

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL



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1.0 CHAPTER ONE - OVERVIEW

This Design-Build Manual (DB Manual) was commissioned by the Office of the Secretary, and is intended to document the Louisiana Department of Transportation and Development's (the LA DOTD) procedures and practices for determining the eligibility of a project for the Design-Build (DB) method of project delivery, and the subsequent procedures established by the LA DOTD to procure the DB contract for the project. The DB procedures and practices identified in this DB Manual are based upon state and federal laws and regulations, as well as best practices recognized nationally in the DB industry and lessons learned locally on previous DB projects that the LA DOTD has executed. It is the intent of the LA DOTD that DB projects are developed in accordance with this DB Manual.

1.1 Use

This DB Manual was commissioned for the use of LA DOTD staff directly involved in the development and procurement of DB projects. This DB Manual will likely also be used by other LA DOTD staff that are indirectly involved with DB projects to some extent, to aid in the understanding of the DB project delivery method.

The goals of this Design-Build Manual include the following:

- A) Allow the LA DOTD to reduce to writing the procedures and practices for DB project delivery, clarifying those procedures and practices to both internal and external stakeholders and creating a more transparent process;
- B) Preserve the LA DOTD's ability to engage in the use of the DB project delivery method, while maintaining high standards for integrity and quality in procurement and project development;
- C) Ensure that the LA DOTD's DB procedures and practices are coordinated to the extent practicable with current standard procedures and practices, while recognizing that DB projects may have some differences from "traditional" projects; and
- D) Create an environment that will allow, to the maximum extent possible, innovation on appropriate projects.

1.2 Terms and Definitions

The terms and definitions that are used throughout this DB Manual can be found in Exhibit B - Terms and Definitions.

2.0 CHAPTER 2 - SELECTING A PROJECT FOR DESIGN-BUILD PROJECT DELIVERY

A project may be designated as a DB project by the Louisiana State Legislature, by the Secretary, or by project staff. Additionally, each year the Chief Engineer and Project Delivery Engineer will evaluate the LA DOTD's program to determine if there are candidate projects for the DB project delivery method. However, regardless of how a project has been designated as a DB project, the project must still be approved by the House and Senate Transportation, Highways, and Public Works Committees.

Since each project that is designated for DB is subject to the approval of the House and Senate Transportation, Highways, and Public Works Committees, any project that is considered should undergo analysis of certain factors that will assist the LA DOTD in determining whether the project is a good candidate for DB. While there is no "equation" or "formula" into which numbers are plugged and a score results indicating whether a project is eligible or not eligible for DB, there are certain factors that national best practices indicate are helpful in making the DB decision.

2.1 Project Selection

The LA DOTD's Project Manager will be responsible for organizing a Project Selection Committee to determine if a project is appropriate for the DB project delivery method. The Project Selection Committee will be chaired by the LA DOTD's Project Manager, and will include the following members:

- A) The Transportation Planning Administrator;
- B) The Chief Construction Division Engineer;
- C) The Project Development Administrator;
- D) District Administrator (for the appropriate district);
- E) Environmental Administrator;
- F) Program Manager;
- G) The Contracts Services Administrator;
- H) A representative from the Project Finance Committee; and
- I) If federal funds are to be involved, a representative of the Federal Highway Administration (ex officio).

This Project Selection should typically occur when a project is in Stage 2 of the LADOTD's Project Delivery Process, unless circumstances dictate otherwise.

Generally, the selection of a project for DB project delivery involves the three overarching criteria of "schedule," "price," and/or "creativity" or "innovation," along with the other criteria stated below. However, these criteria can be further refined as follows:

Schedule

Are there time constraints associated with delivery of the project? Typically, DB allows delivery of a project more quickly than if that same project were delivered utilizing a traditional, design-bid-build delivery method. This time savings is generally recognized as occurring during the overlap in the design and construction phases, and the elimination in the need to complete a 100% Plan, Specification, and Estimate (PS&E) package prior to bidding the work for construction. Additionally, because one entity (the Design-Builder) is responsible for the coordination of all of the designers, subcontractors, and suppliers on the project, the possibility of conflicts between multiple contractors and suppliers on a site, or conflicts arising between the constructor and designer, are the responsibility of the Design-Builder, eliminating another common point of delay on traditional, design-bid-build projects.

