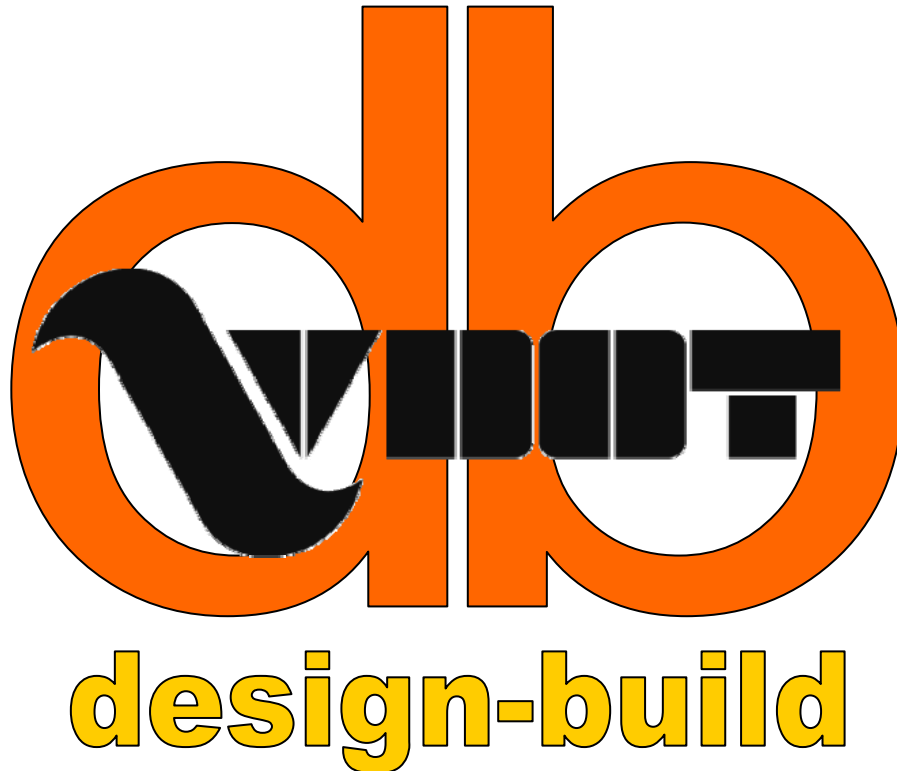


Commonwealth of Virginia



**Innovative Project Delivery Division
Design-Build Procurement Manual
March 1, 2007**

Virginia Department of Transportation

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INTRODUCTION

During the 2001 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted § 33.1-12 of the Code of Virginia, relating to powers and duties of the Commonwealth Transportation Board (CTB) authorizing the award of Design-Build contracts. The Code was further amended during the 2006 Virginia Legislative Session to eliminate the restrictions on the number of transportation projects the Commonwealth Transportation Board may award on a Design-Build basis.

The code requires the CTB to adopt Objective Criteria for project selection. On October 17, 2001, the CTB adopted and approved Objective Criteria for the selection of Design-Build projects. The Objective Criteria require a finding that a proposed Design-Build project has one or more of following: Expedited Schedule, Established Budget, Well-defined Scope, Risk Analysis, Prequalification of Design-Build Firms, and Competitive Bidding Processes. The Objective Criteria adopted by the CTB are attached to this manual in Appendix C.

A Design-Build contract combines engineering design services, construction services, and/or maintenance services into a single contract. The Virginia Department of Transportation (VDOT) may procure Design-Build contracts when it is not in the public interest to follow the normal design and contracting procedures (Competitive Sealed Bidding).

This manual provides an overview of the process that VDOT will follow for the procurement of Design-Build contracts for transportation projects. This manual also provides information and guidelines for developing a project scope, assessing risk, advertising and evaluating proposals, managing information exchange and awarding contracts on transportation projects using the Design-Build contracting method. This information is valid for projects that are the sole responsibility of VDOT and does not cover projects involving the Department of General Services (DGS). Further, this manual will be periodically updated as VDOT gains more experience in administering this program. All inquiries related to this manual should be forwarded via email to the Innovative Project Delivery Division, at IPD@vdot.virginia.gov.

1 DEFINITIONS

The words defined herewith shall have the meaning set forth below throughout this document.

- a) **“Best and Final Offer (BAFO)”** means the final offer provided by an Offeror at the conclusion of discussions in response to a Request for Proposal. Thus, regardless of the length or number of discussions, there will be only one request for a revised proposal. The decision to award will be based on the score of the BAFOs.
- b) **“Best Value”** means the overall combination of quality, price and various elements of the required services that, in total, are optimal relative to VDOT’s needs, as predetermined in the solicitation.
- c) **“Board” or “CTB”** means The Commonwealth Transportation Board.
- d) **“Clarifications”** means a written or oral exchange of information which takes place after the receipt of proposals when award without discussions is contemplated. The purpose of the clarifications is to address minor or clerical revisions in a proposal.
- e) **“Commissioner”** means The Commonwealth Transportation Commissioner.
- f) **“Communications”** are exchanges between VDOT and Offerors after receipt of Design-Build Proposals that lead to the establishment of a competitive range. Communications are used to address issues that might prevent a proposal from being placed in the competitive range.
- g) **“Competitive Range”** means a list of the most highly rated Design-Build Proposals based on the initial proposal rankings. It is based on the rating of each Design-Build Proposal against all evaluation criteria.
- h) **“Contractor”** means the team member of Design-Builder responsible for the building/constructing of a project. VDOT, through its Scheduling and Contract Division, requires all contractors to be pre-qualified in order to participate in bidding any type of construction work.
- i) **“Design-Build (DB) Contract”** means a written agreement executed between VDOT and a Design-Builder that sets forth the obligations of the Design-Builder, including, but not limited to, the performance of work, furnishing of materials and labor, and basis of payment to both design and construct all work specified to be performed in the Contract. Oral representations or promises shall not be considered a part of the Contract.
- j) **“Design-Builder”** means any company, firm, partnership, corporation, association, joint venture, or other entity permitted by law to practice engineering, architecture and construction contracting in the Commonwealth of Virginia. The Design-Builder shall have the capability, in all respects, to perform fully the contract requirements and has the business integrity and reliability which will assure good faith performance. The Design-Builder shall

be pre-qualified by VDOT Scheduling and Contract Division unless otherwise noted in the solicitation.

