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Department of Transportation

DESIGN-BUILD PROCUREMENT AND ADMINISTRATION

SECTION 1 INTRODUCTION

1.1 AUTHORITY

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

1.3 SCOPE

This procedure affects all offices associated with the procurement and administration of Design-Build 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.

The Department is authorized under **Section 337.11(7), F.S.**, to use the Design-Build process on buildings, major bridges, limited access facilities, and rail corridor projects. The Department's authority is further expanded under **Section 337.025, F.S.**, to include all project types as a part of the innovative highway projects program.

The Design-Build procurement and contract administration processes will follow standard Department practices, unless otherwise identified. Districts are responsible for conducting the Design-Build procurement and administration processes for projects within the managing District; whereas, Central Office Professional Services Unit, in coordination with the appropriate office(s), is responsible for Design-Build contracts originating in the Central Office.

1.2 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

23 CFR 635.309, Construction and Maintenance

FDOT Procedure Topic No. 375-000-001, Road and Bridge Contract Procurement

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

FDOT Procedure Topic No. 375-030-006, Conflict of Interest Procedure for Department Contracts

FDOT Procedure Topic No. 375-040-010, Consultant Marketing

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 Specifications Division I (General Requirements and Covenants)

FDOT Standard Specifications for Road and Bridge Construction Division II

(Construction Details), Division III (Materials), and Implemented Modifications.

Process Checklist for Design-Build Procurements

SECTION 2 DEFINITIONS

For purposes of this procedure, the following definitions apply:

Adjusted Score Design-Build (ASDB): Contract award is based on the lowest adjusted score, which is determined by dividing the **Price Proposal** by the sum of the **Letter of Interest** score and **Technical Proposal** score.

Advertisement: The Department's solicitation for Design-Build services.

Bid Proposal: The documents required by the public advertisement to include: **Letters of Interest**, a **Technical Proposal**, and/or a **Price Proposal**.

Contract Approval Process and Database: All Design-Build contracts require Chief of Staff review and approval through the Contract Approval process and database on the Chief of Staff's SharePoint site, prior to final execution.

Contracting Unit: The unit within each District that has 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: 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: The combining of design and construction phases of a project into a single contract. The Design Build process should be used for projects if: there is opportunity for innovation; it is a critically needed safety project; or the Department needs to obligate funds quickly.

Design-Build Firm: Any company, firm, partnership, corporation, association, joint venture, Design-Build joint venture, or other legal entity authorized to practice engineering, architecture and construction contracting, as appropriate in the State of Florida.

Design-Build Joint Venture: A Design-Build Joint Venture is created when a qualified bidder, or group of qualified bidders, and another entity enter into an agreement prior to bidding on Design-Build projects. A joint venture formed under **Rule 14-22.007, F.A.C.**,

and approved by the Department will serve as a Design-Build Joint Venture for purposes of this procedure.

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, a major bridge, a limited access facility, or a rail corridor project into a single contract.

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). 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 Minor: As authorized by the Innovative highway program 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.**, to be procured as a Design-Build project.

Design-Build Pushbutton: A Design-Build method which establishes a defined scope of work to be completed by the Design-Build Firm and 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 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 define the criteria essential to ensure that the project is designed and constructed to meet the needs determined by the Department. This package is part of the **RFP**.

Factored Design-Build: Contract award based on the highest score received by comparing each proposer's **Price Proposal** to the lowest **Price Proposal** received and

each proposer's score for **Letters of Interest** and **Technical Proposal** to the highest score for the **Letters of Interest** and **Technical Proposal** received by the Department. The sum of the scores for the **Letters of Interest** and the **Technical Proposal** from each proposer will be divided by the highest sum of the scores for **Letters of Interest** and **Technical Proposal** from any proposer multiplied by a factor ranging from 15% to 30% as described in the public advertisement. The lowest **Price Proposal** received will be divided by each **Price Proposal** submitted by any proposer to determine a value which will be multiplied by a factor ranging from 70% to 85% as described in the public advertisement. In no case will the factors applied to the sum of the **Letters of Interest** plus **Technical Proposal** and to the **Price Proposal** be greater than 100%. The Factored Design-Build procurement process may be used by the Department to procure **Non-complex** Design-Build projects. For the purpose of this procedure, Factored Design-Build is considered an Adjusted Design-Build procurement method.

Fixed Capital Outlay (FCO) Building Projects: Provide for 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.

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

Low Bid Design-Build (LBDB): Contract award based on a responsive **Technical Proposal** with the lowest **Price Proposal**.

Non-complex project: Design-Build project in which plans have been substantially developed; is located in an unincorporated area or an incorporated area with a population of less than 200,000; does not involve complex Maintenance of Traffic schemes; and has limited options for innovation and specialized engineering. The procurement method for non-complex projects will be Low Bid Design-Build or Factored Design-Build.

Non-FCO Building Project: Project that provides 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 **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 **RFP** 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 **RFP**.

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

Project: Facilities to be designed and constructed as described in the Project Advertisement.

Project Manager (PM): The Department's designee responsible for the administration of the Design-Build project.

Rail Corridor Project: 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): The package to be provided to the **Short-listed** Design-Build Firms in the ASDB method and to those Design-Build Firms pursuing LBDB projects. The **RFP** must 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, as applicable.
- (B) **Design and Construction Criteria:** The design and construction requirements define the specifications essential to ensure that the project is designed and constructed to meet the needs determined by the Department.
- (C) **Requirements:** for preparation and submittal of **Technical** and **Price Proposals**.

Responsive: Refers to any **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: On ASDB projects, the Committee which reviews and confirms the scored **Letters of Interest** of Design-Build Firms that may submit proposals. On ASDB projects, after the **Technical Review Committee (TRC)** evaluate and score the **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 may 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 submits 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: The responsive Design-Build Firms participating in phase II of an ASDB project.

Technical Advisor: The individual or group of project specific discipline expert(s) who may assist the **TRC**, as necessary, by reviewing **Letters of Interest** and **Technical Proposals** and providing factual information based on their discipline review.

Technical Proposal: A document submitted by a Design Build Firm that lists and defines the technical requirements of a contract or project, and explains the approach and plan formulated to address them.

Technical Review Committee (TRC): The group of individuals assigned with the responsibility of evaluating and scoring the **Letters of Interest** and evaluating and scoring the **Technical Proposals** received on ASDB projects. On LBDB projects the **TRC** shall review **Technical Proposals** for the purpose of determining responsiveness.

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. 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 projects
- May participate in the **TRC** for review of **Letters of Interest** submitted by responsive Design-Build Firms
- Participating in the development of the **RFP**
- Working with the Contracting Unit in responding to inquiries provided by Design-Build Firms. Contracting Unit shall be the sole point of contact between the Department and Design-Build firms during this process.
- Participating in the procurement meetings,
- Coordinating the **TRC's** review of **Technical Proposals**
- Coordinating the list of questions provided to the Design-Build Firms for their written response
- Acting as the Department's liaison with the Design-Build Firm during the construction of the project.
- Coordinating the Department's review of the Design-Build Firm's submittals 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 and certifying MBE/DBE participation and compliance.
- 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 completed
- Ensuring consistent utility coordination is performed between the Design-Build Firm and all impacted Utility Agency/Owners throughout the life of the project.
- Ensuring that appropriate documentation takes place at each step in the process
- Conducting performance evaluations

A multi-disciplined team is required in order to: (a) determine the pre-qualification requirements, (b) develop the design and construction criteria, (c) evaluate the **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 approve the appropriate people to serve on this TRC. 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. Projects with a combined design and construction cost of less than \$25M, Design-Build Pushbutton projects (regardless of the combined design and construction cost), Design-Build Maximum Price projects (regardless of the combined design and construction cost), and Factored Design-Build projects (regardless of the combined design and construction cost) require approval of the Chief Engineer prior to programming as Design-Build. 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, and 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.).

4.2 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.

4.2.2 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 *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, in accordance with provisions of **Rule Chapter 14-75, F.A.C.** Technical qualification is required in at least one of the work types for lead design consultant.

(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.** Technical qualification is required in at least one of the work types for lead design consultant.

(3) When a joint venture party submits **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's 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.** Technical qualification is required in at least one of the work types for lead design consultant.

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 REQUEST FOR PROPOSAL

4.3.1 The Department shall develop an **RFP** which furnishes sufficient information for Design-Build Firms to prepare proposals. The **RFP** will set forth the submittal requirements and evaluation criteria. Development of the **RFP** for a Design-Build project shall be undertaken by individuals knowledgeable of the contracting requirements and experienced in the application of the performance criteria appropriate to meet the facility needs.

