

Table of Contents

List of Forms	4
Request for Proposal Templates	5
Preface.....	6
Manual Purpose	6
Who will use this Manual	6
How was this Manual Developed	6
How will the Manual be Updated	6
Section 1. Introduction.....	13
1.1 What is Design-Build Contracting?.....	13
1.2 How Does Design-Build differ from Design-Bid-Build?.....	14
1.3 When to Use Design-Build	15
1.4 Procurement Overview	16
1.4.1 Best-Value Design-Build Overview	16
1.4.2 Low-Bid Design-Build Overview.....	16
1.4.3 Best-Value versus Low Bid	17
1.4.4 Typical Procurement Timelines.....	20
Section 2. General Procurement Activities.....	21
2.1 Design-Build Program Manager.....	21
2.2 Design-Build Project Managers.....	21
2.3 FHWA Involvement.....	22
2.3.1 Federal Reporting.....	22
2.3.2 Additional Federal Requirements	22
2.4 Conflict of Interest	24
2.4.1 Organization Conflicts of Interest.....	24
2.4.2 Consultant Contract Clauses.....	24
2.4.3 Internal COI Procedure.....	25
2.5 Data Practices (Public Information).....	27
2.5.1 General.....	27
2.5.2 Releasing Data Related to RFQs and SOQs	27
2.5.3 Releasing data related to Technical Proposal Evaluations	28
2.6 Timesheet Activity Codes.....	29

2.7 General Engineering Consultant (GEC)	30
2.7.1 Development of a Work Order	30
Section 3. Pre-Advertisement Activities.....	31
3.1 Project Development.....	31
3.1.1 Planning	31
3.1.2 Preliminary Engineering	32
3.1.3 Project Management	37
3.1.4 Third Party Agreements.....	39
3.1.5 Pre-Qualification Lists	41
3.1.6 Sole-Source Clauses.....	41
3.1.7 Maximum Price Contracts	42
3.1.8 Project Development Checklist.....	46
3.2 Engineering Estimates	47
3.3 Civil Rights	50
3.3.1 OCR “Meet and Greet” Communication	50
3.3.2 OCR Goals	51
3.4 Early Design-Build Team Coordination	52
3.5 Legislative Notice – Project.....	55
Section 4. Advertisement Activities	56
4.1 Websites and ftp site	56
4.2 Request for Letters of Interest.....	58
4.3 Technical Review Committee.....	59
4.4 Project Advertisement.....	61
4.5 Request for Qualification (RFQ)	63
4.5.1 RFQ Development	63
4.5.2 RFQ Publishing.....	64
4.5.3 RFQ Clarifications	64
4.5.4 RFQ Addenda	65
4.6 Statement of Qualification (SOQ) Evaluation and Short-Listing	67
4.6.1 Receipt of SOQ.....	67
4.6.2 Evaluation Committee	67
4.6.3 Short-Listing	67

4.6.4	SOQ Evaluation Materials Possession.....	69
4.7	Request for Proposal (RFP) Development.....	70
4.7.1	RFP Template	70
4.7.2	RFP Development.....	71
4.7.3	Best-Value Technical Proposal Evaluation Criteria	73
4.7.4	Low-Bid Technical Proposal Evaluation Criteria.....	74
4.7.5	Funding Kick-Off Meeting	74
4.7.6	Federal Authorization	75
4.7.7	RFP Distribution/Advertisement	76
4.7.8	RFP Clarifications.....	77
4.7.9	RFP Addenda.....	78
4.8	One-on-One Meetings.....	81
4.9	Alternative Technical Concepts.....	82
4.9.1	ATC Specifications.....	83
4.9.2	ATC Submittals/Document Control	83
4.9.3	ATC Reviews.....	83
4.10	Pre-Approved (or Accepted) Elements	85
4.10.1	PAE Specifications	85
4.10.2	PAE Submittals/Document Control.....	86
4.10.3	PAE Reviews	86
4.11	Changes in Personnel and Firms Listed in SOQ.....	88
4.11.1	Change in Personnel Prior to Technical Proposal Submittal.....	88
4.11.2	Change in Personnel After Contract Award	88
4.12	Re-Issuing RFPs.....	90
4.13	Cancelling Procurements	91
	Section 5. Evaluation and Letting Activities	92
5.1	Receipt of Proposals, Evaluation and Letting.....	92
5.1.1	Receipt of Technical, Price, and Civil Rights Proposals	92
5.1.2	Evaluation Committee	93
5.1.3	Best-Value Technical Proposal Evaluation	94
5.1.4	Low-Bid Technical Proposal Evaluation	95
5.1.5	Letting (Price Proposal Opening Date	96

Section 6. Post-Letting Activities	97
6.1 Contract Award and Contract Execution	97
6.1.1 Pre-Contract Award	97
6.1.2 Award and Pre-Contract Approval	98
6.1.3 Contract Approval, Notice to Proceed, and Stipend Payment	98
6.1.4 RFP Distribution	99
6.2 Stipends.....	100
6.3 Debriefing Meetings	102

List of Exhibits

2.4-1 Conflict of Interest Approach
3.1-1 NPDES Permit Requirements MOU
3.5-1 Sample Legislative Notice – Project Letter
4.2-1 Sample Request for Letters of Interest
4.3-1 AGC Request for TRC Member Template
4.3-2 MOU with AGC
4.3-3 Process for Administering Design-Build Procurement
4.5-1 MnDOT DB Program Style Guide for Preparing Documents
4.6-1 SOQ Evaluation Agenda (sample)
4.6-2 Shortlist Posting for Design-Build Website (sample)
4.6-3 Shortlist Recommendation Letter (sample)
4.6-4 POC Log (sample)
4.13-1 Sample FHWA Notification of Cancellation Letter
4.13-2 Sample Procurement Cancellation Letter
5.1-1 Sample Technical Proposal Letter to Chief Engineer
6.1-1 Sample Delay in Award Letter

List of Forms

2.4a Confidentiality Form
2.4b Programmatic Confidentiality Form
3.1a Project Development Checklist
3.2a Project Estimate Template
4.5a RFQ Template
4.5b RFQ Clarification Request Form
4.5c RFQ Clarification Response Form
4.6a SOQ Evaluation Manual Template
4.6b SOQ POC Log Template

- 4.6c SOQ Scoring and TRC Summary Template
- 4.6d Short-list Recommendation Letter Template
- 4.6e Shortlisting Letter to Chief Engineer Template
- 4.7a RFP Clarification Request Form
- 4.7b RFP Clarification Response Form
- 4.7c Addendum Cover Letter Form
- 4.7d Design-Build Project Submittal Form
- 4.7e Design-Build Project Insurance Questionnaire
- 4.9a ATC Log Template
- 4.9b ATC Decision Form
- 4.10a PAE Log Template
- 4.10b PAE Decision Form
- 4.11a Change in Personnel Firm Form
- 5.1a Receipt of Technical Proposals Form
- 5.1b Technical Proposal Letter to Chief Engineer Template
- 5.1c Technical Proposal POC Log Template
- 5.1d Technical Proposal Evaluation Manual (Best-Value)
- 5.1e Technical Proposal Evaluation Manual (Low-Bid)
- 6.1a District Award Concurrence Memorandum

Request for Proposal Templates

Instructions to Proposers

Book 1

Book 2

Preface

Manual Purpose

This manual describes the processes and procedures for procuring design-build contracts. This manual does not include all of the processes necessary to deliver the project, such as environmental, right-of-way acquisition, and municipal consent. Except as noted within this manual, all other MnDOT project development guidelines and procedures follow standard processes.

Who will use this Manual

This manual is written primarily for MnDOT employees procuring design-build contracts. The manual focuses mainly on the responsibilities of MnDOT's Design-Build Program Manager and Design-Build Project Managers.

How was this Manual Developed

The development of this manual is a compilation of efforts and lessons learned from previous design-build projects. The manual was written by MnDOT Office of Construction and Innovative Contracting (OCIC) with input from MnDOT Districts and the Federal Highway Administration (FHWA) in 2011. This manual was significantly updated by the MnDOT Design-Build Program Manager (located in the Office of Technical Support and Project Management) in 2015.

MnDOT began using design-build in 1996 and constructed three projects using a low-bid approach. In 2001, MnDOT obtained legislative approval to use the design-build best value procurement process. Since 2001, MnDOT has awarded over \$1 billion in design-build projects. The design-build process has evolved and improved through the use of lessons learned. Some of the early history of best value design-build procurement can be viewed in the design-build white papers, which are available through MnDOT's Design-Build Program Manager.

How will the Manual be Updated

Design-build is an evolving process. This manual will be updated frequently to address lessons learned, evolving approaches, and updates to federal, state, local laws, regulations, and policies. MnDOT's Design-Build Program Manager is responsible for updating the manual, with approval from the Director of MnDOT's Office of Project Management and Technical Support and the FHWA Minnesota Division Administrator.

Acronyms

ATC	Alternative Technical Concept
AGC	Association of General Contractors
CFR	Code of Federal Regulations
CO	Central Office (MnDOT)
COI	Conflict of Interest
CLS	Contracts and Lettings Supervisor
DBPM	Design-Build Program Manager
DBE	Disadvantaged Business Enterprise
FHWA	Federal Highway Administration
GEC	General Engineering Consultant
ITP	Instructions to Proposers
LOI	Letters of Interest
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
OCR	Office of Civil Rights
OCIC	Office of Construction and Innovative Contracting
OJT	On-the-job training
OPMTS	Office of Project Management and Technical Support
PAE	Pre-Approved (or Pre-Accepted) Element
POC	Process Oversight Committee
PODI	Projects of Division Interest (FHWA)
PM	Project Manager
RFC	Released for Construction
RID	Reference Information Documents
RLOI	Request for Letters of Interest
RFP	Request for Proposals
RFQ	Request for Qualifications
SOQ	Statement of Qualifications
TA	Technical Advisors
TRC	Technical Review Committee

Definitions

This section outlines some of the general design-build terms used within this document. The intent of this section is to provide a quick reference of commonly used terms for individuals with little or no design-build experience. This is not an all-inclusive list of terms used within the design-build contract.

Addendum	An addition or modification to the RFQ or RFP made during the procurement process.
Alternative Technical Concept (ATC)	A confidential process in which design-build teams can propose equal or better alternatives to the RFP during procurement. The process is used to allow innovation and flexibility in the design and/or construction of a particular element of the project.
Award	The acceptance of the best-value or low price proposal, subject to execution and approval of the contract. The award is non-binding.
Best-Value	An alternative contracting method where price and other key factors are factors in the evaluation and selection process of the awarded contractor. In Minnesota, the formula for determining best-value is adjusted score equals proposed price divided by technical score. The lowest adjusted score is the best value.
Clarifications	MnDOT's written response to questions asked by design-build team during the procurement process.
Code of Federal Regulations (CFR)	Regulations that implement and carry out the provisions of federal law relating to the administration of federal aid for highway.
Conflict of Interest (COI)	A situation in which, because of existing or planned activities or because of relationships with other persons, the vendor appears, is unable, or is potentially unable to render impartial assistance or advice to the state, the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair advantage.
Conformed Contract	The documents used for award and execution of a design-build contract. The

	conformed contract incorporates the RFP, addenda, technical proposal, and commitments of the design-build team.
Contract Execution	The date at point at which a legal binding contract between the owner and the design-build team is signed and in effect.
Contracts and Lettings Supervisor (CLS)	Person in the OCIC who is responsible for project lettings and preparing project contracts.
Debriefing Meeting	A meeting at which the design-build teams are informed of specific details of the technical proposal and MnDOT discuss the scoring results of the design-build team's SOQ or Technical Proposal submissions.
Design-Build Program Manager (DBPM)	The person responsible for managing and overseeing the development and continued use of MnDOT's design-build program.
Design-Build Team	A combination of contractors, designers and other entities that have formed a contractual relationship and are interested in submitting responses to an RFQ or RFP.
Fixed Price, Maximum Scope	A contract clause which specifies a price proposal amount but allows for maximization of the scope. On this type of project, the design-build team which offers the best value, typically measured as the greatest amount of scope, becomes the Apparent Best Value Proposer.
General Engineering Consultant (GEC)	A consultant hired to help assist MnDOT with their design-build program.
Instructions to Proposers (ITP)	A section of the RFP that gives the design-build teams instructions on how to submit a technical proposal.
Letter of Interest	A firm's response to a Request for Letters of Interest (RLOI) to receive a RFQ for a proposed design-build project.
Letting	The day on which the price proposals are publically opened and the apparent best-value or low-bid design-build team is identified.
Low-Bid	A method of procurement in which the contract is awarded to the lowest cost responsive and responsible bidder.

Maximum Price Contracts	A contract with a maximum price that a design-build team shall not exceed with their price proposal. If design-build teams exceed this price, they will be deemed non-responsive and are not eligible to win the contract, but are eligible to receive a stipend (see also Stipend).
National Environmental Policy Act (NEPA)	The United States environmental law that established a U.S. national policy promoting the enhancement of the environment and also established the President's Council on Environmental Quality (CEQ). NEPA sets up procedural requirements for all federal government agencies in preparing Environmental Assessments (EA) and Environmental Impact Statements (EIS). EAs and EISs contain statements of the environmental effects of proposed federal agency actions.
One-on-One Meetings	Meetings with MnDOT and each shortlisted design-build team to discuss potential ATCs and PAEs during procurement.
Pre-Approved (or Accepted) Elements (PAE)	An alternative contracting process that may be used in which design-build teams are required to submit elements for approval (or acceptance). PAE elements shall be approved (or accepted) in order for a proposal to be deemed responsive. Used on a case-by-case basis and with federal concurrence.
Process Oversight Committee (POC)	A committee consisting of FHWA, MnDOT, and the Department of Administration to oversee the procurement process.
Procurement	All stages of the alternative contracting process for acquiring project management, design, and construction services for a design-build contract.
Project Manager (PM)	The person responsible for managing the design-build project for MnDOT. This person ideally follows the project from inception to completion.

Proposer	Reference to design-build teams submitting a technical and/or price proposal in response to an RFP.
Reference Information Documents (RID)	Non-contractual documents provided to the design-build teams such as preliminary design, planning documents, studies, reports, CADD files, etc.
Released for Construction Documents (RFC)	Submittals provided by the design-build team prior to starting construction on a certain element of the project.
Request for Letters of Interest (RLOI)	A letter advertised by MnDOT requesting letters of interest from design-build teams and consultants to express their interest in a future design-build project.
Request for Proposals (RFP)	The documents advertised requesting bids/proposals from potential design-build teams. The RFP consists of Book 1, Book 2, Book 3, and the ITP. There is often a package of associated RID, but this is not contractual.
Request for Qualifications (RFQ)	The document that contains instructions for submitting a SOQ, evaluation criteria, and minimum qualifications required of the design-build team.
Short-List	A list developed by the TRC and approved by the commissioner at the conclusion of the SOQ evaluation process that includes no more than five of the most highly qualified design-build teams that are eligible to respond to the RFP.
Statement of Qualifications (SOQ)	A document that is submitted by design-build teams in response to an RFQ.
Stipend	A fee paid to offset the procurement costs of unsuccessful proposers.
Submitter	Reference to a design-build team responding to an RFQ.
Technical Advisors (TA)	A group of individuals with specific technical expertise available to support the TRC during the SOQ evaluations and the Technical Proposal evaluations.
Technical Proposal	A document that is submitted by design-build teams in response to an RFP.
Technical Review Committee (TRC)	The committee responsible for evaluating SOQs, developing the short list, and evaluating Technical Proposals.

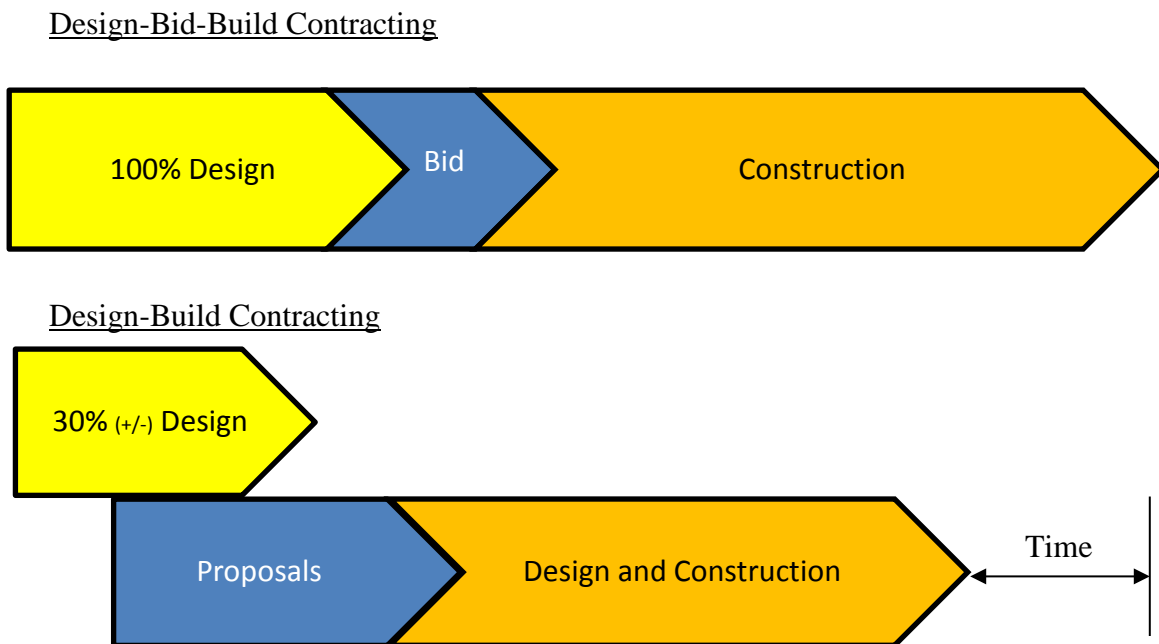
Section 1. Introduction

This section provides an overview of design-build.

1.1 What is Design-Build Contracting?

Design-Build is an alternative contracting method in which a single contract is awarded to provide design and construction goods and services. In this method of project delivery, contractors and consultant design firms form an integrated team and assume the responsibility for design and construction. Design-build allows the overlap of design and construction activities, often resulting in faster project delivery. The design is often broken into packages or segments, allowing construction to begin on portions of the project while other elements are still being designed. Figure 1.1-1 graphically shows the time difference between design-bid-build contracting and design-build contracting.

Figure 1.1-1 Time Savings Using Design-Build



Although time savings often occur, delivering a project using design-build contracting eliminates few steps when compared to traditional design-bid-build contracting. Sufficient preliminary engineering shall be performed before a design-build contract can be executed. Project scope needs to be clearly defined. Right-of-way limits and acquisition processes should be well underway to minimize delays to the contract. Municipal consent should be obtained prior to moving into the procurement process. MnDOT standard practice is to require the completion of the environmental processes

such as NEPA prior to moving into the RFP stage of procurement. However, see section 4.7.2 for a potential exception.

1.2 How Does Design-Build differ from Design-Bid-Build?

Design-build differs from design-bid-build contracting in many ways. Listed below are the primary differences between the two procurement methods:

- **Design** – The design-build team is responsible for the design of the project. Any design errors or omissions discovered during construction and the warranty term are the responsibility of the design-build team to correct, thus transferring any design risk to the design-build team. This requires changes to MnDOT’s design-bid-build contract administration procedures in that the Contractor, instead of MnDOT, is the Engineer of Record.
- **Construction** – Design-build allows fast-track of design/construction, where construction can begin as initial design packages are accepted rather than waiting until the complete set of Plans, Specifications and Estimate (PS&E) are completed.
- **Innovation** – Design-build allows designers and contractors to introduce new design/construction alternatives that are equal or better than the contract requirements while still adhering to all other contract requirements. It also allows contractors to optimize the design based on alternative means within their capabilities and equipment.
- **Procurement** – Design-build procurement differs is modified from standard design-bid-build procurement process but overall general procurement laws and regulations are still adhered to.
 - Short-Listing – The owner (MnDOT) is able to short-list the most highly qualified teams. Only short-listed teams have the opportunity to submit price and technical proposals.
 - Best-Value or Low-Bid – Design-build teams can be selected based on best-value or low-bid contracting (see [Section 1.4.3](#)).
 - Proposals – Design-build teams submit technical proposals in addition to price proposals.
 - In best-value contracting, the team’s technical proposals are scored based on their approach to the project (see [Section 1.4.1](#)).
 - In low-bid, technical proposals are used to determine responsiveness but are not scored (see [Section 1.4.2](#)).
- **Payment** – Design-build contracts are lump-sum contracts. Payment is most often based on percent completion for each activity.