- k) **“Design-Builder’s Proposal” or “Proposal”** means the offer of a Bidder, submitted in response to a Request for Proposal (RFP), to perform the work and furnish the materials and labor at the price set forth therein; valid only when properly signed and guaranteed. This documentation includes the Statement of Qualifications (SOQ), Technical and Price Proposals required by the RFP. The offer of a prospective Design-Builder, “Design-Builder’s Proposal”, shall be considered a “Bid”, in reference to Section 100 of VDOT Road and Bridge Specifications.
- l) **“Discussions”** means written or oral exchanges that take place after the establishment of the competitive range with the intent of allowing the Offerors to revise their proposals.
- m) **“FHWA”** means Federal Highway Administration.
- n) **“Finding of Public Interest (FOPI)”** means the Commissioner’s determination to use Design-Build contracting, based on Objective Criteria previously adopted by the CTB. The finding shall include a description of the nature and scope of the project and the reasons for the Commissioner’s determination that awarding a Design-Build contract will best serve the public interest. The finding may also include anticipated savings such as time, cost, or reduced administrative burdens through expedited delivery; benefits derived from warranties such as improved service life, safety, or quality; preservation of VDOT’s capital assets; or reduction in the risks associated with transportation projects.
- o) **“Offeror” or “Bidder”** means any individual, partnership, corporation, or joint venture that formally submits a Statement of Qualification and/or Design-Build Proposal in response to the solicitation for the work contemplated, or for any portion thereof, acting directly or through a duly authorized representative. Typically “Offeror” and/or “Bidder” terms are used prior to the award of a contract.
- p) **“Project” or “Transportation Project”** means work specified to be performed in the Contract that VDOT is authorized by law to undertake including, but not limited to, a highway, toll way, bridge, mass transit, intelligent transportation system, traffic management, traveler information services, or any other facility for transportation purposes.
- q) **“Project Manager - Innovative Project Delivery Division” (PM-IPD)** means VDOT’s designee for supervising procurement of a Design-Build contract. This individual will be responsible for contract development, solicitation, and award.
- r) **“Project Manager - District” (PM-D)** means VDOT’s designee for managing all phases of project development and administering the Design-Build contract. The PM-D is responsible for the scope, schedule and budget of the project.
- s) **“Project Team”** means the team responsible for the development of Design-Build solicitations for the project from the conception through award of a contract. A Project Team member may also be a technical resource who provides expertise in their discipline. The PM-D will provide each pertinent division and district administrator with a preliminary scope and

request him or her to designate an appropriate individual to serve on the Project Team. The primary district representative should be the pertinent Engineer in responsible charge or the anticipated PM-D.

- t) **“Proposal Evaluation Team”** means the team appointed by the PM-IPD to review and evaluate the Request for Qualifications/Request for Proposals. The Proposal Evaluation Team members will be limited to VDOT staff, unless otherwise approved by the Chief Engineer. The team members shall include the PM-D and two or more qualified personnel from the participating Divisions pertinent to the project. The Proposal Evaluation Team may be a smaller group that has a thorough understanding of the project and VDOT’s requirements. The PM-IPD will serve as Team Leader and is responsible for coordinating with Administrative Services Division and/or Scheduling and Contract Division to ensure conformance with procurement laws. In addition, the Proposal Evaluation Team may use non-voting technical resource members who can provide expertise in areas including, but not limited to: Contract Management, Engineering, Construction, or any other area that requires specialized knowledge and expertise.
- u) **“Request for Proposal” (RFP)** means all documents, whether attached or incorporated by reference, utilized for soliciting proposals. The RFP is the only solicitation in a single-phase selection process. The RFP is the second phase of a two-phase selection process in which VDOT issues a written request to those Offerors, which have been short listed to submit both technical and price proposals.
- v) **“Request for Qualifications” (RFQ)** means all documents, whether attached or incorporated by reference, utilized for soliciting interested persons to apply for prequalification. The RFQ is the first phase of a two-phase selection process for the purpose of inviting interested Offerors to submit qualifications for a project.
- w) **“Statement of Qualifications” (SOQ)** means the documents submitted by an Offeror in response to an RFQ.
- x) **“Short list”** used in a two-phase selection process, means the narrowing of the field of Offerors through ranking of the most highly ranked, qualified Offerors who have responded to an RFQ with the intent to advance to the next stage, an RFP. Only short listed firms will be invited to submit the Proposal in response to an RFP.
- y) **“SYP”** means the Virginia Department of Transportation Six-Year Improvement Program.
- z) **“VDOT” or “Department”** means the Virginia Department of Transportation or any duly authorized representative thereof.

2 PRELIMINARY PROJECT SELECTION

2.1 Potential Design-Build Projects

The Innovative Project Delivery Division (IPD), in conjunction with the Districts, Planning, Programming, and the Preliminary Engineering Divisions, will review each annual update of the SYP to identify candidate Design-Build projects. The IPD Division will rank the projects based on the Objective Criteria, discussions with the pertinent district, available funding levels within the SYP, and compliance with the Law. The Director of the IPD Division will assign an IPD Division staff member as PM-IPD for the contract development and solicitation of the Design-Build contract. The pertinent District Administrator will assign a District staff member as PM-D.

The following categories are types of projects that generally may be suited for Design-Build contracts:

- Emergency and repair projects
- Projects directly supporting economic development/enhancement
- Projects using specialty or innovative designs and construction methods or techniques
- Projects to maximize the use of available funding (i.e. Federal, Bonds, FRANS, etc.)
- Projects deemed by VDOT to have expedited scheduling requirements
- Projects that do not lend themselves to normal Design-Bid-Build procedures
- ITS projects involving software development or integration and/or rapidly changing technologies having one or more of the following advantages:
 - Provides increased flexibility to modify the design approach and equipment used based on changes in technology
 - Allows VDOT to place increased emphasis on contractor qualifications and their technical approach in conjunction with cost considerations
 - Provides a mechanism to “jump-start” ITS design activities in Districts that have limited technical staff able to perform much of the up-front design work
 - Permits greater input on project design from ITS vendors and systems developers

2.2 VDOT Authorization and Funding

The project(s) must be identified and included in VDOT’s SYP, which indicates local and regional support for a project. Adequate funding for design, right-of-way and construction of the entire project must be identified and programmed before initiating procurement of a Design-Build contract.

