

## GOVERNING THE DESIGN-BUILD PROCEDURES

- **Purpose of Regulations**  
672-18-.01
- **Definitions**  
672-18-.02
- **Prequalification Requirements**  
672-18-.03
- **Public Advertisement Procedures**  
672-18-.04
- **~~Scope of Service Requirements~~ Reserved**  
672-18-.05
- **~~Letters of Interest~~ Request for Qualification Requirements**  
672-18-.06
- **Request for Proposals Requirements**  
672-18-.07
- **Criteria for Evaluating Technical Information and Project Costs**  
672-18-.08
- **Criteria for Selection and Award Process**  
672-18-.09
- **~~Criteria for Award Process~~ Reserved**  
672-18-.10
- **Criteria for Providing a ~~Stipend~~ Stipulated Fee**  
672-18-.11
- **Criteria for Resolution of Contract Issues**  
672-18-.12
- **Fiscal Year Summary Report of Design-Build**  
672-18-.13

### **672-18-.01 Purpose of Regulations.**

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

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Purpose of Regulations" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## 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) ~~“Acceptable response”~~: ~~A Letter of Interest with a Statement of Qualifications from a design build submitter that includes only Department pre qualified consultants and contractors for the scope of work advertised.~~  
“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 Proposers 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.
- (bc) “CFR”: Code of Federal Regulations.
- (ed) “Department”: The Georgia Department of Transportation.
- (de) ~~“Design-Build”~~: ~~Means~~ Combining some portion(s) of the design, right of way, utilities and construction phases of a project into a single contract.
- (ef) ~~“Design-build firm-Build Team”~~: A combination of contractors, and a design consultants (or design consultant team) and other entities working together to design and build the project. The design consultant will either be acting as a subcontractor to the contractor or as a joint venture member with whom a design build agreement is executed.
- (fg) “FHWA”: The Federal Highway Administration.
- (gh) “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.

- (h) “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) of the proposing design-build firms.
- (k) “One Phase Low Bid”: Selection method whereby Proposers submit to the Department a price proposal and technical proposal (which includes a Proposers 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.
- (i) “Project”: ~~A design-build project to be designed and constructed as described in the Public Notice Advertisement and the Request for Proposals. This type of project should have minimal right of way or utility issues which are unresolved prior to the issuance of Request for Proposals. Projects may be classified as buildings, bridges and approaches, rail corridors, and limited or controlled access facilities or projects that may be constructed within existing rights of way where the scope of work can be clearly defined or when a significant savings in project delivery time can be attained. 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.
- (j) “Public Notice Advertisement (PNA)”: An announcement by the Department for ~~a-an~~ upcoming design-build project(s) 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.
- (k) “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. The RFP is the document that describes the procurement process, forms the basis for the final proposal and may potentially become an element of the contract. The Department will issue a RFP for the design-build project to all design-build firms that are deemed qualified based on their Letter of Interest and Statement of Qualifications.
- (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.

- (~~h~~) “Statement of Qualifications (SOQ)”: ~~A component for selecting a list of 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 ~~design-build firms~~ Proposers for the ~~project~~ Project. For each consultant and contractor, the SOQ must include, at a minimum, documentation that the ~~design-build firm~~ 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.
- (~~m~~) “Submitter”: ~~Any individual, partnership, association, corporation, firm or joint stock company, joint venture, limited liability corporation, their lessees, trustees, assignees or receivers as appointed by any court, who responds to a Department design-build advertisement and presents the Department with a Letter of Interest and Statement of Qualifications and, if short listed, presents the Department with a response (bid) to the Request for Proposals.~~
- (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.

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Definitions” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

### **672-18-.03 Prequalification Requirements.**

The Department has established a policy and procedure governing the qualifications of professional consultants (~~Transportation Online Policy and Procedure System—4020~~) and contractors (~~Standard Specifications Construction of Transportation Systems—Section 102~~) to perform work. All contractors and consultants for ~~design-build projects~~ Design-Build Projects must be prequalified by the Department ~~at the date of submission of the Letter of Interest and Statement of Qualifications to be eligible for short list consideration 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.~~

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Prequalification Requirements” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## 672-18-.04 Public Advertisement Procedures.

