

**Alternative Contracting Task Team Agenda**  
(Formerly Design-Build Task Force)

**Date:** January 9, 2008

**Place:** Turnpike Headquarters (Turkey Lake Plaza)  
Building 5315/Room 1093/1<sup>st</sup> Floor Auditorium

**Time:** 10:00 am until 1:00 pm

**Teleconference Bridge Line:** 850-414-4972

**Agenda items:**

**Introductions:**

*The following individuals were in attendance:*

*Brian Blanchard FDOT, David Sadler FDOT, Derek Fusco FDOT, Dave Pupkiewicz Gibbs and Register, Dan Foss Jacobs, Doug Geiger RS&H CS, David Sweeney RS&H CS, Ken Leuderalbert American Consulting Engineers, Roger Martin PCL, Jennifer Vreeland FDOT, Amy Scales FDOT, Mike Davis FDOT -Turnpike, Richard Nethercore FDOT-Turnpike, Alan Silver Balfour Beatty, Dave Pupkiewicz Gibbs and Register, Mike VanderHeyden FDOT- Turnpike, Imran Ghani FDOT-Turnpike, Terry Muse FDOT, Tanzar Kalayec Keith and Schnars, and Phil Moores GC Inc, and Greg Schiess FDOT*

*The following individuals teleconferenced into the meeting:*

*Adrian Share Wilbur Smith, Juanita Moore FDOT, Keith Hinson FDOT, Tim Brock FDOT, Joe Borello FDOT, Nelson Bedenbaugh FDOT, John Ellis FDOT, Mark Croft FDOT, and Rudy Powell FDOT.*

**Old Business:**

1. **PPP Documents** - Districts 2 and 4 are developing RFP documents for I-595 and the First Coast Outer Beltway (FCOB) P3 projects.

*The status and schedule for the I-595, FCOB and Port of Miami Tunnel projects were discussed with the Team.*

*It was discussed again that P3's are to remain with the Alternative Contracting Task Team and a separate subcommittee will not be created. All P3 issues will be discussed in these Task Team meetings.*

**New Business:**

1. **CM@Risk** - District 4 proceeding with the repair of two bascule bridge projects. The CM@Risk contract and specs have been developed. District 7 is looking at a CM@Risk for I-75 Rest Area improvement projects.

*Discussed that D-4's CM@Risk Bascule Bridge Rehabilitation Project has been advertised. The cost of project is around \$11 million. It was noted that the CM@Risk Contract reads 0 to 100% of the work can be self performed so the District would have the option to negotiate this aspect at a later date.*

*Discussed that D-7 will be doing a CM@Risk project to rehabilitate I-75 Rest Areas in Pasco County later this year.*

2. **Conflict of Interest Criteria for P3's.** – FDOT Policy Paper separate attachment

*Discussed the P3 Conflict of Interest Policy. It was noted that FICE has concerns with the Policy due to the limited number of firms available for the work. The Policy does allow a process for exceptions.*

*The question was asked if an Owner's Rep can participate on another P3 Project that is under procurement by the Department after the closing date of the P3 project they are working on.*

*After reviewing the Policy Paper this would be allowed:*

*A firm serving as one of FDOT's primary technical consultants in the development of procurement documents, evaluation criteria, or technical criteria for an FDOT PPP Project (collectively, "Owner's Representative") is prohibited from participating in any capacity on a proposer team for that PPP Project or any other PPP Project under procurement by FDOT. This prohibition extends to the Owner's Representative's subsidiaries and affiliates, and shall remain in place for a period up to and including from the date FDOT executes a Concession Agreement for that PPP Project (the "Closing Date") or when the FDOT determines that any such conflicts no longer exists, whichever is earlier.*

3. **P3 Projects** - How should the Department handle contamination in construction on P3 projects? Who should be responsible the Department or the Concessionaire?

*Discussed that the risk for new and different contamination on a P3 project could be either the Department's responsibility or the Concessionaire or both. This risk may be shifted completely to the Concessionaire or retained by FDOT or there may be a shared risk where the Concessionaire assumes the risk up to an established dollar amount, similar to the I-595 project. In any case, FDOT will identify the limits of known contamination and make arrangements to remove known contamination prior to shortlisting.*

**4. P3 Projects – How should the Department handle utility coordination on P3 projects? Who should be responsible the Department or the Concessionaire?**

*We discussed that the Department or the Concessionaire could be the lead in the Utility Coordination for a P3 project. A lot of the decision has to do with the conditions of the project and if the utility work is reimburseable or not reimburseable. It was noted that if the utility work is not reimburseable, it makes it difficult for Firms to get bids on the utility work and could result in challenges with industry. The Department's preference is for the Concessionaire to handle utility coordination, but the Department will provide Subsurface Utility Engineering (SUE), utility companies names, utility easements, etc. and the Department will handle pre-coordination with utility companies to communicate the project information, schedule, etc.*

**5. Adjectival Scoring System used on the POMT. What scoring should we be using on PPP's?**

**Adjectival Scoring System**

The criteria for all portions of the Proposal other than the Maximum Availability Payment will be evaluated and scored in accordance with the guidelines in this Section 4.3.1.

FDOT will rate these evaluation criteria using an adjectival (qualitative/descriptive) ratings method, as follows:

<b>ADJECTIVE RATING</b>	<b>DESCRIPTION</b>
Excellent	The Proposal is considered to exceed in a significant manner stated requirements/objectives in a beneficial way, providing advantages, benefits or added value to the Project, and provides a consistently outstanding level of quality.
Very Good	The Proposal exceeds the stated requirements/objectives in a beneficial way, providing advantages, benefits or added value to the Project, and offers a generally better than acceptable quality.

Good	The Proposer has demonstrated an approach that meets the stated requirements/objectives and meets a minimum level of quality.
Fair	The Proposer has demonstrated an approach which is considered to marginally meet stated requirements/objectives and meets a minimum level of quality.
Poor	The Proposer has demonstrated an approach which contains significant weaknesses/deficiencies and/or unacceptable quality.