3 COMMISSIONER’S APPROVAL – FINDING OF PUBLIC INTEREST (FOPI)

The PM-IPD in conjunction with the PM-D will review the information such as funding, schedule, estimate, preliminary risks, and Objective Criteria. If such review meets the Objective Criteria for Design-Build, the PM-D will draft a FOPI for review by the Director of the IPD Division. The FOPI will note the nature and scope of the project and the reasons for the Commissioner's written determination that the proposed project meets the Objective Criteria for a Design-Build project. Upon completion of the FOPI, the Director of the IPD Division will recommend the project to the Chief Engineer for approval by the Commissioner. The FOPI will

be retained for public inspection in VDOT's official records. The FOPI will authorize the procurement of the Design-Build contracting for the development of the project.

4 FHWA APPROVAL AND AUTHORIZATION

All Federal-Aid Design-Build highway projects shall comply with procedures set forth by Federal Register 23 CFR Part 627, 635, 636, 637 and 710 et al. dated December 10, 2002. The Director of the IPD Division or designee will coordinate approval by the FHWA to use Design-Build contracts.

Necessary approvals, certifications, and authorization must be obtained from FHWA in accordance with the requirements described in Federal Regulations Part 635.309 prior to advertisement and award of the project.

5 CONFLICT OF INTEREST

Offerors shall require its proposed team members to identify potential conflicts of interest (real or perceived) relative to a Design-Build project. Offerors are notified that prior or existing contractual obligations between a company and VDOT relative to a specific project or VDOT's Design-Build program may present a conflict of interest. If a potential conflict of interest is identified, the Offeror shall present the pertinent information to VDOT. VDOT, in its sole discretion, will make a determination relative to potential organizational conflicts of interest. An organization found to have a conflict of interest that cannot be mitigated in the sole discretion of VDOT, shall not be allowed to participate as a Design-Build team member for a specific Design-Build project.

VDOT, in its sole discretion, will make a determination relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined to have a conflict of interest or competitive advantage relative to a specific Design-Build project that cannot be mitigated, shall not be allowed to participate as a Design-Build team member for the project. Failure to abide by VDOT's determination in this matter may result in a proposal being declared non-responsive.

Conflicts of interest are described in state and federal law, and may include the following:

- a) An organization or individual hired by VDOT to provide assistance in development of instructions to Offerors or evaluation criteria for a project.
- b) An organization or individual hired by VDOT to provide assistance in development of instructions to Offerors or evaluation criteria as part of the programmatic guidance or procurement documents for VDOT's Design-Build program, and as a result has a unique competitive advantage relative to a project.
- c) An organization or individual with a present or former contract with VDOT to prepare planning, environmental, engineering, or technical work product for the project, and has a potential competitive advantage because such work product is not available to all potential Offerors in a timely manner prior to the procurement process.

VDOT reserves the right, in its sole discretion, to make determinations relative to potential conflicts of interest on a project specific basis.

VDOT may, in its sole discretion, determine that a conflict of interest or a real or perceived competitive advantage may be mitigated by disclosing all or a portion of the work product produced by the organization or individual subject to review under this section. If documents have been designated as proprietary by Virginia law, the Offeror will be given the opportunity to waive this protection from disclosure. If an Offeror elects not to disclose, the Offeror may be declared non-responsive.

6 PROJECT ADVERTISEMENT

VDOT will follow its standard project advertisement procedures as set forth for construction contracts. A copy of the project advertisement will be sent to all pre-qualified contractors. The solicitation will be published on the public internet procurement web site designated by VDOT as well as on the eVA web site.

The project advertisement will state a general description of the work and will include the requirements stated in the above procedure, any additional technical qualifications desired, and the time frames for submitting the RFQ/RFP. In order to take full advantage of the process, each project advertisement should be drafted to fit the unique needs of that particular project. The duration of the proposal development period will be based on the project deadlines and level of complexity of a Design-Build project (when allowed by the project schedule). VDOT may waive or alter contractor's pre-qualification requirements based on any specialized nature of the project.

Typically, advertising periods will range from four to ten weeks and may be longer for large, complex projects.

7 SOLICITATION PROCESS

The type of selection process determines the solicitation process. VDOT may use a single-phase selection process, a two-phase selection process, or any other appropriate type of process that is based on individual needs and merits of the project.

VDOT will issue an RFQ and/or RFP, soliciting SOQs and/or Design-Build Proposals from Offerors. The single-phase selection process consists of an RFP only. In the Design-Build Proposal, the Offerors must submit a SOQ Technical Proposal and Price Proposal at one time in response to the RFP. The single-phase selection process may be used for any projects with a relatively straightforward scope and short delivery time.

The two-phase selection process requires an RFQ and RFP. The SOQ may be used to short list qualified Offerors. Only the short listed Offerors will be invited to respond to the RFP. The Design-Build Proposals will contain Technical and Price Proposals required by the RFP, which are evaluated against the published requirements in the RFP. The requirements may vary from project to project. The two-phase selection process is used for complex or relatively larger projects so the number of Offerors submitting an RFP can be narrowed down to those most

highly ranked qualified Offerors for the proposed project. Upon a written determination and in VDOT's sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

7.1 Request For Qualifications (RFQ)

7.1.1 RFQ Evaluation

The evaluation and scoring criteria will be published in the RFQ. The criteria should be consistent with the qualifications requested and may include a description of the Offeror's project understanding and management approach, organization structure, demonstration of applicable experience, manpower and equipment resources, experience in obtaining environmental permits, obtaining right-of-way, experience with other Design-Build projects, approach to quality assurance and quality control, and their financial ability to do the work. The Proposal Evaluation Team will consider whether to request oral presentations, following which VDOT may ask questions relative to the qualifications before scoring the submittals.

The Project Team will develop an evaluation system based on the scope and complexity of the project. The Proposal Evaluation Team will review; evaluate the SOQs and short list Offerors by following the short listing process described in the next section.

7.1.2 Short Listing Process

Once the SOQs have been received, the Proposal Evaluation Team will evaluate and score the SOQs independently. Once these independent evaluations have been completed, the Proposal Evaluation Team will meet and discuss the SOQs and will have an opportunity after discussion to revise their individual scores. The Proposal Evaluation Team will score the SOQs and rank the Offerors against the published criteria. A non-voting independent representative from Administrative Service Division (ASD) will oversee scoring and certify the ranking. A representative of Civil Rights Division will also be invited to observe the evaluation as a non-voting member of the panel. The short list will be prepared from the ranking of the SOQs with intent to advance those most highly ranked qualified Offerors to the next stage, the RFP. The criteria defining the number of qualified Offerors to be short listed will be stated in the RFQ. All Offerors will be notified of the short list in writing and by the posting of the short list on the VDOT website.

7.1.3 Short List (Selection)

The short listed Offerors will be provided the RFP and invited to submit a Design-Build Proposal (Technical and Price Proposals). A meeting may be held with short listed Offerors to address issues and questions, before they are advised to proceed with the RFP.