- **Contracts** – Design-build contracts use a different set of documents. Plans and specifications used in design-bid-build to advertise the project for bids are replaced by the RFP. The RFP defines the design, management and construction requirements.

1.3 When to Use Design-Build

Design-build is not suited for every project. It is best-suited for projects that require acceleration, projects that have unique opportunities to appropriately transfer risk to the design-build team, and on projects with opportunities for innovation. Innovation has the potential to significantly decrease contract time, reduce costs, and improve the safety and quality of the product. The decision to use design-build contracting should be based on the goals and risks of the project.

Once the goals and risks of the project are understood, candidate projects for alternative delivery should undergo the Project Delivery Selection Workshop, a defined process. Guidance for this process can be found at the link below:

www.dot.state.mn.us/pm/deliverymethod.html

At the workshop project stakeholders and delivery method experts discuss the advantages and weaknesses of Design-Bid-Build, Design-Build, and Construction Manager/General Contractor and make a delivery method recommendation that is brought to both district and CO management. They may also hold a concurrent risk workshop. Project personnel should contact the Design-Build Program Manager (or others in the Central Office's Project Management unit) to arrange for this workshop on candidate projects.

Typical design-build projects include:

- Accelerated Projects (primarily due to advances in funding)
- Large/Complex grading and reconstruction projects
- Major bridge projects
- Unique projects for which it is beneficial for technical solutions to compete in a Best Value environment
- Projects for which major risk transfer is appropriate
- Project streamlining (minimizing effort to compile bid-build plans)

1.4 Procurement Overview

Design-build can be used on up to 10% of the total number of projects in a state fiscal year (Minnesota Statutes §161.3412 subd. 3). MnDOT's authority also allows design-build contracts to be procured using either best-value or low-bid contracting. This section outlines the best-value and low-bid processes, provides general guidance/requirements on when to use best-value or low-bid, and provides general procurement timelines.

1.4.1 Best-Value Design-Build Overview

Design-build best-value requires a two-step procurement process. In step 1, MnDOT prepares a Request for Qualification (RFQ) outlining the minimum and desired design-build team qualifications. Interested design-build teams submit Statements of Qualifications (SOQ) in response to the RFQ. A Technical Review Committee (TRC) evaluates the SOQs according to the criteria published in the RFQ and establishes a short-list of the most highly qualified design-build teams. By state statute, the number of design-build teams cannot exceed five per short-list.

In step 2, the RFP is issued to short-listed design-build teams. Teams submit a technical and price proposal in response to the RFP. Prior to opening the price proposals, the TRC evaluates the technical proposals. The best-value is determined by dividing the design-builder's price by the technical score to obtain an adjusted score. Unless all bids are rejected, the contract is awarded to the responsive and responsible design-build team with the lowest adjusted score. Stipends are paid to the unsuccessful responsive and responsible design-build teams.

Best-Value contracting requires additional procurement time compared to low-bid design-build. Design-build teams need additional time and resources to prepare technical proposals. MnDOT needs additional time to evaluate the technical proposals. In addition, the stipends are often higher on best-value contracting due to the additional effort required by the design-build teams to submit technical proposals.

Figure 1.4-1 provides a general overview of the two-step process.

1.4.2 Low-Bid Design-Build Overview

Low-bid design-build can follow either a one-step or two-step process. The two-step process generally follows the best-value process, except that the contract is awarded to the responsive and responsible design-build team with the lowest price proposal. The technical proposal generally consists of a cover letter and the required legal forms. Technical proposals are not scored; they are only used to determine responsiveness. If the two-step process is used, the district has the option of paying a stipend to the unsuccessful responsive design-build teams.

The single step low-bid design-build process does not include a short-listing process. All interested design-build teams have the opportunity to respond to the RFP. Design-build teams submit price and technical proposals. The technical proposal consists of a cover letter and the required legal forms. Technical proposals are not scored; they are only used to determine responsiveness. Stipends cannot be paid using the single step process.

The single step process does not allow MnDOT to evaluate the qualifications of the team. This increases the risk of unsuccessful performance on the project. The single step process may also discourage design-build teams from responding to the RFP. Teams are less likely to invest in a design-build procurement without a stipend.

Figure 1.4-1 provides a general overview of the two-step low-bid process. Figure 1.4-2 provide a general overview of the one-step low-bid process.

1.4.3 Best-Value versus Low Bid

The following table provides requirements and guidance on when to use best-value or low-bid design-build contracting. The determination to use low-bid and best-value will be joint effort between the PM, District, DBPM, and CO management as required by assessing the project risks and assigning each risk to the group best able to manage that risk.

Table 1.4-1. Using Best-Value versus Low-Bid

Project Type	Best-Value	Low-Bid
Major Bridge Projects	Required	
Major Grading / Reconstruction Projects (over \$25,000,000)	Required	
Major risk transfer projects	Recommended	
Project with complex staging	Recommended	
Minimal risk transfer projects (unbonded overlays, mill/overlay, simple bridges)		Recommended
Non-complex projects with a value less than \$10,000,000		Recommended



Typical Two-Step *design-build* Process

(best-value low-bid projects)

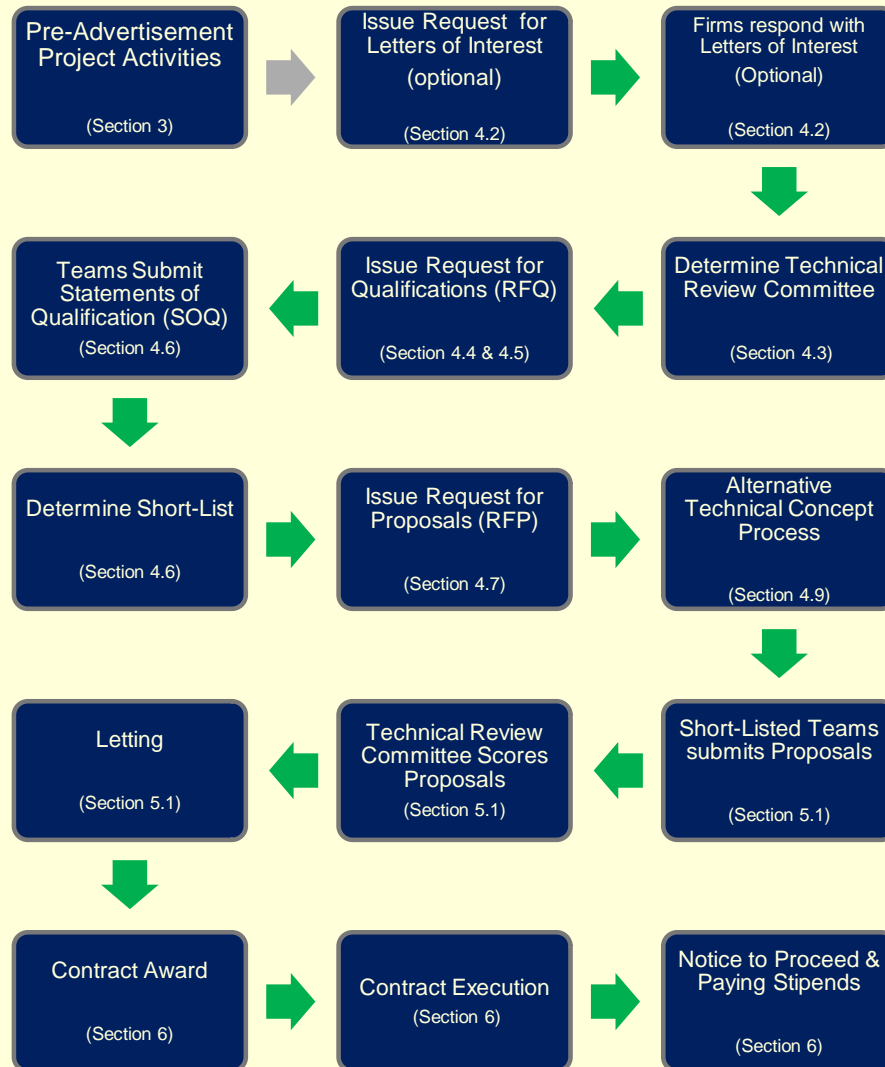


Figure 1.4-1

Note: Details on these processes can be found within the sections listed above. In addition, Section 2.1 identifies additional steps required on federally funded projects.



Typical One-Step *design-build* Process (low-bid projects)



Figure 1.4-2

Note: Details on these processes can be found within the sections listed above. In addition, Section 2.1 identifies additional steps required on federally funded projects.

1.4.4 Typical Procurement Timelines

Listed below are typical timeframes needed to perform each procurement item. These timeframes will vary based on project complexity and procurement type. Some items may be developed concurrently. Best-value procurements require additional time to evaluate Technical Proposals. A single step low-bid process will not require advertisement of the RFQ and development of the short-list. Clarifications and addenda will be addressed on an ongoing basis throughout the RFQ and RFP advertisement periods. ATCs will be addressed as they are received.

Procurement Item	Approximate Time
Advertise Request for Letters of Interest	2 to 3 Weeks
Advertise RFQ	3 to 6 Weeks
Score SOQ / Develop Short-List	2 Weeks
Develop RFP	2 to 3 Months
Central Office (RFP, Estimate, etc) Review	2 Weeks
Federal Authorization (if applicable)	2 Weeks
RFP Advertisement Period	2 to 4 Months
Score Technical Proposals (best-value only)	2 to 3 Weeks
Contract Award and Execution	4 to 7 Weeks

Exhibits

None

Forms

None

Section 2. General Procurement Activities

This section provides general procurement activities related to design-build contracting such as the role of the Design-Build Program Manager, design-build project managers, FHWA, conflicts of interest, the release of data to the public, time sheet coding for MnDOT employees, legislative reporting, and the use of a GEC to assist with the program.

2.1 Design-Build Program Manager

The Design-Build Program Manager (DBPM) is a MnDOT Central Office Employee primarily responsible for setting design-build programmatic decisions and overseeing the procurement of design-build contracts. The primary responsibilities of the DBPM include:

- Understanding state and federal Design-Build laws and ensuring that design-build procurements proceed in accordance with the laws.
- Educating internal staff, industry partners, and others regarding the Design-Build methodology
- Serving as a resource when projects' delivery methods are determined
- Advertising the design-build projects
- Coordinating procurement steps with the Chief Engineer
- Managing the development of RFQ and RFP evaluation criteria
- Drafting (or managing the drafting of) Book 1 and the Instructions to Proposers
- Reviewing and approving RFPs, addenda, clarifications, Alternative Technical Concepts (ATCs) and Pre-Approved Elements (PAEs)
- Coordinating the letting, award, and approval processes
- Managing procurement and contract templates
- Managing legislative requirements

The above list is not an all-inclusive list. Specific tasks and responsibilities of the DBPM are listed throughout this manual.

2.2 Design-Build Project Managers

The Design-Build Project Managers are typically district employees responsible for the development and administration of design-build contracts. The duties of the Design-Build Project Managers include:

- Managing preliminary design and environmental approvals
- Developing the scope of the project
- Developing project estimates in coordination with the MnDOT Estimating Unit
- Managing third party agreements
- Managing work orders through the General Engineering Consultants

- Drafting (or managing the drafting of) Book 2 and Book 3 of the RFP

The above list is not an all-inclusive list. Specific tasks and responsibilities of the DBPM are listed throughout this manual.

2.3 FHWA Involvement

Federal involvement is required on projects with federal funding. The Federal Highway Administration (FHWA) policies and procedures for approving design-build projects is defined in 23 CFR 636 (Design-Build Contracting). The FHWA and MnDOT also have a Letter of Agreement and Stewardship Plan which outlines the roles and responsibilities between the agencies on stewardship and oversight of federal projects.

Design-build projects will follow the processes and procedures outlined in the Letter of Agreement and Stewardship Plan and as described in this manual. Listed below are the processes and procedures for involving the FHWA on design-build projects.

2.3.1 Federal Reporting

When considering a design-build project, the DBPM will notify the FHWA as soon as possible. MnDOT will invite the FHWA to Project Delivery Selection workshops on projects that may be federally funded.

2.3.2 Additional Federal Requirements

The following federal requirements supplement the CFR and Letter of Agreement and Stewardship Plan.

1. All MnDOT design-build projects will follow this manual.
2. All future modifications to this Design-Build Procurement Procedures Manual will be approved by the FHWA.
3. FHWA concurrence is required on individual design-build projects if non-standard activities are used prior to issuance of the RFQ. These activities include:
 - Pre-Approved Element process (see [Section 4.10](#))
 - Design Exceptions (Interstate / NHS)
 - Sole source clauses (see [Section 3.1.6](#))
 - Special Experimental Projects (SEP-14 and SEP-15)
 - Emergency Relief
 - Other unique activities not stated in this manual

4. Table 2.3-1 below lists additional roles and responsibilities.

Table 2.3-1: Additional FHWA and MnDOT Oversight Roles and Responsibilities

Work Activity	PROJECTS OF DIVISION INTEREST (PODI)		STATE ADMINISTERED OVERSIGHT (SAFO) PROJECTS ON/OFF THE NHS	
	MnDOT Action	FHWA Action	MnDOT Action ¹	FHWA Action
RFQ	Prepare	None ²	Prepare	None
RFQ Addenda	Prepare	None ²	Prepare	None
RFQ Clarifications	Prepare	None ²	Prepare	None
Short-List	Prepare	Concurrence	Prepare	None
RFP	Prepare	Approve ³ (14 Days)	Prepare	None
RFP Addenda	Prepare	Approve (3 Days)	Prepare	None
RFP Clarifications	Prepare	None ²	Prepare	None
Alternative Technical Concepts (ATC)	Prepare	Approve	Prepare	None ²
Pre-Approved Elements (PAE)	Prepare	Approve	Prepare	None ²

- (1) Unless otherwise specified, state administered work activities will be prepared by the MnDOT District and Approved by MnDOT's Office of Project Management and Technical Support (OPMTS).
- (2) MnDOT will send a courtesy copy to the FHWA.
- (3) The RFP is approved as part of the total Federal Authorization package.

2.4 Conflict of Interest

2.4.1 Organization Conflicts of Interest

State and federal rules govern organizational conflicts of interest in MnDOT procurements related to design-build contracting. An “organizational” conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, such as a vendor (e.g. consultant or design-build team) is unable, or potentially unable to render impartial assistance or advice to the state, or the vendor’s objectivity in performing contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage.

A Conflict of Interest Approach has been developed to assist in the determination of organizational conflicts of interest (See Exhibit 2.4-1). This approach is available to all potential design-build teams and should be referenced in both the RFQ and RFP.

When a potential conflict of interest approach arises, the following procedures apply:

1. When a consultant or design-build team member discloses a potential conflict of interest, these disclosures shall be forwarded to the DBPM. In addition, if a MnDOT staff member has reason to believe that a consultant or design-build team member has failed to disclose a potential organizational conflict, that staff member shall notify the PM, who will then notify the DBPM, FHWA, and MnDOT Director of Contract Management.
2. The Director of the Contract Management section will be responsible for conducting a review of the potential conflict, determining if an actual or perceived conflict exists, and determining appropriate avoidance or mitigation measures to be implemented by the department. All findings and measures to be implemented will be documented in writing. In performing these reviews, Contract Management section may consult with project staff, as well as with other resource offices as necessary.
3. The DBPM, PM, FHWA, Director of Contract Management may meet to determine any necessary actions or communication required with the MnDOT staff member, consultant or design-build team.

2.4.2 Consultant Contract Clauses

The risk for potential organization conflicts of interest can be reduced by proactively addressing these issues within consultant contracts. Consultants often want to know if work will preclude them from participating on a design-build team. MnDOT Conflict of Interest Approach (Exhibit 2.4-1) addresses many circumstances, but not all.

Listed below are suggested terms to include in consultant RFP’s or contracts for preliminary design work if a project is a potential design-build candidate. When preparing these contracts, the PM should consult with the Director of Contract Management to determine if the consultant would have an organizational conflict of

interest. Finally, if a consultant is allowed to perform work on the project under a consultant contract and participate on a design-build team, the consultant should be required to submit all final deliverables to MnDOT prior to joining or participating as an offeror on a design-build team.

Sample language to include in preliminary design service contracts:

MnDOT may elect to use design-build delivery method for this Project. The successful responder and all sub consultants to this request for services will not be allowed to participate as an offeror or join a design-build team for this Project.

Sample language to include in material subsurface exploration contracts:

MnDOT may elect to use design-build delivery method for this Project. If a contractor wishes to participate on a design-build team for this Project, the contractor shall adhere to the following:

- 1. Contractor will provide all notes relating to the field work and lab testing of soils to the States Project Manager.*
- 2. Contractor will retain soil samples for a period of one year. The soil samples will be made available for viewing upon request from design-build teams.*
- 3. Contractor's employees involved with drilling, note taking, sampling, lab testing, log writing, pavement determination, or foundation determination will not participate (in any manner) in the preparation of a response to a Request for Qualifications or Request for Proposals as part of a Design-Build Team for this Project. Such employees may work on the Project if the contractor is part of the selected Design-Build team, after the design-build contract has been awarded.*
- 4. Contractor shall adhere to MnDOT's Approach to Conflict of Interest found on the following website: <http://www.dot.state.mn.us/designbuild/>*

2.4.3 Internal COI Procedure

Potential conflicts of interest may arise internally to the design-build process. The mitigation or avoidance of potential conflicts of interests is extremely important as it relates to evaluating SOQ's and evaluating technical proposals. To identify and mitigate any real or perceived internal conflicts of interest, the following procedures have been developed:

1. Prior to working on the project, the PM will be responsible for collecting Conflict of Interest (COI) Forms from all MnDOT and external stakeholders involved with the development of the RFQ and RFP documents, excepting those who have signed 'programmatic' COI Forms.
2. The PM will store all COI forms, excepting those who have signed 'programmatic' COI Forms.

3. The PM will immediately notify the DBPM and Director of Contract Management of all COI issues.
4. The Director of Contract Management, in consultation with other MnDOT offices and state agencies, will make a determination on the conflict of interest and recommend steps to the PM and DBPM.
5. The PM or DBPM will notify FHWA of all COI issues on all federal projects.

Exhibits

2.4-1: Conflict of Interest Approach

Forms

Form 2.4a: Confidentiality Form

Form 2.4b: Programmatic Confidentiality Form

2.5 Data Practices (Public Information)

Design-build contracting often generates documents and information that are unique to MnDOT. Many documents are kept confidential during the procurement to protect ideas and concepts unique to each design-build team. The release and storage of documents shall be consistent with state data practices laws. These laws provide the legal requirements for releasing data generated by MnDOT (Minnesota state statute 13.72) and data generated by private businesses (Minnesota state statute 13.591).

To minimize the release of non-public data, each person involved with the preparation of the RFP and other contract documents, evaluation of SOQ's, and evaluation of technical proposals should complete the Confidentiality and Non-Disclosure Agreement, No Conflict of Interest Form. See [Section 2.4](#) (Conflict of Interest) for the distribution and storage of these forms.

Listed below are the procedures for releasing and disclosing data related to the procurement of design-build projects. Data generated outside of the procurement, such as preliminary design or work performed under the design-build contract, are subject to the same laws and rules as design-bid-build contracting.

2.5.1 General

1. Proprietary information exchanges between design-build teams and MnDOT during procurement are confidential. Specifically, ATC and PAE information should not be shared publically or with other teams during procurement.

