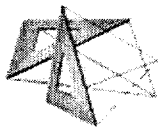


## DCE Memo 23-03 Has Expired



Ananth Prasad

03/07/2003 01:30 PM

To: Jon Sands/D1/FDOT@FDOT, Henry Haggerty/D2/FDOT@FDOT, Steve Benak/D3/FDOT@FDOT, Keith A Hinson/D3/FDOT@FDOT, Jennifer M Olson/D4/FDOT@FDOT, Frank O'Dea/D5/FDOT@FDOT, Mark Croft/D6/FDOT@FDOT, Jim Moulton/D7/FDOT@FDOT, Thomas V Driscoll/D4/FDOT@FDOT, Ananth Prasad/CO/FDOT@FDOT, David Sadler/CO/FDOT@FDOT

cc: David Sadler/CO/FDOT@FDOT, David Sumner/CO/FDOT@FDOT, Steve I Plotkin/CO/FDOT@FDOT, David Y Wang/CO/FDOT@FDOT, Ken Leuderalbert/CO/FDOT@FDOT, greg.schiess@fhwa.dot.gov, derek.a.fusco@fhwa.dot.gov, Zac Wiginton/CO/FDOT@FDOT

Subject: Design-Build Warranty/Guaranty Specifications

The following warranty/guaranty specifications need to be included in all future Design-Build contracts.

- Section 5-14, Contractor Guaranteed Project Features - The Districts identify the project features to be guaranteed in the RFP. The standardized RFP posted on the State Construction Office website includes the most common features. In any case, Asphalt Pavement needs to be listed as one of the project features if Section 338 is not part of the RFP and asphalt pavement is part of the contract.
- Section 338, Contractor Guaranteed Asphalt Pavement - This specification can only be included upon approval of the State Construction Office. We are currently working with the industry on a 3-year specification which, when finalized, will be part of all future Design-Build contracts.
- Section 355, Contractor Guaranteed Portland Cement Concrete Pavement - This specification needs to be included on contracts that include Portland Cement Concrete Pavement. **401**
- Section ~~448~~, Contractor Guaranteed Structural Components - This specification needs to be included on contracts that involves construction of these components.

Ken, can you please forward this to all Design-Build Coordinators.

If you have any questions, please feel free to David Sumner at sc 994-4198

Thanks - Ananth

Ananth Prasad, P.E.,  
State Construction Engineer,  
(850)-414-4140, sc 994-4140  
Fax (850)-412-8021  
ananth.prasad@dot.state.fl.us



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# ***Federal Aid Technical Bulletin***

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## **Bulletin No. 02-03**

**Date:** January 3, 2002

**Subject:** **Design-Build Projects advanced in Economic Stimulus Legislation**

This bulletin provides information relating to the federally funded (or potentially federally funded) design-build projects advanced as part of Florida's economic stimulus legislation recently signed by the Governor.

Specifically, this bulletin deals with technical guidelines relating to proper programming of these project phases in the work program, and the proper timing of when and how to request federal authorizations on these projects.

Most of the following guidelines are already contained in the Work Program Instructions and/or the Design-Build Guidelines on the Construction Office's website under Alternative Contracting Methods. You are encouraged to review both of these documents for additional information. Other guidance in this bulletin is derived from conversations and memoranda from FHWA.

Information in this bulletin is organized as follows:

- Overview
- When to authorize federally funded projects
- Right of way
- Construction Engineering Inspection
- Stipends
- Modifying the authorization after contract award
- Project Schedules

### **Overview**

In order to expedite implementation of certain major construction projects, the Legislature allows the use of Design-build contracts to expedite the project completion schedule. Section 337.11(7), Florida Statutes provides that the "Department may combine the design and construction phases of a building, a major bridge, or a rail corridor project into a single contract. Such contract is referred to as a design-build contract".

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With the design-build approach, the contracting agency identifies the result parameters and establishes the design criterion minimums. In the Department this is known as developing the "RFP and design criteria package". When this package is approved (by the District for FHWA "exempt" projects, and by FHWA engineers for "oversight" projects) the Department advertises to solicit "Letters of Interest" from prospective bidders. Interested parties responding with letters of interest are then sent a copy of the "RFP and design criteria package".

Prospective bidders then develop design proposals that are submitted to the Department.

Once a project is identified as a design build project, it should be decided who is going to perform the services necessary to bring the project to completion (services such as utilities/railroad, permits, geotechnical services, survey, and CEI). Some of these services may be done prior to the design build contract. However, it is important to ensure that the funds are programmed in the correct category, i.e., in-house or consultant.