7.2 Request For Proposal (RFP)

7.2.1 Basis of Award

The basis of award will be clearly defined in the RFP. VDOT will determine which basis of award is best suited for the unique requirements of each project. The Objective Criteria adopted by the CTB explicitly allows for several basis of award, such as Best Value, Low Bid and Fixed Price, each having its own benefit. The Proposal Evaluation Team should carefully determine what basis would best serve the interests of the Commonwealth.

- a) **Best Value** - The contract is awarded to the Offeror whose responsive proposal is evaluated as providing the Best Value to VDOT. The Project Team will determine a formula by which to establish the Best Value and will publish the formula in the RFP.
- b) **Low Bid** - The contract is awarded to the Offeror whose responsive proposal includes the lowest price. The RFP may require that Design-Build Proposals must meet a minimum technical score in order to be deemed responsive. A proposal shall not be considered responsive unless it meets or exceeds the published requirements.
- c) **Fixed Price** - In lieu of requiring qualitative Technical Proposals and Price Proposals, VDOT may establish a fixed dollar budget for the project in the RFP, and require submission of only qualitative Technical Proposals. The fixed price will be the same for all Offerors, and in this approach, award is made to the Technical Proposal receiving the highest score.
- d) **Best & Final Offer (BAFO)** - VDOT may use a BAFO in conjunction with any Basis for Award. The BAFO process is as follows:

If VDOT determines that further information and discussion is necessary after reviewing the submitted Proposals, VDOT may establish a competitive range of the highest rated Offerors deemed to be fully qualified and best suited among those submitting Proposals (or with all Offerors).

Offerors in the competitive range will be invited to participate in individual discussions with the Proposal Evaluation Team. Following discussions, the Offerors in the competitive range will be offered the opportunity to resubmit their proposals in the form of a BAFO. After the BAFOs are submitted, no further discussions shall be conducted with any of the Offerors. VDOT will evaluate and score the BAFOs using the same criteria stated in the RFP to evaluate the initial Proposal submittal. The decision to award will be based on the evaluation of the BAFO only and at VDOT's sole discretion.

7.2.2 Technical Proposals

The RFP shall define Technical Proposal requirements. Technical Proposals will address the technical elements of the design and construction of the project. The selection process will consider the understanding of the project, anticipated complex problems, and the solutions to those problems. The RFP shall indicate the importance of the project schedule to the overall

ranking of the proposal. Thoroughness and quality will be considered in both design and construction as well as the resources committed to the project.

The Technical Proposal Package must indicate clearly that it is the Technical Proposal and must identify the Offeror's name, project description and any other information required and must be delivered in a separate, sealed envelope.

7.2.3 Price Proposals

The RFP shall define Price Proposal requirements. Design-Build projects will typically require lump sum proposals. Payments will be based on work packages, or major items or tasks. Therefore, the Offeror's Price Proposal shall include the lump sum price, a breakdown for major items or tasks and the standard contract documents. This breakdown of major items or tasks shall be consistent with the payout schedule. When using the earned value method, the cost breakdown will correspond to the work packages in the work breakdown structure and the schedule. The Design-Build Proposal may require the Offeror to submit further documentation prior to the execution of the contract.

The Price Proposal package must indicate clearly that it is the Price Proposal and must identify the Design-Builder's name; project description and any other information required and must be delivered in a separate, sealed envelope. The Price Proposal will only be opened if the Technical Proposal is determined to be responsive.

7.2.4 Proposal Payment

VDOT may consider a Proposal Payment for the Offerors who submit a responsive Design-Build Proposal, but who are not selected for the contract award. The Proposal Payment amount, if any, will be identified and the Proposal Payment Agreement Form would be included in the RFP. The Proposal Payment would be paid to unsuccessful short listed Offerors only. When a Proposal Payment is accepted, VDOT shall retain the right to use technical solutions, design concepts, or any other proprietary information contained in Design-Build Proposals from unsuccessful Offerors. However, VDOT does not have the right to use technical solutions, design concepts, or any proprietary information contained in proposals from unsuccessful Offerors when Proposal Payments are not paid.

Under no circumstances will the Commonwealth, the Commissioner, CTB, or VDOT be liable for or reimburse any costs incurred by Offeror, whether or not selected for negotiations, in developing proposals unless otherwise noted in the RFP.

In the event the Design-Build procurement process is terminated for any reason prior to the proposal submission date, the Commonwealth, the Commissioner, CTB or VDOT shall not be responsible for any Proposal Payments, partial or in full, for any costs incurred by the Offerors in developing proposals.

7.2.5 DBE/MBE/WBE and SWAM Goals and Requirements

All Design-Build projects funded with Title 23 funds shall conform to the requirements of 49 CFR Part 26 and the State's approved DBE plan. The RFP shall state VDOT's goals for

DBE/MBE/WBE and SWAM utilization on the project. If DBE goals are set, DBE commitments above the goal may not be used as an evaluation factor in determining the successful Offeror.

7.2.6 Issue Resolution for Contract Administration

The reference documents for issue resolution are CD-2004-1 “Communication of Construction Projects, Process for Field Decision Making” or current Construction Directive Memorandum, and CD-2003-2 “Control of Contract Expenditures, Work Orders, Force Accounts, Overruns, Contract Expenditures”. While some of the topics do not apply to Fixed Price / Fixed Date contracts, the PM-D should follow the philosophy and guidelines as deemed appropriate to each Design-Build contract.

7.2.7 Payment and Performance Bond

The successful Offeror shall provide a performance and payment bond for the contract that complies with the requirements of the contract, pursuant to the Virginia General Statutes. Typically, bonds will be required in the approximate amount of the contract price.

8 INFORMATION EXCHANGES

Verbal or written information exchanges may be desirable at different points after the release of the RFQ and/or RFP. The Federal Regulation allows information exchanges in the form of Clarifications, Communications, and Discussion. VDOT will conduct information exchanges in accordance with the 23 CFR Parts 636 – Subpart D of Design-Build Contracting; Final Rule dated December 10, 2002.

9 RFP EVALUATION

The selection of a Design-Builder will be based on the evaluation of the Technical Proposals and Price Proposals, as stated in the RFP. At the location, time and date indicated in the RFP, the Technical Proposals will be presented to the Proposal Evaluation Team for evaluation. The Proposal Evaluation Team will first determine whether or not the proposals are responsive to the requirements of the RFP. Each responsive Technical Proposal will be evaluated using the rating criteria and factors identified in the RFP. These factors may include but are not limited to project design, project construction, understanding of project, schedule, and problem resolution.