4.3.2 The Districts shall use the latest approved version of the **RFP** template document as shown on the State Construction Office web page at <https://www.fdot.gov/construction/DesignBuild/DBDocuments/DBDocsMain.shtm> as the basis for the project specific **RFP** document. Changes made to the RFP outside of the project specific information will require justification and approval from the State Construction Office. An electronic copy of the Draft **RFP**, with track changes identified, shall be submitted to the State Construction Office on all projects for review and approval 30-days prior to posting of the project planned advertisement. An electronic copy of the Final **RFP**, with changes identified, shall be submitted to the State Construction Office on all projects for review and approval prior to submittal to the **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. For Category 2 bridge projects, the State Structures Design Engineer or designee should review and approve the draft and final versions of the **RFP**. Category 2 bridges are defined in the **Florida Department of Transportation (FDOT) Design Manual (FDM), Part I, Section 121.3.2**.

4.3.3 If the project is subject to FHWA oversight, the Draft **RFP** shall be submitted for FHWA approval as soon as possible but no later than 10 business days before the advertisement. It is critical that FHWA be involved throughout the development of the **RFP** in order to expedite FHWA's Final **RFP** approval. Prior to sending the Final **RFP** to **Short-listed** Design-Build Firms, the Department must have FHWA approval of the **RFP** on oversight projects. If the Design-Build contract contains incentive or disincentive clauses, FHWA guidance is the following: "The determination of I/D amount and time should be documented and retained in the project records. The I/D amount and time determination with supporting data should be submitted and concurred with by the FHWA Division Administrator prior to the State's request for approval of the plans, specifications, and estimate and authorization to advertise." (also see reference in CPAM 5.7.12).

4.3.4 The **RFP** should 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 **RFP** shall provide a summary of the project's objectives and furnish sufficient information upon which Design-Build Firms may prepare **Bid Proposals**. Criteria may include geo-technical analysis, surveying, permitting, right of way mapping, title searches, utility coordination, etc. The **RFP** shall state the specifications, design criteria, and standards to be used in the design and construction of the project, and if applicable, standards, 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 by 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 will request and receive approval of a MEMO Funds Encumbrance through the Contract Funds Management (CFM) system before the current advertisement is posted.

4.5.2 Prior to awarding the contract to the vendor, the Contracting Unit or Project Manager will request and receive approval of the award encumbrance through the Contract Funds Management system.

4.6 ADVERTISEMENT

4.6.1 The proposed planned advertisement shall be submitted to the State Construction Office Alternative Contracting Specialist and the Central Office Procurement Manager for review and approval 30 days prior to the solicitation being posted on the planned projects advertisement website. Approval of the planned advertisement language shall be obtained prior to the solicitation being posted on the planned projects advertisement website.

The solicitation shall be posted on the planned projects advertisement website for a minimum of ten (10) calendar days prior to the solicitation being posted on the current projects advertisement website.

Any deviation from the timeframes established for planned project advertisements shall be approved by the Chief Engineer.

The planned advertisement will include, as a minimum, the name and description of the project, the District and County location of the project, the professional services work type requirements, construction work class requirements, the estimated construction cost of the project (if applicable), and the names of the approved **TRC members**.

4.6.2 The proposed current advertisement shall be submitted to the State Construction Office Alternative Contracting Specialist and the Central Office Procurement Manager for review and approval before posting the solicitation on the current projects advertisement website.

The ASDB solicitation shall be officially advertised or posted on the current project advertisement website for a minimum of twenty-one (21) calendar days from the date of current advertisement to the receipt of **Letters of Interest**. Concurrent with posting the advertisement to Current Advertisements, the Contracting Unit shall send an e-mail notice via ContactMailer providing notification of the initial posting to the Current Advertisements

site. Timeframes for project advertisements shall follow the Design-Build Boilerplate Schedule available on the State Construction Office Design-Build Procurement Intranet website, unless approved for deviations by the Chief Engineer or their designee.

The current advertisement shall include the Draft **RFP** document. The current advertisement will include, as a minimum, the name and description of the project, the District and County location of the project, the professional services work type requirements, construction work class requirements, 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 **Letters of Interest** will be evaluated, the time frames for submitting **Letters of Interest**, **Technical Proposals**, and **Price 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 identify the time allotted for the preparation of qualification statements for 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 Pursuant to the Advertisement Preamble, respondents to Design-Build solicitations or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response. In order to ensure a fair, competitive, and open process, once a project is advertised under Current Advertisements, all communications between interested firms and the Department must be directed to the Department's Bid Question and Answer website. It is the responsibility of the Design-Build Firm to review the Bid Question and Answer website and the project advertisement for updates prior to the Response Deadline.

Once the procurement is officially advertised, any technical questions from D-B Firms should be submitted in writing to the Bid Question and Answer website at: <https://fdotwp1.dot.state.fl.us/BidQuestionsAndAnswers/Proposal.aspx/SearchProposal>

Non-technical administrative questions may be separately directed to the Contact Person designated in the advertisement.

4.6.4 The Project 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 It shall be the practice to advertise and short-list Adjusted Score Design-Build projects before advertising the Phase 62 CEI services associated with the same project. This practice will permit Consultants who are not short-listed on a Design-Build team to be able to pursue the CEI Services. Any requests to advertise the Phase 62 CEI services prior to short-listing the associated Adjusted Score Design-Build project must be approved by the District Secretary.

4.7 LETTERS OF INTEREST

On Adjusted Score Design-Build (ASDB) projects, **Letters of Interest** will be required from interested Design-Build Firms. **Letters of Interest** should be sent to the Contracting Unit. The Department is required to receive at least three (3) **Letters of Interest** in order to proceed with the procurement. If three (3) **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. **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 **Letters of Interest**. The **Letters of Interest** will be evaluated based on the required criteria stated in the advertisement.

It is the Department's intent that the Design-Build Firms **Letters of Interest** should be based on the information contained in the Draft **RFP** and other project documents provided with the current project advertisement and the Design-Build Firms knowledge of the project. The **Letters of Interest** should provide a broad overview of a Design-Build Firms understanding of the project requirements, identification of critical issues, and outline for addressing critical issues.

All potential Department staff serving as TRC members, Technical Advisors, Procurement, and Selection Committee must sign the **Conflict of Interest/Confidentiality Certification Form for Technical Review Committee or Selection Committee (as applicable), Form No. 375-030-50**, for each contract procurement prior to receipt of the Letters of Interest. The Contracting Unit representative shall also complete the **Conflict of Interest/Confidentiality Certification for Public Officers/Employees, Form No. 375-030-50**, for each contract procurement prior to receipt of Letters of Interest.

Consultant staff who are participating in the procurement in a technical advisory capacity shall sign the Conflict of Interest/Confidentiality Certification for Consultant/Contractor/Technical Advisors, Form No. 375-030-50, for each procurement prior to receipt of the Letters of Interest. The Contracting Unit shall maintain these certifications in the individual contract file along with other documentation related to a single contract procurement. Any individual, including potential TRC members that have a conflict of interest with a firm that has submitted a Letter of Interest, should not accept membership on the committee. These potential TRC members shall still maintain confidentiality as outlined on the form.

4.8 ASSIGNMENT OF TRC MEMBERS AND PROPOSAL EVALUATION GUIDELINES

4.8.1 Assignment of TRC

The Project Manager, District Construction Engineer, District Design Engineer (DDE), or their designees, or as appointed by the District Secretary or his or her representative shall serve on the **TRC**. The District Directors shall select a minimum of three candidates for **TRC** members.

For projects which include Contractor prequalification requirements of Minor Bridge, the/ District Structures Design Engineer, or their designee shall serve as a **TRC** member. For projects which include Contractor prequalification requirements of Major Bridge, the State Structures Design Engineer, or their designee shall serve as a **TRC** member.

For rail corridor projects, the Public Transportation Manager, or District Rail Corridor Manager, and a representative of the State Rail Office or their designee shall serve as a **TRC** members.

For building projects requiring major renovations, additions, or new facilities, which are intended for general public access, an architect (District or Central Office), as well as appropriate Directors (typically the Director of Operations), or designees, based on the nature of the work requested, the complexity of the project, and the availability of personnel for a timely selection shall serve as **TRC members**. For FCO buildings the District/Central Office FCO Coordinator, or their designee shall serve on the **TRC**.

After the TRC has been identified and approved for a Design-Build procurement, all Department and consultant staff involved in the procurement process shall be notified via email that from the point of advertisement through 72 hours following posting of the final selection results, the Contracting Unit shall be the point of contact between the Department and the Proposers.

TRC members shall complete the Department's **TRC** training which can be accessed from the Office of Construction intranet website.

Consultants cannot serve as members of the TRC. Only Department employees may serve on a TRC.

Technical Review Committee members must have sufficient experience in at least one of the engineering disciplines required -for the project.