Price

Due to funding constraints, does the project need greater cost certainty in the contract price? Because two of the frequent causes of change orders in traditional, design-bid-build projects are eliminated in DB (i.e., design interface and coordination with multiple contractors and/or suppliers at the site), DB contracts often see less cost escalation than traditional, design-bid-build contracts. Further, national best practices have demonstrated that in DB projects the Design-Builder is best suited to mitigate certain risks, dependent on the project. Design-Build allows the owner to contractually allocate the risk to the Design-Builder, where appropriate. Of course, in turn, the Design-Builder builds the cost of the risk mitigation into its price, but on many occasions it has proven to be a cost effective method for the owner to allocate and mitigate a project risk.

Creativity/Innovation

Does the project offer the opportunity for creativity and/or innovation in design solutions or construction means or methods? This will typically apply to projects that are complex in nature. However, the LA DOTD should not limit what it considers a "complex" project – a complex project may include a project that is a technically complex bridge structure or a project that has a particularly complex environmental issue, whether related to site conditions/constraints or to NEPA mitigations. Additionally, acknowledging this criteria will require the LA DOTD, stakeholders, and Proposers to accept that on appropriate projects, procurements that utilize performance criteria rather than prescriptive criteria to define the evaluation objectives and factors would be necessary. Whether this type of procurement would be palatable to the public and stakeholders would be a consideration in this criteria.

Other Criteria

Other criteria to consider when determining whether a project is appropriate for DB project delivery may include any or all of the following:

- A) Definitiveness of the Scope – Has the scope of the project been adequately and consistently defined? This is distinct from the "creativity/innovation" criteria above in that the scope may be defined, however, the solution to the scope may not be defined. For example, the scope may be a "structure crossing the Mississippi River" at a particular location. The nature of the structure (i.e., the creativity/innovation) may not be defined other than by performance parameters.
- B) Availability of Design-Builders – Is there a sufficient pool of designers and contractors available to propose on a project of the value and complexity proposed and to be delivered within the proposed schedule?
- C) LA DOTD's Capability – Is there sufficient capability within the LA DOTD, including a LA DOTD's Project Manager and/or LA DOTD's Construction Manager (CM) with the appropriate skill set, to manage the project? Is it necessary to engage consultant assistance?
- D) Status of Right-of-Way Acquisition – The acquisition of Right-of-Way (ROW) is always a great source of risk on public projects. As such, consideration should be given to the status of the acquisition of any property necessary for the construction of the project. If parcels remain to be acquired, what are the estimated dates for acquisition? Some agencies have successfully shifted some ROW acquisition activities to the Design-Builder, allowing the Design-Builder to prioritize the acquisition schedule and necessary parcels. Any shift of ROW services to the Design-Builder must be in compliance with appropriate state and federal law and the LA DOTD's Acquisition of Right-of-Way and Relocation Assistance policy and procedures, and requires that the Design-Builder submit a written ROW acquisition and relocation plan to the LA DOTD for approval. The activities shifted to the Design-Builder could include appraisals, appraisal reviews, extending offers on behalf of the LA DOTD, and conducting negotiations on behalf of the LA DOTD. However, the property would be acquired by the LA DOTD and any expropriations activities would be the responsibility of the LA DOTD.
- E) Environmental Issues – Environmental mitigation measures and hazardous materials mitigation should be included in the DB contract. Also, where environmental documentation or permits must be obtained, the project planning process can be delayed. An issue unique to a procurement that utilizes funding from the Federal Highway Administration (FHWA) is to remember that the procurement documents must inform the proposers of the general status of the National Environmental Policy Act (NEPA) status, generally, it is the policy of the LA DOTD to complete the NEPA process prior to award of the DB contract.
- F) Utilities and Railroads – Are there a significant number of utilities or a railroad affecting the project? One way to mitigate the risk of utility relocations or

railroad work is to assign the work directly to the Design-Builder to manage, eliminating a coordination point. This requires up front work by the LA DOTD through utility agreements or agreement with the railroad, but can eliminate delay during the project if the groundwork is laid ahead of time.