The Proposal Evaluation Team will review the individual Technical Proposals and shall score them in accordance with the advertised requirements and schedule. After the individual scores have been completed, the Proposal Evaluation Team will meet to discuss the Technical Proposals. The Technical Proposals and scores will be discussed one at a time. After the discussion is completed, each team member will be given the opportunity to adjust their score. Once all scores have been finalized, the discussion will proceed to the next Technical Proposal. This procedure will proceed until all Technical Proposed have been individually discussed and each score finalized. The ASD representative, a non-voting independent person, will facilitate the meeting and provide oversight to ensure fairness in the scoring process. After the revisions have been made and documented, the ASD representative shall certify scores. A representative of Civil Rights Division will also be invited to observe the evaluation as a non-voting member of the panel.

VDOT may use various types of scoring methods and selection processes to match the type of contract required for the specific project. The example shown below is one of the methods that may be used to evaluate and score Technical Proposals. (The example assumes that qualifications have already been evaluated and meet the minimum qualifications criteria or score. Only those Offerors who have submitted complete and appropriate “Qualifications” material will have their Technical Proposal Packages opened). All scoring systems should be set up so that the highest scores equate to the most desirable Technical Proposals.

Example: The Technical and Price Proposals are equally weighted and the RFP specifies a minimum technical score for qualified proposals.

The Technical Proposal will be opened and evaluated for all Offerors and a technical ranking will be computed before any Price Proposals are opened. Only qualified Offerors who’s Technical Proposals have scored at least 35 points (70%) will have their Price Proposals opened. Offerors whose Technical Proposal scores are less than 35 points (70%) shall be excluded from further consideration.

Maximum points awarded for Technical Proposal (100% score) = 1.00 X 50 = 50 pts

The Price Proposals for all teams scoring at least 35 points (70%) on their Technical Proposals will be opened and evaluated at the same time. The scoring will be computed and the teams will be ranked.

$$\text{Points awarded for Price Proposal} = \frac{\text{Low price of all Offerors}}{\text{Offeror's Price}} \times 50$$

After scoring the Price Proposals, add the Technical Proposal score to the Price Proposal score.

The total points that will be awarded for ranking will be:

Points for Technical Proposal + Points for Price Proposal = Total Score

(Highest Total Score will be Highest Ranked)

The following is another example of scoring that VDOT may use for awarding a Design-Build contract.

In this method, the Technical Proposal will be opened and evaluated for all Offerors by the Proposal Evaluation Team, while the Price Proposal will remain unopened and sealed in a secure location. Each Offeror’s Technical Proposal will be evaluated against criteria published in the RFP. Upon completion of evaluation and scoring, the Proposal Evaluation Team will rank the Offeror’s from highest to lowest based on their technical score. VDOT will open the sealed Price

Proposal and divide each Offeror's price by the technical score to obtain the adjusted score. The selected Offeror will be the Offeror whose adjusted score is the lowest.

An example of how the selection formula would work is shown below:

Offeror	Technical Score	Price	Adjusted Score
A	90	\$7,000,000	$\frac{7,000,000}{90} = 77,778$
B	80	\$6,800,000	$\frac{6,800,000}{80} = 85,000$
C	70	\$6,500,000	$\frac{6,500,000}{70} = 92,857$

(The Lowest Adjusted Score, Offeror A, will be awarded the contract)

For all contracts, the Price Proposals shall remain sealed until qualifications and Technical Proposals have been evaluated. In order to ensure that Price Proposals remain sealed until such time as they are needed, they will be turned over to either ASD or Scheduling and Contract Division upon receipt. The prices will be opened using the standard bid opening process of the Division holding the Price Proposals.

10 NEGOTIATION AND AWARD OF CONTRACT

After all evaluations are concluded, the PM-IPD will total the scores in accordance with the RFP. Once the preferred proposal has been identified, the PM-IPD will perform any appropriate follow up as required by either ASD or Scheduling and Contract Division. After the follow up, the PM-IPD will notify the successful Offeror. The PM-IPD will be responsible for placing the project on the CTB schedule for award of the contract.

Should VDOT determine in writing, and at its sole discretion, that only one Offeror is fully qualified, and has submitted qualifying Technical and Price Proposals, a contract may be awarded to that Offeror without benefit of discussions or BAFO's. This option is best suited to Fixed Price contracts. However, the Proposal Evaluation Team will have the option of recommending such cases in which the Price Proposal is less than 10% over VDOT's estimate of construction cost. VDOT's estimate is the basis for Federal participation. If VDOT is going to award a contract over the estimate, VDOT must take steps to assess why the Design-Build Proposal is over their estimate, adjust their estimate to compensate for factors not previously addressed or addressed incorrectly, and receive FHWA concurrence to justify awarding a negotiated contract over the estimate.

Negotiation and Award of Contract will be made in the following manner:

- a) VDOT will review the Proposal submitted by the highest-scored Offeror. If the Proposal is responsive and the Price Proposal is within VDOT's budget for design and construction services, then VDOT will issue a Notice of Intent to Award to the Selected Design-Builder.
- b) Pursuant to 23 CFR 636.513, VDOT may conduct limited negotiations with the selected Design-Builder to clarify any remaining issues regarding scope, schedule, financing or any other information provided by the Selected Design-Builder.
- c) Pursuant to 23CFR 636.404, if the Proposal Price submitted by the highest-scored Offeror is not within VDOT's budget for design and construction, VDOT may establish a competitive range among the Offerors who have submitted a responsive Proposal.
- d) Pursuant to 23 CFR 636.402, 636.404, and 636.406, prior to VDOT establishing a competitive range, VDOT may hold communications with only those Offeror's whose exclusion from or inclusion in, the competitive range is uncertain. Communications will (a) enhance VDOT's understanding of Proposals; (b) allow reasonable interpretation of the Proposal; or (c) facilitate VDOT's evaluation process.
- e) Pursuant to 23 CFR 636.404, after VDOT establishes the competitive range, VDOT will notify any Offeror whose Proposal is no longer considered to be included in the competitive range.
- f) Pursuant to 23 CFR 636.506, 636.507, and 636.508, VDOT will hold discussions with all Offerors in the competitive range. Offerors are advised that VDOT may, in its reasonable discretion, determine that only one Offeror is in the competitive range.
- g) Pursuant to 23 CFR 636.510, VDOT may determine to further narrow the competitive range once Discussions have begun. At which point, VDOT will notify any Offeror whose Proposal is no longer considered in the competitive range.
- h) Pursuant to 23 CFR 636.509, at the conclusion of discussions, VDOT, will request all Offeror(s) in the competitive range to submit a final proposal revision, also called Best and Final Offer (BAFO). Thus, regardless of the length or number of discussions, there will be only one request for a revised proposal (*i.e.*, only one BAFO).
- i) Pursuant to 23 CFR 636.512, VDOT will review the final proposals in accordance with the review and selection criteria and complete a final ranking of the Offerors in the competitive range, then VDOT will issue a Notice of Intent to Award to the Selected Design-Builder.
- j) Pursuant to 23 CFR 636.513, VDOT may conduct limited negotiations with the Selected Design-Builder to clarify any remaining issues regarding scope, schedule, financing or any other information provided by the Selected Design-Builder.

