEI the Department will

continue with its Independent Assurance program. In addition, the PM (or his/her designee) has the right to review records and conduct tests at any time in order to ensure quality products and services are being provided.

6.10 SURVEY REQUIREMENTS

The ***Design and Construction Criteria Package*** shall specify any survey information required by the Department and notify the Design-Build Firms of existing survey information that is available.

It may be necessary for the Department to perform some survey work in the preparation of the ***Design and Construction Criteria Package***. In any event, the Project Manager must determine who will provide the survey control for layout, the layout itself, and if it is to be tied to the State Plane Coordinate System. All survey work will adhere to the requirements of the Department's ***Surveying Procedure, Topic No. 550-030-101***.

6.11 FINAL DOCUMENTS

The ***Design and Construction Criteria Package*** shall clearly define the final documents required by the Department from the Design-Build Firm upon completion of the project. These should include: as-built final plans (100% automated, including sheet files and geometric data files - GEOPAK files), computer files containing the as-built design plans, engineering reports (such as Load Rating, Foundation Construction Information, etc.), shop drawings, test results, documentation, daily reports, quantities list, warranties for equipment installed on the project, and certificate of occupancy, etc.

6.12 STAFFING REQUIREMENTS

The ***Design and Construction Criteria Package*** shall outline the minimum training and experience requirements for any professional personnel deemed appropriate by the PM and/or required by regulatory agencies.

6.13 GEOTECHNICAL REQUIREMENTS

The ***Design and Construction Criteria Package*** shall specify any geotechnical information or reports required by the Department. The Department may perform some preliminary geotechnical work in the preparation of the design and construction criteria. The Department may conduct the geotechnical investigations in order to save the short-listed Design-Build Firms the time and expense. The Department shall provide copies of any existing geotechnical information that is available to all short-listed Design-Build Firms.

6.14 ITEMS TO BE FURNISHED BY THE DEPARTMENT

6.14.1 The ***Design and Construction Criteria Package*** shall include a section that

details any items or services to be furnished by the Department. This should include any information (data, reports, etc.), support functions (computer services, etc.), materials, equipment, testing devices, or other items that would affect the bid or technical approach. Such information might include survey data, geotechnical information, bridge hydraulic reports, existing plans (if available), right of way maps, etc.

6.14.2 As a general rule, the Department should provide a typical section package as a part of the design criteria. The Project Manager must also determine if the Department is going to provide the pavement borings and pavement design or if the Design-Build Firm will accomplish this.

6.14.3 The following are examples of other information that might be necessary for the Department to provide in order to clarify design and construction criteria:

- Preliminary geotechnical survey including bridge borings, wall borings and roadway borings (within the limits of the possible alignments).
- Bathometric survey for all water crossings, for construction access information.
- Site specific permit surveys potentially affecting or restricting the Design-Build Firm's allowable construction methods and cost. Examples:
 - Sea grass surveys detailing limits of sea grasses within right of way (Also permit implications affecting construction access in these areas). The same applies for limits of oyster beds, etc.
 - Survey showing limits of contaminated sites within the right of way which potentially affect excavations such as building bridge piers and drainage structures. (Verbiage requiring special conditions such as coordination with a specialty contractor should be included in the contract.)
 - Limits of jurisdictional wetlands within the right of way and on adjacent properties. (Also permit implications affecting construction access in these areas need to be addressed.)
 - Endangered species survey.
 - Asbestos survey on building projects or on projects involving existing bridge removals, especially when bascule bridges are removed or when buildings are modified or demolished.
 - Lead and other heavy metals paint survey.

6.15 COMPUTER SERVICES

The *Design and Construction Criteria Package* shall include a list of the

Department's computer programs that are available for each Design-Build Firm during the design and construction of the project, and the Design-Build Firms should be required to identify in their technical proposal which programs they will use during the execution of the contract.

6.16 ISSUE ESCALATION/RESOLUTION

6.16.1 The *Design and Construction Criteria Package* shall include an issue escalation matrix or process that clearly defines the process for addressing questions or disagreements that may arise. This process should state the chain of command within the Department and require the Design-Build Firm to provide a similar list of people in responsible charge. For the Department, the escalation should begin with the Project Manager and continue through the District Construction, Materials or Maintenance Engineer, the Director of Operations or Administration, and then the District Secretary. Consideration should be given to the level that issue escalation begins, depending on the type of issue.

6.16.2 Typically, issues should be resolved at the lowest possible level (e.g., Project Superintendent, Project Field Engineer). If Partnering is used, the chain of command for issue escalation is discussed and decided at the initial Partnering meeting. Each level of escalation should also include a time frame for resolving the conflict.

