

## **15 Design-Build and Public Private Partnership (P3) Projects**

### **15.1 General**

Design-Build is a concept that combines design engineering and other preconstruction services with construction services into a single contract. The Department may elect to include Right of Way acquisition services within a Design-Build contract. Also, Public Private Partnership (P3) can include these elements of design-build as stated above but also may include financing, operating, and long-term maintenance of the project. The intent of this chapter is to address both the Design-Build and P3, known as Innovative Delivery Projects.

### **15.2 Purpose**

Design-Build projects are created to expedite project delivery and simplify several multi-phase project tasks, resources, and activities into one single-source contract of which the contractor will coordinate and be held responsible for the overall project delivery on time and on budget. This process is recognized and allowed by Federal Highway Administration. Refer to Title 23 CFR 710.313 for information applicable to this procedure.

### **15.3 Policy**

The performance of all Right of Way services will be in full compliance with Title 49 Code of Federal Regulations, Part 24, Title 23 Code of Federal Regulations, Part 710, Georgia State Laws, and in accordance with the Georgia Department of Transportation's Right of Way Manual of policies and procedures. The Right of Way certification will be in compliance with 23 CFR 635.309(p) which identifies the requirements for Design-Build projects. While the Department does not utilize certification of single properties, it will consider a phased or segmented certification on a group of properties which must be submitted to the Department in advance. If approved, the phased or segmented Right of Way Certification shall mirror the phased or segmented release to construction of the properties. Any changes or variances from the pre-approved segments must be submitted to the Department for re-consideration.

### **15.4 Procedures**

The Department uses a two-phased approach when awarding a Design-Build contract. Phase one includes the Department advertising a Request for Qualifications (RFQ) to which interested Design-Build firms respond with a Letter of Interest (LOI)/Statement of Qualifications (SOQ). Phase two includes the advertising of a Request for Proposals (RFP) to either all qualified candidates or a shortlist of Design-Build firms. In response to the RFP, the Design-Build firms will submit a bid and corresponding technical proposal. The Department will award the project to the Design-Build firm with the lowest responsive and responsible bid.

#### **A. Innovative Program Delivery Roles**

1. When Right of Way Acquisition services will be included in the Design-Build or P3 contract, then the Office of Innovative Program Delivery will work closely with the Office of Right of Way, as necessary, to assist with:
  - a. The establishment of RFQ evaluation criteria
  - b. The review of the Design-Build firms' LOI/SOQ preparations of specific ROW scope of services portion of the RFP Reviews of the Design-Build firms' technical proposal
  - c. Reviews and audits of the awarded firm's right of way activities.

**B. Design-Build Firm or P3 Roles**

1. Right of way services within a Design-Build or P3 contract may include, but are not limited to the following: employing the use of a Right of Way Acquisition Project Manager, developing Right of Way plans, appraisals, appraisal reviews, negotiations, relocation assistance, property management, and securing all necessary property right interests.
2. All Design-Build firms shall select Right of Way personnel, who will perform right of way acquisition and appraisal services, from the Department's pre-approved Right of Way Consultant list.
3. The Design-Build or P3 firm shall submit written procedures for Right of Way acquisitions and relocations, in the form of a Right of Way Acquisition Plan, for the Department's approval prior to the firm commencing any Right of Way activities. These procedures are to show the firm's methods, including but not limited to, the appropriate steps and workflow required for title examinations, prioritized appraisals, review of appraisals, negotiations, acquisition, property management, relocation strategy, and reasonable periods for orderly relocation of residents and businesses. These procedures shall include, but are not limited to, the Department's review and approval of just compensation, replacement housing payment calculations, replacement housing payment and moving cost claims, appraisals, and administrative settlements.
4. The Design-Build or P3 firm shall establish a project tracking system necessary to manage and track the acquisition process. The Department may allow the Design-Build or P3 firm access to the Department's Right of Way tracking system, which is used for project status reporting. Entries into it shall be made in a timely manner to accurately reflect current project status. The Department's standard forms and documents shall be used. Training in the use of the Department's Right of Way Data Systems and technical assistance may be provided by the Department. Should the Design-Build Team or P3 firm not have direct access to the Department's Right of Way tracking system, information shall be provided, as

required, to update and maintain accurate information in the system in a timely manner.

5. The Design-Build or P3 firm shall utilize the web-based project management system provided by GDOT for document submittals .
6. The Design-Build or P3 firm shall establish a quality control system. Additional information on the requirements are identified in Section 15.5.
7. The Design-Build or P3 firm shall be required to provide documentation verifying that it has received the approved applicable portions of the Georgia Department of Transportation's Right of Way Manual and will comply with the procedures.
8. The Design-Build or P3 firm shall determine if any property to be acquired for Right of way contains any hazardous materials that require remedial action or treatment. When there is reason to believe that such materials may be present, the firm shall take steps consistent with customary Department practices to investigate. The Department shall be notified of the presence of such materials before an appraisal is released for negotiations to acquire the property.
9. For a period of five years after final payment is made to the Design-Build or P3 firm for any phase of the work or completion of all condemnation parcel activity, whichever is greater, all project documents and records not previously delivered to the Department, including but not limited to design and engineering costs, construction costs, costs of acquisition of right of way, and all documents and records necessary to determine compliance with all state and federal laws and regulations relating to the acquisition of right of way shall be maintained and made available to the Department and the Federal Highway Administration for inspection or audit. Throughout the design, acquisition and construction phases of the project, copies of all Right of Way activity documentation and correspondence shall be submitted to the Department's Right of Way Office.

### **C. Department Roles**

1. The Department will provide a Right of Way Project Manager for oversight and audit purposes who will serve as the first point of contact for all Right of Way issues.
2. The Department will retain authority for approving just compensation, relocation benefits, and all settlements.
3. Upon approval of the Right of Way Acquisition Plan, the Department is required to issue a Notice to Commence Right of Way Acquisition to the Design-Build or P3 firm prior to the firm providing any offers to acquire the property. After title and possession have been obtained, the Department shall coordinate with the Federal Highway Administration, as needed, to complete either a single, segmented or

phased Right of Way certification. The Right of Way certification will be in compliance with 23 CFR 635.309(p). The Department will then release certified parcels for construction.

4. The Department and the Federal Highway Administration reserves the right to audit the Design-Build or P3 firm's Right of Way acquisition files at anytime during the Right of Way acquisition processes.

## **15.5 Quality Assurance Quality Control**

- A. In both the Design-Build process and the P3 process, all activities concerning the acquisition of Right of Way must adhere to the policies and regulations of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Reference 49 CFR 24. The checks and balances for these procedures can be found in Chapter Five of the Right of Way Manual.
- B. QA/QC and/or audits may be administered by an independent consultant with the necessary expertise in appraisal, acquisition and relocation policies and procedures, who can make periodic reviews and reports to the DB Team and GDOT.

**Policies and Procedures of the Department in this chapter may be waived, altered, or modified at any time and at the full discretion of the Department and FHWA as necessary to accomplish the overall goals and objectives of the Department and FHWA, and as long as any waivers, alterations, and modifications of said policies and procedures are not in direct violation or contradiction with state and federal codes, of which will rule over any recommended waivers, alterations, or modifications**