Assignment of the Technical Review Committee for a specific project requires approval of the District Director of Transportation Operations and the District Director of Transportation Development. The Department reserves the discretion to substitute **TRC** members as necessary throughout the procurement process. Substitutions shall be submitted to the

District Director of Transportation Operations and the District Director of Transportation Development for review and approval.

4.8.2 Responsiveness

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 **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 **TRC** with a copy of all **Letters of Interest** from responsive Design-Build Firms, and information to be used for evaluation purposes. Based upon this information, the **TRC** will evaluate and score all responsive Design-Build Firms submitting **Letters of Interest** to be considered. The **TRC** shall review the project documents to gain an appreciable knowledge of the project prior to evaluating the **Letters of Interest**. In scoring the **Letters of Interest**, each **TRC member** shall provide written comments explaining the basis of their scores.

4.8.3 Evaluation and Scoring by TRC

The TRC shall evaluate and score the **Letters of Interest** received from responsive Design-Build Firms.

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 **TRC** should take into consideration the following criteria as it applies to the project.

- (1) Design-Build Firm name and prequalifications
- (2) Past Performance Evaluations, Design-Build Project Experience, Organization and Staffing:
 - Contractor Grades
 - Professional Consultant Grades
 - Performance History with other States or Agencies, if none with the Department.
 - Design-Build Project Experience of the Contractor and Professional Consultant
 - Similar type of work experience
 - Environmental Record
 - Contractor Experience Modification Rating (Current Year)
 - Design-Build Firm organization
 - Design-Build Firm staffing plan

- Design-Build Firm coordination plan
- (3) Design-Build Project Requirements and Critical Issues:
 - Understanding of Design-Build Project requirements
 - Identification of critical issues
 - Outline for addressing critical issues

TRC meetings to discuss strengths and weaknesses of Design-Build Firms shall not be held. The Contracting Unit may schedule Technical Advisor Presentations to provide technical information.

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

4.9.1 Evaluations and scores of **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 **TRC members** shall be in attendance at the Selection Committee meeting, to confirm the **Letters of Interest** evaluations and scoring. A **TRC member** may attend the Selection Committee meeting by phone when travel or other circumstances prevent in-person attendance.

The Contracting Unit representative provides the **TRC** individual **Letters of Interest** Scores and written comments to the Selection Committee members for their review prior to the Selection Committee meeting. Individual Selection Committee members may contact the Project Manager or individual **TRC members** in advance of the Selection Committee meeting if they have questions about the **TRC** comments.

4.9.2 The Selection Committee will review and confirm the evaluations and scores of all responsive Design-Build Firms submitting **Letters of Interest** as part of the procurement process during a publicly held meeting. If the Project Selection Committee discovers potential errors or omissions in the evaluation(s) of one or more **TRC members** that are not resolved through questioning of the **TRC** during the public meeting, the Project Selection Committee may return the submissions to the Technical Review Committee for further review and reevaluation, as necessary.

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. Following the Selection Committee meeting, the Contracting Unit will provide a notification to all responsive Design-Build Firms which includes their **Letters of Interest** scores as developed by the **TRC** and reviewed and confirmed by the Selection Committee.

4.9.4 The Department will determine the short-listed firms with the objective to short-list the four-highest ranking LOI scores. If four or less responsive firms submitted LOIs, all firms will be shortlisted. In the event of scoring ties, more than four firms may be eligible

to move forward. 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. The **Short-list** will be posted to the Departments website, following the notification deadline.

4.9.10 The public advertisement will state project specific short-listing criteria pursuant to one of the following methodologies:

(a) After completing evaluations of the **Letters of Interest**, the Department will notify the Design-Build Firms of the evaluation and its scoring. Design-Build Firms providing written affirmation of its intent to proceed to the technical proposal phase of the procurement within the time provided in the Department's notification will be **short-listed** and be eligible to submit technical and price proposals, as is described above; or

(b) The Department will determine the **Short-list** of Design-Build Firms.

4.10 COMPENSATION TO SHORT-LISTED DESIGN-BUILD FIRMS

4.10.1 For Adjusted Score Design-Build projects, unless prior approval is obtained from the Chief Engineer to exclude Stipend payment, the Department intends to contract directly with each **Short-listed** Design-Build Firm for preparation of a responsive technical and **Price Proposal** in response to the Design-Build **RFP**. The Department will pay stipends in accordance with the advertisement criteria.

<https://www.fdot.gov/procurement/advertisements.shtm>

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 TypeE9)** directly with each **Short-listed** Design-Build Firm immediately after short listing. Responsive Design-Build Firms will be compensated based on the project specific short-listing criteria found in the public advertisement. 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. 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 **Short-listed** Design-Build Firm. Therefore, all have to be programmed and encumbered prior to execution. The agreements will be executed with all **Short-listed** Design-Build Firms. In accordance with the project specific short-listing criteria found in the public advertisement, eligible non-selected **Short-listed** 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

Estimated Contract Value (ECV)	Stipend Amount
First \$5M	\$25,000
Next \$15M	0.0035 x ECV
Next \$30M	0.0025 x ECV
Next \$200M	0.0020 x ECV
> \$250M	0.0018 x ECV

EXAMPLE 1 - A \$4M project would have a stipend amount of \$25,000.

EXAMPLE 2 - A \$12M project would have a stipend amount of \$49,500 [(First \$5M = \$25,000) + (Next \$7M * 0.0035 = \$24,500)].

EXAMPLE 3 - An \$85M project would have a stipend amount of \$222,500 [(First \$5M = \$25,000) + (Next \$15M * 0.0035 = \$52,500) + (Next \$30M * 0.0025 = \$75,000) + (Next \$35M * 0.0020 = \$70,000)].

EXAMPLE 4 - A \$175M project would have a stipend amount of \$402,500 [(First \$5M = \$25,000) + (Next \$15M * 0.0035 = \$52,500) + (Next \$30M * 0.0025 = \$75,000) + (Next \$125M * 0.0020 = \$250,000)].

EXAMPLE 5 - A \$225M project would have a stipend amount of \$502,500 [(First \$5M = \$25,000) + (Next \$15M * 0.0035 = \$52,500) + (Next \$30M * 0.0025 = \$75,000) + (Next \$175M * 0.0020 = \$350,000)].

EXAMPLE 6 - A \$475M project would have a stipend amount of \$957,500 [(First \$5M = \$25,000) + (Next \$15M * 0.0035 = \$52,500) + (Next \$30M * 0.0025 = \$75,000) + (Next \$200M * 0.0020 = \$400,000) + (Next \$225M * 0.0018 = \$405,000)].

4.10.3 The amount of the stipend compensation will be based upon the estimated proposal development costs and the degree of engineering design required during the procurement process. The actual compensation in the above examples could vary based on the nature of the work, complexity of the Design-Build project, technical expertise required, and the value of the work product to the Department. 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.

Pursuant to Chapter 2019-43, Laws of Florida (formerly SB 7068), stipend amounts of \$1 million or more require written notification from the Secretary to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representative minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General at least 5 business days prior to sending the stipend agreement to the Design-Build Firms for signature. The written notification shall document the specific reasons why the payment is in the best interest of the state. The written notification shall be prepared by the District Project Manager. Stipends in the amount of \$1 million or more require the encumbrance requestor to send a copy of the written notification to the CFM Team at ContractFunds.ManagementSection@dot.state.fl.us, to allow the funds approval to be processed.

Federal funds may be used to compensate the **Short-listed** Design-Build Firms.

4.11 PREPARATION OF REQUEST FOR PROPOSALS (RFP)

The Department has developed a series of Design-Build Pre-scoping questions that shall be addressed during development of the RFP. The Pre-scoping questions are a tool used to aid the developer in the generation of the RFP.

<https://www.fdot.gov/construction/DesignBuild/DBRules/DBRulesMain.shtm>.

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 identify the time allotted for the preparation of Design-Build **Technical Proposals**. Deviation from the Department approved Design-Build Boilerplate Schedule on the State Construction Office Procurement Info site requires justification and approval from the Chief Engineer or their designee.

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 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 The **RFP** should identify the timeframes for Department review of required submittals.

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 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. Content requirements should include the items being scored under the Evaluation Criteria section of the RFP. A **Technical Proposal** shall include the information requested in response to the **RFP**.

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. A **Price Proposal** shall include one lump sum for all costs of the Design-Build Project as defined by the **RFP** requirements. The Design-Build Firm's **Price Proposal** shall include the lump sum price as well as the standard bid blank forms. The Department will determine whether 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 **Letters of Interest** on ASDB projects without written consent of the Chief Engineer. Failure to receive approval on such a change will result in the technical proposal being declared non-responsive.