Design-build contracts will be identified in WPA as phase 52, contract class 9. Depending upon who is to perform necessary services, additional phases may be needed for PD&E work prior to the design-build phase, right of way land acquisition and/or right of way services, construction engineering (CEI) services, and/or phases for the payment of stipends to the losing short-listed firms on adjusted score design-build projects. The following guidelines provide more information on when each of these additional phases may be appropriate.

**The District Federal Aid Coordinator should request one Federal Aid Project Number for the entire D/B project, regardless of the number of phases programmed.**

### **When to Authorize Federally Funded Projects**

For FHWA oversight projects, the *Request For Proposal* (RFP) must be approved by FHWA. The FHWA Division office requests two - three weeks to review the RFP and Design Criteria Package before granting their approval. **The project must be authorized before the RFP and Design Criteria Package is published or mailed and after approval of the RFP and Design Criteria Package.** The package approval, fund authorization and distribution of RFPs occur long before "receipt of bids".

**District Federal Aid Coordinators should submit the authorization request to the Federal Aid Office as soon as possible after the RFP has been sent to FHWA for review.** The Federal Aid Office will then submit the authorization request to

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FHWA, and FHWA will approve it after they have completed their review of the RFP.

**NOTE: Design-build projects must be included in the TIP/STIP before the federal authorization can be approved by FHWA**

### **Right of Way**

Design-Build contracts may be advertised and awarded prior to right of way activities being completed. Construction activities may not begin on any portion of such projects until such time as title to all necessary right of way and easements necessary for the construction of that portion of the project has vested in the state or a local government entity (Section 337.11 (7)(a), F.S.) and a right of way certification for construction for that portion of the project has been issued.

Phases must be programmed in the Department's Five Year Work Program in accordance with how right of way services are to be provided. If R/W services (consultant and support) are to be provided as part of the Design-Build contract, R/W support will be included in the construction (phase 52) authorization. Consideration must be given to how R/W support will be provided in the eminent domain phase of the project and whether that portion of the total R/W support needs to be authorized separately. R/W land payments and relocation payments must be programmed as Phase 43 and Phase 45 respectively. R/W land and relocation payments can never be programmed in Phase 52. Phases 41 and 49 (in-house support and indirect overhead) will be programmed in accordance with the work program instructions for right of way projects. Design-Build projects including Right of Way services will still require in-house support and will be charged for indirect overhead.

The request for federal authorization for each design build project shall include a right of way certification signed by the District Right of Way Manager. The certification may be either a certification for construction or a certification for authorization and advertisement. The certification for construction shall state that either no additional right of way is required for the project, or additional right of way was required for the project and all Right of Way activities have been completed in accordance with applicable federal and state requirements. The certification for authorization and advertisement shall state that additional right of way is required for the project, that the necessary processes and procedures are in place to address right of way issues, and appropriate controls have been included in the Design-Build contract to ensure construction activities do not

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commence prior to the Department's certification that all Right of Way activities have been completed in accordance with applicable federal and state regulations.

On federally funded projects, federal authorization is required prior to beginning any Right of Way activities. For those projects which include right of way services in the design build contract, authorization for right of way land may be obtained at the same time as the authorization for the Design-Build contract as long as the Department has controls established by contract to preclude the start of negotiations prior to NEPA approval. Right of Way maps, title information and legal descriptions must also be complete prior to the start of negotiations.

### **Construction Engineering and Inspection (CEI)**

FHWA requires that the department provide independent verification testing and oversight inspection outside of the Design-build firm's contract. This can be accomplished with in-house forces (phase 61) or with an oversight CEI contract (phase 62). **This is true even if the majority of the CEI work is done within the Design-build contract and is included in the phase 52.**

In-house CEI estimates that are automatically generated by WPA (based on the overall phase 52 level) must be manually revised to represent only the in-house effort required to manage the CEI consultant.

When independent inspection is to be performed by CEI consultants who are not members of the Design-Build firm and included in the Design-Build contract, a separate contract shall be advertised and awarded for CEI services (use phase 62).

### **Stipends (compensation for short-listed firms)**

On an adjusted score design-build project where the Department intends to compensate the short-listed firms for submitting a proposal, the Department must enter into a contract with each firm immediately after the short-listing. A contract 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 firms for the total cost of preparing the bid package.