Once the Proposals are evaluated in accordance with the evaluation criteria and assigned adjectival scores, FDOT employees not involved in evaluating the Proposals will convert the adjectival scores to the numerical equivalents, which numerical equivalents will be allocated to the adjectival scores prior to FDOT's receipt of Proposals. Proposal evaluators will not know the numerical values assigned to the adjectival scores prior to the conclusion of the evaluation process.

**From AASHTO GUIDE FOR DESIGN-BUILD PROCUREMENT:**

**Adjectival Rating** – Adjectival rating systems utilize a specific set of adjectives to describe the conformance of an evaluated area within a proposal to the project's requirements in that area. Adjectival rating systems are a more sophisticated extension of modified satisficing. They recognize that a more descriptive rating system is in order and that the rating system should be continuous rather than discrete. Adjectival systems also recognize that it is easier to achieve consensus and hence uniformity in evaluation about whether a rated aspect conforms to a particular adjective than it is to assign a discreet numerical score to the same element. Thus, adjectival ratings are more easily defensible in that they are normally associated with a published standard against which the evaluated aspect of the proposal is compared to arrive at the adjectival rating. There are three important elements of an adjectival rating system:

1. Definitions
2. Performance indicators
3. Differentiators

Each adjectival rating must have all three. The definition must be both clear and relevant to a specific evaluation factor. Next, each grade of adjective should be associated with a performance indicator that is cogent to the evaluation factor. The evaluators will use the indicator as a marker with which to determine the appropriate rating. Finally, a differentiator should be given to assist the evaluators with those proposals that seem to straddle two adjectival grades. This process is illustrated by the example given in Table 5.4 for "Proposal Risk" from an Air Force design-build RFP. Table 5.4: Example Adjectival Rating for Three Different Evaluated Areas<sup>1</sup>

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Evaluated Area	Evaluation Plan Definition
PROPOSAL RISK	Proposal risk relates to the identification and assessment of the risks, weaknesses and strengths associated with the proposed approach as it relates to accomplishing the requirements of the solicitation.
High	Likely to cause significant disruption of schedule, increased cost, or degradation of performance. Risk may be unacceptable even with special contractor emphasis and close Government monitoring.
Moderate	Can potentially cause some disruption of schedule, increased cost, or degradation of performance. Special contractor emphasis and close Government monitoring will probably be able to overcome difficulties.
Low	Has little potential to cause disruption of schedule, increased cost, or degradation of performance. Normal contractor effort and normal Government monitoring will probably be able to overcome difficulties.
PERFORMANCE RECORD	More recent and relevant performance will have a greater impact on the Performance Confidence Assessment than less recent or relevant effort. A strong record of relevant past performance will be considered more advantageous to the Government.
Exceptional High Confidence	Based on the Offeror's performance record, essentially no doubt exists that the Offeror will successfully perform the required effort.
Very Good Significant Confidence	Based on the Offeror's performance record, little doubt exists that the Offeror will successfully perform the required effort.
Satisfactory Confidence	Based on the Offeror's performance record, some doubt exists that the Offeror will successfully perform the required effort.
Neutral/Unknown Confidence	No performance record identifiable.
Marginal Little Confidence	Based on the Offeror's performance record, substantial doubt exists that the Offeror will successfully perform the required effort. Changes to the Offeror's existing processes may be necessary in order to achieve contract requirements.
Unsatisfactory No Confidence	Based on the Offeror's performance record, extreme doubt exists that the Offeror will successfully perform the required effort.
RELEVANCY OF PAST PROJECTS	Past projects will be compared to the solicitation and those that involved features of work that are similar in size, scope, and technical complexity will be considered relevant.
Highly Relevant	The magnitude of the effort and the complexities on this contract are essentially what the solicitation requires.
Relevant	Some dissimilarities in magnitude of the effort and/or complexities exist on this contract, but it contains most of what the solicitation requires.
Somewhat Relevant	Much less or dissimilar magnitude of effort and complexities exist on this contract, but it contains some of what the solicitation requires.
Not Relevant	Performance on this contract contains relatively no similarities to the performance required by the solicitation.

*Discussed that Adjectival Scoring works well for P3 projects as long as it is prioritized, weighted correctly and results do not get skewed. Training for the scorers has reportedly been a successful means to improve the scoring process.*

**6. Guidance for stipends on P3 projects:**

**GUIDELINES FOR ESTIMATING STIPEND AMOUNTS FOR PUBLIC PRIVATE PARTNERSHIP PROJECTS**

<b>Contract Value</b>	<b>New Construction Projects</b>	<b>Complex Urban and Rehab.</b>	<b>Complex/Urban/Tolled</b>	<b>Range of Stipend</b>
> \$100M	0.0010 * Value	0.0015 * Value	0.0020 * Value	\$100K +

Note: Estimate only, actual stipend could vary based on nature of work. (Range between 0.1% to 0.2% of the total project contract value)

*This was discussed with the Team and there were not any concerns with the proposed Stipend Guidelines for P3 projects.*

**7. Construction P3 Oversight – Concessionaire CEI and FDOT Oversight CEI – Construction Oversight CEI Responsibility Table separate attachment**

*Discussed the proposed Construction Engineering and Inspection oversight on I-595. The Concessionaire will have a CEI Team and the Department will have an Oversight CEI Team. It was clarified that the contractor will be responsible for the Quality Control, the Concessionaire CEI will conduct the Verification Testing, and the District will perform the Independent Verification and Independent Assurance Testing.*

**8. Working on P3 Guidelines – Preliminary outline attached at end of agenda**

*This was discussed the Team.*

**9. D/B RFP's are to be reviewed by the District General Counsel before they are issued. Procedures require CO Construction to review and approve all RFP's and any deviations from Design Standards and Policies need to be reviewed by Roadway Design.**