2.5.2 Releasing Data Related to RFQs and SOQs

1. The DBPM is responsible for publicly releasing the data in consultation with MnDOT's Data Practices Unit.
2. Unless otherwise indicated below, SOQs are non-public until contract award.
3. MnDOT SOQ evaluation methodology (evaluation manual) and statement of qualification evaluations (scoring sheets and calculations) are public after MnDOT announces the short-list.
4. When releasing this information, the names of the TRC members are withheld until after contract award. This is necessary to minimize the potential of design-build teams having an unfair competitive advantage.
5. In the event that MnDOT has received SOQs, but the RFQ needs to be re-advertised within one year of the original SOQ due date, the following applies:
 - a. The SOQs are non-public until contract award.
 - b. The evaluation methodology and SOQ evaluations are non-public until contract award unless the short-list has been released (see #3 above).
6. In the event that MnDOT has received SOQs, but the RFQ will be re-advertised a year (or longer) since the original SOQ due date, the SOQs and evaluation

- methodology and SOQ evaluations are public one year after the original SOQ due date.
7. In the event that MnDOT has received SOQs, but no longer elects to use design-build contracting on the project, the SOQs, evaluation methodology, and SOQ evaluations are public at the time MnDOT elects to no longer use design-build contracting on the project.
 8. For all other circumstances, the DBPM will consult with MnDOT's Data Practices Unit.

2.5.3 Releasing data related to Technical Proposal Evaluations

1. The DBPM is responsible for publicly releasing the data in consultation with MnDOT's Data Practices Unit.
2. Technical Proposals, scoring methodology and evaluations are non-public until award of the contract.
 - a. Items submitted to MnDOT during the procurement process such as ATCs and PAEs are also considered non-public until contract award.
 - b. ATCs and PAEs submitted to MnDOT during the procurement that are not included in the design-build team's technical proposal, are considered public information, however, MnDOT cannot use them during the contract administration of the project.
3. Upon contract award, the DBPM will post the Technical Proposals, scoring methodology (evaluation manual) and TRC evaluation sheets to the project FTP site.
4. The DBPM will notify (via e-mail) the PM and the Proposer's single points of contact that the information has been posted (include a link to the information).
5. In the event MnDOT elects to not award the contract, but will re-issue the RFP within a year of the letting, the Technical Proposals, evaluation methodology and evaluations are non-public until award.
6. In the event MnDOT elects to not award the contract, but will re-issue the RFP a year (or longer) after the letting, the Technical Proposals, evaluation methodology and evaluations are public a year after the original letting date.
7. In the event that MnDOT elects to not award the contract and not pursue the use of design-build contracting for the project, the Technical Proposals, evaluation methodology, and evaluations are public at the time MnDOT elects to no longer use design-build contracting on the project.
8. For all other circumstances, the DBPM will consult with MnDOT's Data Practices Unit.

2.6 Timesheet Activity Codes

Unique timesheet activity codes have been developed for design-build contracting. These codes listed below should be used during design-build procurement, design-build contract administration, and during warranty management.

All activities that are related to the development of the project, whether it is design-build or design-bid-build, should be charged to the normal project development charge ID (e.g. if working on the environmental document, charge to the appropriate environmental document activities) except development of contract documents (see below).

5910 DESIGN-BUILD PROGRAM MANAGEMENT

CO staff development of the overall design-build program policies and procedures; and management of the overall program. Includes incidental efforts in developing and managing consultant agreements, but significant amounts of time should be coded to Design-Build Procurement, Design-Build Design Oversight, or Design-Build Construction Oversight, as appropriate.

5911 DESIGN-BUILD PROCUREMENT

All CO and district work associated with the preparation of the RFQ and RFP based on preliminary design work, and other tasks until contract award. (Technical Offices and district staff would not use this code for typical preliminary design activities).

5912 DESIGN-BUILD DESIGN OVERSIGHT

All work associated with reviewing the design activities of the design-build team.

5917 DESIGN-BUILD CONSTRUCTION OVERSIGHT

All work related to overseeing design-build construction activities.

5918 DESIGN-BUILD STIPENDS

Use on payment transactions for stipends to unsuccessful proposers on design-build projects. Not for use on timesheets.

5920 DESIGN-BUILD PROJECT SUPPORT

All support for a design-build project not covered by Activity Codes 5910, 5911, 5912, 5917, 5918 or 5930. For example, internal quality audits, RMS support, scheduling, document management, administrative support, and general project management not attributed to design or construction oversight.

5930 DESIGN-BUILD CONTRACT WARRANTY MANAGEMENT

All tasks and expenditures to monitor design-build warranty compliance and pursue remedies after completion of construction. Note: for design-build warranty management, see 1860.

2.7 General Engineering Consultant (GEC)

MnDOT employs a GEC to assist the DBPM and PM with various aspects of procuring design-build projects. The GEC master contract is managed by OPMTS, however the work orders issued under this contract necessary for performing work related to a specific design-build project are funded and managed by individual districts.

The GEC cannot join a design-build team as they are exclusive to MnDOT. Sub-consultants to the GEC that do not perform work on a design-build project may participate as an offeror or join a design-build team (see Exhibit 2.4-1).

Work orders may include:

- Tasks for pre-award project development of design-build projects (preparation of environmental documents, geometric layout preparation, preliminary bridge design, etc.)
- Developing RFPs
- Support of MnDOT's DB program management (updating contract documents, manuals, standards, etc.)
- Assisting MnDOT with the development of other innovative contracting methods.

The benefits to having the GEC perform preliminary work is the elimination of a potential conflict of interest between the consultant performing the preliminary work and desire to be on a design-build team (see [Section 2.4](#)).

Most of the work included in work orders issued under the GEC master contract consists of the development of RFPs for design-build projects and support of MnDOT's design-build program management. These items are eligible for federal funding. All work developing RFP documents for design-build projects shall go through the GEC contract, unless otherwise approved by the DBPM.

2.7.1 Development of a Work Order

1. The PM will consult with the DBPM to verify the scope of the work order is within the tasks defined in the GEC master contract.
2. The PM will fill out a requisition form and work with their district's contract manager to develop and execute the work order.

Exhibits

None

Forms

None

Section 3. Pre-Advertisement Activities

This section provides project development steps that are necessary to develop a design-build contract. This section also provides an overview on when to consider design-build contracting.

3.1 Project Development

The development of design-build projects is similar to traditional design-bid-build projects in many aspects. Planning, geometric layout, environmental approvals, and right-of-way generally follow traditional practices. The preliminary engineering aspects typically stop at the staff approved geometric layout, however the amount of design may vary on a project by project basis. Sufficient preliminary engineering should be done to determine right-of-way limits, obtain municipal consent, meet environmental and permitting requirements, and determine the project scope to define the project's requirements in the RFP. Progressing preliminary design too far potentially limits the innovation of design-build teams and may add risk to MnDOT.

Listed below are project development tasks that need to be addressed before issuing a Request for Proposals. The requirements will change based on the project.

3.1.1 Planning

Activity	Action
<p>Delivery Method Selection</p>	<p>The Project Delivery Method Selection workshop should be held for projects that have been identified as candidates for alternative delivery as early in the planning process as possible. Generally, this workshop should be held once the project scope is set and the major project risks are understood.</p> <p>Refer to Project Delivery Method Selection guidance at: www.dot.state.mn.us/pm/deliverymethod.html</p>
<p>Planning Activities</p>	<p>MnDOT's system planning, pre-program scoping and project scoping activities identified in the MnDOT <i>Highway Project Development Process Handbook</i> (HPDP) are largely unaffected by the decision to use design-build delivery.</p>

<p>Municipal Consent</p>	<p>Municipal consent has been identified as a risk that should remain with MnDOT. As a result, MnDOT should obtain municipal consent prior to issuing a RFP. In no case may a Design-Build project be awarded without municipal consent.</p>
---------------------------------	--

3.1.2 Preliminary Engineering

<p>Activity</p>	<p>Action</p>
<p>Geometric Layout</p>	<p>The geometric layout is the basis for determining the basic configuration in the RFP. The basic configuration defines the parameters of the geometric layout in which the contractor must construct the project. For example, some design-build projects allow the preliminary horizontal and vertical alignments of the roadways to be modified as long as the construction limits remain within the rights of way. For other projects, specific limitations may be placed on how much the horizontal and/or vertical alignments may be changed without being considered a change to the basic configuration.</p> <p>On projects requiring a geometric layout, the layout shall be staff-approved prior to releasing the RFP. The PM should prepare a draft basic configuration to be submitted to Geometrics along with the staff-approved layout.</p> <p>Modifications to the geometric layout during the procurement and contract administration process need to be coordinated through CO Geometrics and may often require approval from the State Design Engineer and FHWA. Geometrics should be granted an opportunity to review and comment on the final basic configuration.</p>
<p>Value Engineering</p>	<p>A value engineering study for the project may be necessary depending on the value of the total project cost. If required, value engineering studies will follow current MnDOT value engineering guidelines and procedures. The incorporation of Alternative Technical Concepts cannot be used as a substitute for a Value Engineering study. The Value Engineering study may focus on the project design and/or the effectiveness of the contract documents.</p>

<p>Environmental Document</p>	<p>The process followed to identify, complete, and obtain approvals for the appropriate environmental document (e.g., EA, EIS, etc.) for a design-build project is generally unchanged from the process for a traditional project. This process is discussed in the HPDP.</p> <p>Federal regulation (23 CFR 636.109) permits agencies to proceed with pre-qualifications, industry review, and a short listing process before the environmental study is complete.</p> <p>MnDOT standard practice is to release the RFP after the environmental process has concluded. All deviations from this practice require special FHWA approval.</p>
<p>Permits</p>	<p>To reduce contractor risk, MnDOT should obtain as many permits as possible before accepting proposals. However, the design-build team will often need to obtain permits based upon their operations or design. In these cases, MnDOT should coordinate early with the regulator agency to outline the project’s risks and anticipated environmental impacts. If necessary, it may be appropriate during procurement to obtain conditional permits outlining the anticipated impacts. In these cases, the design-builder would obtain the final permit based upon the final design. Exhibit 3.1-1 for information on the MOU for preliminary approval under the NPDES permit requirements.</p>
<p>Wetlands</p>	<p>MnDOT should identify all wetlands within the project area. Often, a preliminary permit will be obtained outlining the anticipated (often worst case) impact to the wetlands. The design-build team often is responsible for obtaining the final permit, based upon their design. If the design-build team impacts more wetlands than anticipated, the design-build team should assume the risk of obtaining the permit and mitigating the additional impacts.</p>
<p>Contaminated Materials</p>	<p>Contaminated materials investigation is required prior to releasing the RFP. Unless the risks can be quantified during procurement, the testing, handling and disposal of contaminated materials should not be included in the design-build team’s price proposal. During the administration of the contract, MnDOT will be responsible for identification and testing of contaminated materials.</p>

<p>Noise Analysis</p>	<p>On projects requiring noise walls, preliminary noise analysis is required prior to releasing the RFP. If necessary, the RFP should include requirements that the design-build team update the noise analysis if the final design varies from the inputs used within the preliminary noise analysis.</p>
<p>Right-of-Way</p>	<p>Sufficient right-of-way shall be acquired to accommodate the basic configuration and drainage requirements of the project. The acquisition of right-of-way and easements are traditionally the responsibility of MnDOT. The design-build team often is responsible for all additional construction easements that may become necessary. It is not necessary to have all right-of-way acquired at the time the RFP is released. If it is not, however, the RFP shall contain dates at which MnDOT will obtain title and possession. If the right-of-way is not acquired by authorization, a Public Interest Finding will be required on federally funded projects.</p> <p>MnDOT will provide the design-build team with a right of way work map in the RFP. MnDOT will also provide a parcel delivery status sheet in the RFP, if applicable. These items constitute a guarantee that the basic configuration can be built within the right-of-way provided. To avoid delay claims, it is important to provide access to parcels by the dates indicated on the parcel delivery status sheet.</p> <p>Although not common, MnDOT may delegate responsibility for right of way acquisition to the design-build team. In this case, MnDOT will retain the authority of review and approval of all steps of the acquisition process. The design-build team will be required to develop a right of way work map and other pre-acquisition information necessary to complete a right of way package, as well as complete an appraisal of the parcels. Legal work related to condemnation shall be conducted by the Minnesota Attorney General's office. A sharing of responsibility for right of way acquisition is generally the least desirable option, as inconsistencies and unpredictable costs may occur due to different approaches used by private design-build teams versus those of MnDOT.</p>

<p>Geotechnical Investigation</p>	<p>MnDOT should conduct sufficient geotechnical investigation to minimize the risks to design-build teams. Prior to any borings being performed, an investigation plan should be developed under the direction of the Central Office Geotechnical Engineering staff and District Materials Office staff. The accuracy of the borings taken should most often be guaranteed to the design-build team. However, it is important to note that no interpretation of the soil conditions between the borings should be guaranteed in most situations.</p> <p>If feasible, design-build teams should be allowed to perform additional borings during procurement to further minimize the risk.</p> <p>MnDOT may provide additional information relating to the soil investigation, such as geological data, groundwater data reports, logs of previously completed nearby borings from past projects, memoranda, and fence diagrams in the RID or contract, depending on whether or not their accuracy can be guaranteed. MnDOT should avoid providing interpretive reports, except for the final pavement design.</p>
<p>Pavement Design</p>	<p>Pavement designs for all permanent roadways/ramps/shoulders/paths may be designed by MnDOT in accordance with Pavement Design Manual and provided in the RFP. In these cases, the pavement designs should include minimum pavement sections, pavement types, and subbase materials. Pavement designs for temporary work are the responsibility of the design-build team.</p> <p>Alternatively, pavement designs may be completed by the design-build team utilizing a ‘Pre-Accepted Element’ process. This approach ensures that the pavements are designed within standards while potentially taking advantage of contractors’ economically available materials and other strengths.</p>
<p>Survey</p>	<p>MnDOT will provide survey control and preliminary base mapping for the project. The level of mapping should be adequate to support completion of the environmental document and to support preliminary engineering. The mapping will ultimately be provided in the RID. The design-build team is responsible for all final design surveying and construction staking surveying.</p>

	MnDOT shall carefully consider whether survey information such as centerline alignments, .tin files, etc can be made contractual to reduce risk to the design-build teams. MnDOT shall consider whether it is possible for the contractor to acquire the survey data they will need or want to complete their technical proposals.
Design Exceptions	Approval of the design exceptions is required by the State Design Engineer and the FHWA prior to releasing the RFP. A design-build team may introduce a design exception during contract execution only if approved by MnDOT and, subsequently, the FHWA at the teams' risk.
Road Design	Road design criteria shall be defined within the RFP, using the MnDOT <i>Design-Build Modifications to the Road-Design Manual</i> and other standards.
Drainage	A "proof of concept" should be completed regarding the project drainage to confirm that the provided right-of-way, project budget, and permits are sufficient.
Structures	Allowable structure types should be listed in the RFP. The approximate geometrics of the structure(s) should be established, which is most often done by providing a general, plan, and elevation (GP&E) drawing sheet of each structure identifying type, size, and location (included in RID documentation). GP&E sheets may not be necessary if there is no railroad, permitting, estimating, or other coordination need for their preparation.
Visual Quality	Visual quality aspects should be clearly defined within the RFP. This includes identifying wall and bridge treatments, including colors and patterns. The requirements may include a visual quality manual or diagrams depicting desired features. The manual or diagrams should not include dimensions of features that will unnecessarily shift design risk back to MnDOT. The RFP may include visual quality alternatives to reduce costs and allow for innovation. Visual quality aspects need to be coordinated with the affected stakeholders prior to release of the RFP.
Signals / Roundabouts	Traffic control (signal or roundabout) justification reports should be completed prior to releasing the RFP. If

	roundabouts are being used, the roundabouts should be reviewed by the roundabout layout review committee.
Signing	Determine the material requirements, special designs, and additional signs which vary beyond the requirements of the RFP template documents.
Pavement Markings	Determine allowable permanent and temporary pavement marking material requirements.
Traffic Management System (TMS)	Preliminary ITS layouts should be prepared prior to issuing the RFP and made contractual as appropriate, perhaps in the same style as the basic configuration.
Maintenance of Traffic	Although the design-build team is responsible for developing the staging and traffic control plans, sufficient preliminary engineering should be completed to define the required minimum traffic control requirements and begin the Transportation Management Plan.

3.1.3 Project Management

Activity	Action
Schedule Management	Critical Path Method (CPM) schedules are required on all design-build projects. The CPM schedule tracks the design-build team's progress and is also used to issue payments to the design-build team.
Quality Management (Design)	The design-build team is the engineer of record and is responsible for quality control and quality assurance of the design. MnDOT's role is to verify that the design meets the requirements of the contract, audit the design-builder's quality process, and accept each released for construction (RFC) package. Prior to submitting RFC packages for acceptance, the design-build team should conduct over-the-shoulder reviews with MnDOT staff. MnDOT will provide informal comments to the over-the-shoulder reviews. Formal comments will be provided on submitted RFC packages and other formal submittals.
Quality Management (Construction)	The role of the design-build team changes compared to traditional design-bid-build contracts. Design errors or ambiguities identified in the field are the responsibility of

	the contractor to correct. MnDOT is responsible for acceptance testing and inspection.
Cost Management	Design-Build contracts are typically lump sum, in which payments are made based on percent complete of activities defined within the cost loaded CPM schedule. The design-build team submits monthly invoices and progress reports that are used to determine progress payments based on the percentage of work complete for each schedule activity. MnDOT testing and inspection documentation must support that work on each paid activity has occurred.
Human Resources	Minimum requirements are established for key personnel within the RFQ and RFP. Design-build teams are not allowed to replace design-build firms or individuals identified within the RFQ or RFP without written approval of the commissioner. The written approval must document why the proposed replacement will be equal or better than the individual or firm listed in the RFQ or RFP. The DBPM will facilitate obtaining the commissioner's approval. The design-build contract should also include monetary deductions for the removal of key individuals during the course of the project.
Co-location	Co-location is encouraged on multi-year complex projects which require a large degree of coordination between the design-build team and MnDOT design oversight staff. On projects in which design is scheduled to last less than six months, alternative forms of design coordination are encouraged (e.g. regular scheduled meetings, MnDOT oversight staff with office space within designer office).
Public Information	Since the design, staging, and schedule are the responsibility of the design-build team, shifting additional public information responsibilities to the design-build team is encouraged. On complex projects with heavy public involvement, requiring the design-build team to have a highly skilled public relations expert on staff is encouraged. Press releases and direct contact with elected officials should remain the responsibility of MnDOT.
Engineering Estimate	See Section 3.2

<p>Disadvantaged Business Enterprise (DBE), On-the-Job Training (OJT), Targeted Group Business (TGB), etc</p>	<p>See Section 3.3</p>
--	--

3.1.4 Third Party Agreements

Activity	Action
<p>Municipal Agreements</p>	<p>If municipal agreements are required, they are to be prepared and negotiated in accordance with MnDOT Guideline for the Policy and Procedures for Cooperative Construction Projects with Local Units of Government and the MnDOT Position Statement for the Policy and Procedures for Cooperative Construction Projects with Local Units of Government. It is preferable to have these agreements signed prior to the release of the RFP; if this is not possible the DBPM is responsible for reviewing the situation and determining whether the risk of changes is low enough that the risk to the design-build program can be accepted. A design-build contract cannot be awarded until all agreements are signed.</p>
<p>Utility Agreements and Coordination</p>	<p>Utility coordination must be performed in accordance with <i>MnDOT Utility Manual, Design-Build Section</i>. Depending on the extent of utilities located within the project corridor, the preparation of utility agreements can be one of the more time-consuming processes of a design-build project. Consequently, MnDOT should contact utility owners during the early stages of the project to plan activities and arrange meetings.</p> <p>MnDOT's standard practice on design-build projects is to provide subsurface utility engineering (SUE) and to utilize master utility agreements (MUA) between MnDOT and utilities with major impacts. MnDOT conducts an initial SUE and prepares Utility Information Sheets (UISs) for each utility within the project corridor. The UISs are included in the RID and contain all information known to MnDOT at the time of issuance of the RFP, including descriptions of utilities expected to</p>

	<p>have conflicts, proposed relocation areas, and utilities not expected to have conflicts. Notification timeframes for major relocation efforts and other high-level issues should be made contractual in the RFP.</p> <p>MnDOT can follow one of two options for allocating the risk of any misidentified or unidentified utilities. If MnDOT conducts an extensive SUE prior to issuance of the RFP, MnDOT will guarantee the “reasonable accuracy” of the information provided in the RID for underground utilities, the relocation of which are included in the Design-build team’s proposal price. If MnDOT does not conduct an extensive SUE, MnDOT will not guarantee the “reasonable accuracy” of the information provided in the RID for any underground utilities.</p> <p>MnDOT may enter into MUAs with utility owners to address utility issues on the project, including cost responsibilities. The design-build team is required to become a party to the MUA, which sets forth a work order process where MnDOT, the Utility Owner, and the design-build team agree to a cost and schedule for each relocation. The Notice and Order, which is issued by the Commissioner under the Minnesota utility relocation statutes, will be included as an attachment to the MUA. If a Utility Owner does not enter into a MUA with MnDOT, MnDOT’s Notice and Order process will be required to relocate the utilities.</p> <p>More detailed information on the utility coordination process in design-build delivery is provided in the <i>MnDOT Utilities Manual, Design-Build Section</i>.</p>
<p>Railroad Agreements</p>	<p>Railroad agreements are similar to other third-party agreements, but often require long lead time to finalize. For this reason, discussions with railroads should be initiated as early as possible in the project, and agreements with railroads should be in place prior to issuance of the RFP. The design-build contract should recognize potential impacts to schedule and cost due to the unpredictability of railroad participation. Key railroad requirements, including the railroad’s involvement, authority, and review times, should be identified in the RFP. When bridges are involved, it is wise to negotiate a</p>

	two-dimensional ‘clearance envelope’ with the railroad on a cross-section of the track and make it contractual.
--	---

3.1.5 Pre-Qualification Lists

MnDOT’s Consultant Services unit maintains pre-qualification lists for various consultant work types. Although 23 CFR 636.208 allows the use of existing pre-qualification lists, the lists should only be used on highly specialized areas of design (e.g. complex roundabouts), technical assistance (e.g. environmental monitoring), and to improve the quality of designers on low-bid projects. The use of pre-qualification lists should not be used to unnecessarily limit competition or provide preferential treatment to local firms on federally funded projects.

