

**RULES
OF
STATE DEPARTMENT OF TRANSPORTATION**

**CHAPTER 672-18
GOVERNING THE DESIGN-BUILD PROCEDURES**

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672-18-.01 Purpose of Regulations.

The Department's policy concerning Design-Build is to assure that projects utilizing this method of procurement are in the best interest of the public, are clearly defined projects, or provide a significant time savings and innovation in project delivery.

672-18-.02 Definitions.

The following terms, as used in this Chapter, shall have the following meanings unless the context thereof indicates to the contrary:

- (a) “Alternative Technical Concept (ATC)”: A confidential process in which a Design-Build Team can propose changes to Department-supplied basic configurations, project scope, design criteria, or construction criteria included in the Request for Proposals (RFP). These changes submitted by Proposers to the Department shall provide a solution that is equal to or better than the requirements in the RFP. In the broadest sense, ATCs are similar to value engineering, but the changes resulting from acceptable ATCs are made a part of the proposal before contract award. ATCs provide flexibility in the design and/or construction of a particular element of the project in order to enhance innovation and achieve efficiency.
- (b) “Best Value”: Selection method whereby award is based on a combination of the Proposer’s weighted price proposal and evaluated technical elements as described in the Request for Proposals (RFP). Under this selection method the Department shall select the Proposer who provides the Best Value for the Project. The formula for determining the Best Value Proposer shall be specified in the RFP.
- (c) “CFR”: Code of Federal Regulations.
- (d) “Department”: The Georgia Department of Transportation.
- (e) “Design-Build”: Combining some portion(s) of the design, right of way, utilities and construction phases of a project into a single contract.
- (f) “Design-Build Team”: A combination of contractors, design consultants (or design consultant team) and other entities working together to design and build the project.
- (g) “FHWA”: The Federal Highway Administration.
- (h) “FTA”: The Federal Transit Administration.
- (i) “Instruction to Proposers (ITP)”: The documents, including exhibits and forms, included in the Request for Proposals (RFP) that contain directions for the preparation and submittal of information by the Proposers in response to the RFP.
- (j) “Letter of Interest (LOI)”: Correspondence to be included with, or attached to, the Proposer’s Statement of Qualifications (SOQ) in response to the Request for Qualifications (RFQ).
- (k) “One Phase Low Bid”: Selection method whereby Proposers submit to the Department a price proposal and technical proposal (which includes a Proposer’s qualifications

package) in one step in response to the Request for Proposals (RFP). Under this selection method the Department shall select the lowest qualified and responsive bidder.

- (l) “Project”: The project to be designed and constructed in accordance with the Request for Proposals (RFP) and the contract.
- (m) “Proposer”: A Design-Build Team that responds to a Department issued Design-Build solicitation.
- (n) “Public Notice Advertisement (PNA)”: An announcement by the Department for Design-Build Project.
- (o) “Reference Information Documents (RID)”: Documents included as part of the Request for Proposals (RFP) including, but not limited to preliminary design, planning documents, studies, reports, and design files for the Project.
- (p) “Request for Proposals (RFP)”: All documents, whether attached or incorporated by reference, utilized for soliciting proposals. The RFP is the only solicitation utilized by the Department in the One Phase Low Bid selection method. The RFP is the second phase utilized by the Department for the Two Phase Low Bid and Best Value selection methods.
- (q) “Request for Qualifications (RFQ)”: All documents, whether attached or incorporated by reference, utilized by the Department for soliciting interested Proposers to apply for prequalification including instruction for submitting a Statement of Qualification (SOQ), evaluation criteria and minimum qualifications required of a Design-Build Team. The RFQ is the first phase of a two phase process utilized by the Department for the Two Phase Low Bid and Best Value selection methods.
- (r) “Statement of Qualifications (SOQ)”: Documentation meeting the requirements set forth in the Request for Qualifications (RFQ) which is submitted by Proposers and evaluated by the Department in order to identify qualified Proposers for the Project. For each consultant and contractor, the SOQ must include, at a minimum, documentation that the Proposer is capable of satisfying the scope of services of the project, as well as a copy of the Department issued Certificate of Qualification.
- (s) “Shortlist”: Used in Two Phase Low Bid and Best Value selection methods; and means the narrowing of the field of Proposers through ranking of the most highly qualified Proposers who have responded to an RFQ. Only Shortlisted Proposers will be invited to submit a technical and price proposal in response to an RFP.
- (t) “Stipulated Fee”: A monetary amount as established in the RFQ and/or RFP that may be awarded to the unsuccessful Proposers who provide a responsive price and technical proposal. In consideration for paying the stipulated fee as a payment for work product, the Department may use any ideas or information contained in the technical proposals in connection with the contract awarded for the Project, or in connection with a subsequent

procurement on the Project, or on any other Department project without obligation to pay any additional compensation to the unsuccessful Proposers.