*There were concerns with requiring the District General Counsel having to review RFP's before they are issued. There is a concern that District's General Counsel are not that familiar with the boilerplate and a lot of questions would be raised. This was revisited with Ananth and it was decided that only any major revisions, innovative concepts or RFP for unique projects would have to be reviewed by Central Office Legal*

*and that District General Counsel would not have to review the RFP's before they are issued.*

- 10. D/B – The Selection Committee should meet at least five working days after the public opening of the score and bids. This will be noted in the RFP D/B boilerplate and D/B Guidelines.**

*This was discussed with the Team and additional information was requested as to why this is being required. The five days between the public opening and the selection by the Committee is to allow sufficient time to ensure that the bids are in compliance with the contracts. This is consistent with our regular contract administration process.*

- 11. Specifications:** The main crux of our problem is the effective date of the specifications package. The RFP states "...at the time of the proposal due date." Our own process requires the effective date to be the proposed letting date. Our particular project problem occurs because the proposals were due on December 12, 2006 and the letting date was January 22, 2007. Different workbooks are being required by two different process directions.

Note to developer of the RFP: As part of the RFP for all Design/Build projects, Districts must include the Division I (General Requirements and Covenants) Specification language developed by Central Office and to be compiled by the District Specification Office as the standard boilerplate for Design/Build Contracts. This language shall not be modified.

As part of their Technical Proposal, the Design/Build Firm shall use the current Florida Department of Transportation Standard Specifications for Road and Bridge Construction, and the implemented modifications for Divisions II and III contained in the Specifications Workbook in effect at the time of the proposal due date. the Bid Price Proposals are due to in the District Office. The Design/Build firm shall identify, on a marked up copy of the applicable Specifications Workbook, all Division II and III Special Provisions and Supplemental Specifications which will apply to the work in the proposal. Department Specifications may not be modified or revised. The Design/Build Firm shall also include all Technical Special Provisions, which will apply to the work in the proposal. Technical Special Provisions shall be written only for items not addressed by Department Specifications, and shall not be used as a means of changing Department Specifications.

*This change was discussed the Team and the change was acceptable.*

## **12. Contractor's Risk**

The Design-Build boilerplate RFP has the following provision.

"Only stamped signed and sealed plans are valid and all work that the Contractor performs in advance of the Department's release of Plans will be at the Contractor's risk."  
(See RFP V-S Project Schedule-sheet 20.)

As a Project Engineer, I am somewhat uncomfortable with the idea of allowing the Contractor to proceed at his own risk. In some instances in the past, when the Contractor has been allowed to proceed at his own risk (and something has gone wrong) the Department has ended up assuming some risk and responsibility.

As you can probably tell, I would rather have the provision eliminated entirely. However, if there is a need for some flexibility in this area, I believe the Department should have a measure of control over the process by incorporating language similar to the following:

Only stamped signed and sealed plans are valid. If the Department agrees in writing, the Contractor will be allowed to perform work at his own risk in advance of the Department's release of Plans.

This language gives the Department control over a specific type of work the Contractor wants to proceed with. Some work is inherently more risky for both the Department and the Contractor.

***This was discussed with the Team and decided that the language in the Boilerplate D/B RFP should be left as is.***

**13. Contractor Prequalifications:** There was a recent advertisement that stated the Contractor team must be pre-qualified under Rule 14-22, for the Letters of Interest in the following classes of work; Intermediate Bridges; Grading; Drainage; Flexible Paving; Hot Plant-Mix Bituminous; Fencing; Guardrail; Grassing; Seeding and Sodding; Bridge Painting; Pavement Marking and Roadway Signing. **Contractor does not have to be prequalified for all of these items to submit a letter of interest, but only prequalified for the major portion of the work.**

***This was discussed with the Team that only the major parts of the D/B project should be listed in the Advertisement. Action: Derek to work with Lewis and Juanita.***

#### **14. Proposed change to the D/B Boilerplate document:**

##### **I. PROJECT REQUIREMENTS AND PROVISIONS FOR WORK.**

###### **A. Governing Regulations:**

The services performed by the Design/Build Firm shall be in compliance with all applicable Manuals and Guidelines including the Department, FHWA, AASHTO, and additional requirements specified in this document. Except to the extent inconsistent with the specific

provisions in this document, the current edition, including updates, of the following Manuals and Guidelines shall be used in the performance of this work. Current edition is defined as the edition in place at the date of advertisement of this contract. It shall be the Design/Build Firm's responsibility to acquire and utilize the necessary manuals and guidelines that apply to the work required to complete this project. The services will include preparation of all documents necessary to complete the project as described in Section I of this document.

1. Florida Department of Transportation Roadway Plans Preparation Manuals  
<http://www.dot.state.fl.us/rddesign/PPMManual/PPM.htm>
2. Florida Department of Transportation Design Standards  
<http://www.dot.state.fl.us/rddesign/DesignStandards/Standards.htm>
3. Florida Department of Transportation Surveying Procedure  
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/550030101.pdf>
4. Florida Department of Transportation EFB User Guide (Electronic Field Book)  
<http://www.dot.state.fl.us/surveyingandmapping/data.htm#Electronic%20Field%20Book>
5. Florida Department of Transportation Drainage Manual  
<http://www.dot.state.fl.us/rddesign/dr/files/2006Drainage-Manual.pdf>
6. AASHTO – A Policy on Geometric Design of Highways and Streets  
[https://bookstore.transportation.org/item\\_details.aspx?ID=110](https://bookstore.transportation.org/item_details.aspx?ID=110)
7. MUTCD  
<http://mutcd.fhwa.dot.gov/>

**B. Innovative Aspects:**

All innovative aspects shall be identified separately as such in the Technical Proposal.

An innovative aspect does not include revisions to specifications, standards or established Department policies. Innovation should be limited to Design/Build Firm's means and methods, roadway alignments, approach to project, use of new products, new uses for established products, etc.

