

Note: The FDOT Certification Procedure and Form that I will describe are under development.

The actual implementation date of this procedure and has not been determined.

A formal memo with implementation date will be released. Until that time, use of this procedure and form are optional.

Definition

Patented or Proprietary Product:

A product, specification, or process identified in the plans as a "brand" or trade name (e.g. 3M, Corten).

However, it may also be a product so narrowly specified that only one provider can meet the specification.

Narrowly Defined Specifications

The specification cannot be used to allow proprietary products to be inappropriately or inadvertently required for Federal-aid projects.

If the specification reduces the pool products to a single proprietary product, the contracting agency must certify that this requires a unique product for which there is no equally suitable alternative

Or: More than one product must be available that can meet the requirements. Initiator must verify that all the manufacturers are available to bid that project.

Do not assume if a national organization (e.g. AASHTO, ASTM) has issued a specification that it is non-proprietary:



When Do These Limitations Apply?

Whenever State or Federal funds are used or might be used on a project.

- Note: Since this process is to be completed early in the Design phases, it should be assumed that all projects will use Federal funds

FDOT Proprietary Product Certification Process



1. The Initiator will submit the request for the use of the proprietary product to the Department's District Design Project Manager. The submittal will consist of
 - A. The Certification form with the following:
 - I. The necessary information completed and signature from the Initiator
 - II. And a documentation package to support the request.
2. The Project's Design Manager will receive the package and identify the appropriate office within the Department to conduct the review and make recommendations for approval (in writing).
3. The Project's Design Manager will then forward the package with the review and recommendations to the District Design Engineer for approval. The District Design Engineer will sign the Certification portion of the form when the request is approved and summarize any special conditions or limitations.
4. The form, complete with signature, and document package will remain with the project documentation.

Certification Requirements

Proprietary Product Certification

To: _____ Date: _____
Design Engineer

Financial Project ID: _____ New Const. () RRR ()
Federal Aid Number: _____
Project Name: _____
State Road Number: _____ Co./Sec./Sub. _____
Begin Project MP: _____ End Project MP: _____
Full Federal Oversight: No () Yes () Note: if Yes, submit to FHWA Director.

A justification and all supporting documents must be attached to this document.
Mark the appropriate certification:

"I _____, of the _____,
Print Name of Initiator Position Title Name of Agency

do hereby certify that in accordance with the requirements of 23 CFR 635.411(a)(2),

Mark Appropriately:
() that this patented or proprietary item is essential for synchronization with existing highway facilities.
() that no equally suitable alternative exists for this patented or proprietary item.

Signature Date

For Department Use Only

"I _____,
Print Name Position Title

of the Florida Department of Transportation, do hereby approve this certification request made in accordance with the requirements of 23 CFR 635.411(a)(2),

Mark Appropriately:
() that this patented or proprietary item is essential for synchronization with existing highway facilities.
() that no equally suitable alternative exists for this patented or proprietary item.

Identify any conditions and limitations:

Signature Date

The Certification form consists of two parts:

1. The Initiator completes the top portion
2. District Design Engineer signs and 'Certifies' the request.

Who Initiates the Request?

Within any Contracting Agency....

it is the person with the knowledge for the justification

Local Agency requests – Local Agency personnel or Local Agency Consultant

FDOT contracts out the Plan set – Consultant designing the plans

FDOT identifies certain needs that must be included in the Plan set – the FDOT person that identified the need is the initiator.

What is Synchronization?

Matching, coordination or conformance of a device to a previous standard

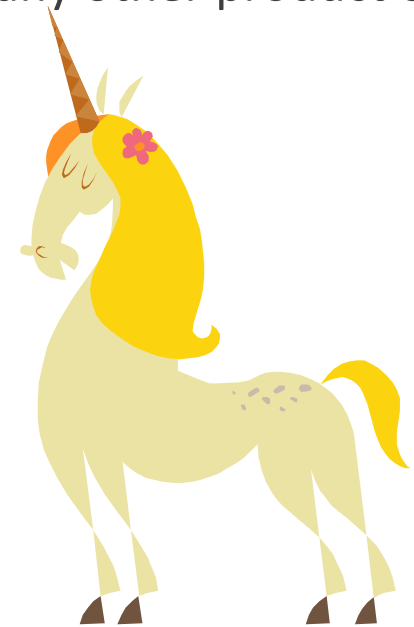
Or integrating a process into an established method of doing business.

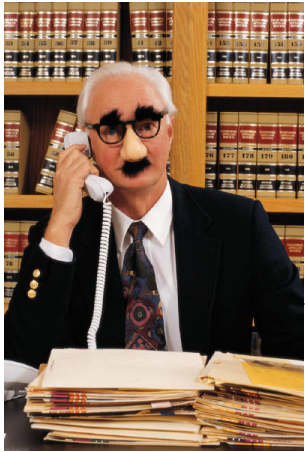
What is Unique Need?

Sole source,

One of a kind,

Or has no equal capable of meeting the need with any other product or process.





Can the FDOT require the contracting agency to provide additional supporting documentation?

FDOT may request, but not require, additional information. However, failure to submit additional information may result in a rejected request.

5 reasons a proprietary product or process can be identified in plans:

1. Bids equally against a non-proprietary product

(use of 'or' in the bid; or leaving the option open to the bidder)

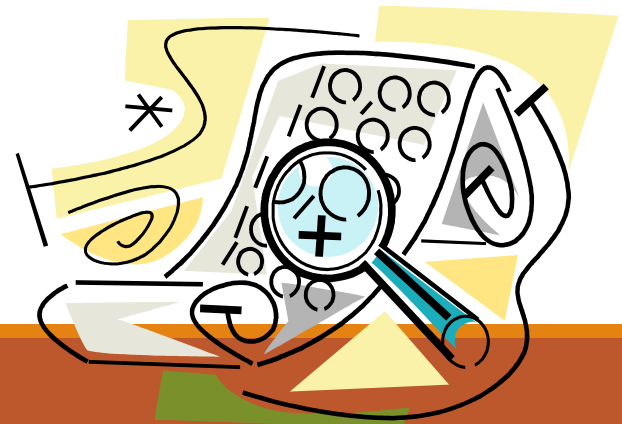
1. Synchronization - Form
2. Unique or no suitable alternative
3. Experimental or other Special Program
4. Public Interest Finding

When is a PIF necessary?

A certification and a PIF are different in that:

A PIF is used if a contracting agency elects to require a specific product when other acceptable products are available.

- Reasons other than Synchronization and Unique Need.



QARs

Product Evaluation and FHWA staff will be conducting QARS on project justifications and documentation

Any Questions,

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