Program the amount to be paid as phase 32 program number 00 for stipends under the same work program item/segment as the construction phase. Create

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three sequences under the phase 32. Each sequence will be programmed for the stipend amount.

The funds will get encumbered under each of the sequences. This is due to the fact that the Department has a contract with each of the firms. Therefore, all three have to be encumbered AND programmed in WPA.

The stipend agreements will be executed with all three firms. The contract states that the firm that is awarded the contract will not get the stipend. The two losing firms submit an invoice and are paid from the encumbrance. The winning firm's encumbrance is unencumbered and the funds removed from the item.

FWHA will participate in the cost of stipends paid to the losing firms. Include the cost of all three stipends (sequences) as part of the authorization request for design-build phase 52. The amount of stipend NOT paid to the winning firm will be deobligated at the same time as we make the modification to the federal authorization for the awarded contract amount.

### **Modifying the authorization after contract award**

The federal authorization must be modified as soon as possible after award of the design-build contract. The phase 52 must be modified to the contract award amount.

On adjusted score design-build contracts where stipends will be paid, three pay sequences will be programmed for the three contracts with the short-listed firms. Two of them will be paid, and the third will be de-obligated with FHWA at the same time as the contract price adjustment is made to the federal authorization for the phase 52.

### **Project Schedules**

The Department's Project Scheduling Management (PSM) system, uses the following Activity/Events for Design Build projects: Activity/Event 283 – Open design build bids, Activity/Event 284 – Execute Design Build Contract, and a new 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.

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The last two pages of this bulletin show both the “adjusted score” and “low bid” federally funded design-build projects in the Economic Stimulus package. Shown are two key events: “RFP to FHWA for review” and “FHWA approval of RFP”.

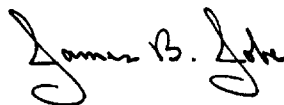
Please work with your respective Design-build Coordinators and your project scheduling staff to ensure the federal authorizations are obtained at the appropriate time for each of these projects.

Additionally, there are other state funded design-build projects scheduled for later in the fiscal year that may possibly become federally funded *if additional federal funds become available*. Please keep in mind that all the federal requirements, including FHWA approval of the RFP package, may end up applying to these projects as well. More specific information will be forthcoming from the Program Development Office regarding which of these state funded projects may eventually use federal funds and, hence, be subject to these federal requirements.

For your convenience, the following list of contacts is provided:

	<b>District D-B Coordinators</b>	<b>District Project Schedulers</b>
District 1	Jon Sands	Robin Hoy
District 2	Kathy D. Thomas	Leena Patil
District 3	Steve Benak	Tommy Barfield
District 4	Joseph Borello	Jim Wolf
District 5	Jennifer Vreeland	Donna Hernandez
District 6	Harold Desdunes	Lee Cann
District 7	Carol Oates	Carol Oates
Turnpike	Nancy Clements	Lee Krause

If you have any questions regarding these guidelines, please don't hesitate to contact me.



James B. Jobe, C.P.A., C.G.F.M.  
Federal Aid Programs Manager  
(850) 414-4448, SunCom 994-4448  
Internet email: james.jobe@dot.state.fl.us

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# ***Federal Aid Technical Bulletin***

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## **Bulletin No. 02-04**

**Date:** January 7, 2002

**Subject: More on Design-Build Projects:  
Required documents when requesting federal authorization**

This bulletin provides additional information relating to federally funded design-build projects. It is intended to supplement the information contained in Federal Aid Technical Bulletin 02-03 on the same subject.

Specifically, this bulletin addresses required documentation for these projects when requesting the federal authorization.

Documents will differ depending upon the scope, location and nature of the individual projects, as follows:

**All D-B projects require:**

- **Inclusion in the STIP/TIP and air quality conformity must be met**, if applicable. Provide to the Federal Aid Office the page number of the STIP where the project may be found, and where it may be found in the TIP, if in an MPO area. If not in the STIP/TIP, then STIP/TIP amendments will be required.
- **The NEPA (environmental) process must be complete including the FHWA approval of the NEPA document and subsequent re-evaluations.** Provide to the Federal Aid Office a statement indicating the type of environmental document that was approved (EIS, categorical exclusion, etc.), and the date of the approval.
- **Right of Way Certification document. FHWA must receive a copy of the certificate for each project.** Provide the Federal Aid Office with a copy of this document. It may be a full certification, or a partial certification, depending upon whether ROW acquisition has been already completed, or if additional parcels will be needed to complete the project. Refer to Federal Aid Technical Bulletin 02-03 for more details.