Incorporating pre-qualification must follow the following procedure:

1. The PM will consult with the DBPM if pre-qualification lists are desired.
2. On PODI projects, the DBPM will consult with FHWA to determine if the use of the pre-qualification list will limit competition.
3. The DBPM will include the pre-qualification requirement within the RFQ, with reference to the work type with a link to the MnDOT prequalification website.
4. The PM will include the requirements in Book 2, Section 2 of the RFP.
5. If the PM wants to add pre-qualification lists to the RFP, but did not include the requirements in the RFQ, the following apply:
 - a. The pre-qualification list cannot contradict the requirements for Key Personnel or firms identified in the RFQ or RFP. The use of pre-qualification firms should supplement, not replace, individuals in the SOQs.

3.1.6 Sole-Source Clauses

Sole-source clauses are used to ensure sufficient competition exists for the project. Sole-source clauses prevent design-build teams from obtaining resources which would result in only one (or limited number) of design-build firms available to meet the requirements of the contract.

Sole-source clauses should only be used in very limited situations and for very unique items. For example, if there are only one or two suppliers or designers for a special item, the clause will ensure that one design-build team is not able to procure all available resources and restrict competition.

The following procedures apply when incorporating sole-source clauses:

1. The PM will consult with the DBPM if sole-source clauses are to be used as part of the short-listing process.

2. If the DBPM agrees that sole-source clauses might be necessary, the PM will conduct a study to determine the availability of the item/service. The study needs to include a financial analysis showing how competition will be limited without a sole-source clause.
3. The DBPM will consult with MnDOT's Chief Council office on the results of the study to determine if sole-source clause needs to be included in the RFP.
4. If approved by MnDOT's Chief Council office, the DBPM will draft the RFP sole-source clause with input from MnDOT Director of Contract Management and obtain FHWA concurrence on federal aid projects.
5. If at all possible, include the sole-source clause in the original RFP release, not as an addendum.

3.1.7 Maximum Price Contracts

A maximum price contract specifies the maximum price that a design-build team can submit as their price proposal. Any price proposals received with values in excess of the maximum price are non-responsive, but a design-build team who submits such a price proposal will receive any offered stipend if they are responsive to all other requirements of the RFP other than the maximum price.

If all price proposals exceed the maximum price, MnDOT has the option to: 1) not pursue design-build procurement or 2) re-issue the RFP. To award the contract, the RFP must be re-issued and a second letting must occur. This may result in the payment of an additional round of stipends.

Stipends are not eligible for federal participation on maximum price contracts.

There are three types of maximum price contracts:

1. Maximum price cap, fixed scope
2. Maximum price cap, maximum scope (similar to "Additive Alternate" process in Design-Bid-Build)
3. Maximum Fixed price, maximum scope

Maximum price cap, fixed scope projects involve the completion of a set scope of work (as is typical for most projects). The only difference from a typical project is that the contractor may not bid over a certain "maximum" price cap without becoming non-responsive. MnDOT would typically use a maximum price cap, fixed scope project in situations where there is a project budget that may not be exceeded. This structure protects project budgets, but does little to add innovation to a project. Furthermore, it adds a risk that the project will fail to be awarded in situations where no teams can meet the funding cap; such situations are undesirable for the project, contractors, and Design-Build program. Therefore, maximum price cap, fixed scope projects should be used only when necessary.

Maximum price cap, maximum scope projects are similar in effect to the "Additive Alternate" process utilized on MnDOT's Design-Bid-Build projects, although they differ significantly in execution on a Design-Build project due to the award methodology. With

this model, the contractor is required to provide as much scope as they can from a defined and prioritized list of options (i.e. reconstructed roadway length, number of stabilized slopes, number of constructed facilities, etc) for an amount less than a maximum price cap allowed. The contract's scoring criteria must be structured such that the team that provides the most scope receives all available "Best Value" technical scoring points on the project, and the contract is subsequently awarded using the standard "price divided by technical score" equation. The practical effect of this structure is that the project is awarded to the team that provides the largest amount of desired scope on the project beneath the maximum price cap with 'low cost' utilized as a tiebreaker.

Maximum fixed price, maximum scope is the third type of maximum price contract structure. This functions similarly to the "maximum price, maximum scope" structure, however, the contractor must submit a price proposal that equals the maximum price. "Fixed price" structures may only be used in situations where the project scope is highly "granular" (i.e. roadway reconstruction by the foot, stabilized slopes by the foot, etc) such that the full project budget can be confidently spent without wastage.

As an additional option under the fixed price, maximum scope structure in particular, MnDOT may score the quality provided scope using traditional Best Value scoring methodologies rather than awarding all points to the bidder who provides the most scope from a defined and prioritized list of options. This may be an appropriate methodology to use when MnDOT is asking for scope that is more difficult to define or unusual work types.

Regardless of the "maximum scope" clause utilized in either option #2 or option #3, MnDOT must specify a minimum scope for the project. This minimum scope is the least scope that MnDOT would be willing to accept for the defined maximum or fixed price of the project. MnDOT must be highly confident that this minimum scope is constructible for the maximum price of the project and, in addition, MnDOT must confirm that the construction of the minimum scope for the maximum price would be a reasonable cost for the work performed. As a result of these requirements, the minimum scope is typically the amount of work MnDOT believes is reasonably constructible and any scope additions are the result of contractor innovation and efficiency.

There are a number of ways to define a minimum scope depending on the specific scope of the project. If detailed risk and estimate data is available, one suggestion would be to set the minimum scope of a project such that the 90% confidence band on the estimate equals the project's maximum price.

Finally, consideration must be given to the maximum number of technical scoring points available to the project on "maximum scope" projects. If, for example, the maximum number of points is limited to 50% of the price proposal (i.e. 50 points out of 100 possible) then it may be possible for a team to succeed under the Best Value calculation by offering half the scope of another proposer at half the cost. With an appropriately set minimum scope this should not typically be possible, but it may be a possibility for unusual work types. If this is felt to be a risk, MnDOT should seek to modify the minimum scope or increase the number of points available to be scored. The latter may require discussion with interested parties such as the Association of General Contractors (AGC).

The following additional procedures apply when incorporating maximum price clauses in design-build contracts.

1. The PM is responsible for determining the maximum price dollar amount based upon a funding cap or detailed cost estimate with high confidence range; see discussion above. For a fixed price, maximum scope contract in particular the anticipated project scope should be adjusted until the engineer's estimate matches the fixed price.
2. The use of maximum price clauses must be conveyed to potential design-build teams in the procurement documents (RFQ and RFP) as follows:
 - a. Request for Letters of Interest – indicate that the project will likely include a maximum price clause, but do not specify an amount. If using a fixed price, maximum scope clause, note this in particular.
 - b. Request for Qualifications – include in Section 2.2:

A maximum price proposal value will be included in the RFP. The estimated value of the maximum price proposal is listed in [Section 6.2.2](#). Short-listed Proposers that submit Price Proposals over the maximum price proposal value will be deemed non-responsive.

If using a fixed price, maximum scope clause include the following instead:

A maximum price proposal value will be included in the RFP. Specifically, the RFP will contain a fixed price, maximum scope clause. The estimated value of the maximum price proposal is listed in [Section 6.2.2](#). Short-listed Proposers that submit Price Proposals over the maximum price proposal value will be deemed non-responsive.

- c. Request for Qualifications- Include in Section 6.2.2 (RFP Requirements):

The maximum price proposal value that MnDOT will accept for the Project. Proposers that submit Price Proposals over the maximum price proposal value will be deemed non-responsive. See [Section 6.6](#) for impacts to the stipend. The estimated value of the maximum price proposal value is \$XX million, and is subject to change as the scope of the project is finalized during the RFP development process.

- d. Request for Qualifications - Include in Section 6.6 (Stipends):

MnDOT will award a stipend of {\$XXXXX} to each short listed, responsible Proposer that provides an unsuccessful proposal and a proposal that is responsive to all aspects of the RFP excluding the maximum price proposal value requirement.

- e. Request for Proposals - Include in ITP Section 5.3.2:

Proposers that submit Price Proposals that exceed {\$XXXXX} shall be deemed non-responsive.

If using a fixed price, maximum scope clause include the following instead:

Proposers that submit Price Proposals that do not equal {\$XXXXX} shall be deemed non-responsive.

- f. Request for Proposals – Include in ITP Section 6.4 (Stipends):

MnDOT will award a stipend of {\$XXXXX} to each short listed, responsible Proposer that provides an unsuccessful proposal and a proposal that is responsive to all aspects of the RFP excluding the maximum price proposal value requirement.

3. The DBPM will update the pass/fail requirements in the Technical Proposal Evaluation Manual to reflect that Price Proposals over the maximum price will be deemed non-responsive.
4. If the Price Proposal exceeds the maximum price, the adjusted score will not be calculated at the letting. The adjusted score box will read “non-responsive”.

3.1.8 Project Development Checklist

To aid in the development of the project, Form 3.1a provides a general checklist for the PM and DBPM to use throughout the procurement process. Listed below are the procedures for implementing the checklist.

1. When a potential design-build project is identified, the DBPM will meet with the PM to determine the status of the project.
2. The DBPM should investigate the status of the project using the Project Development Checklist (see Form 3.1a). Any action items identified during the use of the Project Development Checklist should be managed by the PM on the project risk register or elsewhere.
3. The DBPM and PM should develop a project schedule using the guidelines listed in [Section 1.4.4 and the template Design-Build schedule in P6](#).

Exhibit

3.1-1: NPDES Permit Requirements MOU

Forms

Form 3.1a: Project Development Checklist

3.2 Engineering Estimates

During the development of the project, project estimates should be developed and updated frequently as the scope is refined. For the purpose of design-build projects, estimates can be broken down into the following categories:

Planning, Scoping and Preliminary Estimates: These estimates are used to establish a baseline cost for budgeting and for conveying estimated costs within the procurement documents. State statutes require that the estimated cost of design and construction be included in the RFQ and RFP documents. The value published within the RFQ and RFP shall be listed as a range of values.

The PM is responsible for developing and updating planning, scoping and preliminary estimates as the scope of the project is refined. The development of these estimates should follow procedures and guidelines within MnDOT's Cost Estimation and Cost Management (CE/CM) Technical Reference Manual.

Design Estimates: These estimates are used to develop the engineer's estimate. The design estimates should reflect the project's cost according to the requirements of the RFP and staff approved layout.

The PM, with support from MnDOT specialty units, is responsible for developing the final design estimates using Form 3.2a Project Estimate Template while following the procedures and guidelines within MnDOT's CE/CM Technical Reference Manual.

Engineer's Estimate: This estimate is a confidential estimate used for multiple reasons such as the development of the OCR goals and the authorization of funding on federally funded projects. This estimate is also used to analyze and justify all design-build team's price proposals during pre-award activities. This estimate is prepared following the submission of the RFP to the Central Office and prior to requesting federal authorization (or, if not applicable, prior to releasing the RFP). The estimate is updated, as necessary, throughout the procurement process up to the letting if any addenda modify the project scope.

The engineer's estimate is primarily prepared by the MnDOT Estimating Engineer (Office of Project Management and Technical Support), with input from the PM, DBPM, bridge estimating unit, and other functional groups as needed. The engineer's estimate shall be prepared using the following procedure:

1. Engineer's estimates need to be stored in a secure location and should not be stored electronically on shared network drives.
2. Access to the engineer's estimate should be limited to individuals directly preparing the estimate. The PM shall restrict access rights to cost information used to prepare the engineer's estimate.

3. The PM will hold a cost estimating kick-off meeting with the DBPM, MnDOT Estimating Engineer, FHWA (on federally funded projects) and other functional groups (e.g. Municipal Agreement, Utility Agreements), as needed, to discuss the cost estimating process, go over the current cost estimate, and coordinate the development of the engineer's estimate. The kick-off meeting will take place soon after a project has been identified to use the design-build delivery method and prior to the development of any further estimates.
4. The Estimating Engineer will be invited to any RFQ and RFP Kickoff meetings for the project such that they can gain familiarity with the project scope.
5. The PM will use the design estimate to prepare a draft engineer's estimate according to MnDOT's CE/CM Technical Reference Manual. The PM will use the Project Estimate Template (Form 3.2a) for the draft engineer's estimate. The template will be used to identify the line items needed for bidding the project. The Project Estimate Template format under the construction heading follows the format of MnDOT's Standard Specifications for Construction. Budgetary contingencies must not be added to the estimate. Risks, both positive and negative, must be included as appropriate.
6. The engineer's estimate will include:
 - a. A quantity breakdown of major items, including line item references to MnDOT's Standard Specifications for Construction;
 - b. Funding group splits for each line;
 - c. Major assumptions documented for lines, as necessary; and
 - d. Supporting documentation.
7. The PM will provide the draft engineer's estimate and supporting documentation to the MnDOT Estimating Engineer concurrently with the Central Office review submittal (i.e. RFP, PIFs, etc submittal), although it must be placed in the secure location identified by the Estimating Engineer instead of being submitted to the DBPM. The DBPM will provide the Estimating Engineer with the submitted RFP and, following the DBPM's review of the RFP, an analysis of the items in the RFP which have the potential to affect the cost outside of normal bid histories. The MnDOT Estimating Engineer will use this information to develop the official MnDOT Engineer's Estimate.
8. Immediately following the letting, the PM, Estimating Engineer, and DBPM will:
 - a. Adjust the engineer's estimate if any ATCs are included in the winning design-build team's technical proposal, unless these ATCs were broadly estimated in the original estimate. The PM may have to investigate the cost savings of the ATCs.
 - b. Compare the design-build team's price proposal to the official engineer's estimate during the pre-award bid analysis.
 - c. Prepare the justification letter.

- d. The Estimating Engineer will send the audit sheet and justification letter to the CLS to include in the concurrence in award package.
9. The official Engineer's Estimate is not public until award of the project. The DBPM is responsible for releasing this information in accordance with [Section 2.5](#).

Exhibits

None

Forms

Form 3.2a: Project Estimate Template

3.3 Civil Rights

The Office of Civil Rights (OCR) has several programs which often require the incorporation of special provisions within the design-build RFP. These programs include:

- Disadvantaged Business Enterprise (DBE)
- Equal Opportunity Program (EEO)
- On-the-Job Training (OJT)
- Targeted Group Business (TGB)
- Veteran-Owned Business
- Tribal Employment Rights Office (TERO)

The Federal programs (DBE, EEO, and OJT) are utilized on all projects with federal funding. The State Programs (TGB and Veteran-Owned Business) are utilized on all projects with state funding only. TERO applies to specific, pre-selected projects within a district.

Early coordination with the OCR is recommended on every design-build project. The OCR has direct contact with the protected firms and can facilitate communication with design-build teams. Increasing the communication between design-build teams and protected firms may increase their participation on federally funded projects.

OCR meet-and-greets are often used to foster this communication. The meet-and-greets are formal meetings between design-build teams and potential protected firms. The meet-and-greets often begin with the MnDOT PM giving an overview of the project, followed by the firms and design-build teams introducing themselves. Often, each design-build team is given a conference room to meet individually with the firms. Unless otherwise approved by OCR, meet-and-greets will be held on all federally funded design-build projects (see OCR Communication below).

Listed below are several procedures for communicating with OCR and procedures for preparing civil right contract clauses.

3.3.1 OCR “Meet and Greet” Communication

1. Prior to the RFP being released, the PM will contact the OCR to discuss whether a Meet and Greet is required. (A Meet and Greet is an opportunity for the Proposers to meet local DBE/TGB/other firms)
 - a. If required, OCR and the PM will mutually agree upon the time and place for the meeting. The meeting should be held one to three weeks after the RFP is issued.
 - b. OCR will arrange for the room and contact the firms.
 - c. The PM will contact all short-listed design-build teams (and, on PODI projects, invite the FHWA).

- d. The DBPM will publish the date and time in the ITP and on the design-build website.
2. The OCR and the PM will facilitate the Meet and Greet. The Meet and Greet should include an overview of the project by the PM, a review of the applicable goals by OCR, and opportunities for the DBE/TGB/other firms to interact one-on-one with the short-listed design-build teams.

3.3.2 OCR Goals

1. At least one month before the RFP is to be issued, the PM will schedule a meeting with the DBPM and OCR to establish the appropriate goals for a project.
 - a. The Engineering Estimate is the basis for setting the goals.
 - b. The role of the PM and DBPM is to assist OCR with understanding the estimate, understanding the types of work, and answering any questions to assist OCR with establishing the goals.
2. OCR will finalize the goals and provide a copy of their Special Provisions to the DBPM for inclusion in the RFP.
3. The DBPM will incorporate OCR's Special Provisions into the RFP.

Exhibits

None

Forms

None

3.4 Early Design-Build Team Coordination

Early coordination is defined as communication with prospective design-build teams or firms prior to the release of procurement documents such as an RFQ or RFP. Early coordination with potential design-build teams can be used to minimize project risk.

Examples of early coordination include:

Procurement Determinations	Assess the feasibility of different procurements (e.g. design-build, design-bid-build) for a specific project.
Constructability Reviews	Assess the feasibility of project aspects prior to advertisement
Pre-RFQ Meetings	Obtain input into the procurement and RFQ requirements.
Draft RFQs	Solicit feedback on draft RFQ's.
OCR Coordination	Allow design-build teams and protected firms to meet before the formation of teams
RFQ Informational Meetings	Discuss the project and procurement with potential design-build firms.
Draft Request for Proposals	Obtain feedback on complex sections of the RFP.
Utility Coordination	Invite design-build teams to utility coordination meetings to assess schedule and utility relocation risks.
Project Status Updates	Inform proposers of the status of the RFP and other developments.

Federal regulation 23CFR 636.115 encourages early information exchanges to, among other things, improve the understanding of the requirements and industry capabilities, identify and resolve concerns regarding the procurement strategy including contract types, terms and conditions and address feasibility of requirements.

Early design-build team coordination is encouraged, but opportunities should be advertised and offered consistently to all firms interested in the design-build project.

Information obtained from any early design-build team coordination will be made to all potential offerors as soon as possible.

If early design-build team coordination is desired, the PM will contact the DBPM. The DBPM will be responsible for coordinating the advertisement on the MnDOT Design-Build Website and the MnDOT Bid Letting website if applicable.