6.16.3 Construction issues that arise - such as piling driven out of tolerance or wrong elevations on piers, caps, etc. shall be resolved through the following process:

- if the resolution does not change the original intent of the technical proposal/RFP then the Engineer of Record (EOR) or Architect, who works for the Design-Build Firm, will be responsible for developing the design solution to the construction problem and the CEI will be responsible for review and concurrence. If the CEI has concerns, then the relevant District Office will be involved through the Project Manager.
- if the resolution alters the original intent of the technical proposal/RFP then the EOR or Architect will develop the proposed solution, copy in the CEI, submit to FHWA for Federal oversight projects, and send it to the District Office for review and concurrence through the Project Manager.

It is recommended that Partnering be used on complex design-build projects in order to enhance the project's administrative and work processes.

6.17 WARRANTY

The ***Design and Construction Criteria Package*** shall generally include a provision for a project warranty with a specified number of years and the details as to what is to be covered. As a general rule, routine maintenance is not intended to be covered by a warranty. If during the warranty period, any encroachments to right of way occur, the Department will be responsible. Major bridges should have a warranty of 5-15 years. Standard warranty forms or clauses may need to be modified to fit project specific needs. FCO building projects should have a warranty of no less than 1 year. All warranty language in the RFP used in construction contracts on the National Highway System shall be approved by FHWA.

SECTION 7 FEDERAL AID AUTHORIZATIONS FOR DESIGN-BUILD PROJECTS

The following instructions cover the planning, authorization and closeout of federal funds allocated to Design-Build (D/B) projects.

Federal Aid authorization on Design-Build projects is also subject to the provisions of the Partnership Agreement executed between FHWA and the Department. This agreement identifies types of projects and functions subject to oversight by FHWA and those projects and functions delegated to the Department.

The FHWA shall perform the following review and approval functions on Federal-aid D/B oversight projects if applicable: Typical Section Package, Pavement Design Package, Phase Roadway and Bridge Plan Submittals, Specifications, Revisions, Bridge Hydraulic Report (BHR), Utility Agreements, Railroad Agreements, Concurrence in Award, Value Engineering Change Proposals, Time Extensions, Supplemental Agreements, Contract Claims, and Final Acceptance.

The concurrence-in-award package shall include a summary of the adjusted scores, the results of the question and answer session by the short listed Design-Build Firms, and the Department's selection committee's decision for award of the contract.

It is suggested that District Work Program Managers and District Federal Aid Coordinators be included in District coordination activities, meetings and correspondence concerning Design-Build Projects to insure timely programming and federal aid authorization activities.

7.1 PLANNING FOR USE OF FHWA FUNDS ON DESIGN-BUILD PROJECTS

D/B projects must be authorized **before** the ***Request for Proposals*** and ***Design Criteria Package*** is published or provided to the Design-Build Firms and **after approval** of the ***Request for Proposal*** and ***Design Criteria Package***.

RFP and Design Criteria packages that are subject to FHWA Oversight are approved by the FHWA Division office. The FHWA authorization request is processed only upon final written package RFP approval. Usually, the District Professional Services Administrator notifies the Federal Aid Coordinator in writing of this approval. For Low Bid D/B projects, approval of the RFP (and the federal authorization request) must occur prior to project advertisement since the RFP is distributed at the time of contract advertisement. For Delegated or Exempt projects, the District Design-Build team approves the package. For FHWA oversight projects, the RFP should be submitted to Central Office (Office of Construction) for review prior to submittal to FHWA.

The Design-Build authorization request should be processed immediately upon notice of

receipt of package approval. Upon receipt of the approved FHWA authorization, District Federal Aid Coordinators should notify the District Design-Build team so that the RFPs and Design Criteria packages can be distributed.

A new Project Scheduling System Activity/Event has been established to plan for the future obligation of federal funds and also to schedule the anticipated date of package approval. The PSM code is:

“RFP/Design Package Approval” – Activity/Event No. 285

7.2 PREPARATION OF REQUESTS FOR AUTHORIZATION

Since R/W must be certified clear with environmental determinations and permitting complete before the **Request for Proposal** and **Design Criteria Package** are approved, these activities normally will be authorized with federal funds in advance of the Design-Build authorization. Therefore, District work for Project Development phases should serve as the basis for the original federal project authorization, followed by R/W (survey and acquisition) if required.

The District Federal Aid Coordinator should request one Federal Aid Project Number for the entire project (all phases).

The sequence of federal authorizations is as follows:

1. PD&E advance activities are performed by the District
2. Authorization modification for R/W, if required
3. Authorization modification for Design-Build.
Note: If the RFP package includes provision to pay compensation to the non-selected short-listed Design-Build Firms on an Adjusted Score Design-Build project, the authorization request will include a Work Program Phase 32 for the compensation with the Design-Build Phase 52 and CEI Phase.
4. Work program phase estimates for Design-Build (Phase 52) and CEI (Phase 61 and/or 62) and the FHWA federal aid authorization previously established will need to be adjusted after the contract is awarded. Generally, these contract price adjustments should occur in the month following Design-Build contract award.
5. Final authorization modification for project closeout, if needed to balance authorization to final expenditures.