- G) Flexibility – Like "Definitiveness of Scope" ((A), above), Flexibility ties in with the "Creativity/Innovation" criteria. While on any given project there may be elements of the project that may have a prescribed solutions, DB projects generally are those best suited to some degree of freedom for the Design-Builder to determine the solutions to the challenges. A project wherein every problem has a prescribed solution is probably not well-suited for DB, unless the criteria of schedule and price far outweigh the criteria for creativity/innovation.
- H) Current Project Status – Has the project progressed past the point that significant design has already occurred? If so, it may not be in the LA DOTD's best interest to pay for a Design-Builder to "re-engineer" the project. Conversely, if the LA DOTD intends to have the Design-Builder utilize the engineering that the LA DOTD has already completed, the LA DOTD will lose some of the benefits of creativity, innovation, and flexibility that DB brings to the table. The loss of those benefits may be outweighed by the "Schedule" and "Price" criteria, but each should be weighed individually when making the DB decision.
- I) Award Method – How will the contract be awarded? Will price be more or less important than the technical proposal? Will the price and the technical proposal be equally important? The award method has come increasingly under scrutiny, and appropriately should be justified when justifying the DB decision. Low price does not necessarily always have to be the award method, but it should always be clear to the proposers and the public why the LA DOTD awarded the contract the way it did and how the award was made. The basic award methods to consider are as follows:
 - 1) Low price;
 - 2) Price and technical proposal "equally" important;
 - 3) Technical proposal more important than price;
 - 4) Stipulated price, best technical proposal; and
 - 5) Any of the above with Alternate Technical Concepts.

2.2 Louisiana Department of Transportation and Development Approval

The analysis following Section 2.1 that is conducted justifying the use of DB for a certain project or program of projects can be the basis for a project selection recommendation memorandum. The project selection recommendation memorandum must be submitted to the Chief Engineer, for the concurrence of the Secretary.

Section 2.2 Tasks

- Draft project selection recommendation memo
- Submit project selection recommendation memo to the Chief Engineer for approval
- Submit the project selection recommendation memo to the Secretary for concurrence

Section 2.2 Deliverables

- Project selection recommendation memo

2.3 Legislative Approval

Under L.R.S. 48:250.2, the LA DOTD must submit any project selected for DB to the House and Senate Transportation, Highways, and Public Works Committees for approval. The analysis following Section 2.1 that is conducted justifying the use of DB for a certain project or program of projects and the subsequent Chief Engineer recommendation memorandum can be utilized by the Secretary in his or her presentation to the Louisiana State Legislature pursuant to L.R.S. 48:250.2. It is important to note that while the Secretary will seek the approval of the House and Senate Transportation, Highway, and Public Works Committees at this time in order to proceed with project development, it is likely that he or she will continue to brief and update the committee regarding a project after its approval as that project develops and progresses.

2.4 Federal Concurrence and Approval

Under Title 23 of the Code of Federal Regulations (CFR) Parts 635 and 636 and Amendment #2 Design-Build to the Louisiana Federal-Aid Highway Program Stewardship Agreement 2007 (Stewardship Agreement), there are a number of required federal concurrences and approvals that the LA DOTD must receive from the FHWA before proceeding with a DB project. The concurrences and approvals specific to the procurement process are addressed in this DB Manual.

The first concurrence required from the FHWA is concurrence prior to issuance of the Request for Qualifications (RFQ) on a project receiving federal funding. This concurrence is in accordance with the Stewardship Agreement. (*See Exhibit C - Amendment #2 Design-Build to the Louisiana Federal-Aid Highway Program Stewardship Agreement 2007.*)

In accordance with 23 CFR 635.112 and 636.109, for a project that is receiving federal funding, the LA DOTD must receive prior FHWA concurrence and approval prior to issuing the Request for Proposals (RFP). Ideally, the RFP will be issued after the NEPA process has been completed. In that instance, the FHWA's concurrence and approval of the RFP constitutes the FHWA's project authorization as well as the FHWA's approval of the LA DOTD's request to release the RFP.