4.11.6 MBE/DBE Requirements

The advertisement and **RFP** shall address the Department's commitment to diversity in contracting. The Department has an overall, race-neutral DBE goal. 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 **TRC** to evaluate **Technical Proposals** on ASDB projects. The criteria shall be established to meet the specific needs of a particular project, be directly related to the Technical Proposal requirements found in the **RFP**, and ensure the criteria contains no in-state preferences.

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, stakeholders, and government organizations information regarding the development of the project in languages other than English, if appropriate or required by the Department's Limited English Proficiency (LEP) Plan.

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

4.12.1 A pre-proposal meeting may be held in order to discuss the project in detail. A pre-proposal meeting should take place shortly after the determination of **Short-listed** Design-Build Firms. Affected Utility Agency/Owners shall be invited to the pre-proposal meeting. This meeting is considered a public meeting and shall be conducted accordingly. If the District determines the pre-proposal meeting is necessary based on the specific project, attendance at the pre-proposal meeting is mandatory for Short-Listed D-B Firms. Any Short-Listed Design-Build Firm failing to attend a mandatory pre-proposal meeting will be deemed non-responsive and eliminated from further consideration for the project.

4.12.2 The purpose of this meeting is to provide a forum for all concerned parties to discuss the proposed project schedule, method of compensation, instructions for submitting proposals, and other relevant issues. Since the **RFP** is the working document on which a pre-proposal meeting is based, the **Short-listed** Design-Build Firms should be furnished a copy of the Final **RFP** seven (7) days before the pre-proposal meeting. The **RFP** will establish an information cutoff date, 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 to the Department's Pre-Bid Question and Answer website.

4.12.3 The project file will document all communications with any Design-Build Firm regarding the project by the Contracting Unit or the Project Manager.

4.12.4 At the conclusion of the meeting or when it becomes apparent that further changes regarding **RFP** will be required, the Project Manager will update the criteria as necessary. The updated criteria should be made available to each of the **TRC members** via a copy of the Addendum prior to the evaluation of the **Technical Proposals**. Also, should changes to the **RFP** be made, the **Short-listed** Design-Build Firms should be provided the updated **RFP** via Addendum. All Addenda shall be submitted to the State Construction Office for review and approval prior to being provided to the **Short-listed** Design-Build Firms. The Contracting Unit shall provide the State Construction Office with a redline version of the RFP and a summary of changes for each addendum. An email template has been developed for issuing an addendum, available on the State Construction Office Intranet site.

4.13 ALTERNATIVE TECHNICAL CONCEPTS

For Adjusted Score Design-Build projects, the Department shall allow the **Short-listed** Design-Build Firms to use the Alternative Technical Concept process.

4.13.1 Alternative Technical Concept (ATC) Proposals The ATC process allows innovation, flexibility, time and cost savings on the design and construction of Design-

Build Projects while providing the best value for the public. Any deviation from the **RFP** for which the Design-Build Firm seeks to obtain approval to utilize prior to **Technical Proposal** submission is, by definition, an ATC and therefore must be discussed and submitted to the Department for consideration through the ATC process. ATCs also include items defined in the **Florida Department of Transportation (FDOT) Design Manual (FDM), Part I, Section 121.3.2**. The proposed ATC shall provide an approach that is equal to or better than the requirements of the **RFP**, as determined by the Department. ATC Proposals which reduce scope, quality, performance, or reliability should not be proposed. A proposed concept does not meet the definition of an ATC if the concept is contemplated by the **RFP**.

The Department will keep all ATC submissions confidential prior to the Final Selection of the Design-Build Firm to the fullest extent allowed by law, with few exceptions. In those instances when the Department issues an Addendum for an approved ATC Proposal, the Department will endeavor to maintain confidentiality of the Design-Build Firm's specific ATC proposal. Prior to approving ATCs which would result in the issuance of an Addendum, the Design-Build Firm will be given the option to withdraw previously submitted ATC Proposals.

Certain requirements described by the **RFP** may be modified by the Design-Build Firm provided they are presented in the One-on-One ATC discussion meetings and submitted to the Department for review and approval through the ATC process described herein. The **RFP** will include a list of these requirements. The Department may deem a Proposal Non-Responsive should the Design-Build Firm include but fail to present and obtain Department approval of the proposed alternates through the ATC process.

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. Approval of a Design Exception will result in an Addendum to the **RFP**.

The Department reserves the right to disclose to all Design-Build Firms, via an Addendum to the **RFP**, any errors of the **RFP** that are identified during the One-on-One 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.

Through the ATC process, the Design-Build Firm may submit, and the Department may consider, geometric modifications to the concept plans or other contract requirements that will provide an engineering solution that is better overall in terms of traffic flow and reduced congestion. The approval of ATCs related to improvements of traffic flow and reduced congestion is at the sole discretion of the Department. It is the Design-Build Firm's responsibility to clearly establish in the ATC process how the engineering solution provides a benefit to the Department and identify areas of conflict outlined in the **RFP**.

ATCs are accepted by the Department at its discretion and the Department reserves the

right to reject any ATC submitted. The Department reserves the right to issue an Addendum to the **RFP** based upon a previously denied ATC Proposal, without regard to the confidentiality of the denied ATC Proposal.

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

4.13.2 One-on-One ATC Proposal Discussion Meetings

One-on-One ATC discussion meetings may be held in order for the Design-Build Firm to describe proposed changes to supplied basic configurations, Project scope, design criteria, and/or construction criteria. Each Design-Build Firm with proposed changes may request a One-on-One ATC discussion meeting to describe the proposed changes. The Design-Build Firm shall provide, by the deadline shown in the Schedule of Events of the **RFP**, a preliminary list of ATC proposals to be reviewed and discussed during the One-on-One ATC discussion meetings. This list may not be inclusive of all ATC's to be discussed but it should be sufficiently comprehensive to allow the Department to identify appropriate personnel to participate in the One-on-One ATC discussion meetings.

The purpose of the One-on-One ATC discussion meeting is to discuss the ATC proposals, answer questions that the Department may have related to the ATC proposal, review other relevant information and when possible establish whether the proposal meets the definition of an ATC thereby requiring the submittal of a formal ATC submittal. The meeting(s) should be between representatives of the Design-Build Firm and/or the Design-Build Engineer of Record and District/Central Office staff (including **TRC members**) as needed to provide feedback on the ATC proposal. Immediately prior to the conclusion of the One-on-One ATC discussion meeting, the DDE will advise the Design-Build Firm as to the following related to the ATC proposals which were discussed:

- The Proposal meets the criteria established herein as a qualifying ATC Proposal; therefore an ATC Proposal submission IS required, or
- The Proposal does not meet the criteria established herein as a qualifying ATC proposal since the Proposal is already allowed or contemplated by the original RFP; therefore an ATC Proposal submission is NOT required.

The DDE should be designated to make final determinations on ATC denials or approvals and will be responsible for drafting the written decisions on ATCs. If the DDE is a member of the TRC or has a conflict of interest on the project, the Director of Transportation Development will make an alternate technical lead recommendation to the Chief Engineer for approval. The approved lead will make the final decision on acceptability of ATC concepts for the short-listed firms and will be responsible for drafting the final determinations. Once the DDE drafts the formal response to a short-listed firm regarding a proposed ATC, the information shall be provided to the Procurement Office (Contracting Unit), who will be solely responsible for transmitting information to firms during the active procurement process.

The Department will return all handouts back to the Design-Build Firm except one copy

to remain in the secure procurement file.

The duration of the meeting shall be set forth in the **RFP**. Any deviation from the timeframe established for the ATC meeting requires advanced approval by the Office of Construction Alternative Contracting Specialist.

4.13.3 Submittal of ATC Proposals

All ATC submittals must be in writing and must be submitted and discussed prior to the deadline shown in the Schedule of Events of the **RFP**.

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 as applicable;
- 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 along with suggested changes to the requirements of the **RFP** which would allow the alternative proposal as applicable;
- 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.

4.13.4 Review and Approval of ATC Submittals

After receipt of the ATC submittal, the DDE, or designee, will communicate with the appropriate staff (i.e. District Structures Engineer, District Construction Engineer, District Maintenance Engineer, State Structures Design Engineer, State Roadway Design Engineer, FHWA) as necessary, and respond to the Design-Build Firm in writing as to whether the ATC is acceptable, not acceptable, or requires additional information within fourteen (14) calendar days of receipt of the ATC submittal. The review should be completed within fourteen (14) calendar days of the receipt of the ATC submittal. If the review will require additional time, the Design-Build Firm should be notified in advance with an estimated timeframe for completion of the Departments review of the ATC proposal. If the DDE, or designee, determines that more information is required for the review of an ATC proposal, questions should be prepared by the DDE, or designee, to request and receive responses from the Design-Build Firm.