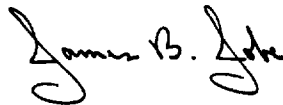
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**FHWA Oversight v. Exempt from FHWA Oversight**

- **Oversight projects must have the RFP and Design Criteria Package approved by FHWA before the federal authorization can be approved.** Provide the Federal Aid Office with a statement indicating that FHWA has approved the RFP, the date of the approval, and who signed the approval.
- **For projects exempt from FHWA's project level oversight, the state is required to assure these projects meet the 12 Design Build Operating Parameters described in FHWA memo to the Department dated December 19, 2001.** This memo was included in the email that transmitted Federal Aid Technical Bulletin 02-03 on January 3, 2002. It is also included as part of Bulletin 02-03 on the Financial Planning Intranet website. Provide to the Federal Aid Office a statement attesting that the design-build project is exempt from FHWA oversight per the existing FHWA/FDOT Exemption Agreement, and that this project meets the 12 design-build conditions contained in the FHWA memo of 12/19/01. This statement may be made via email but must come from the Project Manager or the District Production Director.

If you have any questions regarding these guidelines, please don't hesitate to contact us.



James B. Jobe, C.P.A., C.G.F.M.  
Federal Aid Programs Manager  
(850) 414-4448, SunCom 994-4448  
Internet email: [james.jobe@dot.state.fl.us](mailto:james.jobe@dot.state.fl.us)

or

Annelle Blanchett, Federal Aid Production Coordinator  
Federal Aid Programs Office  
(850) 414-4460, SunCom 994-4460  
Internet email: [annelle.blanchett@dot.state.fl.us](mailto:annelle.blanchett@dot.state.fl.us)

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**Ananth Prasad**

03/31/2003 03:33 PM

To: Jon Sands/D1/FDOT@FDOT, Henry Haggerty/D2/FDOT@FDOT, Steve Benak/D3/FDOT@FDOT, Keith A Hinson/D3/FDOT@FDOT, Jennifer M Olson/D4/FDOT@FDOT, Frank O'Dea/D5/FDOT@FDOT, Mark Croft/D6/FDOT@FDOT, Jim Moulton/D7/FDOT@FDOT, Thomas V Driscoll/TP/FDOT@FDOT, Ananth Prasad/CO/FDOT@FDOT, David Sadler/CO/FDOT@FDOT

cc: David Sadler/CO/FDOT@FDOT, David Sumner/CO/FDOT@FDOT, Jim Johnson/CO/FDOT@FDOT, Kenneth Standley/CO/FDOT@FDOT, Zac Wiginton/CO/FDOT@FDOT, donald.davis@fhwa.dot.gov, derek.a.fusco@fhwa.dot.gov, greg.schiess@fhwa.dot.gov

Subject: Design-Build Schedule of Values

The FHWA had expressed some serious concerns regarding some of the schedule of values that we have been approving on the on-going Design-Build contracts. Generally speaking, most of the RFPs state that invoicing will be based on the completion or percent completion of major, well-defined tasks as defined in the schedule of values. It further states that the Design-Build Firm must submit the schedule of values to the Department for approval.

Therefore, I am requesting you to have your staff re-evaluate these Schedule of Values for front-end loading of costs and initiate discussions with the Contractor to get it revised. FHWA has encountered numerous instances where we are paying significantly more than what a reasonable schedule of value would yield. Additionally, there is no reason why we cannot approve such schedule of value in stages to allow for the Design to be refined so as to facilitate a better and more accurate breakdown of such costs.

Some of the older Design-Build Contracts required the firm to show breakdown of costs as part of their proposal. In these instances, we are to work within the confines of such breakdown but nevertheless, we should review the breakdown of such individual items and compare the costs with the cost history that the Department maintains. In case of costs associated with Design, we should be consulting with Design counterparts to determine reasonable costs. Some of the newer Design-Build Contracts only had one lump sum item for the Contractor to bid and this change was made in order for the Department to maintain the flexibility to prevent any front-end loaded schedule of values.

As you all know, we have talked about this at the last Design-Build Conference and the last two DCE meetings but I sense that we are not making any headway in getting the message down to the troops. Failure to rectify this situation may put us at odds with FHWA on their participation on Design-Build contracts.