The MnDOT Design-Build Website should contain the detailed early coordination information (date/locations for meetings, draft RFQ's, results of early communication for other offerors). Listed below are several examples:

Example 1: Pre-RFQ Meeting Notice

Notice to All Design-build teams (May 24, 2010)

TH 13/101 Design-Build Contract – MnDOT will be conducting a pre-Request for Qualification informational meeting for design-build teams interested in the design and construction of a new interchange at the intersection of TH 13/101 in the City of Savage (Scott County, MnDOT Metro District). The meeting will be held at the following time and location:

Date: June 10, 2010
Time: 8:00 to 10:00 am
Location: MnDOT Metro District
Waters Edge Building
1500 W County Road B2
Roseville, MN 55113
Conference Room A&C

Example 2: Constructability Review

Notice to All Design-build teams (date)

TH 61 Hastings Design-Build Contract – MnDOT will be conducting one-on-one constructability reviews with potential design-build teams interested in providing input into the development of this project. This design-build project includes the construction of either a cable-stay or tied-arch bridge on TH 61 over the Mississippi River. Items to be discussed at the constructability review include utility impacts, flood risk, and construction staging. The meetings will be conducted on {dates} at {location}. If interested, contact {PM, phone, e-mail} to schedule a meeting.

Additional information regarding this meeting can be found on the following website: [{insert website}](#)

When early coordination is desired, the following procedures apply:

1. Constructability Reviews: The PM will follow MnDOT's Contractor Constructability Review guidelines in consultation with the DBPM. The guidelines can be found on MnDOT's Innovative Contracting website (<http://www.dot.state.mn.us/const/tools/innovativecontract.html>).
2. Draft Solicitation Documents: The PM must obtain approval of the DBPM prior to releasing any draft solicitation documents (LOI, RFQ, RFP, etc.).
 - a. The PM is responsible for obtaining all comments on draft solicitation documents and providing a copy of the comments to the DBPM.
 - b. It is beneficial to post draft scoring criteria at the time the RFQ is advertised on best value projects to assist in the development of high-quality teams. These criteria must be provided on the project website with a disclaimer that they may be changed in any and all ways prior to the release of the RFP. When preparing draft scoring criteria, it is acceptable to provide general intents in place of specific wording should it be more appropriate.
3. Coordination Meetings: The PM must obtain approval from the DBPM prior to scheduling any pre-RFP external coordination meetings (e.g. Utility, OCR).
 - i. Pre-RFP meetings must be optional to design-build teams. Meetings should be group meetings, not one-on-one.
 - ii. The PM will be responsible for setting up all meetings and notifying the proposer's single points of contact.
4. Project Status Updates: The PM will e-mail the design-build team's single point of contact and cc' the DBPM.
5. For all other types of early coordination concepts, the PM will consult with the DBPM prior to beginning any communication with design-build teams. The DBPM will consult with the FHWA on PODI projects.

Exhibits

None

Forms

None

3.5 Legislative Notice – Project

State Statute 161.3412 and 161.3416 requires the Commissioner to notify the chairs of the Senate and House of Representatives committees with jurisdiction over transportation policy and transportation finance each time the commissioner decides to use the design-build method of procurement and explain why that method was chosen.

The following steps outline the legislative notification process.

1. After a project has been identified as a design-build contract, the DBPM will draft a letter to the senate and house of representative committees with jurisdiction over transportation policy and transportation finance for the commissioner signature (see example Exhibit 3.5-1).
2. The DBPM will send the letter to MnDOT's Government Affairs staff for review. MnDOT Government Affairs will route the letter to the Commissioner's Office.
3. The DMPM will place a signed copy in the Project File and send an electronic copy to the FHWA.

Exhibits

3.5-1: Sample Legislative Notice – Project Letter

Forms

None

Section 4. Advertisement Activities

This section outlines the procurement steps necessary for design-build contracting.

4.1 Websites and ftp site

Websites and ftp sites are used to advertise the project and relay project information to the design-build teams during the procurement process. During procurement, a variety of MnDOT web pages are used. These often include:

Project Specific Websites – These pages are developed and maintained by the district. These pages convey general project information and project timelines and are intended for the general public.

MnDOT Bid Letting Website – This website is maintained by the Office of Project Management and Technical Support. The bid letting website is the official advertisement site for construction projects, including design-build, although in the case of design-build a simple link is provided. The primary audience is design-build teams, suppliers, and subcontractors.

Design-Build Website – This website is maintained by the DBPM and contains information related to the procurement of design-build projects. The primary audience for this website is design-build teams, but all information is open to the public. This website contains solicitation documents (RFQ, RFP), procurement schedules, links to project data (CADD files, utility information), and other information on an ftp site. This website links back to the project specific website and a project specific ftp site, if applicable. The ftp site provides information to design-build teams. Reference Information Documents (RID), RFQ, RFP, clarifications, and addenda are posted to this ftp site.

Prior to any design-build solicitation, the following procedure apply to the creation and maintenance of website and ftp sites.

1. The PM is responsible for updating all Project Specific Websites.
2. The DBPM will update the Design-Build website (<http://www.dot.state.mn.us/designbuild/>) whenever a new design-build project is added.
3. Within the Design-Build website, the DBPM will create a procurement webpage for each project that is closely patterned after the pages from the most recent projects. The procurement website will:
 - a. Include the procurement schedule
 - b. Post all information for interested teams.

- c. Have direct links to the RFQ, RFQ Addenda and RFQ Clarifications.
 - d. Post the short-list information
 - e. Post all project award data
 - f. Include a link to a project ftp site.
4. The DBPM or PM will establish a project-specific ftp site for each project. The ftp site will be linked to the design-build procurement website using a clearly-identified link. The site should be established on the following path:
ftp://ftp2.dot.state.mn.us/pub/outbound/DesignBuild/{insert project name}/
 5. The PM will populate the ftp site with project specific data. The site should be updated in real-time to provide teams with the most up-to-date information. The ftp site will become the basis of the RID.
 - a. RID information will be organized into folders roughly equivalent to the final RID organization in the RFP
 - b. Procurement information will be organized into the following categories:
 - i. RFQ
 1. Addenda
 2. Clarifications
 - ii. RFP
 1. Addenda
 2. Clarifications
 - iii. Scoring Results*
 1. Design-Build Team (repeat as necessary for each team)
 - a. Evaluations
 - b. Technical Proposal
 2. MnDOT Documents
 - a. Technical Proposal Evaluation Manual
 - b. Scoring Summary spreadsheet

*To be posted by the DBPM after award (See [Section 6.1.1](#)).

Exhibits

None

Forms

None

4.2 Request for Letters of Interest

A Request for Letters of Interest (RLOI) notifies design-build teams that an RFQ or RFP is forthcoming on a project. Although not required by state statute, most design-build projects issue RLOI. Responses to the RLOI are used to assist MnDOT with gauging industry interest in the project. Design-build teams do not have to respond to the RLOI in order to respond to the RFQ or RFP.

If requests for letter of interest are desired, the follow procedures apply.

1. After a project has been identified as a design-build contract, the PM will draft the RLOI using the format in Exhibit 4.2-1. The RLOI should contain:
 - location of project
 - highway number
 - approximate project limits
 - MnDOT district
 - general project scope
 - procurement method
 - Anticipated procurement and construction schedule
 - PM contact information
 - a listing of information to be contained in the LOI
 - due date and time of LOI
 - listing of any informational meetings about the project
 - procurement disclaimer
2. The DBPM and PM will review the draft RLOI.
3. The DBPM will advertise the final RLOI in accordance with [Section 4.1](#) and [Section 4.4](#).
4. The PM will keep a log of responses and will distribute the RFQ to all responders of the RLOI (see [Section 4.5.2](#)).

Exhibits

4.2-1: Sample Request for Letters of Interest

Forms

None

4.3 Technical Review Committee

The Technical Review Committee (TRC) evaluates Statements of Qualifications (SOQ) in response to a Request for Qualification (RFQ) and technical proposals received in response to a Request for Proposals (RFP).

State Statute 161.3420 requires that the Commissioner establish the TRC during step one (RFQ) and before solicitation. The statute also requires that the TRC be made up of at least five individuals, one of whom is an individual whose name and qualifications are submitted to the commissioner by the Minnesota chapter of the Associated General Contractors (AGC). Details of the minimum qualifications of the AGC representative are outlined in a Memorandum of Understanding (MOU) with AGC (see Exhibit 4.3-2).

The TRC is established according to the following procedure:

1. Prior to advertising the RFQ (or the RFP, on a project without an RFQ), the DBPM will contact the Minnesota AGC requesting the name of the AGC representative. The contact shall be in writing.
2. The PM will recommend all other TRC members to the DBPM. The TRC must:
 - a. Include at least five individuals (including the AGC member). Five to seven members is preferred.
 - b. Include at least one MnDOT manager (Senior Administrative Engineer or higher). The use of two or more managers should be considered, although it may not be possible.
 - c. Include only Principal Engineer level (or equivalent) positions or higher.
 - d. Not include individuals that work for the MnDOT manager on the TRC.
 - e. Not include the PM, unless low-bid.
 - f. Not include individuals directly involved with the review and approval of PAEs, if the PAE has any impact on technical scoring.
 - g. Be composed of members whose objectivity and overall suitability has been reviewed by the DBPM. The use of three or more TRC members who have scored Design-Build projects before should be considered, although it may not be possible.
3. The TRC may include non-MnDOT employees, such as city and county representatives. Non-MnDOT TRC members:
 - a. Should only be used when the city/county has a significant financial contribution to the project.
 - b. Must not be elected officials.
 - c. Must be a licensed professional engineer or hold a leadership position (e.g. Public Works Director) in a department with significant civil engineering roles.

4. The DBPM may request deviations to points 2 and 3 above from the Chief Engineer.
5. The DBPM will forward the list of TRC members to the Project Management Unit Leader for review and Chief Engineer for concurrence. See Form 4.3a.
6. If the TRC needs to be changed, the PM will contact the DBPM. The DBPM will forward the change to the Project Management Unit Leader for review and the Chief Engineer for concurrence.

Exhibit

- 4.3-1: AGC Request for TRC Member Template
- 4.3-2: MOU with AGC
- 4.3-3: Process for Administering Design-Build Procurement

Forms

- 4.3a: Chief Engineer TRC Concurrence Letter

4.4 Project Advertisement

Design-build projects need to be advertised to ensure fair and open competition. MnDOT’s standard practice is to advertise all design-build procurements on MnDOT’s official bid letting website, which may refer to a location on MnDOT’s Design-Build website. Details on the official website and other websites used during procurement can be found in [Section 4.1](#).

The following table lists the advertising requirements depending on the procurement type used. Timelines for the advertisements can be found in [Section 1.4.4](#).

Table 4.4-1. Advertisement Requirements

	Best-Value (RFQ & RFP)	Low-Bid (RFQ & RFP)	Low-Bid (RFP Only)
Request for Letter of Interest (RLOI)	RLOI is optional. Advertise if used.		
Pre-RFQ Meeting	Pre-RFQ Meeting is optional. Advertise if used.		
Request for Qualification (RFQ)	Yes	Yes	No
Request for Proposal (RFP)	No (no advertisement required, RFP is given directly to short-listed teams)		Yes

Listed below are the project advertisement procedures:

1. The DBPM is responsible for posting procurement documents (RLOI, pre-RFQ meeting notice, RFQ, or RFP) on the MnDOT Design-Build website, providing a direct link to these documents. All postings should be dated.
2. The DBPM will contact the Pre-Letting Unit to have the notice posted on the official MnDOT Bid Letting Website (or rely on a link to an advertisement on the Design-Build website).
3. Listed below are sample advertisements:

Sample 1: Request for Letter of Interest (RLOI) Advertisement

- {Date} MnDOT is soliciting Letters of Interest from design-build teams interested in the construction of a new interchange on TH 52 in Pine Island at this location:

<http://www.dot.state.mn.us/designbuild/ElkRun/index.html>

Sample 2: Pre-RFQ Meeting Advertisement

- {Date} MnDOT will conduct an informational meeting for firms interested in pursuing a design-build contract for the construction of a new interchange on TH 52 in Pine Island on {Date}. Information can be found at this location:

<http://www.dot.state.mn.us/designbuild/ElkRun/index.html>

Sample 3: Request for Qualification (RFQ) Advertisement

- {Date} MnDOT is soliciting Statements of Qualifications (SOQs) from design-build teams interested in the construction of a new interchange on TH 52 in Pine Island. The Request for Qualification (RFQ) and project information can be found at this location:

<http://www.dot.state.mn.us/designbuild/ElkRun/index.html>

Sample 4: Request for Proposal (RFP) Advertisement

- {Date} MnDOT is soliciting technical and price proposals from (*shortlisted?*) design-build teams interested in the construction of a new interchange on TH 52 in Pine Island at this location:

<http://www.dot.state.mn.us/designbuild/ElkRun/index.html>

4.5 Request for Qualification (RFQ)

The Request for Qualifications (RFQ) is used to determine the list of the most highly qualified contractors on two-step best-value and two-step low-bid projects. The RFQ outlines the minimum and desired qualifications of the teams. The qualifications are tailored to each project based upon the goals and risks presented by the project.

State Statute 161.3420 defines the minimum requirements of the RFQ. Each interested design-build team must respond to the RFQ with a Statement of Qualifications (SOQ) in order to be considered for the shortlist. The following sections outline the steps required to develop, publish, respond to questions, and issue addenda to a RFQ.

4.5.1 RFQ Development

1. The DBPM will maintain document control over the RFQ template. The DBPM will be responsible for ensuring that the RFQ meets the requirements of Minnesota state statutes and federal regulations.
2. The DBPM (or GEC) will maintain document control over the project RFQ. If the GEC writes the project RFQ the final document must be submitted to the DBPM for approval prior to posting.
3. The PM will set-up an RFQ Development meeting with the DBPM and other key individuals to determine the goals and scoring criteria for each project. All individuals attending this meeting must sign a confidentiality form. The PM will retain all copies of the confidentiality forms (see [Section 2.4](#)), excepting those who have signed ‘programmatic’ COI Forms.
4. The scoring criteria should be based upon the following combination of concepts.
 - a. Submitter Organization
 - b. Key Personnel
 - c. Project Understanding
 - d. Project Approach

Note – The Project Understanding may be omitted or combined with the Approach depending on the complexity of the project.
5. The DBPM will draft the RFQ based on the template and the RFQ development meeting using the MnDOT Design-Build Program *Style Guide for Preparing Documents*.
 - a. If pre-qualification lists are being considered, see [Section 3.1.5](#).
 - b. If a maximum price is considered, see [Section 3.1.7](#).
 - c. If Pre-Approved Elements are being considered, see [Section 4.10](#).
6. The DBPM or GEC will electronically store the draft RFQ in a secure location.
7. The DBPM or GEC will provide a draft RFQ for the PM to review.

4.5.2 RFQ Publishing

1. Upon completion of the RFQ, the DBPM will advertise the RFQ (see [Section 4.5](#)).
2. If letters of interest have been received for the project, the PM will contact firms submitting letters of interest and inform them that the RFQ has been posted to the MnDOT design-build website. The PM will ‘cc’ the DBPM on all correspondence with firms.
3. The DBPM will provide a courtesy copy of the RFQ to FHWA on PODI projects.

4.5.3 RFQ Clarifications

The clarification process allows MnDOT to respond to design-build team questions during the RFQ advertisement period. Responses to clarification questions need to be carefully drafted for consistency and ensure fair competition. Clarification responses are meant to clarify the RFQ, but should not be used to materially change the RFQ. Material changes to the RFQ should be modified via the addendum process in [Section 4.5.4](#).

Listed below is the procedure for receiving and responding to RFQ clarification questions:

1. The PM will retain document control of the clarifications.
2. The PM will distribute (via e-mail or by providing a website address) the clarification request form (Form 4.5b) to each team with instructions to submit their clarifications using this form.
3. Clarification questions from teams need to be submitted electronically to the PM in accordance with the RFQ. MnDOT and the FHWA may also generate clarification questions based on items discussed at any meetings with the teams.
4. The PM will draft responses to the clarification questions. All responses need to be fact based (no opinions). Refer to the RFQ sections when drafting responses, as necessary. Refer to modifying the RFQ in future addenda when drafting responses, as necessary.
5. The PM will draft responses to the clarifications using the following format:
 - a. The PM will use the Clarification Response Form (Form 4.5c).
 - b. Clarifications will be numbered sequentially using the format Clarification No 1, Clarification No 2, Clarification No 3, etc:
 - c. Questions will be numbered as follows (Clarification No – Clarification Question No.). For example, 1-1, 1-2, 1-3 for questions responded to in Clarification No 1. 2-1, 2-2, 2-3 for questions responded to in Clarification No 2.
 - d. MnDOT will not disclose which team submitted the clarification question.
 - e. The PM will send draft responses to the DBPM as soon as possible following the receipt of the questions. Responses will be posted weekly, at a minimum. Any individual questions that cannot be answered in a

weekly posting will be answered in the next week's posting, even if this requires them to be separated from the other questions that they were submitted with.

- f. The DBPM will review, comment, and ultimately approve the draft responses.
- g. The PM or DBPM will post the final approved clarification to the ftp site no later than 5:00 PM each Friday.
- h. The PM will send out an e-mail notifying all teams that submitted a Letter of Interest that a clarification has been posted to the ftp site and 'cc' the DBPM.
- i. The DBPM will send a courtesy copy of all clarifications to FHWA on PODI projects.

4.5.4 RFQ Addenda

RFQ addenda are generated by clarification questions, but can also be generated by MnDOT to modify the contents of the RFQ. Design-build teams begin preparing SOQs shortly after the RFQ is issued. Changes to the RFQ often have a major impact on the design-build SOQ. If a notable addendum needs to be issued less than two weeks before the SOQ due date, the PM and DBPM should consider delaying the SOQ due date.

Listed below are the processes and procedures for generating and publishing RFQ addenda:

1. The DBPM will maintain document control of the RFQ. The PM may also choose to have the MnDOT GEC retain document control.
2. All requested changes to the RFQ must be submitted to the DBPM. The DBPM will only accept requested changes from the FHWA, PM, or the PM's designee.
3. The DBPM will draft the addenda using the following format:
 - a. Addenda will be numbered sequentially using the format Addendum 1, Addendum 2, Addendum 3, etc:
 - b. The first addendum will be produced by tracking changes to the original RFQ issued.
 - c. For each subsequent addendum, accept all changes from the previous addendum prior to starting. Track all new changes.
 - d. The title page shall list the addendum number and date of the addendum.
 - e. The footnote shall list the addendum number and date.
4. The DBPM will post the addendum in pdf format on the website or ftp site identified within Section 2.5 of the RFQ.
5. The DBPM will notify Submitters and the PM that an addendum has been posted if the Submitters requested the notification per Section 2.5 of the RFQ.

6. The DBPM will send a courtesy copy of all addenda to FHWA on PODI projects.

Exhibits

4.5-1: MnDOT Design-Build Program *Style Guide for Preparing Documents*

Forms

Form 4.5a: RFQ Template

Form 4.5b: RFQ Clarification Request Form

Form 4.5c: RFQ Clarification Response Form

4.6 Statement of Qualification (SOQ) Evaluation and Short-Listing

If an RFQ is issued for either a two-step best-value or two-step low-bid project, each interested design-build team responds with a Statement of Qualifications. The SOQs are evaluated by the TRC established by the commissioner (see [Section 4.3](#)). The TRC evaluations are used to determine a short-list of the most highly qualified design-build teams. The RFP is only issued to the short-listed teams. Normally, three to five teams are short-listed to ensure competition, although having only two teams is acceptable. State Statute 161.3420 Subd 4 and federal regulation 23 CFR 636.207 limits the short-list to a maximum of five teams.

Listed below are the procedures for receiving SOQs, evaluating SOQs, determining the short-list and notifying design-build teams of the short-list results.

4.6.1 Receipt of SOQ

1. The DBPM receives all SOQs. The DBPM will send an e-mail to the Submitter single point of contact acknowledging their receipt of the SOQ.
2. The DBPM will develop an SOQ distribution log using Form 4.6c (see also example Exhibit 4.6-4). The TRC evaluator number should be the same as the SOQ distribution number.

4.6.2 Evaluation Committee

The review and evaluation of SOQ is often performed by a team of experts, scoring members (TRC), legal staff, and process oversight experts. Although the TRC are the only ones to score the SOQs, technical advisors (such as the PM) are frequently used to provide input into the process. Technical advisors provide strengths and weaknesses to the TRC. The DBPM, FHWA and Department of Administration form the Process Oversight Committee (POC), which oversees that the procurement is conducted in accordance with this procurement manual, state laws, and federal regulations.