4.13.5 Incorporation of Approved ATC's into the Technical Proposal

The Design-Build Firm will have the option to include any Department Approved ATC's in the **Technical Proposal**. The Proposal Price should reflect any incorporated ATC's. All approved ATC's that are incorporated into the **Technical Proposal** must be clearly identified in the **Technical Proposal** Plans and/or Roll Plots. The **Technical Proposal** shall also include a listing of the incorporated, approved ATC's.

4.14 PROPOSALS SUBMITTED BY SHORT-LISTED DESIGN-BUILD FIRMS

The Department shall submit a Final **RFP** to all **Short-listed** Design-Build Firms

submitting **Letters of Interest**. As part of phase II of the procurement process, Design-Build Firms will be required to develop and submit proposals. 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 Project Advertisement. 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, Design-Build Aspiration Goal Form for DBE and Non-DBE Small Business Firms**, etc. See **Forms, Section 8** for details). The Department may continue with phase II of the procurement process if at least two proposals are received. The office receiving the proposals will send the **Technical Proposals** to the **TRC** and, if submitted with the **Technical Proposal**, will hold the sealed **Price Proposals** until the public opening of the **Price Proposals**. The Technical Review Committee shall have no access to the **Price Proposals** prior to the public opening of the **Price Proposals**.

4.14.1 Technical Proposal

A **Technical Proposal** shall include information requested in response to the **RFP**. The package shall indicate that it is the **Technical Proposal** and shall identify the Design-Build Firm's name, project description, or any other information required.

4.14.4 Price Proposal

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

4.15 TRC REVIEWS PROPOSALS

4.15.1 Technical Proposal Page-Turn Meeting

The Department will meet with each Design-Build Firm, formally for thirty (30) minutes, for a **Technical Proposal** page-turn meeting following submittal of the **Technical Proposal**. FHWA will be invited on Projects of Division Interest (PoDIs). The purpose of the **Technical Proposal** page-turn meeting is for the Design-Build Firm to guide the Technical Review Committee through the **Technical Proposal**, highlighting sections within the **Technical Proposal** that the Design-Build Firm wishes to emphasize. The **Technical Proposal** page-turn meeting will occur between the date the **Technical Proposal** is due and the Question and Answer Written Responses occurs, per the schedule of events section of this **RFP**. The Department will terminate the **Technical Proposal** page-turn meeting promptly at the end of the allotted time. The Department will record all of the page-turn meeting. All recordings will become part of the Contract Documents. The **Technical Proposal** page-turn meeting will not constitute discussions or negotiations. The Design-Build Firm will not be permitted to ask questions of the Technical Review Committee during the **Technical Proposal** page-turn meeting. An unmodified aerial or

map of the project limits provided by the Design-Build Firm is acceptable for reference during the **Technical Proposal** page-turn meeting. The unmodified aerial or map may not be left with the Department upon conclusion of the **Technical Proposal** page turn meeting. Use of other visual aids, electronic presentations, handouts, etc., during the **Technical Proposal** page turn meeting is expressly prohibited. Upon conclusion of the thirty (30) minutes, the Technical Review Committee is allowed five (5) minutes to ask questions pertaining to information highlighted by Design-Build Firm. Participation in the **Technical Proposal** page-turn meeting by the Design-Build Firm shall be limited to eight (8) representatives from the Design-Build Firm. Design-Build Firms desiring to opt out of the **Technical Proposal** page-turn meeting may do so by submitting a request to the Department.

Any deviation from the timeframe established for the page-turn meeting requires approval in advance by the Office of Construction Alternative Contracting Specialist.

4.15.2 Question and Answer Written Responses

The Department will provide all proposed questions to each Design-Build Firm as it relates to their Technical Proposal approximately 1 (one) week before the written Q & A letter is due.

The Design-Build Firm shall submit to the Department a written letter answering the questions presented by the Department. The questions, answers, and written letter will become part of the Contract Documents and will be considered by the Department as part of the **Technical Proposal**. In the event the Design Build Firm includes additional information in the written response which was not discussed as part of the Department's questions and is otherwise not included in the Technical Proposal, such additional information will not be considered by the Department during the evaluation of the Technical Proposal.

The Department will provide all proposed questions to each Design-Build Firm as it relates to their **Technical Proposal** approximately 1 (one) week before the written Q & A letter is due.

4.15.3 The **TRC** will evaluate each Design-Build Firm's **Technical Proposal** based on the rating criteria provided in the Request for Proposal. 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 advisors may be used for needed expertise. The rating or technical evaluation process is extremely important and should be accomplished as follows:

Each **TRC member** is responsible for scoring the Design-Build Firms' **Technical Proposal** for each evaluation criteria. This may be accomplished by soliciting Technical Advisors to assist in providing factual information regarding those areas outside of the **TRCs** area of expertise.

TRC meetings to discuss strengths and weaknesses of Design-Build Firms shall not be held. The Contracting Unit may schedule Technical Advisor Presentations to provide technical information.

The **TRC** shall review the project documents to gain an appreciable knowledge of the project prior to evaluating the **Technical Proposals**.

4.15.4 The **TRC** will then submit a final **Technical Proposal** score for each Design-Build Firm to the Contracting Unit. In scoring the **Technical Proposals**, each **TRC member** shall provide written summary comments explaining the basis of their scores.

4.15.5 The Contracting Unit shall notify all **Short-listed** Design-Build Firms of the date, time, and location of the public opening and announcement of **Technical Proposal** scores and the opening of the sealed **Price Proposals**. The public meeting to announce technical scores and open **Price Proposals** may be scheduled on the same date as the due date for **Price Proposals**.

4.15.6 The Contracting Unit shall publicly open the **Technical Proposal** scores, announce the scores by category, open the sealed **Price Proposals** and divide each Design-Build Firm's price by the combined **Letters of Interest** score and **Technical Proposal** score to obtain an adjusted score. The following example shows how the selection formula would work:

Firm	LOI 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

4.16 SELECTION COMMITTEE AWARDS ASDB BID

4.16.1 The Technical Review Committee's evaluations and the Design-Build Firms **Price Proposals** will be submitted to the Project Selection Committee. The Project Selection Committee will review the Technical Review Committee's evaluations and the Design-Build Firms **Price Proposal** during a publicly held meeting. If the Project Selection Committee discovers a material error or omission in the evaluation(s) of one or more **TRC members** that is not resolved through questioning of the **TRC** during the public meeting, the Project Selection Committee will return the submissions to the Technical Review Committee for further evaluation and potential corrections to the evaluations. Unless all proposals are rejected and upon the Project Selection Committee's acceptance of the Technical Review Committee's evaluations, the Project Selection Committee will award the contract to the qualified Design-Build Firm with the lowest adjusted score. The Project Selection Committee will not award the project and will reject all bids if it determines after reviewing all submissions that pursuing the Design-Build Project will not be in the best

interest of the public. At the minimum, a quorum of the **TRC members** shall be in attendance at the Selection Committee Awards meeting. A **TRC member** 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 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 basis 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.

4.17 PREPARATION OF THE AGREEMENT

The Contracting Unit will prepare an appropriate agreement. The agreement will generally consist of: the **Design-Build Contract (District), Form No. 375-020-13; Bid Blank, Form No. 375-020-17, Design Build Bid Or Proposal Bond, Form No. 375-020-34**, and any other applicable attachments.

4.17.1 VENDOR ELIGIBILITY CHECK

Public entities may not contract with firms that have been excluded from participating in the public contracting process. Before awarding a contract, the Contracting Unit shall check if the Design-Build firms appear on the Department of Management Services (DMS) Convicted/Suspended/Discriminatory/Federal Excluded Parties/Complaints/Scrutinized Companies Vendor Lists. Additionally, federal law requires a check of the System for Award Management (SAM) for businesses that have been debarred, suspended, or otherwise excluded from federally funded contracts. Contracting Unit shall complete and sign the **Vendor Eligibility Check Prior to Contract Award, Form No. 375-030-91** for each contract, checking for vendor eligibility to contract with the Department.

4.17.2 CONTRACT APPROVAL PROCESS AND DATABASE

For the Chief of Staff's Contract Approval process and database, the Contracting Unit shall input the following information into the Procurement Development Application (PDA): Advertisement Date; FDOT Project Manager (i.e., Contract Manager); Contract No; District; Counties associated with the project; Contract Description (Short Title); Plain Language Scope Description; Estimated Start Date; Estimated End Date; Federal Funds;

Estimated Contract Amount; and Vendor. These fields must all be completely entered before the contract will be reviewed by Central Office executive management. The Contracting Unit will input the Selection Committee's action in PDA immediately following the final selection meeting. The results will be posted as reflected on the Procurement Internet website. Once the selected firm is input into the Procurement Application, the contract may then be reviewed by the Chief of Staff through the Contract Approval Process and Database. The contract may not be fully executed until Chief of Staff approval is obtained.