**C. Roadway Plans:**

~~All plans and designs are to be prepared in accordance with the latest standards adopted by AASHTO, Department's Standard Specifications, Department's current memorandums, and the current editions of the Department's Roadway Plans Preparation Manual, Department's Flexible Pavement Design Manual, Department's Rigid Pavement Design Manual, Department's Drainage Manual and shall be accurate, legible, complete in design, drawn to the appropriate scale, and furnished in reproducible form on material acceptable to the Department.~~

#### **D. Drainage Plans:**

All drainage plans and designs are to be prepared in accordance with current Department's memorandums, Department's Drainage Manual, 23 CFR 650, and the requirements in this document.

#### **E. Structures Plans:**

All structures plans shall be prepared in accordance with the latest Department's Structures Manual, and interims and other Department's standards, policies, procedures, applicable temporary design bulletins and directions from the State and District Structures Design Engineer. This shall be accurate, legible, complete in design, drawn to appropriate scale and furnished in reproducible form on material acceptable to the Department. All category level II bridge plans shall be peer reviewed by a pre-qualified independent firm not involved with the design team, prior to submittal to the Department.

#### **F. Noise Wall Plans:**

All noise wall plans and designs shall be prepared in accordance with AASHTO's Guide Specification for Structural Design of Sound Barriers, the Department's Standard Specifications, Structures Design Manual, Plans Preparation Manual, Supplemental Specifications, Special Provisions, and directions from the State Structures Design Engineer, Structures Design Office and/or District Structures Design Engineer. They shall be accurate, legible, complete in design, drawn to appropriate scale and furnished in reproducible form on material acceptable to the Department.

Special Designs not covered by the Precast Sound Barriers Standards shall be designed in accordance with Soils and Foundations Handbook, Appendix B.

#### **G. Signing and Marking Plans:**

All plans are to be prepared in accordance with the latest design standards and practices (Manual on Uniform Traffic Control Devices), Department's Standard Specifications, Indexes, Department's Plans Preparation Manual, and shall be accurate, legible, complete in design, drawn to the scale indicated in the Department's manuals and furnished in reproducible form.

#### **H. Signalization Plans:**

All plans are to be prepared in accordance with the latest design standards and practices, Department's Standard Specifications, Indexes, Department's Plans Preparation Manual, and shall be accurate, legible, complete in design, drawn to the scale indicated in the Department's manuals and furnished in reproducible form.

#### **I. ITS Plans:**

~~All plans are to be prepared in accordance with the latest design standards and practices, Department's Standard Specifications, Indices, Department's Plans Preparation Manual, and shall be accurate, legible, complete in design, drawn to the scale indicated in the Department's manuals and furnished in reproducible form.~~

**J. Landscape Plans:**

~~All plans are to be prepared in accordance with the latest design standards and practices, Department's Standard Specifications, Indexes, Department's Plans Preparation Manual, and shall be accurate, legible, complete in design, drawn to the scale indicated in the Department's manuals and furnished in reproducible form.~~

**K. Lighting Plans:**

~~All plans are to be prepared in accordance with the Department's design standards, Department's Standard Specifications, Roadway Plans Preparation Manual, and instructions issued by the Department to the Consultant, and shall be accurate, legible, complete in design and drawn to the scale as directed by the Department, and furnished in reproducible form.~~

***This was discussed the Team and it was decided the D/B RFP Boilerplate could be revised to reflect this change. Derek to ensure the following is not deleted from the Boilerplate "All category level II bridge plans shall be peer reviewed by a pre-qualified independent firm not involved with the design team, prior to submittal to the Department".***

**15. Design Build Guidelines: The following was added:**

The Central Office Procurement website shall be the official Design-Build posting website where advertisements, shortlisting, pre-bid meeting notices, public announcements of technical scores, opening of sealed bids and all other public meetings, as well as posting of final selection results should appear. In addition, advertisements should be emailed out to all companies on the BSN Subscription list.

***This was discussed the Team. However, there were some concerns that this was not happening with District let D/B projects and that time sensitive conflicts/addendums to the RFP were not making it onto the CO website in a timely fashion.***

***The following response was received from the State Professional Services Office: One of the issues has been a system limitation in PSI functionality that only allowed the districts to post Design/Build selection results to the Procurement Internet website once a week (on Monday or Tuesday), when the new contract advertisements were posted. PSI is the Professional Services Information System, which is application into which the Design/Build information is input by the Districts. The Design/Build information is then uploaded from PSI to the Procurement Internet website. If the Districts missed the once-weekly window of opportunity for posting new selection results, the information was not updated to the Procurement website until the following week.***

*This system limitation has now been corrected. Please refer to the attached e-mail sent on 12-28-07 from Carla Perry to all District staff who are responsible for inputting Design Build contract information in PSI.*

#### **16. Concurrence in Award:**

Per the D/B Guidelines, a Concurrence in Award is required on all FHWA Federal Oversight Projects. The following language was has been added to the Guidelines:

The concurrence-in-award package shall include a summary of the adjusted scores, the results of the question and answer session by the short listed firms, and the Department's selection committee's decision for award of the contract.

*This was discussed with the Team.*

#### **17. D/B Specifications from Delay:**

As we discussed, we have a situation on the referenced ITS Design Build Project where we have a pure "Delay" that occurred during the design portion of our project. Our RFP stated where to place the conduit for the fiber optics and while the DB Firm was producing the final design we directed them to change the location of the conduit. This change resulted in a complete redesign of the conduit and delayed the completion of the design for this component set of plans. This portion of the design is on the critical path and was the first item of work to be done when the job shifted into the construction phase. The DB Firm wants the 8% formula for the Delay even though no construction had begun at the time the delay occurred. According to the Division One DB Spec. 5-12.6.2.1 shown below, there is no distinction if the delay issue occurs during the design portion of a project. It doesn't seem quite right to pay the 8% formula (after the 10 free days) when no construction has begun.

