

**Effective 5/12/2020**

**63G-6a-1403 Procurement of tollway development agreements.**

- (1) As used in this section, "tollway development agreement" means the same as that term is defined in Section 72-6-202.
- (2) The Department of Transportation and the Transportation Commission:
  - (a) may solicit a tollway development agreement proposal by following the requirements of this section;
  - (b) may award a solicited tollway development agreement contract for any tollway project by following the requirements of this section; and
  - (c) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of tollway development agreement proposals in addition to those required by this section.
- (3)
  - (a) Before entering into a tollway development agreement, the Department of Transportation may issue a request for qualifications to prequalify potential contractors.
  - (b) Public notice of the request for qualifications shall be given in accordance with board rules.
  - (c) The Department of Transportation shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least provide:
    - (i) a demonstration of their experience with other transportation concession projects with attributes similar to the project being procured;
    - (ii) a financial statement of the firm or consortium of firms making the proposal;
    - (iii) a conceptual project development plan and financing plan;
    - (iv) the legal structure of the firm or consortium of firms making the proposal;
    - (v) the organizational structure for the project; and
    - (vi) a statement describing why the firm or consortium of firms is best qualified for the project.
  - (d) The request for qualifications shall identify the number of eligible competing offerors that the Department of Transportation will select to submit a proposal.
- (4) The Department of Transportation shall:
  - (a) evaluate the responses received from the request for qualifications;
  - (b) select from their number those qualified to submit proposals; and
  - (c) invite those respondents to submit proposals based upon the Department of Transportation's request for proposals.
- (5) The Department of Transportation shall issue a request for proposals to those qualified respondents that may require, as appropriate for the procurement:
  - (a) a description of the proposed project or projects;
  - (b) a financial plan for the project, including:
    - (i) the anticipated financial commitment of all parties;
    - (ii) equity, debt, and other financing mechanisms;
    - (iii) an analysis of the projected return, rate of return, or both; and
    - (iv) the monetary benefit and other value to a government entity;
  - (c) assumptions about user fees or toll rates;
  - (d) a project development and management plan, including:
    - (i) the contracting structure;
    - (ii) the plan for quality management;
    - (iii) the proposed toll enforcement plan; and
    - (iv) the plan for safety management; and
  - (e) that the proposal comply with the minimum guidelines for tollway development agreement proposals under Section 72-6-204.

- (6) The Department of Transportation and the Transportation Commission:
- (a) shall evaluate the submissions received in response to the request for proposals from the prequalified offerors;
  - (b) shall comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and
  - (c) may, after considering price and other identified factors and complying with the requirements of Section 72-6-206, award the contract to the responsible offeror whose responsive proposal is most advantageous to the state.

Amended by Chapter 354, 2020 General Session