11 RIGHTS AND OBLIGATIONS OF VDOT

11.1 Reservation of Rights

For each project, VDOT reserves to itself all rights (which rights shall be exercisable by VDOT in its sole discretion) available to it under applicable law, including without limitation, the following, with or without cause and with or without notice:

- a) The right to cancel, withdraw, postpone or extend an RFQ or RFP in whole or in part at any time prior to the execution by VDOT of the Design-Build Contract, without incurring any obligations or liabilities.
- b) The right to issue a new RFQ/RFP.
- c) The right to reject any and all submittals, responses and proposals received at any time.
- d) The right to modify all dates set or projected in an RFQ/RFP.
- e) The right to terminate evaluations of responses received at any time.
- f) The right to suspend and terminate the procurement process for the project, at any time.
- g) The right to revise and modify, at any time prior to the Proposal Submittal Date, factors it will consider in evaluating responses to an RFQ and the subsequent RFP and to otherwise revise its evaluation methodology.
- h) The right to waive or permit corrections to data submitted with any response to an RFQ/RFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to an RFQ/RFP has been completed and closed.
- i) The right to issue addenda, supplements, and modifications to an RFQ/RFP, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria.
- j) The right to permit submittal of addenda and supplements to data previously provided with any response to an RFQ until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to an RFQ has been completed and closed.
- k) The right to hold meetings and conduct discussions and correspondence with one or more of the Offerors responding to an RFQ/RFP to seek an improved understanding and evaluation of the responses to an RFQ/RFP.
- l) The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to an RFQ/RFP, including the right to seek clarifications from Offerors.

- m) The right to permit Offerors to add or delete firms and/or Key Personnel until such time as VDOT declares in writing that a particular stage or phase of its review has been completed and closed.
- n) The right to add or delete Offeror responsibilities from the information contained in an RFQ or the subsequent RFP.
- o) The right to appoint and change appointees of the Evaluation Team.
- p) The right to use assistance of outside technical and legal experts and consultants in the evaluation process.
- q) The right to waive deficiencies, informalities and irregularities in a Proposal, accept and review a non-conforming Proposal or seek clarifications or supplements to a Proposal.
- r) The right to disqualify any Offeror that changes its submittal without VDOT approval.
- s) The right to change the method of award or the evaluation criteria and scoring at any time prior to submission of the Proposals.
- t) The right to respond to all, some, or none of the inquiries, questions and/or request for clarifications received relative to an RFQ/RFP.
- u) The right to disqualify and/or cease negotiations with an Offeror if VDOT, in its sole discretion, determines that the Offeror's Price Proposal contains unbalanced pricing among the specific portions of work identified therein.

11.2 No Assumption of Liability

- a) VDOT assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to an RFQ/RFP. All such costs shall be borne solely by each Offeror and its team members.
- b) In no event shall VDOT be bound by, or liable for, any obligations with respect to the project until such time (if at all) a contract, in form and substance satisfactory to VDOT, has been executed and authorized by VDOT and, then, only to the extent set forth therein.

12 PROTEST

This Section sets forth the exclusive protest remedies available with respect to an RFQ/RFP. Each Offeror, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, and expressly waives all other rights and remedies. These provisions included in the RFQ/RFP expressly in consideration for such waiver and agreement by the Offerors. Such waiver and agreement by each Offeror are also consideration to each other Offeror for making the same waiver and agreement.

12.1 Protests Prior to Submission of Proposals

The Offeror may protest the terms of an RFQ/RFP prior to the time for submission of Proposals on the grounds that: (a) a material provision in an RFQ/RFP is wholly ambiguous; (b) any aspect of the procurement process described in an RFQ/RFP is contrary to legal requirements applicable to the RFQ/RFP; or (c) an RFQ/RFP in whole or in part exceeds the authority of VDOT. Protests regarding an RFQ/RFP shall be filed only after the Offeror has informally discussed the nature and basis of the protest with VDOT's POC or his designee in an effort to remove the grounds for protest.

Protests regarding an RFQ/RFP shall completely and succinctly state the grounds for the protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Protests regarding an RFQ/RFP shall be filed by hand delivery or courier to VDOT's POC as soon as the basis for protest is known to the Offeror, but in any event it must be actually received no later than ten (10) days before the Proposal Due Date, provided that protests regarding an Addendum to an RFQ/RFP shall be filed and actually received no later than five (5) business days after the Addendum to the RFQ/RFP is issued.

VDOT may, but need not, distribute copies of the protest to the other Offerors and request other Offerors to submit statements or arguments regarding the protest and may, in its sole discretion, discuss the protest with the protesting Offeror. If other Offerors are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven (7) calendar days of the request.

The protesting Offeror shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. VDOT or his designee shall decide the protest on the basis of the written submissions. VDOT shall issue the decision in writing to each Offeror. The decision shall be final and conclusive, subject only to the applicable provisions described by Section 12.3 below. If necessary to address the issues raised in the protest, VDOT will make appropriate revisions to the RFQ/RFP by issuing Addenda. VDOT may extend the Proposal Due Date, if necessary, to address any protest issues.

The failure of an Offeror to raise a ground for a protest regarding an RFQ/RFP shall preclude consideration of that ground in any protest by an Offeror, unless such ground was not and could not have been known to the Offeror in time to protest prior to the final date for such protests, subject only to the applicable provisions described by Section 12.3 below.