7.3 DOCUMENTATION REQUIREMENTS TO SUPPORT DESIGN-BUILD FEDERAL AUTHORIZATIONS

The form of documentation requirements for Design-Build is different from regular construction projects. Design-Build authorizations with federal funds, whether Oversight or Exempt, should be supported by:

1. R/W clear certifications;
2. Written FHWA approval if oversight or District Design-Build Team approval if state oversight of the RFP and Design Criteria Package;
3. The RFP and Design Criteria package documentation should affirm if other Plans Processing Manual checklist items, such as, utilities and permits and NEPA status are complete;
4. If NEPA has not yet been completed when the preliminary design phases are authorized (clarify this authorization is for PE to proceed and PE funds are not actually paid to the Design-Build Firm), the contract must contain a termination clause if the “no build” option is selected and the Design-Build Firm may not participate in preparation of the NEPA documentation as this would be a conflict of interest. Any consultants who prepare the NEPA document must be selected and subject to the exclusive control of the state/local government agency; and
5. Oversight projects must receive, from the FHWA Florida Division, a signed concurrence in award for the design–build contract and concurrence for the “finding of price reasonableness” after NEPA is completed and a price for the construction is determined.

7.4 SPECIFIC FEDERAL AID REQUIREMENTS FOR DESIGN-BUILD PUSHBUTTON PROJECTS

The use of Design-Build Pushbutton procurement process on Federally Funded projects shall be limited to the use of Federal Safety funds and further shall only be utilized on those Federal Safety funded projects which are considered as Type 1 and Programmatic Categorical Exclusion projects as defined in the Departments Project Development and Environment Manual (NEPA evaluation). The use of Federal Safety funds under Design-Build Pushbutton procurement process is expressly limited to \$5 million per Department fiscal year per District. Projects submitted for safety funding shall include work items as approved by the District Safety Engineer. Projects should be focused on intersections and segments included on the Transparency (5%) List, High Risk Rural Road List, or included on the high crash segment or intersection list.

Projects not included on the before mentioned high crash listings will be reviewed on a case by case basis by the District Safety Engineer. Projects submitted for safety funding must meet the benefit/cost criteria contained in the Highway Safety Improvement

Program (HSIP) guidelines and all documentation should be available for review upon FHWA's request. Prior to requesting authorization from FHWA for the initial tasks or added tasks the NEPA evaluation and planning process steps (funding for projects is shown in the Transportation Improvement Program/State Transportation Improvement Program) must be completed. Additionally, the estimated cost for a task, work type and location, must be determined.

The FHWA Initial Authorization for any Design-Build Pushbutton projects utilizing Federal Safety funds must be obtained prior to the release of the final RFP to Short-listed Design-Build firms. At the time of initial authorization there must be at least one project specific task assignment with a scope and estimated cost. Because all tasks are part of the same contract, the FHWA must review and authorize each federally funded Task Work Order prior to issuance.

7.5 CLOSING DESIGN-BUILD PROJECTS

From a federal aid perspective, closing these projects is not expected to be dissimilar from regular construction closeout. The final voucher stage (sequence 5. above) will be initiated by the project manager based on a Final Acceptance document from FHWA for Oversight projects or from the District Design-Build team for Exempt projects.

The PM should coordinate the removal of any encumbrance and retainage balances with the Office of Comptroller (OOC). The PM must provide the final acceptance and the contract time sheet to the Federal Aid Coordinator and request that the federal project be closed. The Federal Aid Administration Section of OOC will review the costs and notify the District Federal Aid Coordinator to prepare the final federal authorization modification.

SECTION 8 TRAINING AND FORMS

8.1 TRAINING

None required.

8.2 FORMS

- Construction Bid Package Forms (Infonet)
- FCO Forms Package (Contact Central FCO Office)
- FCO Samples (Contact Central FCO Office)
- FDOT Form 275-021-23 Anticipated DBE Participation Statement for Design-Build Contracts
- FDOT Form 375-020-12 Design-Build Proposal
- FDOT Form 375-020-13 Design-Build Contract
- FDOT Form 375-020-14 Design-Build Contract Bond
- FDOT Form 375-020-17 Bid Blank
- FDOT Form 375-020-30 Contract Affidavit
- FDOT Form 375-020-34 Design-Build Bid or Proposal Bond
- FDOT Form 375-020-18 Declaration of Joint Venture and Power of Attorney
- FDOT Form 375-030-2B Design-Build Selection Package
- FDOT Form 700-010-65 Design-Build Bid Proposal Form
- FDOT Form 700-011-14 Design-Build Stipend Agreement