4.17.3 AGREEMENT EXECUTION

The Contracting Unit will coordinate execution of the Design-Build contract. Signature routing shall be accomplished using the Department's approved electronic signature application for Procurement. The contract document shall be transmitted to all internal and external signing parties including the Design-Build firm via electronic signature application. The Design-Build firm shall consent to sign the contract using the Department's electronic signature application. The Department will transmit the Design-Build firm's copy of the fully executed contract document via e-mail.

The following lists the signatures and approvals necessary for agreements.

4.17.4 THE GENERAL COUNSEL'S OFFICE

This signature indicates that the agreement has been reviewed by an attorney to determine that the agreement contains all the required statutory provisions; contains all necessary provisions to be legally enforceable; contains all relevant provisions to clearly define the responsibilities and obligations of each party; and to protect the Department's interests.

4.17.5 THE CONTRACTOR

This signature indicates that the Contractor agrees to all terms, conditions, and provisions contained in the agreement. If any changes have been made by the Contractor subsequent to Legal's initial review, the General Counsel's Office will review the changes and approve.

(A) CORPORATIONS:

Generally, only a President or Vice-President may sign on behalf of a corporation. If another person is signing, they must have proper authorization from the corporation. If someone other than the President or Vice President will sign, the Contracting Unit shall request the following documentation from the Contractor:

Articles of Incorporation (filed with the Secretary of State, check for amendments)
Corporate Resolution signed by the corporate Secretary identifying by name any other people that are authorized to sign agreements on behalf of the corporation.

(B) LIMITED LIABILITY COMPANIES (LLC):

If the LLC is member managed, any member may sign on behalf of the LLC, unless the Articles of Organization or the Operating Agreement states otherwise. If the LLC is manager managed, any manager may sign on behalf of the LLC, unless the Articles of or the Operating Agreement states otherwise. If another person is signing, they must have an appropriate authorization from the LLC. If a member

managed company, all managers will sign the designation. Documentation to request and review:

- i. Articles of Organization for managers or managing members (filed with Secretary of State, check for amendments).
- ii. Certificate or affidavit executed by all members or all managers identifying (by name) other people that are authorized to sign agreements with the Department on behalf of the LLC.

12.4.3 OFFICE OF COMPTROLLER

Before executing an agreement, funds approval must be obtained through the OOC Contract Funds Management System (CFM). This system checks for 1) available budget (Work Program versus operating); 2) that projects are programmed for the appropriate amount and year in the Adopted Work Program; and 3) any needed federal authorizations are being obtained. These assurances are required for the Comptroller to state that funds are available in accordance with Section 339.135(6)(a), F.S. An electronic copy of the funds approval e-mail must be placed in the contract file folder. If there are any questions regarding the CFM System or budgetary approval, please contact the CFM Section. If there are any changes to the financial provisions in the ***Standard Professional Services Agreement Terms, Form No. 375-030-12***, the changes must be approved by OOC.

4.17.6 THE SURETY

This signature indicates that the Surety agrees that if the said Principal shall execute a contract and give bond for the faithful performance thereof within the time period as stipulated by the project specifications after being notified in writing of the award of such contract to Principal, or if the Surety shall pay the Obligee the full amount of this bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

4.17.7 THE AGENCY HEAD (OR THEIR DESIGNEE)

This signature obligates the Department to the terms, conditions, and provisions of the agreement. This signature completes execution of the agreement. Signature authority is delegated to Senior Management Level Directors and above and Contracting Unit Managers. Directors, Assistant Secretaries, or District Secretaries may delegate signature authority to other office heads in writing.

While not required by law, this review signature has the greatest procedural responsibility. This signature indicates that the signer has either verified or certifies that:

- (A) The Consultant was competitively selected in accordance with the Department's approved selection process, and that all Federal contracting requirements have been met in order to ensure federal eligibility.
- (B) The terms and conditions of the agreement meet the specifications of the Project Manager, are reasonable to the Department and the Consultant, and were written in a form approved by legal counsel.

- (C) The agreement was done in good faith and in accordance with all applicable laws, rules, and procedures.
- (D) The method of compensation is appropriate and the amount is reasonable.
- (E) The project is included in the Department's adopted Work Program, and that the project has a proper phase, fund code, and financial management number(s).
- (F) Any change to previously approved form or content has been reviewed and resolved with the appropriate office.
- (G) The individual signing has signature authority.
- (H) OOC and FHWA, if applicable, have authorized funding.
- (I) The prime Consultant has secured and presented proof of professional liability insurance in accordance with the agreement.
- (J) For all contracts, Department shall confirm eligibility of all prime and subconsultants prior to final execution of the contract, using the Vendor Eligibility Check Prior to Contract Award Form No. 375-030-91. A contract award (reference 2 CFR 180) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM).
- (K) For contracts in excess of \$5 million, Department will identify the specific appropriation of state funds from which the state of Florida will make payment under the contract during the first year. The Appropriation Bill Number and Line Number will be entered on page one of the **Standard Professional Services Agreement**. Please use the Crosswalk to Budget Entities spreadsheets provided by the Budget Office to properly identify the appropriation information.

SECTION 5 LOW BID DESIGN-BUILD (LBDB) PROCESS

The Low Bid Design-Build procurement process should be used on projects where the **RFP** is 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 Design-Build projects are restricted to the use of the LBDB process. Projects, which are awarded based on the LBDB approach, will not utilize the **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 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 a technical and **Price Proposal**, 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 THE REQUEST FOR PROPOSAL (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 **RFP** shall include a typical section, topographic survey and pavement cross-sections, or cross-slope and profile data at a minimum.
- 2) The **RFP** 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 **RFP** 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 The proposed planned and current Advertisement shall be submitted to the State Construction Office Alternative Contracting Specialist and the Central Office Procurement Manager for review and approval 30-days before posting the solicitation on the projects advertisement website. Projects shall appear on the Department's planned Advertisement for a minimum of ten (10) days prior to the current Advertisement being publicized. A minimum of 60 days is allowed from the date of advertisement to the receipt of a **Technical Proposal** and **Price 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://www.fdot.gov/procurement/Advertisements.shtm>. 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 **Price 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 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**.

5.7 PRE-PROPOSAL MEETING FOR LOW BID DESIGN-BUILD

A Pre-Proposal meeting may be held in order to discuss the project in detail. If a Pre-Proposal meeting is to be held, the Project advertisement shall also provide the date, time, and location of the Pre-Proposal meeting. Any member of the proposing Design-Build Firm may attend the Pre-Proposal meeting. 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-proposal meeting.

5.8 RFP PROVIDED TO DESIGN-BUILD FIRMS

5.8.1 The **RFP** will be made available as part of the current 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** except as shown below)

Draft **RFPs** for LBDB Projects shall be submitted to the State Construction Office Alternative Contracting Specialist for review. The Final **RFP** document should not be

posted with the current advertisement until approval is obtained from the State Construction Office Alternative Contracting Specialist. For Category 2 bridge projects, the State Structures Design Engineer or designee should also review and approve the **RFP**. Category 2 bridges are defined in the **Florida Department of Transportation (FDOT) Design Manual (FDM), Part I, Section 121.3.2**.

Approval of the **RFP** (and the federal authorization request) shall occur prior to publicizing the current advertisement since the **RFP** is distributed to Design-Build Firms during the current advertisement period.

5.10 PROPOSALS SUBMITTED BY LOW BID DESIGN-BUILD FIRMS

Design-Build Firms will be asked to develop and submit proposals based on the **RFP**. The Department may continue if at least two proposals are received. 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 Project Advertisement. **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, Design-Build Aspiration Goal Form for DBE and Non-DBE Small Business Firms**, etc. See **Forms, Section 8** for details.) The office receiving the proposals will send the **Technical Proposals** to the **TRC**.

5.10.1 Technical Proposal

A **Technical Proposal** shall include the information requested in response to the **RFP**. The package shall indicate that it is the **Technical Proposal** and shall identify 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 that it is the **Price Proposal** and shall identify 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 **TRC** the **Technical Proposals**.

5.12 ASSIGNMENT OF TRC

The Project Manager, 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 shall serve as **TRC members**. There shall be a minimum of three **TRC members** on each Technical Review Committee.

For projects which include Contractor prequalification requirements of Minor Bridge, the District Structures Design Engineer, or their designee shall serve as a **TRC member**. For projects which include Contractor prequalification requirements of Major Bridge, the State Structures Design Engineer, or their designee shall serve as a **TRC member**.