**5-12.6.2.1 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay:** For any delay claim, the Contractor shall only be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 4-3.2(d) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

#### **4-3.2.1 Allowable Costs for Extra Work:**

...(d) Indirect Costs, Expenses, and Profit: Compensation for all indirect costs, expenses, and profit of the Contractor, including but not limited to overhead of any kind,

whether jobsite, field office, division office, regional office, home office, or otherwise, is expressly limited to the greater of either (1) or (2) below:

(1) Solely the payments in (a) through (c), above, and a mark-up of 17.5% thereon.

(i) Bond: The Contractor will receive compensation for any

premium for acquiring a bond for such additional or unforeseen work; provided, however, that

such payment for additional bond will only be paid upon presentment to the Department of clear and convincing proof that the Contractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount.

(ii) The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. Any such subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor, and the Contractor must elect the markup for any eligible first tier subcontractor to do so.

(2) Solely the payments in (a) through (c), above, plus the formula set forth below and as applied solely as to such number of calendar days of entitlement that are in excess of ten cumulative calendar days as defined below.

$$D = (A \times C)/B$$

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

Cumulative Calendar Days is defined as the cumulative total number of calendar days granted for time extension due to delay of a controlling work item caused solely by the Department is, or the cumulative total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined in favor of the Contractor to be.

Further, in the event there are concurrent delays to one or more controlling work items, one or more being caused by the Department and one or more being caused by the Contractor, the Contractor shall be entitled to a time extension for each day that a controlling work item is delayed by the Department but shall have no right to nor receive any monetary compensation for any indirect costs for any days of concurrent delay. No compensation, whatsoever, will be paid to the Contractor for any jobsite overhead and other indirect impacts when the total number of calendar days granted for time extension due to delay of a controlling work item caused solely by the Department is, or the total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined in favor of the Contractor to be, equal to or less than ten calendar days and the Contractor also fully assumes all monetary risk of any and all partial or single calendar day delay periods, due to delay of a controlling work item caused solely by the Department, that when cumulatively totaled together are equal to or less than ten calendar days and regardless of whether monetary compensation is otherwise provided for hereunder for one or more calendar days of time extension entitlement for each calendar day exceeding ten calendar days. All calculations under this provision shall exclude weather days, and days granted for performing additional work.

***After discussing this with the Task Team, we decided the language in the D/B specs was acceptable and the contractor should be entitled to overhead for the delay.***

**18. D/B Spec Warranty Language?:**

**5-14 Contractor Guaranteed Project Features.**

**5-14.1 Description:** Construct Contractor Guaranteed Project Features, excluding the requirements set forth in Sections 338, 355, 475, 611, 645, and 725 when included in the Contract, consisting of those features provided for in the Design and Construction Criteria and/or the Technical Proposal.

The Contractor shall assume responsibility for all the associated guaranteed work specified in this Article for a minimum period of five years, unless otherwise stated in the Contract, after final acceptance of the Contract in accordance with 5-11, including continued responsibility as to any deficiencies to which notice was provided to the Contractor within such guarantee period until all such pre-existing deficiencies are resolved.

*This was discussed with the Team and it was decided that this language may need to be modified to help clear up some confusion with the subject specification. Derek to work with the State Specifications Office.*

**19. The Right of Way chapter in the D/B Guidelines was recently revised.**

*This was discussed with the Team.*

**20. A FICE member firm has indicated that both projects below were Adjusted Score D-B's and neither included a stipend?**

**TURNPIKE**

**Financial Management Number(s):**

40612115201

**Project Description:**

DYNAMIC MESSAGE SIGN PROJECT

**Shortlist Selection Date** : 05SEP2007 **Time:** 3:00PM

**Shortlist Selection Posting** : 10SEP2007

**Bid Opening Date** : 04DEC2007 **Time:** 2:30PM

**Final Selection Meeting Date** : 11DEC2007 **Time:** 4:00PM

**Shortlisted Consultants:**

**Shortlisted Firms:**

MCM CORPORATION

MILLER ELECTRIC COMPANY

TRANS TECH ELECTRIC

WORLD FIBER TECHNOLOGIES, INC.

**DISTRICT 3**

**Financial Management Number(s):**

42124515201

**Project Description:**

OLD DUPONT BRIDGE DEMOLITION

**Shortlist Selection Date** : 05NOV2007 **Time:** 8:00AM

**Shortlist Selection Posting** : 05NOV2007

**Pre-Bid Meeting Date** : 27NOV2007 **Time:** 10:00AM  
**Planned Bids Due Date** : 14FEB2008 **Time:** 10:00AM  
**Planned Bid Opening Date** : 14FEB2008 **Time:** 10:30AM  
**Planned Final Sel. Meeting Date:** 25FEB2008 **Time:** 8:00AM

**Shortlisted Consultants:**

**Shortlisted Firms:**

F&W CONSTRUCTION COMPANY  
GRANITE CONSTRUCTION COMPANY  
PCL CONSTRUCTORS, INC.  
THE MIDDLESEX CORPORATION

*This was discussed with the Team and it was thought that these projects had a limited scope and allowed for little innovation and a stipend was not necessary. Brian stated the Districts should have the authority to decided if a stipend is needed on a project or not.*

## **21. Open Floor**

*We clarified that per the D/B Specifications, if the Contractor and the Engineering Firm are partners in a Joint Venture, no mark up will be allowed on engineering services.*

## **22. Date, time and place for next meeting?**

*The next AC Meeting will most likely be in the summer of 2008. Action: Derek to notify team members when the date is determined.*