~~Public notice for Letters of Interest/Statement of Qualifications for design-build projects will be given by Internet. An announcement for a design-build project(s) will be made by the Department a minimum of 60 days prior to the date for submission of Letter of Interest/Statements of Qualifications and shall be posted on the Department Office of Contract Administration and on the State of Georgia Department of Administrative Services (DOAS) websites at:~~

~~<http://www.dot.state.ga.us/dot/construction/contractsadm/index.shtml>~~

~~and~~

~~[http://ssl.doas.state.ga.us/PRSapp/PR\\_index.jsp](http://ssl.doas.state.ga.us/PRSapp/PR_index.jsp)~~

~~Solicitations for Design-Build Projects including the PNA, RFQ or RFP will be given through the Internet. This public notice advertisement 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) of the proposed project(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).- as well as the Letter of Interest/ Statement of Qualifications evaluation and shortlist criteria and the stipend 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).~~

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Public Advertisement Procedures" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

**672-18-.05 Scope of Service Requirements. Reserved.**

~~The Department has established policy and procedure governing contracts to perform federal aid and state aid work for professional consultants (Transportation Online Policy and Procedure System—4050) and contractors (Standard Specifications Construction of Transportation Systems—Section 104) to complete the scope of service requirements. Combined, those procedures include, at a minimum, the provision of all labor, materials, equipment, tools, and supplies required to design and construct the design build project.~~

~~Through the established policy and procedure the consultant's specific scope of services and contractor's specific scope of work, will be further defined on a project by project basis. The specificity will be provided in detail as part of the Letter of Interest/Statement of Qualifications advertisement of the project.~~

~~The Department will evaluate the scope of the design build project(s) and will list the required prequalification categories for professional services in the request for Letters of Interest/Statement of Qualifications advertisement.~~

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Scope of Service Requirements" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## **672-18-.06 Letters of Interest 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 Letters of Interest/Statement of Qualifications the LOI and SOQ. Criteria for evaluation of the SOQ will be governed by the selection criteria set forth in 48 CFR 36.602-4 36.303-1 including: professional qualifications; specialized experience and technical competence; capacity to accomplish the work in the specified timeframe; past performance; and, other appropriate evaluation criteria 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).

<http://www.gpoaccess.gov/cfr/index.html>

Letters of Interest-The LOI and SOQ submitted by Proposers shall address all stated criteria in the RFQ advertisement for Letters of Interest/Statement of Qualifications in order to be considered complete and responsive. The Department must receive three or more acceptable responses from qualified design-build firms in order to proceed with the Request for Proposals phase.

The Department will review all Letters of Interest against the advertised criteria in the public advertisement notice and from this review shall determine a list of all qualified design-build firms. 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 firm-Design-Build Team, including each member of the consultant team and each prime contractor, if a joint venture team is proposed.

The RFQ advertisement for Letters of Interest/Statement of Qualifications 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. Based on the responses provided in the Letter of Interest/Statement of Qualifications, the Department shall rank the Statements of Qualifications of the qualified Submitters. Based on these rankings, the Department may either accept all qualified design-build firms or short list the highest ranked design-build firms to participate in the Request for Proposals phase of the procurement.

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.

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Letters of Interest Requirements” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## **672-18-.07 Request for Proposals Requirements.**

~~Request for proposals (RFP) will be made to a minimum of three and maximum of five qualified design-build firms. At the Department's discretion, RFP's will be issued to either all qualified design-build firms submitting an acceptable response to the request for Letter of Intent/Statement of Qualifications or to a short list of the most qualified Submitters as determined by the Department.~~

~~The RFP will clearly define all functions, 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, and responsibilities of the design-build firm Design-Build Team, and will clearly define the mandatory project scope elements, deliverables and the project schedule. The In addition, the RFP will outline the terms and conditions of a project stipend 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.~~

~~As part of the RFP, and when When available, the Department will provide any project-specific documentation, drawings, files, reports, and other pertinent materials which would be of use to the short listed design-build firms Proposers. For projects Projects that are FHWA and/or FTA full-oversight, the Department will obtain FHWA and/or FTA approval concurrence of the RFP prior to release.~~

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Request for Proposals "adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## **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 cost~~ Project's price proposals of the ~~short listed design-build firms~~ qualified or Shortlisted Proposers and ~~any other~~ 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 ~~short listed Submitters~~ 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 ~~short listed design-build firms~~ Proposers to the internal Department estimate. ~~The Department shall validate the reasonableness and completeness of the price proposals in order to identify the lowest, qualified bidder.~~

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.