For rail corridor projects, the Public Transportation Manager, or District Rail Corridor Manager, and the State Rail Office or their designee shall serve as a **TRC member**.

For building projects requiring major renovations, additions, or new facilities, which are intended for general public access, an architect (District or Central Office), 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 shall serve as **TRC members**. For FCO buildings the District/ Central Office FCO Coordinator, or their designee shall serve as a **TRC member**.

TRC members shall complete the Department's **TRC** training which can be accessed from the Office of Construction intranet website.

Only Department Employees may serve as **TRC members**.

TRC members assigned to the Technical Review Committee must have sufficient experience in at least one of the engineering disciplines required by the project.

Assignment of **TRC members** to the Technical Review Committee for a specific project requires approval of the District Director of Transportation Operations and the District Director of Transportation Development. The Department reserves the discretion to substitute **TRC members** as necessary throughout the procurement process. Substitutions shall be submitted to the District Director of Transportation Operations and the District Director of Transportation Development for review and approval.

All Department staff serving as **TRC members** must sign the **Conflict of Interest Certification Form, Form No. 375-030-50**, for each procurement. The Contracting Unit representative shall complete the **Conflict of Interest Form for Public Officers/Employees, Form No. 375-030-50**, for each procurement.

5.13 THE TRC REVIEW RESPONSIVENESS OF PROPOSALS

5.13.1 The Contracting Unit will review 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.

5.13.2 The **TRC** 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.

5.13.3 In the event the lowest bidder's **Technical Proposal** is found to be non-responsive, the **TRC** 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 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.

5.13.4 The Contracting Unit will then notify the Selection Committee of the lowest bidder having a responsive **Technical Proposal**.

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

5.14.1 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.

5.14.2 The Department shall post the results. Any negotiations to clarify the design criteria and work to be performed must conform to the material requirements of the **RFP**, and shall not affect the bid price. Negotiated changes should be accomplished prior to the contract being awarded.

5.15 PARTNERS/TEAMING ARRANGEMENT

5.15.1 Partners/Teaming Arrangements of the Design-Build Firms for LBDB projects cannot be changed after submittal of proposals without written consent of the Chief Engineer. Changes in Design-Build Firm key staff members after submittal of the proposal must be approved by the District Director of Transportation Development.

SECTION 6 DEVELOPMENT OF 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 in addition to the Pre-Scoping questions, is provided as to various design requirements that should be in the **RFP** 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 **RFP** shall address design, procurement, installation, integration testing and warranty.

6.2 CONSTRUCTION SERVICES/REQUIREMENTS

6.2.1 The criteria shall reference applicable Department requirements, 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 state when the Design-Build Firm is to be responsible for identifying and obtaining required permits. Any 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, the PM should invite potentially impacted Permitting Agencies 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. The District Permits Engineer and PM may also add language to the **RFP** that would require the Design-Build Firm be responsible for facilitating these meetings and coordinating with affected Permitting Agencies.

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 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 TIITF 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 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 **RFP** shall 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 **RFP**. The **RFP** shall also state any requirements for packaging submittals and backup information that the Department may desire in order to avoid fragmented submittals. The **RFP** 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 project limits; 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. Prepare utility certifications or statements for all federal-aid construction projects per 23 CFR 635.309(p)(1)(v).

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 site visits with the **Short-listed** Design-Build Firms and the UA/O's within the project limits should be conducted. The PM and Contracting Unit should attend the mandatory pre-proposal meeting and site visit. 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 Administrator 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, existing but previously undisclosed, or if the UA/O does not perform per the agreement entered into between the UA/O and the Design-Build Firm, 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** of the Division I specifications, and the Department will grant the Design-Build Firm an assignment of the 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.

6.5.6 Once the risks have been evaluated and the decision to have the project delivered using Design-Build, the District is to ensure that workable highway concept plans with any necessary conceptual utility work plans are included in the **RFP**.

6.5.7 The District will develop a highway concept plan from which Design-Build Firms can develop **Technical Proposals**. The District is also tasked with continually evaluating utility conflicts as the highway concept plans develop. The evaluation of utilities should be based on the information, such as the following, to determine the need for utility work and if the needed work is considered minor or major:

- (a) Locate information, Red, Green, Brown (RGB) markups as available.
- (b) Assessments of how the Utility has access to the R/W. Such as by permit, easement, subordination, encroachment agreement, master agreement, or other instruments.
- (c) Assessments of amount of minor utility work needed. Minor utility work is work so minimal in cost and complexity that it does not warrant developing conceptual utility work plans.
- (d) Assessments of amount of major utility work needed. Major utility work is work where costs are not minimal, or the complexity may warrant developing conceptual utility work plans.
- (e) Legal opinions as to whether or not the utility work will be at the Department's expense.

- (f) Assessments of potential utility betterment that the Department may agree to have taken place during the project.
- (g) Assessments of potential utility work to be done by the Design-Build Firm.

6.5.8 UTILITY WORK TYPES

For the development of the **RFP**, District Utilities Office (DUO) is to identify and obtain the required documentation for all utilities within the project using the following utility work types:

- Existing utility - Department not participating in utility work.
- Design-Build Firm performing minor utility work (manhole adjustments etc.)
- Design-Build Firm performing non-reimbursable utility work
- Design-Build Firm performing reimbursable utility work w/cost sharing
- Utility owner performing non-reimbursable utility work
- Utility owner performing reimbursable utility work
- Utility owner performing reimbursable utility work w/cost sharing

As the required documentation is being developed a variety of definable and conceptual utility work will be encountered. For this guidance, definable utility work is utility work so well defined that the Department can either: a) enter a utility work agreement with the UA/O for the UA/O to perform the utility work within a set timeframe or, b) enter a Utility Work by Highway Contractor agreement with the UA/O. Conceptual utility work is work defined as utility work that is not definable. The required documentation for each type both definable and conceptual are described in the following sections.

6.5.8.1 Existing utility (Department not participating in utility work)

The Department may choose not to participate in the relocation cost for certain utilities regardless of the utilities eligibility for reimbursement. When the Department chooses to designate these as such, the project must be evaluated to ensure that the project can be completed without the need for utility work. These UA/O's will be listed in **Table B (see 6.5.9)** and, the green line markup will be included in the **RFP** as an Attachment. The **RFP** will instruct Design-Build Firms that for these utilities the Department will not participate in the relocation of these facilities. No Phase 52 nor Phase 56 funds will be programmed nor encumbered during the project for these utilities. The Design-Build Firm may propose to have utility work done on these facilities. However, the Department's approval of utility permits is required, but not guaranteed and the Design-Build Firm must create and obtain their own utility work agreements and utility work schedules. The Department will not be party to these utility work agreements nor pay the UA/O or the Design-Build Firm for the utility work regardless of the UA/O's eligibility for reimbursement. Any payment for this work is the sole responsibility of the Design-Build Firm.

6.5.8.2 Design-Build Firm performing minor work (manhole

adjustments etc.)

Minor utility work is work so minimal in cost and complexity that it does not warrant preliminary engineering. These UA/O's will be listed in **Table B (see 6.5.9)**. This work will be listed in the Summary of Utility Work and Phase 52 will be programmed for this minor work. The documents detailing the estimated amount of work are to be included in an attachment to the **RFP** and the Design-Build Firm is to provide a bid for this utility work. The Department will not be party to these utility work agreements nor pay the UA/O for the utility work regardless of the UA/O's eligibility for reimbursement. If any existing utility is significantly realigned horizontally or vertically, the Design-Build Firm must process Department utility permits to be signed by the UA/O.

6.5.8.3 Design-Build Firm performing non-reimbursable utility work

Only definable utility work can be used for this utility work type. These UA/O's will be listed in **Table A (see 6.5.9)**. For non-reimbursable utility work where the UA/O desires the work to be done by the Design-Build Firm, the DUO will execute a Utility Work by Highway Contractor (at Utility Expense) agreement with the UA/O, and include it as an attachment to the **RFP**. When the UA/O will develop the design of the relocated or new facilities, the UA/O is to provide plans and specifications to be included as Attachments to the **RFP** and provide local phase 56 funds to the Department. When the UA/O assigns responsibility of developing the design of the relocated or new facilities to the Design-Build Firm, this should be reflected in the **RFP** and the Utility Work by Highway Contractor agreement and the UA/O is to provide conceptual plans and specifications to be included as Attachments to the **RFP** and for providing local phase 56 funds to the Department. The Design-Build Firm is to provide a bid for this utility work. The Design-Build Firm must process Department utility permits to be signed by the UA/O.