If the RFP is issued prior the completion of the NEPA process, the FHWA's concurrence and approval only constitutes FHWA's indication that the LA DOTD's activities comply with federal requirements and does not constitute project authorization or obligation of federal funds as well

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as FHWA's approval of the LA DOTD's request to issue the RFP. Prior to the completion of NEPA, FHWA's concurrence and approval of the RFP do not constitute project authorization.

The LA DOTD must also receive FHWA concurrence in the award of the DB Contract, in accordance with 23 CFR 635.114 and 636.109.

3.0 CHAPTER 3 - DESIGN-BUILD MANAGEMENT AND TRAINING

A DB procurement will be more successful if responsibility is assigned to a group of individuals who become well versed in the concepts of DB generally and DB procurement and contracting specifically. Continuity of personnel will also be important to the success of the program. For example, staff with technical capabilities who assist in the drafting of performance specifications will also be valuable during the evaluation of proposals and during the implementation of the project because of their familiarity of the subject matter as well as the contract documents for contract administration purposes.

3.1 The Louisiana Department of Transportation and Development's Design-Build Procurement Management Team

The LA DOTD's DB Procurement Management Team will be lead by the Contract Services Administrator. The Contract Services Administrator will assign members to the DB Procurement Management Team as appropriate depending on the project, but generally the Contract Services Administrator may be assisted by any of the following people:

- A) The LA DOTD's Consultant Contract Administrator;
- B) The LA DOTD's Project Control Engineer Administrator;
- C) A specifications engineer (either an LA DOTD or consultant engineer who will assist with drafting technical provisions and compiling technical documents for inclusion in the procurement documents);
- D) The LA DOTD's Project Manager; and
- E) Legal counsel.

Any of the members of the DB Procurement Management Team may be replaced, as needed, with a designee identified by the Secretary.

The DB Procurement Management Team is responsible for controlling and maintaining the integrity of the entire procurement process, from start to finish. The membership of the DB Procurement Management Team will consist of members that are not involved in either the DB Qualifications Evaluation Committee (*see* Section 7.6.1) and the Proposal Review Committee (*see* Section 9.8.1), with the exception of the LA DOTD's Project Manager. The reason for the exception to this rule is that the LA DOTD's Project Manager is integrally important to providing and coordinating the technical information with the DB Procurement Management Team for the preparation of the procurement documents, and serves as a liaison to the rest of the LA DOTD's technical personnel in technical activities related to procurement document preparation.

The Design-Build Procurement Management Team substantially performs the following functions:

- 1) Not only maintains strict confidentiality with regard to its functions within the evaluation process but also is the primary group responsible for

- managing and monitoring the entire process for confidentiality, integrity, and procurement sensitivity;
- 2) Ensures that all participants in the procurement process sign a certification of confidentiality and non-disclosure and statements concerning conflicts of interest. If apparent conflicts are disclosed the resolution process for the conflicts will be determined by the Executive Counsel;
 - 3) Maintains during the entirety of the procurement a procurement file, including, but not limited to, all relevant procurement documents, final solicitation documents, and any original signed documents pertaining to the procurement, including contracts;
 - 4) Drafts, and compiles information to be included in, the procurement documents, including the Notice of Intent (NOI), RFQ, and RFP;
 - 5) Serves as the single-point-of-contact for all communications with the proposers, both prior to and after receipt of Statements of Qualifications (SOQ) and prior to and after receipt of Proposals;
 - 6) Provides orientation sessions on the evaluation process for the members of the DB Qualifications Evaluation Committee and Proposal Review Committee prior to start of evaluations;
 - 7) Facilitates the DB Qualifications Evaluation Committee and Proposal Review Committee throughout the entire process;
 - 8) Receives and safeguards all SOQs and Proposals and all related evaluation information. Lump Sum Price Proposals are kept sealed in a secure location;
 - 9) Reviews each SOQ and Technical Proposal for responsiveness to the RFQ and RFP, respectively. The Procurement Management Team ensures that an SOQ and a Proposal is in the required format and ready for evaluation;
 - 10) Prepares the SOQs and Technical Proposals for evaluation and evaluation worksheets for the DB Qualifications Evaluation Committee and Proposal Review Committee, respectively; and
 - 11) Coordinates the notification of technical scores, conducts the public opening of the Lump Sum Price Proposals, facilitates the award and execution of the DB Contract, and assists the LA DOTD's Project Manager with any requested de-briefs.