4.6.3 Short-Listing

1. The DBPM shall arrange the time/location for the SOQ Evaluation Kick-off Meeting with help from the PM.
 - a. The purpose of the SOQ Evaluation Kick-Off Meeting is to distribute the SOQs and review the process for evaluating the SOQs. All TRC members, technical advisors and process oversight committee members are required to attend unless approved by the DBPM. Note: FHWA oversight and legal advisors are not required to attend if they do not receive project materials or have attended a kick-off meeting for other projects.
 - b. If a TRC member or advisor is not able to make the meeting, the DBPM will schedule a one-on-one kick-off meeting with the person to distribute the SOQ and

- review the SOQ evaluation process. A TRC member or advisor may attend remotely so long as they do not receive their materials prior to the meeting.
- c. The DBPM will lead the SOQ Evaluation Kick-off Meeting.
 - d. The DBPM will prepare and distribute evaluation packages to each member in attendance. The evaluation package will include (at a minimum):
 - Agenda
 - Copy of the Request for Qualifications (latest addendum)
 - Copy of Clarifications
 - Copy of Each SOQ
 - SOQ Evaluation Manual (add additional forms if needed)
 - Conflict of Interest Form (unless signed previously)
 - e. The DBPM will review the SOQ Evaluation Manual in detail.
2. The DBPM shall arrange for a time/location for the short-list evaluations with help from the PM. The DBPM shall notify all evaluators of the evaluation schedule.
 3. The DBPM shall arrange the legal subcommittee meeting. The PM and TRC do not need to attend the meeting.
 4. The DBPM and PM shall attend all SOQ evaluation meetings with the TRC. On PODI projects, the PM will invite the FHWA to all SOQ evaluation meetings.
 5. The DBPM will oversee the short-listing process in accordance with the SOQ Evaluation Manual and will record notes in a log (see Form 4.6c). The DBPM will take notes summarizing the TRC evaluations for use in the debriefing meetings.
 6. The DBPM will check the quantitative TRC scoring forms using an electronic spreadsheet (see Form 4.6d for an example). It is advisable to have other POC and TA members in the room provide additional checks. The DBPM will tabulate average scores in a location that is not visible until all TRC members have completed scoring.
 7. The DBPM will reveal the individual scores along with the average scores per team after all scoring and form checking is complete. The group will collectively check the math on the tabulation, then the TRC will determine whether a logical breakpoint exists between any proposing teams and recommend a shortlist.
 8. The DBPM will collect all evaluation materials and SOQs from the evaluation team.
 9. After returning to the office, the DBPM prepare a short-list recommendation to the commissioner (see Form 4.6e for a template).
 10. The DBPM (and PM, if available) will meet with commissioner (or designee) to discuss and obtain concurrence on the short-list.
 11. On PODI projects, the DBPM will forward the short-list recommendation letter to the FHWA for concurrence.
 12. After concurrence, the DBPM (and PM, if available) will call each unsuccessful design-build team with the results of the short-list. If at all possible, do not inform teams that

- they were unsuccessful via a voicemail. Successful teams may be called and congratulated, but this is not required.
13. The DBPM will post the short-list results on the design-build website after all unsuccessful design-build teams have been notified and the PM will notify all teams' single point contacts of the posting via e-mail. SOQs must not be posted at this time, as they are non-public until award (See Section 2.5.2). Evaluation materials and comments are public, but are not typically posted to the website.
 14. The DBPM will offer each team an opportunity to be debriefed (See Section 6.3).

4.6.4 SOQ Evaluation Materials Possession

1. At the conclusion of the SOQ Evaluation Process, the DBPM will retain at least one copy of the SOQs for the DBPM office file. The copy should be as clean as possible. The DBPM or PM will retain all the other copies until conclusion of the procurement process.
2. The DBPM will retain all SOQ evaluation materials in accordance with standard data retention practices.

Exhibits

- 4.6-1: SOQ Evaluation Agenda (sample)
- 4.6-2: Short-list posting for design-build website (sample)
- 4.6-3: Short-list Recommendation Letter (sample)
- 4.6-4: POC Log (sample)

Forms

- Form 4.6a: Receipt of SOQ Acknowledgment Template
- Form 4.6b: SOQ Evaluation Manual Template
- Form 4.6c: SOQ POC Log Template
- Form 4.6d: SOQ Scoring and TRC Summary Template
- Form 4.6e: Short-List Recommendation Letter Template

4.7 Request for Proposal (RFP) Development

The Request for Proposal (RFP) outlines the contract requirements, project scope, project standards, and instruction on how to respond to the solicitation. The RFP is required on all design-build projects. State Statute 161.3422 outlines the minimum requirements that must be included in the RFP. These items include:

- Scope of Work
- Design-build qualifications
- Selection criteria, including weight
- Copy of contract documents
- Maximum allowable time to design and construct the project
- Estimated cost of design and construction
- Requirement that technical and price proposals be submitted as two separate packages
- Requirements for a schedule, critical path method, or bar chart
- Requirements that the price proposal contain all costs
- Date, time and location of the public opening
- Other information relative to the project

Listed below is an overview of the RFP documents and processes/procedures for developing, amending, and distributing RFPs.

4.7.1 RFP Template

Templates have been developed to maintain consistency between projects. The contents of the RFP will change based on the scope and risks of each project. However, the RFP is typically structured as outlined in the following table.

Table 4.7-1. Standard RFP Format:

RFP Section	Description
Instruction to Proposer (ITP)	The ITP is not a contract document, but it outlines the procurement process, evaluation criteria, and format for submitting technical and price proposals.
Book 1 (Contract Terms and Conditions)	Book 1 outlines the contract terms and conditions and becomes the contract on the project. Book 1 also contains contract definitions, prevailing wage requirements, DBE/EEO/OJT/TGB/Vet requirements, and warranty clauses.
Book 2 (Project Specific Requirements)	Book 2 outlines the project specific requirements and is tailored to each project. Book 2 is typically divided into the following subsections:

	<ol style="list-style-type: none"> 1. General 2. Project Management 3. Public Information 4. Environmental Compliance 5. Quality 6. Utilities 7. Right-of-Way 8. Geotechnical 9. Land Surveying 10. Materials 11. Roadways 12. Drainage 13. Structures 14. Vegetation 15. Visual Quality Management 16. Signing, Pavement Marking, Signalization, and Lighting 17. Traffic Management System (TMS) 18. Maintenance of Traffic 19. Maintenance During Construction 20. Bicycle and Pedestrian Facilities 21. Railroad
<p>Book 3 (Standards)</p>	<p>Book 3 contains the standards that must be used on the project. Book 3 typically contains the following:</p> <ul style="list-style-type: none"> • Standards • Manuals • Technical Memorandums • Standard Specifications • Special Provisions
<p>Reference Information Documents (RID)</p>	<p>The RID is not a contract document, but includes background information to assist the contractor with designing the project.</p>

4.7.2 RFP Development

The development of the RFP requires an accumulation of information gathered or created during preliminary engineering and other pre-advertisement activities. The RFP should be developed using the RFP template and the following procedure:

1. The DBPM will maintain document control over the RFP template.
2. The DBPM will be responsible for managing the development (and perhaps the drafting) of the following sections of the RFP using the MnDOT Design-Build Program *Style Guide for Preparing Documents*:

- a. Instructions to Proposers (ITP)
 - i. Best-Value Technical Proposal Scoring Criteria needs to be developed using the process outlined in [Section 4.7.3](#).
 - ii. Low-Bid Technical Proposal Evaluation Criteria needs to be developed using the process outlined in [Section 4.7.4](#).
 - iii. Stipend amount must be set according to [Section 6.2](#).
 - iv. The use of Alternative Technical Concepts (ATC) should be developed according to [Section 4.9](#).
 - v. The use of Pre-Approved (or Accepted) Elements (PAE) should be developed according to [Section 4.10](#).
 - b. Book 1 and Book 1 Exhibits, including contacting the Department of Administration to set the project insurance limits. The DBPM may ask the PM to complete Form 4.7e to provide necessary project information.
 - c. Book 3 (Manuals, Technical Memorandums, Standard Specifications)
3. The PM will be responsible for drafting and managing the development of the following sections of the RFP using the template as a starting point and using the MnDOT Design-Build Program *Style Guide for Preparing Documents*:
 - a. Book 2
 - b. Book 3 (Special Provisions)
 - c. Reference Information Documents
 4. The PM and DBPM may utilize the GEC to assist in developing the RFP. The PM is responsible for developing the work order for the GEC contract.
 5. During development, the RFP will be stored in a location accessible to both the district design-build team and the DBPM. If the GEC will retain document control, the DBPM must have access rights to view the RFP within the GECs document management system.
 6. The PM will consult with the DBPM on all changes to the RFP templates. If the changes to the template involve a MnDOT functional office, the PM will invite the DBPM to all meetings and ‘cc’ the DBPM on all correspondence. The DBPM will approve all recommended changes from the functional offices.
 7. The PM will invite the DBPM (and FHWA, on PODI projects) to an RFP development ‘kickoff’ meeting. The PM will also invite the DBPM (and FHWA, on PODI projects) to any major or large-group development meetings that occur.
 8. Prior to submitting the RFP to MnDOT’s Central Office (usually by emailing the package to the DBPM) all agreement, permits, and the NEPA process must be complete and executed with final signatures. In accelerated conditions, the execution of particular agreement or permits may be delayed beyond the release of the RFP with the approval of the DBPM. The completion of the NEPA process (typically the FONSI signature) may not be delayed beyond RFP release unless approved in writing by the DBPM, MnDOT’s Chief Environmental Officer, and the FHWA (on projects with federal funding).

9. The PM must submit the RFP to the DBPM using the Design-Build Project Submittal Form (Form 4.7d) within the timeline indicated on the form. The DBPM will review the RFP subsequent to submittal; all DBPM comments must be resolved prior to submission of the RFP to the FHWA or RFP release.

4.7.3 Best-Value Technical Proposal Evaluation Criteria

Technical proposal evaluation may have a major impact on awarding the design-build contract. Development of the technical proposal evaluation criteria needs to be a systematic, thorough process which accurately outlines the goals and/or risks of the projects. The following procedure outlines the steps necessary for developing and approving the evaluation criteria to be included in the ITP.

1. The PM is responsible for setting up at least one meeting to develop the evaluation criteria during RFP development. This does not include any preliminary meeting set up to discuss any draft criteria.
 - a. The DBPM must be in attendance.
 - b. The FHWA should also be invited on PODI projects.
 - c. The PM should also invite technical experts or stakeholders to develop the evaluation criteria based upon the risks and goals of the project (e.g. if maintenance of traffic is a large risk item, invite the district traffic engineer.) District management should be offered the opportunity to attend on at least major projects.
2. The DBPM will facilitate the meeting by soliciting a list of goals and risks from meeting attendees. The DBPM may elect to bring past evaluation criteria from similar projects.
3. Based upon the goals and risks identified, the attendees will rank the criteria based upon the value provided to the project. The evaluation criteria should:
 - a. Be clear, defensible, and easy for the proposers and public to understand.
 - b. Not overlap scoring criteria in the SOQ, especially with respect to Key Personnel which have already been evaluated in the SOQ.
 - c. Focus on items which bring measurable value to the project.
 - d. Be tailored to the individual project. Avoid/minimize recycling criteria from project to project.
4. Following the ranking of criteria, the attendees will assign points to criteria and sub-criteria in accordance with the calculated value of a point on the project. The resultant difference in points (and dollars, by extension) between a hypothetical poor and excellent design should be considered and determined to be appropriate. Any number of points between 1 and 50 may be utilized on a best value project, so long as the total number of points (including those awarded for responsiveness) equals 100. It is not advisable to offer fewer than 10 points. The total points to be assigned shall not exceed 50 points unless approved by the Chief Engineer.

5. Following the meeting, the DBPM will draft the criteria for inclusion in the ITP. The DBPM may also elect to have the PM or GEC draft the criteria and forward them to the DBPM for review.
6. The PM may elect to schedule follow-up meetings with the DBPM, FHWA (PODI projects) and technical experts to refine the criteria.
7. Before the criteria are published in either draft or final form, the DBPM will obtain Approval of the evaluation criteria from the MnDOT Project Management Unit Leader and Chief Engineer.
8. All material changes to the evaluation criteria must be approved by the Project Management Unit Leader and the Chief Engineer.
9. Evaluation criteria related to responsiveness should be developed according to statute, departmental policies, and programmatic templates similar to that described in Section 4.7.4.

4.7.4 Low-Bid Technical Proposal Evaluation Criteria

1. Technical proposal evaluation on low bid project should be based on objective criteria. Typical evaluation criteria consist only of a legal review of responsiveness based upon the standard forms provided in the ITP. The DBPM will develop these criteria in coordination with the PM, and they will be based on pass/fail requirements.
2. After the criteria have been developed, the DBPM will obtain Approval of the evaluation criteria from the MnDOT Project Management Unit Leader.
3. All material changes to the evaluation criteria must be approved by the Project Management Unit Leader.

4.7.5 Funding Kick-Off Meeting

The sources of funding impact how the price proposal form is created and impacts the federal authorization process. To minimize delays to federal authorization and contract award, a funding kick-off meeting should be conducted at least one month prior to the request for federal authorization (or RFP release).

The following procedure outlines the steps and procedures associated with conducting a funding kick-off meeting. The primary purpose of the meeting is to confirm that the funding groups are split out correctly for transference into the project bid file.

1. The PM will schedule the funding kick-off meeting.
2. The PM will invite the DBPM, District budgetary contact, District (or GEC) estimators, Municipal Agreements Engineer, Utility Engineer, Finance Program Accounting Supervisor, Finance Special Projects Accounting Director, Finance Project Authorization, FHWA (on PODI projects), Project Delivery Engineer, and others as necessary.

3. The PM will complete a draft of the Project Estimate (Form 3.2a) with all applicable lump sum rows included. The funding columns will be added and completed based on the PM's knowledge of the project funding and agreements.
4. The PM will bring handouts of the fully completed draft Project Estimate. (See [Section 3.2](#))
5. All participants need to discuss and understand the following, at a minimum:
 - a. Confirmation of the funding sources and resultant funding groups to be used for the project
 - b. Confirmation that the funding groups have been applied to appropriate aspects of the project (bridges, grading, etc.)
 - c. Confirmation that all utility agreements and municipal agreements are appropriately implemented.
 - d. Confirmation that federal funds are being applied appropriately (and strategically). For example, making certain that federal funds do not pay for proprietary items, hauling of salvaged items for general MnDOT use, certain stipends (see Section 6.2), etc.
 - e. Confirmation that the separate funding groups are provided for each control section and SP number as required for tracking purposes. This may require the scope to be split using a high-level percentage.
 - f. Confirmation that the design activities are placed in a separate funding group or groups for tracking purposes.
 - g. Confirmation that each bridge has its own funding group for tracking purposes.
 - h. Identify if separate authorization is required on ROW, stipends, and design/construction oversight
 - i. If necessary, educate the district project management regarding the importance of having the contractor match the activities in their work breakdown to specific lump sum estimates rows (and their associated funding group splits).

4.7.6 Federal Authorization

The FHWA must authorize any design-build project involving federal funds before the RFP can be issued. Federal authorization requires an accumulation of various planning and pre-design activities. This procedure outlines the steps and procedures for obtaining federal authorization.

1. Unless otherwise authorized by the FHWA, the following is necessary prior to requesting federal authorization:
 - a. Completion and approval of the NEPA process*
 - b. The completion and signing of the Staff Approved Layout and associated Design Memo

- c. All R/W is acquired or a Public Interest Finding (PIF) has been obtained
- d. R/W Certifications
- e. Any PIFs necessary for other items have been obtained
- f. The OCR goals have been established
- g. Funding sources have been identified and funding groups have been finalized
- h. Engineer's Estimate is complete
- i. State-furnished materials and proprietary materials have been tabulated
- j. Value Engineering has been completed, when applicable
- k. The Detailed Damage Inspection Report (DDIR) has been completed, when applicable
- l. Agreement numbers have been obtained
- m. The draft Transportation Management Plan has been completed (the final TMP is completed by the design-build team)

*See section 4.7.2 for a potential exception.

2. The PM will contact the MnDOT Special Provisions Engineer and Project Authorization Engineer and notify them at least one month prior to requesting federal authorization.
3. The PM will consult with the Special Provisions Engineer on the development of the federal authorization form. The PM will complete as much of the form as possible and then send it in with the Design-Build Project Submittal Form (4.7d) and package at least two weeks prior to requesting authorization. The Form will contain the utility and municipal agreement numbers for Finance. The DBPM will send the submittal package to the Special Provisions Engineer and Finance.
4. The MnDOT Special Provisions Engineer will process the federal authorization form and forward to Project Authorization in Finance.
5. Finance will complete the authorization form, provide it to the DBPM, and update FMIS.
6. The DBPM will complete an authorization package including the authorization form, the RFP, the associated information from the district, and a cover letter and send it to the FHWA for authorization.
7. The FHWA will notify Finance, the PM, and the DBPM that the project has been authorized.

4.7.7 RFP Distribution/Advertisement

The following outlines the process for obtaining RFP approval and the process for issuing the RFP to short-listed design-build teams or advertising the RFP on a single step low-bid process.

1. On PODI projects, the FHWA requires 14 calendar days for their review of the RFP. The RFP may be submitted to the FHWA for review prior to the federal authorization form. The PM will provide the DBPM with easily-navigated electronic copies of all of the items listed in the Design-Build Project Submittal Form on either an FTP site or CD. The DBPM will provide these files to the FHWA along with the remainder of the authorization package.
2. The DBPM will forward all FHWA comments to the PM such that changes may be made.

3. The PM will document how the FHWA comments were addressed and gain their approval of the changes.
4. When authorized by the FHWA and DBPM, the PM will post the RFP to the project ftp site (See [Section 4.1](#)).
5. On projects with a short-list (two-step), the PM will notify the short-listed design-build teams' single points of contact when the RFP has been posted.
6. On single step projects, the DBPM will advertise the RFP per [Section 4.4](#).
7. The PM will provide the following copies of the released RFP:

Table 4.7-2. RFP Distribution

Organization	Two-Step Process (Low-Bid or Best-Value)	Single Step Process (Low-Bid)
Design-Build Teams	One CD of the RFP One Hard Copy of the RFP	Posted to the ftp site
DBPM	One CD of the RFP	
FHWA (PODI projects)	One Hard Copy of the RFP	

4.7.8 RFP Clarifications

The clarification process allows MnDOT to respond to design-build team questions during the RFP advertisement period. Responses to clarification questions need to be carefully drafted for consistency and ensure fair competition. Clarification responses are meant to clarify the RFP, but should not be used for material changes to the RFP. Material changes to the RFP should be modified via the addendum process.

Listed below is the procedure for receiving and responding to RFP clarification questions:

1. The PM will retain document control of the clarifications.
2. The PM will distribute (via e-mail or by providing a website address) the clarification request form (Form 4.7a) to each team with instructions to submit their clarifications using this form.
3. Clarification questions from teams need to be submitted in writing to the PM in accordance with the RFP. MnDOT and the FHWA may also generate clarification questions based on items discussed at any meetings with the teams.
4. The PM will draft responses to the clarification questions. All responses need to be fact based (no opinions). Refer to the RFP sections when drafting responses, as necessary. Refer to modifying the RFP in future addenda when drafting responses, as necessary.
5. The PM will draft responses to the clarifications using the following format:

- a. The PM will use the Clarification Response Form (Form 4.7b).
- b. Clarifications will be numbered sequentially using the format Clarification No 1, Clarification No 2, Clarification No 3, etc:
- c. Questions will be numbered as follows (Clarification No – Clarification Question No.). For example, 1-1, 1-2, 1-3 for questions responded to in Clarification No 1. 2-1, 2-2, 2-3 for questions responded to in Clarification No 2.
- d. MnDOT will not disclose which team submitted the clarification question.
- e. The PM will send a draft to the DBPM as soon as possible following the receipt of the questions. Any individual questions that cannot be answered in a weekly posting will be answered in the next weeks' posting, even if this requires them to be separated from the other questions that they were submitted with.
- f. The DBPM will review, comment, and ultimately approve the draft responses.
- g. The PM or DBPM will post the final approved clarification to the ftp site no later than 5:00 PM each Friday.
- h. The PM will send an e-mail notifying all shortlisted single-point contacts that a clarification has been posted to the ftp site and 'cc' the DBPM.
- i. The PM will send a courtesy copy of all clarifications to FHWA on PODI projects.