- (u) “Two Phase Low Bid”: Selection method in which the first phase consists of selecting qualified Proposers who submit a responsive Letter of Interests (LOI) and Statement of Qualifications (SOQ) in response to the Request for Qualifications (RFQ). The second phase consists of Proposers submitting a responsive price and technical proposal (if required) in response to the Request for Proposals (RFP). Under this selection method the Department shall select the lowest responsive bidder.

672-18-.03 Prequalification Requirements.

The Department has established a policy and procedure governing the qualifications of professional consultants and contractors to perform work. All contractors and consultants for Design-Build Projects must be prequalified by the Department by the date of submission of proposals in response to the RFP utilizing the One Phase Low Bid selection method; or by the date of submission of the SOQ utilizing the Two Phase Low Bid and Best Value selection methods.

672-18-.04 Public Advertisement Procedures.

Solicitations for Design-Build Projects including the PNA, RFQ or RFP will be given through the Internet. The PNA will provide information on an upcoming Design-Build Project, and shall outline the tentative general scope(s) and description(s), location(s), anticipated procurement schedule(s), selection method, anticipated SOQ evaluation criteria or anticipated qualification requirements if One Phase Low Bid selection method is utilized, Shortlist criteria (if applicable), and stipulated fee qualification (if applicable).

The Department will maintain a Design-Build webpage on the Internet which will include a list of Projects approved by the Department for Design-Build delivery including a tentative procurement schedule (if known).

672-18-.05 Reserved.

672-18-.06 Request for Qualification Requirements.

For the Two Phase Low Bid and Best Value selection methods, the Department will advertise an RFQ for the Project. The Department has established policy and procedure governing the evaluation of the LOI and SOQ. Criteria for evaluation of the SOQ will be governed by the selection criteria set forth in 48 CFR 36.303-1 including: technical approach (but not detailed design or technical information), technical qualifications, technical competence, capability to

perform the work, past performance and other appropriate factors as identified in the LOI and SOQ (excluding cost or price related factors).

The LOI and SOQ submitted by Proposers shall address all stated criteria in the RFQ in order to be considered complete and responsive.

The advertised criteria in the RFQ shall include, at a minimum:

1. All project specific qualifications necessary to satisfy both the construction, right of way services (if any), utility coordination, and design portions of the scope of services, and
2. A request for a copy of the Department-issued Certificate of Qualification for the entire Design-Build Team, including each member of the consultant team and each prime contractor, if a joint venture team is proposed.

The RFQ shall include information on the procedures that apply for consideration of a proposal and shall include the applicable percentage to be applied to each evaluation criterion and the relative weight to be assigned to each.

For the Two Phase Low Bid selection method, the Department will evaluate all responsive SOQ. The Department may either accept all qualified Proposers or Shortlist the highest ranked Proposers to participate in the RFP phase.

For the Best Value selection method, the Department will evaluate all responsive SOQ. The Department will Shortlist the highest ranked Proposers to participate in the RFP phase.

672-18-.07 Request for Proposal Requirements.

The RFP will include the necessary Instructions to Proposers (ITP), selection method, technical proposal requirements, Alternative Technical Concept (ATC) instructions (if applicable), one-on-one meeting dates (if applicable), design criteria, special provisions, responsibilities of the Design-Build Team, mandatory project scope elements, deliverables and the project schedule. In addition, the RFP will outline the terms and conditions of a stipulated fee (if applicable).

For the Best Value selection method, the Chief Engineer will approve the evaluation criteria, including the price proposal and technical proposal weighting, prior to advertising the RFP.

When available, the Department will provide any project-specific documentation, drawings, files, reports, and other pertinent materials which would be of use to the Proposers. For Projects that are FHWA and/or FTA full-oversight, the Department will obtain FHWA and/or FTA concurrence of the RFP prior to release.

672-18-.08 Criteria for Evaluating Technical Information and Project Costs.

For the One Phase Low Bid and the Two Phase Low Bid selection methods, the Department will review the Project's price proposals of the qualified or Shortlisted Proposers and technical proposal information or qualification package information as requested in the RFP.

For the Best Value selection method, the Department will review the Project's price proposals of the Shortlisted Proposers, and will evaluate the technical proposals in accordance with requirements included in the RFP.