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Criteria for Evaluating Technical Information and Project Costs" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

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

~~The Department will establish and specify the shortlist selection criteria on a project by project basis. A general outline of the shortlist selection criteria will be included in the Request for Qualifications notice for each project. The Department will determine a list of qualified design-build firms for the project from the statement of qualifications submitted in response to the Public Notice Advertisement of the Letter of Interest. A Request for Proposal will only be made available if the Department receives three or more acceptable responses from qualified design-build firms.~~

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).

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Criteria for Selection" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

**672-18-.10 Criteria for Award Process. Reserved.**

~~If a qualified or short listed design build firm withdraws from consideration after the Department provides a Request for Proposal, the Department may continue its evaluation if at least two proposals are received from the remaining qualified or short listed design build firms. Based upon the price proposal from each firm, the Department will select the lowest, qualified bidder. Under no circumstances shall the Department use a “best and final” offer standard in awarding a contract.~~

~~A proposal will only be considered non-responsive if it does not contain all the information and level of detail requested in the Request for Proposal. No proposal will be considered unless it is accompanied by a Proposal Guaranty as mandated by Section 102.08 of the Department Standard Specifications Construction of Transportation Systems. A proposal shall not be deemed to be non-responsive 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.~~

~~The Department may request that the design build firms provide the technical support information used to develop the price proposal. In the event that major errors, major irregularities or major omissions in the lowest bid proposal are uncovered, the Department shall retain the right to disqualify the lowest bid design build firm and award the project to the next lowest, responsive bidder.~~

~~A design build project may be awarded prior to receipt of any applicable environmental document, provided prior approval has been obtained from the appropriate lead Federal agency (FHWA or FTA).~~

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Criteria for Award Process” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## **672-18-.11 Criteria for Providing a ~~Stipend~~ Stipulated Fee.**

At the discretion of the Department, a ~~stipend~~ stipulated fee as a payment for work product may be paid to the ~~design-build firms~~ Proposers who submitted responsive, yet unsuccessful price proposals and technical proposals (~~bids~~). The decision to utilize a stipulated fee ~~do so~~ 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 Proposers involvement during the ATC process (if applicable), and the anticipated degree of competition during the procurement process. ~~Stipend~~ 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. ~~Stipend~~ Stipulated fee recommendations shall require the approval of both the Department's Chief Engineer and the Treasurer. The terms and conditions for ~~stipends~~ stipulated fees, if applicable, shall be included in the ~~Request for Proposals~~ RFP.

If a ~~stipend~~ stipulated fee is provided to an unsuccessful firm, the work produced by the ~~firm~~ Proposer for the ~~project~~ Project shall be provided to the Department for ~~their~~ use in connection with the contract awarded for the ~~project~~ 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 ~~firm~~ Proposer.

Documentation supporting actual technical proposal development costs by the Proposer may be requested by the Department.

~~Design-build firms~~ Proposers submitting a Letter of Interest/Statement of Qualifications LOI and SOQ, which were considered unqualified or which were not ~~short listed~~ Shortlisted by the Department, are not eligible for a ~~stipend~~ stipulated fee.

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

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled "Criteria for Providing a Stipend" adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

## **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~~ Design-Build contracts will follow these standards.

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Criteria for Resolution of Contract Issues” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

### **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 ~~Chairmen~~ chairpersons of the House and Senate Transportation Committees a summary containing all projects awarded during the fiscal year using the ~~design-build~~ Design-Build contracting method. The report shall include, but not be limited to, the project number, county, project description, name of ~~design-build firm~~ Design-Build Team awarded the project, awarded amount, selection method, and an explanation for any projects awarded other than low bid. ~~Design-build~~ Design-Build contracts that are part of a separate Public Private Initiative or Public Private Partnerships ~~will~~ are not be included in this summary and are outside this Rule. This report will be made available for public information.

Authority: O.C.G.A. Secs. 32-2-2, 32-2-81, 50-13-4.

**History.** Original Rule entitled “Fiscal Year Summary Report of Design-Build” adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.