12.2 Protests after Submission of Proposals

An Offeror may protest any determination regarding the evaluation of the Proposals or the short-listing process by filing a notice of protest by hand delivery or courier to VDOT's POC. Notice of protest of any decision to accept or disqualify an SOQ/DB Proposal on responsiveness grounds must be filed within five (5) business days after the earliest of notification of non-responsiveness, the scheduled date for oral meetings and presentations (if any) or the public announcement of the short-listed Offerors. Notice of Protest of the decision on the short-listed

Offerors must be filed and actually received by VDOT within five (5) business days after the public announcement of the short-listed Offerors. The protesting Offeror shall concurrently file a copy of its notice of protest with the other Offerors. The notice of protest shall specifically state the grounds of the protest.

Within seven (7) calendar days of the notice of protest the protesting Offeror must file with VDOT's POC a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. The protesting Offeror shall concurrently deliver a copy of the detailed statement to all other Offerors. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Offeror shall have the burden of proving its protest by clear and convincing evidence.

Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or qualified process and decisions thereunder, other than any protest based on facts not reasonably ascertainable as of such date or as otherwise provided by the applicable provisions described by Section 12.3 below.

Other Offerors may file by hand delivery to VDOT's POC a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting Offeror files its detailed statement of protest. VDOT will promptly forward copies of any such statements to the protesting Offeror.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of VDOT or his designee, a hearing or argument may be permitted if necessary for protection of the public interest or an expressed, legally recognized interest of an Offeror or VDOT. VDOT or his designee shall issue a written decision regarding the protest within thirty (30) calendar days after VDOT receives the detailed statement of protest. Such decision shall be final and conclusive, subject only to the applicable provisions described in Section 12.3 below. VDOT or his designee shall deliver the written decision to the protesting Offeror and copies to the other Offerors. Unless necessary for the successful completion of the project, as determined at the sole discretion of VDOT, Award of Contract will not be issued until VDOT issues its written decision on the protest.

If VDOT or its designee concludes that the Offeror filing the protest has established a basis for protest, VDOT or his designee will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new RFQ/RFP or taking other appropriate actions.

12.3 Protest of Award or Decision to Award

This Section sets forth the exclusive protest remedies available with respect to protest the award or decision to award a Contract. In accordance with §2.2-4360, *Code of Virginia*, such protest shall be submitted in writing to VDOT no later than ten (10) calendar days after the award or the announcement posting the decision to award, whichever occurs first. Public notice of the award or the announcement of the decision to award shall be given by the public body in the manner prescribed in the terms or conditions of the Invitation to Bid or Request for Proposal. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon

information contained in public records pertaining to the procurement transaction that are subject to inspection under § [2.2-4342](#), *Code of Virginia*, then the time within which the protest shall be submitted shall expire ten days after those records are available for inspection by such bidder or Offeror under § [2.2-4342](#), *Code of Virginia*. No protest shall lie (i.e. be sustained or have a basis) for a claim in which the selected bidder or Offeror is not a responsible bidder. The written protest shall include the basis for the protest and the relief sought. VDOT shall issue a decision in writing within ten (10) calendar days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or Offeror appeals within ten days of the written decision by instituting legal action as provided for in § 2.2-4364, *Code of Virginia*.

Pursuant to § 2.2-4362, *Code of Virginia*, an award need not be delayed for the period allowed a bidder or Offeror to protest, but in the event of a timely protest, no further action to award the Contract will be taken unless there is a written determination by the Commissioner, or his designee, that proceeding without delay is necessary to protect the public interest or unless the Design-Build Proposal or offer would expire.

13 CONTRACT AWARD

Upon selection of a preferred Design-Builder through the RFP evaluation process, the PM-IPD will prepare and forward a recommendation to the Chief Engineer for an award of contract by the CTB. The PM-IPD will prepare a contract agreement incorporating by reference all the requirements, terms and conditions of the RFP and the Offeror's proposal as submitted. The award process shall follow the pertinent portions of Scheduling and Contract Division's Advertisement and Award Process available at www.virginiadot.org/business/const/internalprocesses.asp. VDOT will notify all Offerors who submitted Proposals of the decision to award. VDOT is not required to award a Contract as a result of an RFP. If VDOT does award a Contract, a Contract shall be executed and a Notice to Proceed shall be given to the successful Offeror by the PM-D.

14 DESIGN AND CONSTRUCTION

The PM-D will serve as primary contact for contract related issues and will be responsible for ensuring that the Design-Builder complies with all contract requirements. The PM-D may establish such mechanisms as he or she sees fit to effectively manage the project. The PM-D will be the contract administrator and will be the sole party to approve payment for the Contractor. The PM-D will be responsible for supervising all Departmental oversight, approvals and RFIs (Request for Information) in accordance with the Contract. The PM-D will be responsible for obtaining all appropriate input/information from the Divisions during the life of the Contract. The PM-D will be responsible for conducting performance evaluations of the Contractor.

15 PROJECT ACCEPTANCE

The PM-D will determine when the project is acceptable to VDOT and will close out the project using the same procedures as for Design-Bid-Build projects.

16 APPENDIX A – VA LAW

16.1 Award of Design-Build contracts by the Commonwealth Transportation Board

§ 33.1-12. General powers and duties of Board; definitions.

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. - To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems.

(2) Construction contracts. - (a) To let all contracts for the construction and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation and shall include a description of the nature and scope of the project and the reasons for the Commissioner's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subdivision 2 of subsection C of § 11-41 and § 11-41.2.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

16.2 Award of design-build contracts by Localities

APPENDIX A – VA LAW

§ 33.1-223:2:16. Localities may use design-build contracts.

Counties, cities, and towns may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the chief executive officer of the county, city, or town that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. These contracts shall be of such size and scope to encourage maximum competition and participation by qualified contractors. Such determination shall be retained for public inspection in the official records of the county, city, or town and shall include a description of the nature and scope of the project and the reasons for the determination that awarding a design-build contract will best serve the public interest. If state or federal transportation funds are used for the contract, then the county, city, or town shall comply with the provisions of § [33.1-12](#), and shall request from the Department the authority to administer the project in accordance with pertinent state or federal requirements.

**RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD**

July 20, 2006

**Title: Revision to “Establishment of Objective Criteria for the Selection of Design-Build
Projects”
Policy**

WHEREAS, in 2001 the General Assembly of Virginia amended and reenacted § 33.1-12 of the *Code of Virginia* to authorize the Commonwealth Transportation Board (CTB) to award design-build contracts; and,

WHEREAS, the reenacted legislation required the CTB to adopt objective criteria regarding the use of design-build; and,

WHEREAS, the CTB approved the current Design-Build Objective Criteria Policy on October 17, 2001; and,

WHEREAS, during the 2006 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted § 33.1-12 of the *Code of Virginia* to eliminate the limit on the number of transportation projects the CTB may award on a design-build basis; and,

WHEREAS, this legislative change makes it necessary to revise the CTB’s policy concerning Design-Build Objective Criteria; and,

NOW, THEREFORE, BE IT RESOLVED, that the policy set forth in the attached revised “Establishment of Objective Criteria for the Selection of Design-Build Projects” is hereby approved, and that the Design-Build Objective Criteria Policy approved on October 17, 2001 is hereby revised; and,

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Commissioner is authorized to use the revised “Establishment of Objective Criteria for the Selection of Design-Build Projects” in identifying and procuring contracts using the design-build process.

