



Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street
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JOSÉ ABREU
SECRETARY

August 13, 2003

This Memo Has Expired

MEMORANDUM NO: 23-03

REVISED (Changed wording shown in italics)

TO: DISTRICT CONSTRUCTION ENGINEERS

FROM: Ananth Prasad, State Construction Engineer

COPIES: Ken Leuderalbert, Brian Blanchard, William Nickas, Duane Brautigam, Terry Cappellini, Juanita Moore, James Jobe, Design-Build Coordinators (Jon Sands-D1, Kathy Thomas-D2, Steve Benak-D3, Joseph Borello-D4, Jennifer Vreeland-D5, Harold Desdunes-D6, Carol Oates-D7, and Nancy Clements-Turnpike), and Don Davis (FHWA)

SUBJECT: DESIGN-BUILD (D-B) CONTRACT ADMINISTRATION ISSUES

This memo is being issued to address areas of concern found during a recent review of D-B Projects by Federal Highway Administration (FHWA) and Department Personnel. Please inform the offices/personnel involved with the Design-Build process (Design, Construction, CEI's, etc.) in your Districts of these issues. The issues are:

- **Responsibility for making sure the FHWA requirements are fulfilled:** The State Construction Engineer has been designated as the individual responsible for ensuring that the Department complies with FHWA requirements approved Specifications, Scopes of Service, Request for Proposals (RFP), Guidelines, Procedures, Task Team Support, Reports, etc. The Districts will be held responsible for ensuring the required procedures; documentation, etc. are followed in accordance with the FHWA requirements and established D-B policies. Any questions, clarifications, procedure revisions, etc. should be sent to David Sumner in the State Construction Office, who will coordinate with appropriate offices to ensure that such are acted upon in a timely manner.
- **Request for Proposals (RFP):** The Districts shall use the approved RFP as shown on the Construction Office web page. The address is: <http://www.dot.state.fl.us/construction/Design%20Build/Design-Build.htm>. 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 the short listed firms. The intent of the State Construction Office's review to assure that 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. FHWA shall also receive the electronic copy on all Federal Aid Oversight Projects for review and approval. FHWA request, at a minimum two to three weeks, for their review and approval of the RFP.

- **Initial Federal Authorization Request:** On FHWA Oversight Projects the District Federal Aid Coordinators shall submit the initial federal authorization request to the Federal Aid Office after the RFP has been sent to FHWA for review. The Federal Aid Office will then submit the authorization request to FHWA, and FHWA will approve it after they have completed their review of the RFP. On all federally funded Design-Build projects, whether Exempt or Full Oversight, the federal authorization must be approved by FHWA before the RFP and Design/Construction Criteria Package is published or mailed. It is the Project Manager's responsibility to coordinate with District's Federal Aid Coordinator in order to comply with the Federal Aid Technical Bulletins 02-3 and 02-4 for all Federally funded (or potentially Federally funded projects) when requesting federal authorization. These technical bulletins are attached to this letter and can also be found the following address:
http://ombnet.dot.state.fl.us/financialplanningoffice/federal/fedtech/Federal_Aid_Technical_Bulletin_2002.pdf.
 - **Scope of Services:** The Districts shall use the approved Design-Build CEI and Oversight CEI Scopes as shown on the Construction web page. The address is:
<http://www.dot.state.fl.us/construction/Design%20Build/Design-Build.htm>. An electronic copy of the Scope of Services, with changes clearly identified, shall be submitted to the State Construction Office on all projects for review and approval prior to submittal to the short listed firms. The intent of the State Construction Office's review is to assure that 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. FHWA shall also receive the electronic copy on all Federal Aid Oversight Projects. FHWA request, at a minimum two to three weeks, for their review and approval.
 - **Pavement Design and Typical Section:** The Design and Construction Criteria package shall include the minimum pavement design and typical section criteria. For the pavement design, it should typically include the minimum design period, minimum ESALs, minimum design reliability factors, roadbed resilient modulus, minimum structural asphalt thickness, cross slope and the need for Modified Binder. For resurfacing design, a minimum milling depth and whether an ARMI layer is required should also be included in the criteria. For the typical section design, identify the minimum lane widths, shoulder widths, median widths, cross slope, and front slope requirements. The Pavement Coring and Evaluation should be provided with the criteria.
 - **Warranty/Guarantee Specifications:** The Districts shall adhere to the direction provided in the attached e-mail dated 03/07/2003.
 - **Value Engineering (VE):** All projects with an estimated cost of \$20 million or more shall have a minimum of one VE study conducted during the development of the Design and Construction Criteria. This estimated cost shall include all costs associated with the project, including but not limited to design, right of way, construction, and administrative costs. Please review the appropriate procedures and ensure that your District is in compliance with such procedures. Submit a copy of the VE study to FHWA on all Federal Aid Oversight projects.
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- **Questions and Answers (Q & A) Session:** The purpose of the Q & A session is for the Technical Review Committee to seek clarification and ask questions, as it relates to the Technical Proposal, of the Proposer.