**Attachment - Preliminary outline for P3 guidelines will be divided into the following sections as described below:**

- 1.0 Introduction
  - 1.1 Purpose
  - 1.2 Authority
  - 1.3 Goals
- 2.0 Definitions
- 3.0 Transportation Facilities
  - 3.1 Criteria For Defining P3 Projects
  - 3.2 Innovative Financing Methods
  - 3.3 Accepted P3 Delivery Methods
- 4.0 Federal Statutory And Regulatory Requirements
  - 4.1 Labor Practices
  - 4.2 Buy America
  - 4.3 Environmental Clearance And Permitting Requirements
  - 4.4 SEP-15 Program
  - 4.5 Federal Aid Approval Process
- 5.0 Project Proposals
  - 5.1 Solicited Proposals

- 5.2 Un-Solicited Proposals
- 5.3 Delivery
- 5.4 Proposal Review Fee
- 5.5 Proposal Preparation
- 5.6 Confidential And Proprietary Information
- 6.0 Request For Qualifications (RFQ)
  - 6.1 Procurement Process
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  - 6.3 Bonding Requirements
  - 6.4 SOQ Content And Submittal Requirements
  - 6.5 SOQ Evaluation Process And Criteria
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  - 7.1 Procurement Process
  - 7.2 RFP Content And Submittal Requirements
  - 7.3 RFP Evaluation Process And Criteria
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  - 8.3 Compensation To Short-Listed Firms
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- 9.0 Conflict Of Interest
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  - 9.3 Subconsultants
  - 9.4 Legal Advisors
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  - 9.6 Traffic and Revenue Consultants
  - 9.7 Request For Exceptions
- 10.0 Contract Administration
  - 10.1 General
  - 10.2 CEI oversight
  - 10.3 Payments
  - 10.4 Records
  - 10.5 Role of Departments Project Manager (PM)
- 11.0 Material Certification Acceptance
  - 11.1 Guidelines from State Materials Office
- 12.0 Concession Agreement
  - 12.1 Concession Term
  - 12.2 Compensation
  - 12.3 Tolling
  - 12.4 Design and Construction
    - 12.4.1 Performance, Design and Construction Standards
  - 12.5 Operations and Maintenance
  - 12.6 Changes
  - 12.7 Termination



## *Florida Department of Transportation*

CHARLIE CRIST  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

STEPHANIE C. KOPELOUSOS  
SECRETARY

POLICY

Effective: November 15, 2007  
Office: State Highway Engineer  
Topic No.: 001-375-020-a

### **PUBLIC PRIVATE PARTNERSHIP (PPP) CONFLICTS OF INTEREST**

#### **1. INTRODUCTION**

It is the intent of the Florida Department of Transportation ("FDOT") to maximize competition on Public Private Partnership ("PPP") Projects while ensuring that the procurement of the project is open and fair. To this end, FDOT has developed the following conflicts of interest policy to provide guidance to firms and individuals directly or indirectly performing services for FDOT in connection with the PPP Projects either solicited or unsolicited. All firms and individuals performing work or contemplating the performance of work for FDOT on PPP Projects are also expected to understand and comply with existing FDOT conflicts of interest policies and Florida law, including laws related to conflicts of interest.

This ***Conflict of Interest Policy*** shall not be applicable to Design-Build-Finance (DBF) Projects. DBF Projects are governed by ***Procedure No. 375-030-006, Restriction on Consultants' Eligibility to Compete for Department Contracts.***

It is the responsibility of each firm and individual to understand and comply with this policy. As a tool to assist in such compliance, FDOT will include in the ***Request for Qualification*** for each PPP Project a list of Firms that the Department believes, at the time of issuance of the RFP, to have a Conflict of Interest for that project pursuant to this policy (the "RFQ List"). The RFQ List will be as inclusive as possible based on the information reasonably available to FDOT at the time the RFQ List is published. If a firm otherwise subject to this policy is not on the RFQ List, such non-inclusion shall not excuse a failure to comply with this policy.

FDOT will reasonably consider requests for exceptions to this policy on a case-by-case basis upon a showing of good cause for the exception. Please see ***Section 5*** below for further details.

## **2. OWNER'S REPRESENTATIVES**

### **2.1 FIRMS**

A firm serving as one of FDOT's primary technical consultants in the development of procurement documents, evaluation criteria, or technical criteria for an FDOT PPP Project (collectively, "Owner's Representative") is prohibited from participating in any capacity on a proposer team for that PPP Project or any other PPP Project under procurement by FDOT. This prohibition extends to the Owner's Representative's subsidiaries and affiliates, and shall remain in place for a period up to and including from the date FDOT executes a **Concession Agreement** for that PPP Project (the "Closing Date") or when the FDOT determines that any such conflicts no longer exists, whichever is earlier.

It is the intent of the Department to separately procure an Owner's Representative for each PPP Project. A District General Engineering Consultant (GEC) is eligible to participate in such procurement, but FDOT will not allocate an Owner's Representative's scope of work to a GEC unless the GEC consents to serve in such role and agrees to be bound by this **Conflicts of Interest Policy**.

### **2.2 INDIVIDUALS**

Any individual who works or has worked for an Owner's Representative and was involved in the development of procurement documents, evaluation criteria, or technical criteria for the PPP Project is prohibited from participating in any capacity on a proposer team for that PPP Project or any other PPP Project under procurement by FDOT. This prohibition shall remain in place until the Closing Date for the PPP Project with which the individual was involved in or when the FDOT determines that any such conflicts no longer exists, whichever is earlier.

## **3.0 SUBCONSULTANTS**

### **3.1 FIRMS**

A firm serving as a subconsultant to an Owner's Representative (a "Subconsultant") for the PPP Project is prohibited from participating in any capacity on a proposer team for that PPP Project until after the Closing Date or when the FDOT determines that any such conflicts no longer exists, whichever is earlier. This prohibition extends to the subsidiaries and affiliates of the Subconsultant.

### **3.2 INDIVIDUALS**

An individual who works or has worked for a Subconsultant and was involved in the development of procurement documents, evaluation criteria, or technical criteria for the PPP Project is prohibited from participating in any capacity on a proposer team for that

PPP Project until the Closing Date or when the FDOT determines that any such conflicts no longer exists, whichever is earlier.