4.7.9 RFP Addenda

RFP addenda are generated by clarification questions, but can also be generated by MnDOT to modify the contents of the RFP. RFP addenda often have significant impacts to the design-build team price and technical proposals. If a notable addendum needs to be issued less than two weeks before the Technical Proposal due date, the PM and DBPM should consider delaying the technical and price proposal due date.

Addenda modifying the evaluation criteria are highly discouraged. However, if an addendum is necessary, it should be issued early in the process before design-build teams begin preparing their technical proposals.

Listed below are the processes and procedures for generating and publishing RFP addenda:

1. The PM will maintain document control of the RFP. The PM may also choose to have the MnDOT GEC retain document control.
2. All requested changes to the RFP must be submitted to the DBPM. The DBPM will only accept requested changes from the FHWA, PM, or the PM's designee.
3. The PM will draft the addenda using the following format:

- a. Addenda will be numbered sequentially using the format Addendum 1, Addendum 2, Addendum 3, etc.
 - b. Addenda will be issued only for the sections of the RFP impacted (do not re-issue entire RFP). The first addendum will be produced by tracking changes to the original RFP issued.
 - c. For each subsequent addendum, accept all changes from the previous addendum prior to starting. Track all new changes.
 - d. List the addendum number in the footnote.
4. The PM must not draft changes to Book 1 or the ITP without first consulting with the DBPM. The PM may ask the DBPM for assistance in drafting addenda in these sections.
 5. The DBPM is responsible for checking for federal and state wage rates changes prior to releasing each addendum.
 - a. All updates to the federal wage rates need to be added to the RFP via addendum up until the letting date.
 - b. Updates to the state wage rates with an “Effective Date” only do not need to be added into the contract following RFP advertisement. Updates to the state wage rates with an “Effective Date” and a “Revised Date” do need to be added into the contract up until the letting date.
 6. The PM will prepare the addendum cover letter using Form 4.7c. The cover letter should provide a brief overview of the changes to the RFP.
 7. The PM will submit the draft addendum to the DBPM for review and approval.
 8. Following the DBPM’s approval, the DBPM will send the proposed addendum changes to the FHWA on PODI projects for their review and approval. The PM and DBPM should have discussed review timeframe expectations with the FHWA prior to this point. The FHWA is allowed 3 days, but it is understood that time is of the essence during design-build procurements.
 9. After obtaining approval from the FHWA, the DBPM will post the addendum to the project ftp site and website identified within the ITP.
 10. In a two-step process, the DBPM will notify the design-build teams’ single points of contact, PM, Contracts and Lettings Supervisor, Estimating (Transport Proposal and Estimates System Supervisor), and FHWA (as required) via e-mail that an addendum has been posted. No notification is required to the teams in a single-step process, but the remainder of the preceding list must always be notified.
 11. The PM should contact Finance Program Accounting and the MnDOT Estimating directly if major addenda (scope changes) occur to resolve the funding and estimate changes.

Exhibits

None

Forms

- Form 4.7a: RFP Clarification Request Form
- Form 4.7b: RFP Clarification Response Form
- Form 4.7c: Addendum Cover Letter Form
- Form 4.7d: Design-Build Project Submittal Form
- Form 4.7e: Design-Build Project Insurance Questionnaire

4.8 One-on-One Meetings

One-on-one meetings between MnDOT and design-build teams are used to improve communication during the procurement process. The primary purpose of these meetings is to allow design-build teams to discuss potential ATCs and PAEs with MnDOT prior to making a formal submittal. This minimizes effort for both MnDOT and design-build firms drafting ATCs and PAEs that have a limited chance of being approved.

The one-on-one meetings should not be used to discuss clarifications or have the design-build teams gain additional insight into the process. Clarification questions need to be submitted to MnDOT in writing via the clarification process outlined in [Section 4.7](#).

The number and frequency of the one-on-one meetings will depend on the size and complexity of the project. The PM and DBPM will jointly determine the number and frequency. Each design-build team will be offered the same one-on-one opportunities.

Listed below are the procedures and protocols for conducting one-on-one meetings with design-build teams.

1. The PM will schedule all one-on-one meetings at times arranged with the DBPM and design-build teams. In general, the meetings should begin roughly three weeks following the RFP advertisement and continue every week or two until the teams feel they are no longer necessary on large project. On small projects, one or two meetings is likely sufficient.
2. On PODI projects, the PM will invite the FHWA to all one-on-one meetings. The number of regular MnDOT attendees should be limited to 3 or 4 individuals including the PM, DBPM, and key team members. Design-build teams may ask for additional key experts to attend certain one-on-one meetings to discuss draft ATC or PAE concepts.
3. The content of the one-on-one meeting is confidential to each design-build team and must not be discussed with other design-build teams.
4. The DBPM will instruct the teams that the purpose of the one-on-one meetings are to provide DB teams an opportunity to discuss draft ATC or PAE concepts.
5. After a team discusses the draft concept, the PM will inform the team if the ATC/PAE has potential to be accepted or if MnDOT will not entertain the concept. The PM may tell the teams what information will be necessary to fully evaluate the ATC or PAE. The PM may also tell the teams why an ATC or PAE is currently unacceptable. However, the PM may not 'coach' the teams regarding how to improve their ATC or PAE.
6. If a team asks clarification questions beyond those related to an ATC or PAE, the PM will not answer the question and will inform the team that the question needs to be submitted as a written clarification. MnDOT must not accept or answer questions in regards to how a concept would be scored (as the TRC is not present).

7. MnDOT has the right to correct ‘errors and ambiguities’ in the contract, even if they are brought up in one-on-one meeting discussions. That being said, MnDOT should be careful not to define an issue as an error or ambiguity unless there is a clear contradiction in the contract or a variance from policy or well-established practice.
8. No formal meeting minutes will be taken.
9. Do not provide any handouts.
10. If design-build teams provide handouts, return all handouts to them at the conclusion of each meeting.

4.9 Alternative Technical Concepts

Alternative Technical Concepts (ATCs) allow for innovation and flexibility during the procurement process. The ATC process allows design-build firms to propose “equal or better” alternatives to the RFP requirements during the procurement process. The ATC process is a highly confidential process. Subject to Minnesota Government Data Practices Act, each ATC submitted during the procurement is kept confidential and not shared with the other design-build teams.

The ATC process starts after the RFP is issued and can be used on best-value and low-bid projects. Shortly after the RFP is issued, MnDOT offers one-on-one meetings (see [Section 4.8](#)) with design-build teams to discuss potential ATCs. Design-build teams submit ATCs to MnDOT prior to the deadline specified in the contract. Upon receipt of an ATC, MnDOT reviews each ATC and responds with one of the following determinations:

- a. The ATC is Approved
- b. The ATC is not Approved
- c. The ATC is Approved with Conditions
- d. The ATC does not qualify as an ATC, but may be included in the design-build team technical proposal (i.e. the concept complies with baseline RFP requirements)
- e. The ATC does not qualify as an ATC (i.e. it addresses an error/ambiguity or other issue that may not be ATCed) and may not be included in the proposal.

ATC concepts must not be incorporated into the RFP as addenda. However, MnDOT reserves the right to correct errors and ambiguities in the RFP via an addendum if a team uses the ATC process to take advantage of them (see Section 4.8).

ATCs can be used as a mechanism for a design-build team to gain MnDOT’s approval of a required design concept prior to bid. In effect, a Contractor can use an ATC as a PAE in areas where MnDOT is not requiring a PAE. The contract deviation in this case is the elimination of MnDOT’s approval of the concept following the bid.

Listed below are the procedures to write ATC specifications within the ITP and the process to accept, track and review ATCs submitted by design-build teams.

4.9.1 ATC Specifications

1. The PM, in consultation with the DBPM and other MnDOT specialty offices, will determine which items will not be accepted as ATCs. Items should only be placed on this list if the PM is absolutely certain that no change is desirable; note that this may inhibit innovation if improperly used. Typical items that MnDOT does not consider ATCs include pavement surfacing type and thickness.
2. The PM and DBPM will determine the maximum amount of ATCs that a proposer may submit. The purpose of setting a maximum is to limit MnDOT's review time and prevent proposers from submitting poorly considered or poorly written concepts. However, make certain that a sufficient number of ATCs are allowed to benefit from innovation.
3. Design-build teams need to submit each concept as a separate ATC. The concept may include multiple interrelated parts (e.g. major geometric layout change which impacts alignments, profiles and intersection control). An ATC with multiple unrelated concepts should be returned to the Proposer before any analysis occurs and the Proposer should be asked to remove the unrelated concepts or abandon the ATC. This returned ATC would not count against the Proposers' ATC limit.

4.9.2 ATC Submittals/Document Control

1. Design-Build teams must submit ATCs in accordance with the ITP.
2. The PM will receive the ATC and log the ATC into the ATC Log (Form 4.9a).
3. The PM will track the status of all ATCs using the ATC log.
4. The PM will store all ATC documents (log, submittals, responses, etc.) in a secure directory. The PM shall limit access to the directory to the DBPM and other key individuals involved with the review and approval of the ATCs.

4.9.3 ATC Reviews

1. The review of ATCs needs to be kept to a small group of key individuals for confidentiality reasons. The PM will only distribute ATCs to these key individuals. The PM will verify that all key individuals have signed a confidentiality form (Form 2.4a).
2. The PM may request supplemental information from a design-build team at any time.
3. The PM may require the design-build team to revise the ATC to resolve any ambiguities in the wording. Revised ATCs should be identified with a letter after the number (for example, ATC 1a).

4. The PM and DBPM may conduct one-on-one meetings with Proposers to discuss ATC concepts (see Section 4.8).
5. The PM should make every attempt to respond to the ATC in seven days or less.
6. The PM will prepare a draft response to the ATC using the ATC response form.
7. The PM will send the draft response to the DBPM for approval. The PM will update the ATC response based upon the DBPM's comments.
8. The PM will forward the ATC response to district management for review, if necessary or desired. The DBPM will forward the ATC response to the State Design Engineer if the concept is Not Approved or if significant conditions are placed on the approval (per the DBPM's judgment). The PM will update the ATC based upon the managers' comments.
9. The DBPM will send the final MnDOT response to the ATC to the FHWA for approval if required by Section 2.3. The DBM and PM will resolve the FHWA's comments, and the PM will update the ATC response as necessary.
10. The PM will sign the finalized response and send it to the team via e-mail.
11. If a team wants to resubmit/modify an ATC after a decision has been sent, they must submit a new ATC using a different ATC number.
12. The PM will update the ATC log.

Exhibits

None

Forms

Form 4.9a: ATC Log Template

Form 4.9b: ATC Decision Form

4.10 Pre-Approved (or Accepted) Elements

The Pre-Approved (or Accepted) Element (PAE) process requires design-build teams to submit elements of the design during the procurement process, and it may be used in both best value and low bid projects. The PAE process is not a required part of the Design-Build delivery method and should only be used to mitigate the risk associated with a contractor having to bid the risk of a significant MnDOT design approval or acceptance. Design-build teams submit PAEs for MnDOT approval (or acceptance) prior to the deadline specified in the contract. A technical proposal that does not have the appropriate Approved/Accepted PAE, when one or more is required, is deemed non-responsive.

PAE should only be used on unique and complex high risk items that are difficult to specify within the RFP documents. The PAE process requires additional time and resources for design-build teams to prepare and for MnDOT to review and approve. It may be necessary to increase stipends or extend the RFP advertisement period.

PAEs must be submitted prior to the PAE deadline and after any related one-on-one meetings, if held. Upon receipt of the PAE, MnDOT reviews this PAE and responds with one of the following determinations:

- a. The PAE is Approved
- b. The PAE is Not Approved
- c. The PAE is Approved with Conditions

Similar to the ATC process, the PAE process is highly confidential. MnDOT must not disclose the contents of PAEs to other teams nor reveal any PAE information in clarifications or addenda. However, MnDOT reserves the right to correct errors and ambiguities in the RFP via an addendum if a team is using the PAE process to take advantage of the error (see Section 4.8).

Listed below are the procedures to write PAE specifications within the ITP and the process to accept, track and review PAEs submitted by design-build teams.

4.10.1 PAE Specifications

1. Prior to releasing the RFQ, the PM will consult with the DBPM (and FHWA on federally funded projects) to determine if PAEs will be required within the RFP. If PAEs will be required, the DBPM will disclose that the PAE process will be utilized within the RFQ. PAE may be added to the RFP after the RFQ has been released, although this is less preferable.
2. The PM will recommend PAE requirements to the DBPM. The DBPM will approve all PAE usage.
3. The DBPM will draft (or manage the drafting of) the PAE section of the ITP using the ITP template. The DBPM will incorporate the required PAE items identified in point 2 above.

4.10.2 PAE Submittals/Document Control

1. Design-Build teams must submit PAEs in accordance with the ITP.
2. The PM will receive the PAE and log the PAE into the PAE Log (Form 4.10a).
3. The PM will track the status of all PAEs using the PAE log.
4. The PM will store all PAE documents (log, submittals, responses) in a secure directory. The PM shall limit access to the directory to the DBPM and other key individuals involved with the review and approval of the PAEs.

4.10.3 PAE Reviews

1. The review of PAEs needs to be kept to a small group of key individuals for confidentiality reasons. The PM will only distribute PAEs to these key individuals. The PM will verify that all key individuals have signed a confidentiality form (Form 2.4a).
2. The PM may request supplemental information from a design-build team at any time.
3. The PM may require the design-build team to revise the PAE to resolve any ambiguities in the wording. Revised PAEs should be identified with a letter after the number (for example, PAE 1a).
4. The PM and DBPM may conduct one-on-one meetings with Proposers to discuss PAE concepts (see Section 4.8).
5. The PM should make every attempt to respond to the PAE in seven days or less.
6. The PM will prepare a draft response to the PAE using the PAE response form.
7. The PM will send the draft response to the DBPM for approval. The PM will update the PAE response based upon the DBPM's comments.
8. The PM will forward the PAE response to district management for review, if necessary or desired. The DBPM will forward the PAE response to the State Design Engineer if the concept is Not Approved or if significant conditions are placed on the approval (per the DBPM's judgment). The PM will update the PAE based upon the managers' comments.
9. The DBPM will send the final MnDOT response to the PAE to the FHWA for approval if required by Section 2.3. The DBM and PM will resolve the FHWA's comments, and the PM will update the PAE response as necessary.
10. The PM will sign the finalize response and send it to the team via e-mail.
11. If a team wants to resubmit/modify a PAE after a decision has been sent, they must submit a new PAE with a revised number. Revised PAEs should be identified with a letter after the number (for example, PAE 1a).
12. The PM will update the PAE log.

Exhibits

None

Forms

Form 4.10a: PAE Log Template

Form 4.10b: PAE Decision Form

4.11 Changes in Personnel and Firms Listed in SOQ

During the procurement process, design-build teams may request changes in personnel or firms listed within their SOQ. The requests often occur due to employees leaving the firm, additional RFP requirements, or other organizational changes.

State statute requires that design-build teams obtain written approval from the commissioner when requesting a change in personnel or firms listed in the SOQ. Since design-build teams are short-listed are based on the qualifications listed in the SOQ, changes in key personnel must be carefully evaluated. This requirement applies to all firms and individuals committed to in the SOQ, whether or not the RFQ requested the names of these individuals or firms.

State Statute 161.3424

An individual or a design-build firm identified in a response to a request for qualifications (RFQ) or a request for proposals (RFP) may not be replaced without the written approval of the commissioner. The commissioner may revoke an awarded contract if an individual or a design-build firm identified in a response to an RFQ or RFP is replaced without the commissioner's written approval. To qualify for the commissioner's approval, the written request must document that the proposed replacement individual or design-build firm will be equal to or better than that described in the response to the RFQ or RFP. The commissioner shall use the criteria specified in the RFQ or RFP to evaluate the request.

Listed below are the processes and procedures for reviewing and approving changes in personnel and firms listed in a proposer's SOQ.

4.11.1 Change in Personnel Prior to Technical Proposal Submittal

1. The design-build team must submit a written request to change key personnel or firms listed in their SOQ to the PM prior to submitting a technical and price proposal.
2. The PM will review the request and will consult with the DBPM to determine if the replacement is equal or better. If acceptable, the DBPM will request concurrence from the commissioner using Form 4.11a.
3. If the commissioner concurs, the DBPM will provide a copy of the approval to the PM and retain a copy in the project file.
4. The PM will provide a copy to the team requesting the change and will retain a copy in the project file.

4.11.2 Change in Personnel After Contract Award

1. The design-build team must submit a written request to change key personnel or firms listed in their SOQ to the PM prior to replacing the team member or having any other personnel fill the role of the person being replaced.

2. The PM will review the request and will consult with the DBPM to determine if the replacement is equal or better. If acceptable, the DBPM will request concurrence from the commissioner using Form 4.11a.
3. The PM, with assistance from the DBPM, will review the change and determine if a monetary deduction is necessary in accordance with the contract documents.
4. If the commissioner concurs, the DBPM will provide a copy of the approval to the PM and retain a copy in the project file.
5. The PM will provide a copy to the team requesting the change and will retain a copy in the project file.
6. If necessary, the PM will draft a Change Order for a deduction per the requirements of the contract.

Exhibits

None

Forms

Form 4.11a: Change in Personnel/Firm Form

4.12 Re-Issuing RFPs

If the commissioner rejects all proposals, MnDOT has the option to abandon the design-build procurement, re-advertise a RFQ, or re-issue the RFP. The decision depends upon the project schedule, modification of the scope, and quality of the short-listed teams. The PM should consult with the District, Chief Engineer, OCIC, and the FHWA (on PODI projects) on which option is best-suited for the project.

If the decision is made to abandon the design-build procurement and change delivery methods, the PM will notify the teams. The DBPM will process any applicable stipends for payment (including the apparent best-value or low-bid).

If re-advertising the RFQ, the PM and DBPM should follow the preceding RFQ/RFP sections of this manual.

The following lists the procedures and processes for re-issuing the RFP during a two-step procurement and single-step procurement.

State Statute 161.3426

If the commissioner rejects all bids or does not execute the contract, the commissioner may reissue the request for proposals and allow only short-listed teams to resubmit proposals. The commissioner shall then pay a reasonable stipulated fee to each short-listed, responsible proposer who provides a responsive but unsuccessful proposal in response to the reissued request for proposals. When the reissued request for proposals specifies a maximum price, the stipend shall be awarded if the proposal is responsive in all other aspects but comes in above the maximum price.

1. The PM will consult with the DBPM, the Chief Engineer, and district management on whether to re-release the RFP if all bids are rejected.
2. On PODI projects, the DBPM will consult with the FHWA regarding the reason to re-issue the RFP.
3. If the decision is made to re-release the RFP, the PM and DBPM will modify the RFP and establish a reasonable stipend.
4. The PM and DBPM will modify the RFP and request FHWA approval of the revised RFP (for PODI projects only).
5. On single-step low-bid projects, the DBPM will re-advertise the project per [Section 4.4](#).
6. On two-step projects (low-bid or best-value), the PM will re-issue the RFP per [Section 4.7](#).
7. The PM will consult with the OCR on the need for a goal change or for an additional meet and greet.

Exhibits

None

Forms

None

4.13 Cancelling Procurements

The following steps outline the processes and procedures for cancelling the design-build procurement at any time during the procurement process.

1. The DBPM and PM will consult with the Chief Engineer and district management on whether to cancel the procurement of a design-build project.
2. On PODI projects, the DBPM will notify FHWA in writing of MnDOT's decision to cancel the current procurement and request concurrence prior to moving forward with cancellation.
3. All SOQs and Technical Proposals received prior to the procurement cancellation are the property of MnDOT and are subject to data practice laws (see [Section 2.5](#)).
4. The DBPM will develop a procurement cancellation letter to send to all of the design-build teams notifying them of the cancellation. The procurement cancellation letter must be signed by the Chief Engineer.