18 APPENDIX C – OBJECTIVE CRITERIA

VIRGINIA DEPARTMENT OF TRANSPORTATION

ESTABLISHMENT OF OBJECTIVE CRITERIA FOR THE SELECTION OF DESIGN-BUILD PROJECTS

BACKGROUND

During the 2001 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted § 33.1-12 of the Code of Virginia, relating to powers and duties of the Commonwealth Transportation Board authorizing the award of design-build contracts. The Code was further amended during the 2006 Virginia Legislative Session, to eliminate the limit on the number of transportation projects the Commonwealth Transportation Board may award on a design-build basis.

POLICY

The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis subsequent to the Commissioner making a written determination, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed.

DEFINITIONS

The words defined herewith shall have the meaning set forth below throughout this document.

- a) "Best Value" means the overall combination of quality, price and various elements of the required services that in total are optimal relative to VDOT's needs, as predetermined in the solicitation.
- b) "Board" means The Commonwealth Transportation Board.
- c) "Design-Build Contract" means a contract between VDOT and a design-build firm in which the design-build firm agrees to both design and build the structure, roadway, or other item in the contract.
- d) "Design-Build Firm" means any company, firm, partnership, corporation, association, joint venture, or other entity permitted by law to practice engineering, architecture and construction contracting in the Commonwealth of Virginia which has the capability, in all respects, to perform fully the contract requirements and business integrity and reliability which will assure good faith performance, and which has been pre-qualified, if required.
- e) "Fixed Price" means the price of services provided by the design-build firm is fixed before bidding by VDOT. The bids are judged on the overall combination of quality and various other elements of the required services which in total are optimal relative to VDOT's needs, as predetermined in the solicitation.
- f) "Low Bid" means the contract will be awarded to the design-build firm with the lowest priced responsive bid.
- g) "Project" or "Transportation Project" means any project that VDOT is authorized by law to undertake including, but not limited to, a highway,

tollway, bridge, mass transit, intelligent transportation system, traffic management, traveler information services, or any other project for transportation purposes.

- h) "Request for Proposal (RFP)" means all documents whether attached or incorporated by reference utilized for soliciting proposals. The RFP is the second step of a two step competitive negotiation process in which VDOT issues a written request to those design-build firms which have been pre-qualified to submit both technical and price proposals.
- i) "Request for Qualifications (RFQ)" means all documents whether attached or incorporated by reference utilized for soliciting interested persons to apply for prequalification. The RFQ is the first step of a two step competitive negotiation process for the purpose of inviting interested qualified design-build firms to apply for prequalification.
- j) "VDOT" means the Virginia Department of Transportation, or any duly authorized representative thereof.

PROCEDURE

VDOT will prepare a finding of public interest and shall include the appropriate justification showing why the design-build process is in the best interest of the Commonwealth of Virginia. The finding shall indicate how the Commonwealth of Virginia will benefit from the design-build procurement process. The finding may include anticipated savings such as time, cost, or reduced administrative burdens through expedited delivery; benefits derived from warranties such as improved service life, safety, or quality; preservation of VDOT's capital assets; or reduction in the risks associated with transportation projects.

Upon the Commissioner's determination that the proposed project meets the Objective Criteria approved by the Board, the Commissioner will authorize the use of the design-build procurement process for the development of the project. The Board may award the design-build contract upon completion of the VDOT's successful invitations for bids and negotiations of the contract.

OBJECTIVE CRITERIA

The objective criteria for selecting projects for design-build procurement process contracts shall include one or more criteria items listed below. The criteria include expedited schedule, established budget, well defined scope, favorable risk analysis, prequalification of design-build firms and use of a competitive bidding process.

Expedited Schedule - The project has an expedited schedule or fixed completion date. Using the design-build procurement method will reduce the overall project completion time compared to the design-bid-build method.

Established Budget - The project has an established budget. VDOT requires that the project be completed at or near the established cost without significant overruns. The design-build procurement method will reduce the overall project cost compared to design-bid-build method.

Well-defined scope - The project has a well-defined scope and performance requirements. VDOT has clear understanding of the project scope and the final project. The scope is defined to achieve desired results with room for innovation in the design and construction efforts.

Risk Analysis - The project imposes limited risk to VDOT with the exception of directed changes. The project has a limited number of issues that must be resolved such as utility conflicts, right-of-way acquisitions, geotechnical conditions, hazardous materials, wetlands and environmental concerns or other such issues. Risk management plans have been fully developed.

Prequalification of Design-Build Firms - The project requirements clearly define the necessary qualifications that a design-build firm must have. The prequalification requirements and process shall be established in writing and sufficiently in advance of the filing date to allow potential design-build firms a fair opportunity to complete the process. The design-build firm wishing to submit a proposal on a design-build project shall be pre-qualified under existing process if there is no project RFQ, or must be qualified based on evaluation criteria set forth in the project RFQ.

Competitive Bidding Processes - The project affords an opportunity for competition in its procurement. VDOT will review the overall design-build program and select projects of various size and scope to ensure maximum participation and competition among qualified design-build firms. VDOT will facilitate fairness by incorporating appropriate measures for competitive design-build proposals. The RFPs for the projects selected for the design-build program will clearly state the selection criteria and evaluation method in determining the successful design-build firm. VDOT may include, but is not limited to, the following types of projects for the design-build contracts:

- Emergency and repair projects;
- Projects directly impacting public safety;
- Projects directly supporting economic development/enhancement;
- Projects using specialty or innovative designs and construction methods or techniques;
- Projects to maximize the use of available funding (i.e. Federal, Bonds, FRANS, etc.); and
- Projects deemed by VDOT to have expedited scheduling requirements.

VDOT may also use various bases for awarding a design-build contract as appropriate. The bases of awarding such contracts shall be adequately described in the RFP for the transportation projects. Such bases may include, but are not limited to, the following:

- Best Value,
- Low Bid,
- Fixed Price.