## **4.0 TRAFFIC AND REVENUE CONSULTANTS**

### **4.1 FIRMS**

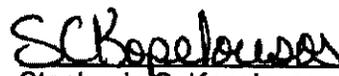
No traffic and revenue consultant or subconsultant working for FDOT on the PPP Project may directly or indirectly serve in any capacity for a proposer team on that PPP Project or any other PPP project under procurement by FDOT until after the Closing Date or when the FDOT determines that any such conflicts no longer exists, whichever is earlier. This prohibition extends to the subsidiaries and affiliates of such traffic and revenue consultants/subconsultants.

### **4.2 INDIVIDUALS**

An individual who works for or has worked for a FDOT traffic and revenue consultant/subconsultant and who had a role during such employment involving a FDOT PPP Project may not directly or indirectly serve in any capacity for a proposer team on that PPP Project or any other PPP Project under procurement by FDOT until after the Closing Date for the PPP Project with which the individual was involved in or when the FDOT determines that any such conflicts no longer exists, whichever is earlier.

## **5.0 REQUESTS FOR EXCEPTIONS**

A firm or an individual may seek an exception to the above policy by submitting a written request for exception to the applicable District Procurement Office. The decision to approve or deny a request shall be made by the FDOT Secretary of Transportation or his/her designee within a reasonable time after submission of a complete request. The request shall describe the facts and circumstances of the requestor's involvement on the PPP Project and the nature of its proposed participation for a proposer team on other PPP Project under procurement by FDOT. The request shall specifically disclose whether the requestor at any time (i) was involved in the preparation of procurement documents, technical criteria, or evaluation criteria for the PPP Project; or (ii) participated in PPP Project-related meetings or conference calls with an Owner's Representative or with FDOT's legal advisors or financial advisors. FDOT retains the right to accept or deny any request for exception to this policy in its sole and absolute discretion.

  
Stephanie C. Kopelousos  
Secretary

### Division of CEI Responsibilities

This is a representative sample of duties to be performed on this project. It is not intended to be complete and is to be used for general guidance only.

Ref	Responsibility	Oversight CEI	Concess	Comments
GPAM				
3.1	Review Concessionaire schedule Preconstruction Conference OJT/DBE/EEO Meeting Utility Coordination Meeting	X X X X	X X X	Concessionaire schedule the meeting with the oversight attending
3.2	Documentation of Construction Activities	X		Reports to be limited to that of a daily diary entry. Detailed reports to be generated upon notice of intent to claim, or as directed by the construction PM
3.3	Audit Concessionaire's QA/QC Plan, ensure it is being followed  Develop and submit QA/QC Plan	X	X	
3.4	Assist in preparation of DRB Positions for Technical Issues	X		
5.1	Prepare Daily Report of construction Submit Engineer's Weekly Summary Monthly Progress Report Monitor Controlling Item of Work / Critical Path	X X X X	X X X	Reports to be limited to that of a daily diary entry. Detailed reports to be generated upon notice of intent to claim, or as directed by the construction PM.
5.4	Payroll compliance review / violations Labor Interviews	X X	X X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
5.6	Identify potential Utility conflicts Ensure Utility work conforms to standards		X X	Utility coordination duties are still being defined.
5.7	Accident Reports	X	X	Concessionaire copies Reports to Oversight CEI Oversight CEI prepares independent accident report

Ref. Responsibility	Oversight CEI	Concess	Comments
CPAM			
5.8 Ensure only proper materials incorporated in project Material tests entered into Database/Tracking System DDM EAR	X  X X	X X  X X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
5.10 Verification Testing		X	D4 Materials Office provides Independent verification testing and Independent assurance testing
6.1 Contractor Payments to subs	X	X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed (1st tier subs).
7.2 Monitor Time Extension Requests	X		
7.3 Entitlement Analysis Engineer's Estimate Federal Approval of all Contract Changes - Major/Minor	X X X		Oversight CEI Supports Financial Team
7.5 Claim Issues	X	X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
8.2 Audit of Concessionaire's environmental practices / follow permit conditions Monitor compliance with permits acquired by FDOT Notify agencies of start of work Monitor Permit Expiration dates Ability to stop work NPDES Inspections Notice of Conditional Acceptance, Completion of Construction	X	X X X X X	

Ref.	Responsibility	Oversight CEI	Concess	Comments
CPAM				
8.4	Monitor and Track Shop Drawing submittals		X	
8-10	Monitor complaints and their resolution (includes noise/vibration complaints)	X	X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
9.1	Traffic Control Plan Inspection and evaluation of work zone MOT reports	X X X	X X X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
9.3	Evaluate MOT in vicinity of traffic incidents Notify District Safety Office if injury/fatality, copy OCEI	X	X X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
10.1	Notify contractor of approval/rejection of Pile Driving plan Geotech Engineer - monitor test piles Geotech Engineer - establish production pile lengths		X X X	D4 Materials Office provides service
10.2	Review Prestressed/Precast component repair proposal	X	X	Oversight CEI provides increased oversight
10.3	Inspect/Monitor Deck Thickness Review Contractor's Mass Concrete Temperature Control Plan Monitor Mass Concrete installation for temperature Identify and record cracking	X X X X	X X X X	Oversight CEI provides increased oversight
10.4	Paint inspection (30hr OSHA, SSPC C3)		X	
10.5	Review Drilled Shaft Installation Plan	X	X	Oversight CEI provides increased oversight

