

Superseded 3/29/2014

63G-6a-1402 Procurement of design-build transportation project contracts.

- (1) As used in this section:
 - (a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.
 - (b) "Transportation agency" means:
 - (i) the Department of Transportation;
 - (ii) a county of the first or second class, as defined in Section 17-50-501;
 - (iii) a municipality of the first class, as defined in Section 10-2-301;
 - (iv) a public transit district that has more than 200,000 people residing within its boundaries; and
 - (v) a public airport authority.
- (2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.
- (3)
 - (a) The Department of Transportation:
 - (i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and
 - (ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.
 - (b) A public transit district that has more than 200,000 people residing within its boundaries:
 - (i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and
 - (ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.
 - (c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).
 - (d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.
- (4)
 - (a) Before entering into a design-build transportation project contract, a transportation agency 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) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:
 - (i) construction experience;
 - (ii) design experience;
 - (iii) financial, manpower, and equipment resources available for the project; and
 - (iv) experience in other design-build transportation projects with attributes similar to the project being procured.
 - (d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.
- (5) The transportation agency 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 transportation agency's request for proposals.
- (6) Except as provided in Subsection (7), if the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.
- (7) A transportation agency may award a contract for a transportation project that has an estimated cost of \$5,000,000 or less to a qualified eligible proposer if:
 - (a) only a single proposal is received; and
 - (b) the transportation agency determines that:
 - (i) the proposal is advantageous to the state; and
 - (ii) the proposal price is reasonable.
- (8) The transportation agency shall issue a request for proposals to those qualified respondents that:
 - (a) includes a scope of work statement constituting an information for proposal that may include:
 - (i) preliminary design concepts;
 - (ii) design criteria, needs, and objectives;
 - (iii) warranty and quality control requirements;
 - (iv) applicable standards;
 - (v) environmental documents;
 - (vi) constraints;
 - (vii) time expectations or limitations;
 - (viii) incentives or disincentives; and
 - (ix) other special considerations;
 - (b) requires submitters to provide:
 - (i) a sealed cost proposal;
 - (ii) a critical path matrix schedule, including cash flow requirements;
 - (iii) proposal security; and
 - (iv) other items required by the department for the project; and
 - (c) may include award of a stipulated fee to be paid to offerors who submit unsuccessful proposals.
- (9) The transportation agency shall:
 - (a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;
 - (b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and
 - (c) after considering price and other identified factors, award the contract to the responsive and responsible offeror whose proposal is most advantageous to the state.