6.5.8.4 Design-Build Firm performing reimbursable utility work with cost sharing

Only definable utility work can be used for this utility work type. These UA/O's will be listed in **Table A (see 6.5.9)**. For reimbursable utility work where the UA/O desires the work to be done by the Design-Build Firm, the DUO will execute a Utility Work by Highway Contractor (at the Department's expense) agreement with the UA/O, and include it as an attachment to the **RFP**. The UA/O is to provide plans and specifications also included as an Attachment to the **RFP**. The DUO will encumber phase 56 funds. And, the Design-Build Firm is to provide a bid for this utility work and will be able to enter cost savings initiatives for this work. The Design-Build Firm must create utility work schedules and process Department utility permits to be signed by the UA/O. If the work is consistent with the Utility Work Agreement provided as an attachment to the **RFP**, the Department will pay the invoiced amount and overages per the agreement. However, if the work is not consistent with the Utility Work Agreement provided as an attachment to the **RFP**, the Design-Build Firm shall pay all costs over those in the Agreement and assume

all risks.

If the Design-Build Firm desires to deviate from the utility work agreement provided as an attachment to the **RFP**, the Design-Build Firm may apply for a Cost Saving Initiative. The Design-Build Firm assumes all risks. In this case, the Design-Build Firm must create and obtain their own utility work agreements and utility work schedules. However, the Department's approval of utility permits is required, but not guaranteed.

6.5.8.5 Utility owner performing non-reimbursable utility work

Both definable and conceptual utility work can be used for non-reimbursable utility work types where the UA/O desires the work to be done by their contractor. These UA/O's will be listed in **Table A (see 6.5.9)**.

For definable utility work, the DUO will obtain a non-reimbursable utility work agreement with estimated time for the work. Department approval of a utility permit is required, but not guaranteed and the Design-Build Firm must create and obtain their own utility work schedules.

For conceptual utility work, the DUO will obtain an estimated time for the work. At a minimum RGB markups are to be provided for conceptual plans. Department approval of a utility permit is required, but not guaranteed and the Design-Build Firm must create and obtain their own utility work schedules.

6.5.8.6 Utility owner performing reimbursable utility work

Only conceptual utility work can be used for this work type. These UA/Os will be listed in **Table A (see 6.5.9)**. Where the UA/O desires the work to be done by their contractor, the DUO will obtain conceptual utility work plan with estimated costs and time for the anticipated utility work. The DUO may use Phase 36 funds if the complexity of the utility work warrants preliminary engineering work. At a minimum RGB markups are to be provided for conceptual plans. Department approval of utility permits is required, but not guaranteed and the Design-Build Firm must create and obtain their own utility work schedules.

6.5.8.7 Utility owner performing reimbursable utility work with cost sharing

Only definable utility work can be used for this utility work type. These UA/O's will be listed in **Table A (see 6.5.9)**. For reimbursable utility work where the UA/O desires the work to be done by their contractor, the DUO will obtain a reimbursable utility work agreement with estimated time for the work, and include as an attachment to the **RFP**. The UA/O is to provide plans and specifications - also included as an attachment to the **RFP**. The DUO may use Phase 36 funds if the complexity of the utility work warrants preliminary engineering work. DUO will encumber Phase 56 funds. The Design-Build Firm will be able to enter cost savings

initiatives for this work. Department approval of utility permits is required, but not guaranteed and the Design-Build Firm must create and obtain their own utility work schedules.

6.5.9 Summary of Utility Work Tables and *RFP* Attachments

The *RFP* will include two summary tables containing all known utilities within the project limits with all the required documents as described above included as attachments to the *RFP*. The summary table will list the information as shown in the following example.

Table A Summary of Department contemplated adjustment, protection, or relocation			
UA/O	Utility Relocation Type	Cost Estimate	Lump Sum Bid
EWMD	Design-Build Firm performing non-reimbursable utility work	N/A	Yes
TYUP water	Design-Build Firm performing reimbursable utility work w/cost sharing	N/A	Yes
TGC	Utility owner performing non-reimbursable utility work	N/A	No
FGPL&L	Utility owner performing reimbursable utility work	N/A	No
TTP Utilities	Utility owner performing reimbursable utility work w/cost sharing	\$175,500.00	No

Table B - Summary of UAO having facilities within the Proposed Project limits		
UA/O	Contact Information	
BTK Tele		
LWG-fiber		
EWMD		

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 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, appropriate controls shall be in place to ensure that the right of way is acquired in compliance with the applicable federal and state laws and regulations and that construction activities do not commence until the 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 **RFP** must 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 **RFP** should note that the Design-Build Firm 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 **RFP** shall include a section as applicable, 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 **RFP** 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 **RFP** 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 **RFP**. In any event, the Project Manager must determine who will provide the survey control for layout and the layout itself. The **RFP** should require that survey control be tied to the State Plane Coordinate System if the Design-Build Firm is required to provide the survey control information. All survey work will adhere to the requirements of the Department's **Surveying and Mapping Procedure, Topic No. 550-030-101 and the Surveying and Mapping Handbook**.

6.11 FINAL DOCUMENTS

The **RFP** shall 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 **RFP** 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 **RFP** 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. Sufficient investigation should be performed to give the Design-Build Firms an understanding of the geotechnical conditions for the project and assist the Firms in offering their most cost effective solutions for the project. The **RFP** will include any available geotechnical information.

6.14 ITEMS TO BE FURNISHED BY THE DEPARTMENT

6.14.1 The **RFP** 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 **RFP** 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 **RFP** shall include an issue escalation matrix or process that 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 Construction Project Manager and continue through the District Construction Engineer, District Utility Administrator, 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 Issues that arise shall be resolved through the issue escalation/resolution process described in the **RFP**.

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 VALUE ADDED FEATURES

The **RFP** shall generally include a provision for project value added features 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 value added proposal. If during the value added period, any encroachments to right of way occur, the Department will be responsible. Major bridges should have a value added period of 5-15 years. Standard value added 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 value added 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 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 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, Cost Savings Initiative Change Proposals, Time Extensions, Supplemental Agreements, Contract Claims, and Final Acceptance.

The concurrence-in-award package shall include the RFP/Addenda, summary of the adjusted scores, the results of the question and answer written responses by the **Short-Listed** Design-Build Firms, the Department's selection committee's decision for award of the contract, bid analysis, R/W, Utility and Railroad certifications, and the Bid Price Proposal.

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 ensure timely programming and federal aid authorization activities.

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

Design-Build projects must be authorized and approved before the Final **RFP** is published or provided to the Design-Build Firms.

RFPs that are subject to FHWA Oversight are approved by the FHWA Division office, including FHWA major project documents applicable to projects that are \$500 million or more including all phases except operations and maintenance. The FHWA authorization request is processed only upon final written **RFP** approval. Usually, the District Professional Services Administrator notifies the Federal Aid Coordinator in writing of this approval. For Low Bid Design-Build 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 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 PM so that the **RFP** 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 **RFP** is 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. Right-of-Way/Utility/Railroad clear certifications;
2. Written FHWA approval (if oversight) or District approval (if Delegated) of the **RFP**;
3. The **RFP** 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 concurrence from FHWA for the “finding of price reasonableness” after NEPA is completed and a price for the construction is determined. At the end of procurement, Oversight projects that will be awarded must receive a signed concurrence in award for the Design–Build contract from the FHWA Florida Division. and

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 Department’s 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 PM based on a Final Acceptance document from FHWA for Oversight projects or from the District 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 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 for Bidding on Specified Project(s)
- FDOT Form 375-030-2B Design-Build Selection Package
- FDOT Form 375-030-2F Design-Build Selection Package when FDOT Establishes Short-list
- FDOT Form 375-030-27 Design-Build Letter of Interest Technical Comments
- FDOT Form 375-030-35 Low Bid Design-Build Selection Committee Form
- FDOT Form 375-030-50 Conflict of Interest Certification Form
- FDOT Form 375-030-55 Bridge Design Qualification Form
- FDOT Form 375-030-56 Design-Build Procurement Confidentiality Certification for Technical Advisors
- FDOT Form 375-030-62 Design-Build Goal Form for DBE and Non-DBE Small Business Forms
- FDOT Form 700-010-21 Low Bid Design-Build Technical Proposal
- FDOT Form 700-010-65 Design-Build Bid Proposal Form
- FDOT Form 700-011-14 Design-Build Stipend Agreement
- FDOT Form 700-011-16 Design-Build Finance Firm Request for Project Specific Escrow Account
- FDOT Form 700-011-17 Design-Build Finance Firm Request for Direct Payment to Firms Primary Vendor Account
- FDOT Form 700-011-18 Design-Build Finance Firm Request for Project Specific Escrow Account (Bond Solution)
- FDOT Forms 700-011-30(A-H) Design-Build Project Performance Evaluation
- FDOT Form 700-011-36 Low Bid Design-Build Qualification Validation