Ref.	Responsibility	Oversight CEI	Concess	Comments
<b>GPAM</b>				
10.7	Post Tension construction inspection for stressing, grouting, segment erection, joint preparations, coating of segment faces Verification of contractor's procedures, review and retention of Contractor records Maintain records independent of Contractor for comparison	X X X	X X X	Oversight CEI provides increased oversight
10.8	Noise Walls - Review auger cast pile installation plan	X	X	Oversight CEI provides increased oversight
10.9	Repair methods for steel/metal components	X	X	Oversight CEI provides increased oversight
11.2	Straightedge Asphalt Arrange Laser Profile with Gainesville Notify Contractor of any deficiencies Final Ride Number	X X X X	X X X X	Concessionaire responsible for performance of these items, Oversight CEI will audit, verifying they are performed.
12.1	Preliminary / Semifinal Inspection (Walk-through) Generate punchlist Schedule FHWA final inspection Notification of Final Acceptance	X X X X	X X	Concessionaire responsible for scheduling, Oversight will participate in the performance of these items.
<b>Other</b>	Monitor Incident Response Time	X	X	Response time specific item of concern on TPK Interchange
	Issue Material Certification		X	District Lab will issue Material Certification based on submittal of a certification from Concessionaire's Lab
	Offsite Plant/Fabrication Inspection		X	District Lab(s) will Monitor

**Note:** In general terms, the role of the Oversight CEI will be that of auditing the Concessionaire's performance to ensure compliance with the concession agreement, while the Concessionaire will have the responsibility of performing and monitoring activities as needed to meet the terms of his agreement. There may be activities that are common to both.

**From:** Perry, Carla M.  
**To:** Adams, Antonette; Wood, Chela; Fountain, Ronald; McKinney, Edward; Stalvey, Allen; Norris, Richard; Keller, Robert; Lawson, Woodrow L.; Cappellini, Terry; Jones, Jane;  
**cc:** Masten, Roger; Leopold, Elizabeth; Schwarz, Rebecca; Blocker, Scott; Dodson, Ranae; Spencer, Brandon; Pitts, Philip; Sloan, Michelle; Copa, David; Leffler, William; Huckins, Patricia; Chatila, Jenny; Handrahan, Jann; Rubio, Jessica; Fernandez, Judith; Jefferson, Malinda; Skoglund, Robert O.;  
**Subject:** Change to PSI: Selection Results will now post to the Internet daily, every hour.  
**Date:** Friday, December 28, 2007 6:22:00 PM

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*Please disseminate to all PSU staff in your district who enter selection results and/or advertisements for professional services and design/build projects.*

I want to make you aware of a change in PSI functionality.

Heretofore, shortlist and final selection results entered into PSI were not immediately posted to our Procurement Internet website. Selection results were only posted to the Internet once a week whenever new advertisements were run; on either Monday or Tuesday. If you missed that "window of opportunity", you had to wait until the next weekly scheduled run of new advertisements before you could see your selection results posted on the Internet. This has been a continual source of frustration for many of you.

After much re-coding effort on the part of Robert Skoglund, PSI functionality has been upgraded as follows:

1) After you enter Selection Results into PSI, they will automatically post to the Internet on an hourly basis. This is true for both professional services and Design/Build contracts.

Also, any changes to existing advertisements (such as modifying Special Notes, adding work types, or changing public meeting dates & times) will post to the Procurement Internet website on the hour, every day (during business hours). Here's the schedule of update times:

Daily Internet posting times for Selection Results & changes to existing ads:

Start	Finish
8:00am	8:10am
9:00am	9:10am
10:00am	10:10am
11:00am	11:10am
12:00pm	12:10pm
1:00pm	1:10pm

2:00pm	2:10pm
3:00pm	3:10pm
4:00pm	4:10pm
5:00pm	5:10pm
6:00pm	6:10pm

2) Brand new advertisements will still be posted only once a week by Malinda Jefferson or Robert Skoglund, on Monday or Tuesday of the week. This once weekly posting of new ads WILL NOT CHANGE.

3) In order to ensure that final selection rankings post, you must rank at least one of the firms listed.

These changes to PSI should be effective Monday, December 31, 2007. Let me know if you have any questions.

Thanks,

Carla Murchison Perry, P.E.  
State Professional Services Engineer  
Professional Services  
Procurement Office  
Florida Department of Transportation  
605 Suwannee Street, Mail Station 20  
Tallahassee, Florida 32399-0450  
Phone: (850)414-4484  
Fax: (850)414-4951

JAN 9, 2008

# ALTERNATIVE CONTRACTING TASK TEAM MEETING

<u>NAME</u>	<u>E-MAIL</u>	<u>PHONE</u>
DEREK FUSCO	DEREK.FUSCO@dot.state.fl.us	850 414-4167
Brian Blanchard	brian.blanchard@dot.state.fl.us	4140
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✓ ROBERT MARTIN	RMARTIN@PCL.COM	813 376-1771
Amy Scelis	amy.scelis@dot.state.fl.us	386-943-5729
JENNIFER VREELAND	jennifer.vreeland@dot.state.fl.us	(386) 943-5732
Doug Geiger	doug.geiger@rsandh.com	(407)-893-5873
DAVID SWEENEY	david.sweeney@rsandh.com	(904)-256-2136
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✓ IMRAN GHANI	imran.ghani@dot.state.fl.us	407-269-3802
Alan Silver	asilver@balfourbeattyus.com	239-334-8070
TERRY MUSE	terry.muse@dot.state.fl.us	888-217-2874
DAN FOSS	dan.foss@jacobs.com	813-615-4555
Ken Leuderalbert	KLeuderalbert@ACE-Fla.COM	850-210-2669
TANZER Kalayci	TKalayci@KeithandSchnars.com	454-7261616
PHIL MOORES	PHILIP, MOORES@GCINC.COM	813-623-5877
GREEN SCHIASS	gregory.schiass@dot.state.fl.us	850-414-4146
David Sadler	david.sadler@dot.state.fl.us	850-414-5203
MIKE DAVIS	Michael.davis@dot.state.fl.us	407-264-3683
Rich Nethercote	richardjr.nethercote@dot.state.fl.us	407-264-3885