The RFP also states that upon receipt of the invoice, the Department's Project Manager will make judgment on whether or not work of sufficient quality and quantity has been accomplished by comparing the reported percent complete against actual work accomplished.

It has also come to our attention that there is some confusion that we may not have the ability to pay the invoice to the exact amount in SiteManager due to rounding. This is not true. In fact, you can pay the exact amount of the invoice either in SiteManger or CRS.

In order to match payments in SiteManager to the exact amount of an invoice submitted by the contractor, these instructions should be followed:

- Generate estimate for \$ 0.00
- Create a Line Item Adjustment for the payment requested on the invoice in the same manner as for a contingency work order and include the invoice number in the remarks

section.

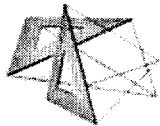
If you have any regarding processing such estimate, please feel free to call Kenneth Standley at 850-414-4196 (suncom 994-4196).

If you have any other questions, please feel free to call me or David Sumner at 850-414-4198 (suncom 994-4198).

If you have any questions, please feel free to call me.

Thanks - Ananth

Ananth Prasad, P.E.,  
State Construction Engineer,  
(850)-414-4140, sc 994-4140  
Fax (850)-412-8021  
ananth.prasad@dot.state.fl.us



**Ananth Prasad**

05/12/2003 12:54 PM

To: Jon Sands/D1/FDOT@FDOT, Henry Haggerty/D2/FDOT@FDOT, Steve Benak/D3/FDOT@FDOT, Keith A Hinson/D3/FDOT@FDOT, Jennifer M Olson/D4/FDOT@FDOT, Frank O'Dea/D5/FDOT@FDOT, Mark Croft/D6/FDOT@FDOT, Jim Moulton/D7/FDOT@FDOT, Thomas V Driscoll/TP/FDOT@FDOT, Ananth Prasad/CO/FDOT@FDOT, David Sadler/CO/FDOT@FDOT

cc: David Sumner/CO/FDOT@FDOT

Subject: Design-Build

FYI.

If you have any questions, please feel free to call me.

Thanks - Ananth

Ananth Prasad, P.E.,  
State Construction Engineer,  
(850)-414-4140, sc 994-4140  
Fax (850)-412-8021  
ananth.prasad@dot.state.fl.us

----- Forwarded by Ananth Prasad/CO/FDOT on 05/12/2003 12:53 PM -----



**Brian A Blanchard**

05/07/2003 12:50 PM

To: FDOT-DDE DPME

cc: greg.schiess@fhwa.dot.gov, donald.davis@fhwa.dot.gov, chris.richter@fhwa.dot.gov, Ananth Prasad/CO/FDOT@FDOT, Jim Mills/CO/FDOT@FDOT, Robert Greer/CO/FDOT@FDOT, David Sadler/CO/FDOT@FDOT, David Sumner/CO/FDOT@FDOT, Jim Mills/CO/FDOT@FDOT, Bruce Dietrich/CO/FDOT@FDOT, Frank T Sullivan/CO/FDOT@FDOT

Subject: Design-Build

Another issue identified by FHWA during our April 21 design-build meeting concerned design submittals on FHWA oversight projects. Many required submittals on FHWA oversight projects are not being submitted. Examples include:

- a) Pavement Design
- b) Typical Section
- c) Plan Reviews

This could cause problems if FHWA does not approve the pavement design package or typical section submitted by the selected design-build firm yet the design-build firm is meeting the criteria listed in the RFP. If we choose the "do nothing" approach, FHWA could refuse to participate in the part they disagree with, or if we make changes to the design, construction supplemental agreements could be necessary.

The solution I am proposing is to:

- 1) include the minimum project specific pavement design and typical section criteria in the Design and Construction Criteria Package of the RFP. For the pavement design, this would include the minimum milling depth, the need for an arm layer, minimums for the asphalt thickness, design period, ESALS, reliability factors, resilient modulus etc. For the typical section design, identify the minimum lane widths, shoulder widths, median widths, front slope requirements etc. or
- 2) include the completed and approved pavement design and typical section packages in the RFP.

Please discuss this with your staff and we will discuss these topics at the next DDE/DCPME meeting on May 20. Verbiage will be added to the design-build guidelines after our discussions.

Brian A. Blanchard, P.E.  
Florida Department of Transportation  
State Roadway Design Engineer  
(850) 414-4377  
email: [brian.blanchard@dot.state.fl.us](mailto:brian.blanchard@dot.state.fl.us)