The following process is to be followed for conducting Q & A sessions. The Department's Project Manager and the Technical Review Committee shall meet with each Proposer (short listed firm), for a 60-minute Q & A session. FHWA shall be invited on Federal Aid Oversight Projects. The Q & A session should take place a minimum of two (2) weeks after the date the Technical Proposal are due, and be part of the Overall Technical Proposal Scoring. The Proposers shall be given a minimum of one (1) week after the Q & A session to submit their Price Proposal. The Department will terminate the presentations promptly at the end of the allotted time. The Department shall tape record or videotape all of the sessions. Proposers will not be permitted to ask questions of the Department except to ask for clarification to a question posed by the Department. No additional time will be allowed to research answers. It is important that the Districts provide for enough time between the Q & A session, the issuance of any subsequent clarification(s), and the date the Price Proposals are due to account for coordination with Central Office and FHWA. Any changes or clarifications provided by the Proposer as a result of the Q & A session and/or in response to Department's clarification shall be submitted as an addendum to the Technical Proposal. Additionally, the District's Project Manager will send the copy of the Question and Answers session with the short-listed firms and any subsequent clarifications issued to FHWA on Federal Aid Oversight Projects.

- **Opening of Price Proposals**

At the time of opening of the price proposals, the Department shall also announce the Technical Score and the Adjusted Score for all proposers.

- **Concurrence in award process:** The Summary of Adjusted Scores (Technical Score, Bid Proposal Amount) Proposed Contract Time, DBE Commitment and the Department's Selection Committee decision for award (final rankings) will be posted on the Procurement Office's web page for use by FHWA. The address is: <http://www.dot.state.fl.us/procurement/results/desnbidresults.htm>. At the time of this posting the District Professional Services Unit will email FHWA to direct their attention to the website for the selection results and request their concurrence in the award. FHWA shall reply via email to the District Professional Services Unit and the Project Manager indicating their concurrence in the award. Once the concurrence in award is obtained, the District Professional Services Unit can execute the contract. The Project Manager will then notify the District Federal Aid Coordinator of the awarded amount (along with a copy of FHWA's concurrence e-mail) and request a modification be processed to the federal authorization to adjust the federal authorization to the awarded amount.
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- **Specifications, Shop Drawing and Plan Requirements:** The Districts shall adhere to the direction provided in the Construction Memorandum No. 21-02 dated 10-07-02. The address is: <http://www.dot.state.fl.us/construction/memos/2002/dce21-02.pdf>. The District Specifications Engineer shall be included in the development and inclusion of the D-B Division I Specifications in the RFP. Any changes to the D-B Division I Specifications shall be reviewed and approved by the State Specifications Office, the State Construction Office and FHWA prior to advertisement. Furthermore, the District Specification Engineer shall review and approve the Specification Package submitted by the D-B Firm.
- **Design Variances/Exceptions Requirements:** The Department does not consider a deviation from the design criteria or our specifications as an "innovation". Therefore, a design variance or exception is not considered innovative. If a short listed firm requests a variance or exception during the technical proposal phase, it must be discussed during the pre-bid meeting or prior to the information cut-off date as identified in the RFP. Such variance/exception must be approved or disapproved prior the information cut-off date. Design exceptions require approval by the State Roadway Design Office and FHWA (for oversight projects). This will require extensive coordination in a short timeframe. All such variances/exceptions must be shared with all short listed firms prior to the information cut-off date (final information cut-off date shown in RFP). Any design variances/exceptions submitted by the short listed firm after letting shall be considered as a Value Engineering Change Proposal and considered as such.

It is highly encouraged that any specific design variances/exceptions be included in the RFP after the necessary approvals have been obtained. The Districts, at their option, can specifically prohibit, in the RFP, submission of such variances/exceptions after letting.

Designers may feel this change (sharing variance/exceptions during the proposal phase with all parties) limits their innovation, but as stated above, the Department does not consider this as innovation. The Department wants to encourage innovation through the contractor's means and methods and not by deviating from the Design Standards.

- **Testing:** The Department or it's representative will perform verification and resolution testing services in accordance with the latest Specifications. On all Federal Aid Projects, the Department or it's representative shall perform verification sampling and testing on site as well as off site locations such as press-stress plants, batch plants, structural steel fabrication plants, etc.
- **Schedule of Values:** The Districts shall adhere to the direction provided in the attached e-mail dated 03/31/2003. An example of a typical Schedule of Values can be found at <http://www.dot.state.fl.us/construction/Design%20Build/Design-Build.htm> for the District's use and modified as necessary.

If you have any questions, please contact David Sumner at (850) 414-4198 (suncom 994-4198).

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Attachments