Exhibits

- 4.13-1: Sample FHWA Notification of Cancellation Letter
- 4.13-2: Sample Procurement Cancellation Letter

Forms

None

Section 5. Evaluation and Letting Activities

This section outlines the process for obtaining proposals, evaluation proposals, and project letting.

5.1 Receipt of Proposals, Evaluation and Letting

At the conclusion of the RFP advertisement period, design-build teams must submit a Technical Proposal and a Price Proposal on each project (best-value and low bid). Design-build teams must also submit Civil Rights (OCR) proposals prior to letting.

This procedure outlines the procedures for receiving proposals, evaluating proposals, and the process for conducting the letting.

5.1.1 Receipt of Technical, Price, and Civil Rights Proposals

1. Prior to receiving proposals, the PM and DBPM will develop an evaluation schedule. The schedule needs to include ample time for a thorough review and discussion of each technical proposal. Additional time needs to be provided for developing interview questions and conducting the interviews, if applicable. Sufficient time need to be added following evaluations for the commissioner's review of the technical scores and potential re-evaluation by the TRC. The evaluation period typically takes at least two weeks between proposal submission and letting on best value projects, although shorter schedules may be used.
2. Prior to receiving technical proposals, the DBPM will develop a Technical Proposal Evaluation Manual using the Technical Proposal Evaluation Manual template. The evaluation criteria in the evaluation manual must match the evaluation criteria listed in the ITP. The Technical Proposal Evaluation Manual should be supplemented with a spreadsheet to assist in validating the technical scores.
3. At least 10 working days prior to the proposal due date, the DBPM will remind the Contracts and Lettings Supervisor (CLS) and Project Delivery Engineer of the proposal due date, bid letting date, and escrow documents due date and confirm that the appropriate meetings have been scheduled. (The initial notification should have been made and these meetings should have been scheduled around the time the first P6 schedule was completed)
4. DBE/EEO and TGB/Vet submittals typically are submitted at the Price Proposals deadline.
5. The DBPM receives the submissions of technical proposals, DBE/EEO and TGB/Vet packages, and other required forms. The DBPM will provide a receipt to each Proposer that their technical proposal was received prior to the deadline, if applicable. Price Proposals will be received by the CLS through electronic Bid Express.

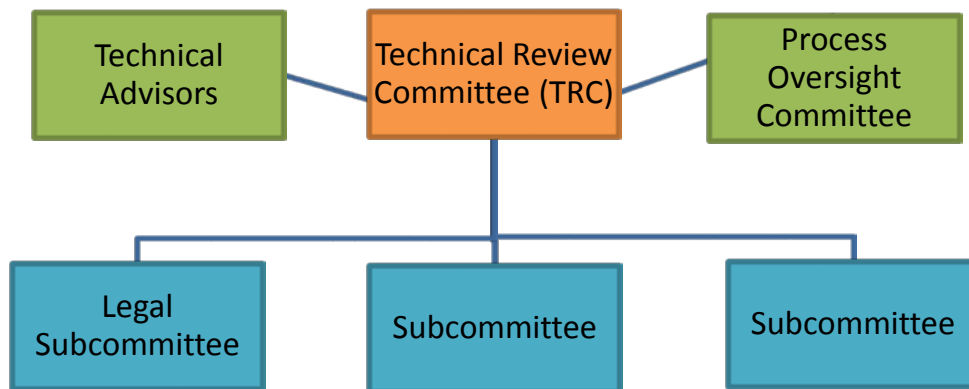
- a. For hand-delivered proposals, use Forms 5.1a.
 - b. For all items delivered using electronic delivery, the DBPM will send an e-mail to the Proposer’s single points of contact acknowledging their receipt.
6. Prior to distributing the technical proposals, the DBPM will:
- a. Verify that the proposals were received on-time and each package contains the correct number of copies.
 - b. Conduct a cursory review of the technical proposals to ensure that no price information is contained within the technical proposal and review that the number of pages has not been exceeded.
 - c. Download the technical proposals to a secure server and store the CDs in a secure location.
 - d. Prepare a distribution log within the POC Log Template (Form 5.1c). The TRC evaluator number should be the same as the Technical Proposal evaluation number.
 - e. Prepare a Technical Proposal evaluation package which includes the following at a minimum:

Evaluation Package
Agenda
Copy of each Technical Proposal
Technical Proposal Evaluation Manual. Note certain appendices (such as scoring forms) are only needed by certain members.
Confidentiality Form (for those who haven’t signed already)
Hard copy of the ITP and a link to the location of the RFP online.

7. The DBPM stores Technical Proposals in a locked area.
8. The DBPM distributes OCR documents to the OCR Specialist assigned to the project.

5.1.2 Evaluation Committee

The review and evaluation of technical proposals is often performed by a team of experts, scoring members, legal staff, and process oversight experts. Listed below is a typical evaluation committee organizational chart:



Although the Technical Review Committee (TRC) members are the only people who score the technical proposals, technical experts are often used to assist with reviewing the technical proposals. Technical Advisors are subject matter experts and provide strengths and weaknesses to the TRC. Technical experts often form subcommittees, or can be technical advisors. The Process Oversight Committee (POC) oversees that the process is done in accordance with state statute, the evaluation manual and federal regulations. The POC includes the DBPM, FHWA, and the Department of Administration.

5.1.3 Best-Value Technical Proposal Evaluation

1. The DBPM will arrange the time/location for the Proposal Evaluation Kick-off Meeting with help from the PM.
 - a. The purpose of the Proposal Evaluation Kick-Off Meeting is to distribute the Technical Proposals and review the process for evaluating the Technical Proposals. All TRC members, technical advisors, subcommittees and process oversight committee members are required to attend unless approved by the DBPM. Note: FHWA oversight and legal advisors are not required to attend if they do not receive project materials or have attended a kick-off meeting for other projects.
 - b. If a TRC member or advisor is not able to make the meeting, the DBPM will schedule a one-on-one kick-off meeting with the person to distribute the technical proposals and review the technical proposal evaluation process. A TRC member or advisor may attend remotely so long as they sign a confidentiality form prior to receiving the materials.
 - c. The DBPM will lead the Proposal Evaluation Kick-off Meeting.
 - d. The DBPM will prepare and distribute technical proposal evaluation packages to each member in attendance, unless delegated to the Project Manager.
 - e. The DBPM will review the Technical Proposal Evaluation Manual in detail.

2. The DBPM will arrange for a time/location for the TRC evaluations and help the subcommittees find a time to meet, if necessary with help from the PM. The DBPM will notify all members of the evaluation schedule.
3. The DBPM will arrange the legal subcommittee meeting. The PM and TRC do not need to attend the meeting.
4. The DBPM and PM will attend all evaluation meetings with the TRC. On PODI projects, the PM will invite the FHWA to all TRC evaluation meetings.
5. The DBPM will oversee the evaluation process in accordance with the Technical Proposal Evaluation Manual and prepare a log documenting any notes of the Process Oversight Committee. The DBPM will take notes summarizing the TRC evaluations for use in the debriefing meetings.
6. The DBPM will check the quantitative TRC scoring math using an electronic spreadsheet. The DBPM will tabulate average scores in a location that is not visible until all TRC members have completed scoring. The TRC members may see the final results, but they may not change their scores after submitting their evaluations.
7. If any team is voted non-responsive, the DBPM will inform the Commissioner, or designee, and the PM will notify the team prior to the letting date.
8. The DBPM and/or PM will collect all evaluation materials and Technical Proposals from the evaluation team.
9. The DBPM will prepare the Letter to the Chief Engineer prior to letting (Form 5.1b).
10. The DBPM (and PM, if available or if there is anticipated controversy) will meet with the Chief Engineer to discuss and obtain concurrence with the technical proposal scores in accordance with the Technical Proposal Evaluation Manual.
11. The DBPM, PM, and TRC will keep the technical scores confidential until letting.

5.1.4 Low-Bid Technical Proposal Evaluation

1. The DBPM will arrange the time/location for evaluating the Technical Proposals. All TRC members must attend the evaluation meeting; remote attendance is allowed. The PM, if not on the TRC, may also attend the meeting. On PODI projects, the DBPM will also invite the FHWA.
2. The DBPM will distribute Technical Proposal Evaluation package to attendees and will review the Technical Proposal Evaluation Manual prior to distributing the Technical Proposals.
3. The DBPM will oversee the evaluation process in accordance with the Technical Proposal Evaluation Manual and prepare a log documenting any notes from the Process Oversight Committee. The evaluation process is used to determine responsiveness only.
4. At the conclusion of the evaluation process, the DBPM will collect all evaluation materials and Technical Proposals from the evaluation team.
5. The DBPM will document the results and notify the CLS.

5.1.5 Letting (Price Proposal Opening Date)

1. The DBPM will reserve a conference room for letting for projects on which the DBPM or PM desires to have in an in-person announcement (typically best value jobs). The DBPM will invite the CLS, PM, design-build teams, and other interested parties. On large projects, the DBPM will reserve the cafeteria through the Dept of Administration. If the cafeteria is reserved, contact MnDOT's External Partnering unit to set up a screen/table.
2. For public openings:
 - a. On best-value projects, the Commissioner, or designee (DBPM), will post and read the Technical Scores before opening the price proposals.
 - b. The Commissioner, or designee (CLS), will open the electronic Price Proposals and read the lump sum bid prices.
 - c. On best-value projects, the Commissioner, or designee (DBPM), will visibly enter the Price Proposal values into a spreadsheet, divide the Price Proposal by the Technical Score, and determine the apparent best-value.
 - d. The Commissioner, or designee (DBPM), will close the letting by identifying the apparent best-value or low bid contractor, depending on the procurement type.
3. The apparent best-value results, if applicable, will be posted on the project website by the DBPM as soon as possible following the opening of the Price Proposal. (Low bid results are posted the same as for Design-Bid-Build projects) The DBPM will provide the CLS a link to these results.

Exhibits

5.1-1: Sample Technical Proposal Letter to Chief Engineer

Forms

- Form 5.1a: Receipt of Technical Proposals Form
- Form 5.1b: Technical Proposal Letter to Chief Engineer Template
- Form 5.1c: Technical Proposal POC Log Template
- Form 5.1d: Technical Proposal Evaluation Manual (Best-Value)
- Form 5.1e: Technical Proposal Evaluation Manual (Low-Bid)

Section 6. Post-Letting Activities

This section outlines the activities following the letting of a design-build project. These activities include awarding and executing the contract, paying out stipends, and conducting debriefing meetings with the contractors.

6.1 Contract Award and Contract Execution

The results of the letting must be analyzed to determine if the proposals are responsive and responsible prior to awarding and executing the contract.

Listed below are the processes and procedures for reviewing the letting results, awarding and executing a design-build contract. This process also includes steps necessary to review and store Escrow Proposal Documents.

6.1.1 Pre-Contract Award

1. The DBPM will provide any forms which break down lump sum items into smaller funding groups (i.e. Schedule Is) to the CLS.
2. The CLS will provide the bid abstract and Engineer's Estimate to the Estimating Engineer and, if applicable, Bridge Estimating. The CLS will provide the bid abstract to the Office of Civil Rights without the Engineer's Estimate.
3. The CLS will audit the Price Proposals.
4. The PM and Estimating Engineer will review the Price Proposal versus the estimate and account for ATCs as necessary. If necessary, per Estimating policy, the Estimating Engineer will prepare a justification letter to recommend awarding the project and provide it to the CLS along with the signed audit sheet. If the Estimating Engineer does not recommend awarding the project, the Estimating Engineer, OCIC, DBPM, and PM will meet with the Commissioner (or designee) to discuss whether all of the bids must be rejected. OCIC ultimately determines if rejection is necessary following the meeting.
5. The DBPM will provide a copy of the apparently successful price and technical proposals to the GEC for use in preparing the conformed contracts.
6. The DBPM will provide one hard copy of the conformed contract to the CLS, often using the GEC. The DBPM will also provide an electronic copy of the contract to the CLS.
7. The Office of Civil Rights will provide the DBE/EEO or TGB/Veteran Clearance Letter to the CLS.
8. The CLS will obtain clearances regarding right-of-way, permits, utility agreements, and municipal agreements from the Office of Land Management.

9. On PODI projects, the CLS will prepare and send the request of concurrence in award letter and required attachments to FHWA as listed below:
 - a. Abstract
 - b. Addenda
 - c. Estimates Engineer Letter
 - d. Bridge Office Letter, if applicable
 - e. OCR Clearance Sheet and Letters
10. The CLS will obtain concurrence in award from the FHWA on PODI projects.
11. The CLS will obtain the signed abstract and audit sheet authorizing award from the State Construction Engineer, Contract Administration Engineer, and/or Project Support and Claims Engineer.
12. The DBPM provides the CLS a list of items that must be included in the award package (from ITP Section 6.2).

6.1.2 Award and Pre-Contract Approval

1. The CLS will make award and send the contract package to the design-build team with copies to the DBPM after the CLS has obtained FHWA concurrence (if applicable).
2. The DBPM posts the Technical Proposals including ITP forms, Technical Evaluations, and Technical Evaluation Manuals on the project website and notifies the design-build teams of the posting immediately after contract award.
3. In the event award is delayed beyond the time allowed in Book 1 Section 11.3.1 of the RFP, the CLS will send a Delay in Award Letter to the apparent best value team notifying them of the source of the delay and that their proposal guaranty will be held for up to an additional 30 days. The apparent best value team is asked to sign and return the letter to acknowledge retainage of their proposal guaranty. See example in Exhibit 6.1-1.
4. OCIC Estimating will contact the design-build team for review of Escrow Proposal Documents (EPD).
5. OCIC Estimating will deliver the EPD to the CLS for secured storage of documents for the life of the project.
6. The PM will notify the CLS when they have received an acceptable, preliminary CPM schedule from the design-build team.

6.1.3 Contract Approval, Notice to Proceed, and Stipend Payment

1. The CLS receives the executed contract package from design-build team and reviews the contract documents. Once all contract documents are received and properly executed and all contract approval clearances have been met, the CLS will sign the contract and bonds. The CLS forwards the contract to the Office of Finance for signature and verification of encumbrance, including bonds and certificates of human rights and equal pay for the Department of Administration review (information only).

2. The CLS notifies the Contract Management Director that the executed contract package has been received so that Contract Management can coordinate signature with the Department of Administration (final signature on the contract).
3. Finance delivers the contract to the Contract Management Director.
4. The Contract Management Director obtains the Department of Administration signature and returns the executed contract package to the CLS.
5. CLS issues approval letter to design-build team **no earlier than seven days after award** and copies PM, DBPM, District Engineer, etc.
6. The PM issues Notice to Proceed 1 to the design-build team.
7. The DBPM prepares stipend agreements with Consultant Services Unit and Finance.
8. The DBPM arranges debriefing meetings (See [Section 6.3](#)).

6.1.4 RFP Distribution

1. Following execution of the contract, the PM will provide the following copies of the conformed RFP:

Table 6.1-1. Conformed RFP Distribution

Organization	Conformed RFP Distribution
Design-build team	Two CDs Five Hard Copies
MnDOT Oversight	To be determined by the PM
DBPM	One CD One Hard Copy
FHWA (PODI projects)	One CDs One Hard Copy

2. The DBPM will place the conformed RFP on the design-build network drive and the project website.

Exhibits

6.1-1: Sample Delay in Award Letter

Forms

None

6.2 Stipends

A stipend (stipulated fee) is an amount paid to responsive, but unsuccessful, design-build teams submitting technical proposals on all best-value and some low-bid design-build projects. A stipend may also be paid to a design-build team who is unresponsive to a maximum price clause but is responsive in all other aspects. A stipend can only be paid on low-bid design-build projects if a two-step (RFQ/RFP) process is used. If the two-step low-bid process is used, MnDOT must declare in the RFP if a stipend will be paid.

Stipends are used to offset the procurement costs of the design-build teams. The stipend is not meant to cover 100% of their costs, but typically covers one-quarter to one-third of the costs. Listed below are several benefits to paying stipends:

- Increased Competition – The design-build team procurement costs are typically higher on design-build projects compared to design-bid-build projects. Design-build teams spend additional resources on preliminary design and project coordination. Paying a stipend encourages contractors to pursue design-build projects.
- Enhanced Quality / Lower Construction Costs – By investing time and resources into the design process, the design-build teams are able to optimize the design and bring innovation into the process. Innovation and design optimization lead to increased quality and lower construction costs.
- Intellectual Property – Design-build teams often bring a significant amount of innovation to each project. By paying a stipend, MnDOT has the right to use these ideas, possibly as a negotiated change with the successful team.

The stipend amount and requirements are outlined in Minnesota State Statutes (161.3426 Subdivision 3 and Subdivision 4). The stipend amount is based on the estimated cost of design and construction (estimated design-build contract value). The following table lists the required and recommended stipend amounts.

Table 6.2-1. Best-Value Stipend Requirements (State Statute 161.3426 Subd 3):

Design-Build Contract Value	Best-Value	Low-Bid (Two-Step)	Low-Bid (Single Step)
> \$50 million	0.2% Minimum 0.2% Recommended	0% Minimum 0.2% Recommended	No Stipend Allowed
< \$50 million	0.2% Minimum 0.4% Recommended	0% Minimum 0.2% Recommended	No Stipend Allowed

Listed below are the processes and procedures for determining the stipend and incorporating the stipend into the procurement documents.

1. The DBPM and PM must follow the requirements of statute 161.3426 when establishing stipends.
2. The PM will establish the stipend for the project in consultation with the DBPM and district management.
3. The stipend should be based upon the upper limit of the estimate in the ITP.
4. To encourage competition, stipends are highly recommended on two-step low-bid projects. Stipends cannot be used in one-step processes per statute.
5. The PM will identify the source of funding for the stipends and include the source in the federal authorization form. Stipends are eligible for federal funding (see CFR 636.113), except on contracts with maximum price clauses (see [Section 3.1.7](#)).
6. If known, include the stipend amount in the RFQ. If not known, the RFQ should include the minimum percentage of the anticipated design and construction costs (e.g. 0.2% or 0.4%).
7. The ITP should include a dollar figure for the stipend, not a percentage.
8. A copy of a sample stipend agreement must be made available on the DB Website and made known to proposing teams in the RFQ.
9. If a design-build team elects to not accept a stipend, MnDOT cannot use the ideas contained within their technical proposal. However, the contents are public information unless the design-build team has requested that the information be deemed trade secret using the procedure set forth in the ITP. (See [Section 2.5](#))

Exhibits

None

Forms

None

6.3 Debriefing Meetings

Debriefing meetings provide feedback to design-build teams on the merits of their Statement of Qualifications and/or Technical Proposals. These meetings are informal one-on-one meetings that occur after the short-listing process (SOQ) and after contract award (technical proposal). Debriefing meetings should also be used to obtain feedback from the design-build teams on the procurement process.

All successful and unsuccessful design-build teams should be offered a debriefing meeting after each evaluation activity. However, no team should be debriefed if any team protests or takes legal action against the procurement. If this occurs, debriefings should be delayed until the conclusion of the protest or legal process.

Listed below are the processes and procedures to debrief design-build teams following a short-listing process and technical proposal process.

1. The debriefing meetings should occur shortly after the short-list announcement or contract award, but not before the end of the protest period listed in the RFQ or ITP.
2. The DBPM will be responsible for organizing and facilitating debriefing meetings.
3. The DBPM and PM should attend all debrief meetings. On PODI projects, the DBPM will offer the FHWA the opportunity to attend the debriefing meetings.
4. Debrief meeting contents:
 - a. Approximately one-hour in length
 - b. Informal discussions between MnDOT and teams.
 - c. The DBPM will prepare a summary of the TRC comments. The DBPM and PM will review the TRC summary with the teams during the debriefing meeting.
 - d. The DBPM will provide a scoring breakdown by category.
 - e. If requested, the DBPM will provide a breakdown by category for the other teams.
 - f. Do not discuss the contents of another team's SOQ or Technical Proposal (see [Section 2.5](#)).
5. If allowed by data practices statute, the DBPM will provide scoring methodology and evaluations if requested by a team (see [Section 2.5](#)). The DBPM will provide a survey to the design-build teams which asks them to rate the quality of the procurement and associated documents.