The Department may request that Proposers provide the technical and support information used to develop their respective price proposals. This information may include, but is not limited to, costing plans, pay item quotes, design assumptions, summary of quantities, detailed estimate, design costs, mobilization assumptions, schedule assumptions and construction staging assumptions.

The Department will compare the price proposals of the Proposers to the internal Department estimate.

1. For the One Phase Low Bid and Two Phase Low Bid selection methods, the Department shall validate the reasonableness and completeness of the price proposals as one part of the evaluation process necessary to identify the lowest responsive bidder.
2. For the Best Value selection method, the Department shall validate the reasonableness and completeness of the price proposals as one part of the evaluation process necessary to select the Best Value Proposer.

672-18-.09 Criteria for Selection and Award Process.

For the One Phase Low Bid selection method, the Department will review price proposals, as well as the technical proposals and/or the qualifications package in accordance with requirements included in the RFP. The Department will select the lowest qualified and responsive bidder.

For the Two Phase Low Bid selection method, the Department will review price proposals and technical proposals in accordance with requirements included in the RFP. The Department will select the lowest responsive bidder.

For the Best Value selection method, the Department will evaluate price proposals and technical proposals in accordance with requirements included in the RFP. The Department will select the Proposer with the highest combined score based on the sum of the weighted price proposal score and the weighted technical proposal score.

A proposal will only be considered nonresponsive if it does not contain all the information and level of detail requested in the RFP. No proposal will be considered unless it is accompanied by

a Proposal Guaranty as mandated by the Department Standard Specifications Construction of Transportation Systems. A proposal shall not be deemed to be nonresponsive solely on the basis of minor irregularities in the proposal that do not directly affect the ability to fairly evaluate the merits of the proposal.

During the evaluation process, the Department may request that the Proposers provide additional technical support information used to develop the price proposal. In the event that major errors, major irregularities or major omissions are discovered, the Department shall retain the right to disqualify the Proposer and award the project to the next responsive bidder.

A Project may be awarded prior to approval of any applicable environmental document and permits, provided prior concurrence has been obtained from the appropriate lead Federal agency (FHWA or FTA).

672-18-.10 Reserved.

672-18-.11 Criteria for Providing a Stipulated Fee.

At the discretion of the Department, a stipulated fee as a payment for work product may be paid to the Proposers who submitted responsive, yet unsuccessful price proposals and technical proposals. The decision to utilize a stipulated fee shall be based on the Department's analysis of the estimated proposal development costs, the complexity of the project, opportunities for innovation, the expected level of Proposer's involvement during the ATC process (if applicable), and the anticipated degree of competition during the procurement process. Any stipulated fee recommendations shall be made by the Department's originating office for which the project has been assigned and the stipulated fee amount shall be determined on a project-by-project basis. Stipulated fee recommendations shall require the approval of both the Department's Chief Engineer and the Treasurer. The terms and conditions for stipulated fees, if applicable, shall be included in the RFP.

If a stipulated fee is provided, the work produced by the Proposer for the Project shall be provided to the Department for use in connection with the contract awarded for the Project, or in connection with a subsequent procurement on the Project or any other Department project, without obligation to pay any additional compensation to the unsuccessful Proposer.

Documentation supporting actual technical proposal development costs may be requested.

Proposers submitting a LOI and SOQ, which were considered unqualified or which were not Shortlisted by the Department, are not eligible for a stipulated fee.

The Proposer may elect to waive the stipulated fee and retain their work product.

672-18-.12 Criteria for Resolution of Contract Issues.

The Department has established policy and procedures governing resolution of contract issues. Criteria for resolution of contract issues are defined in the Department Standard Specifications Construction of Transportation Systems, Section 109.04, "Payment and Compensation for Altered Quantities," Section 109.05, "Extra Work" and Section 105.13, "Claims for Adjustments and Disputes." The resolution of contract issues for Design-Build contracts will follow these standards.

672-18-.13 Fiscal Year Summary Report of Design-Build.

Not later than 90 days after the end of the fiscal year, the Department will provide the Governor, Lieutenant Governor, Speaker of the House of Representatives, and chairpersons of the House and Senate Transportation Committees a summary containing all projects awarded during the fiscal year using the Design-Build contracting method. The report shall include, but not be limited to, the project number, county, project description, name of Design-Build Team awarded the project, awarded amount, selection method, and an explanation for any projects awarded other than low bid. Design-Build contracts that are part of a separate Public Private Initiative or Public Private Partnerships are not included in this summary and are outside this Rule. This report will be made available for public information.