3.2 The Louisiana Department of Transportation and Development's Project Manager

One of the first acts that will need to be formally taken for the project will be to formally designate the project manager for the project. In accordance with L.R.S. 48:250.3, the Chief Engineer, with concurrence of the Secretary, assigns the project manager to the project. Since the LA DOTD's Project Manager will be integral to moving the project forward even at these early stages of the project and procurement development, it will be critical for this assignment to

be made early. It should be anticipated that for the majority of DB projects, this person will be spending a significant amount of his or her time on the project, so finding a person who has enough time to take on a project of the magnitude to be expected will be critical.

Section 3.2 Tasks

- Draft Chief Engineer LA DOTD's Project Manager assignment memorandum, for Secretary concurrence
- Submit Project Manager assignment memorandum to the Chief Engineer for approval
- Submit Project Manager assignment memorandum to the Secretary for concurrence

Section 3.2 Deliverables

- Chief Engineer memorandum assigning the LA DOTD's Project Manager, for concurrence by the Secretary

3.3 Design-Build Orientation and Training

The LA DOTD's DB Procurement Management Team and any other staff involved in the DB project, as well as stakeholder and consultant staff retained to assist the LA DOTD with the development of the project, should be trained in the concepts of DB. The DB orientation and training should cover the following topics:

- A) The unique relationship between the LA DOTD and the Design-Builder;
- B) Comparison of Design-Build to design-bid-build;
- C) Reasons for utilizing Design-Build;
- D) Timing of procurement strategy;
- E) Overview of the procurement and contract documents; and
- F) Specifications and other technical provisions.

The DB orientation and training will be conducted by the DB Procurement Management Team and, after the initial training, will be conducted yearly to refresh LA DOTD personnel on any updates pertaining to the DB process as used by the LA DOTD. Anyone new to the LA DOTD's DB process will need to undergo the DB orientation and training in a special session with the DB Procurement Management Team prior to participating in a DB procurement.

An example of a DB orientation and training Microsoft Power Point[®] presentation is attached to this DB Manual at Exhibit D – Design-Build Orientation and Training.

Section 3.3 Tasks

- Conduct initial Design-Build orientation and training
- Conduct yearly DB orientation and training refreshers on updates to LA DOTD's DB process

- Conduct DB orientation and training of personnel new to the LA DOTD's DB process prior to participation in a DB procurement

Section 3.3 Deliverables

- Prepare Design-Build orientation and training Microsoft Power Point[®] presentation
- Prepare DB orientation and training Microsoft Power Point[®] presentation updates, as necessary

4.0 CHAPTER 4 - PROCUREMENT STRATEGY

Once the DB decision has been made, and early in the stages of a project's initial planning, the LA DOTD should include a Procurement Strategy Session as a part of the project's development. The Procurement Strategy Session will be facilitated by the DB Procurement Management Team and should include LA DOTD staff involved in the project, as well as certain stakeholder representatives who may bring particular insight to the table. The timing of the Procurement Strategy Session is particularly important in that some of the decisions made will drive the level of Preliminary Engineering (PE) to be completed prior to procurement of the Design-Builder, how utility relocation work will be allocated between utilities and the Design-Builder, and whether the Design-Builder will assume any risk for ROW acquisition, to name a few issues. Making these types of strategic decisions early will prevent the LA DOTD from conducting unnecessary work that will be "re-engineered" or "re-worked" by the Design-Builder and allows the Design-Builder to become involved in the project as early as possible to the benefit of the parties.

The Procurement Strategy Session will be conducted by the DB Procurement Management Team, with assistance from the LA DOTD's Project Manager. The Chief Engineer will determine the attendees for the Procurement Strategy Session, based on the recommendation of the DB Procurement Management Team.

A general outline of the topics of the Procurement Strategy Session are below, and an example of a Procurement Strategy Session Microsoft Power Point[®] presentation is attached to this DB Manual at Exhibit E – Procurement Strategy Session. In addition to the topics outlined below, if time permits, a site visit may be included as a part of the Procurement Strategy Session. The site visit would allow the attendees of the Procurement Strategy Session to familiarize themselves with the environment in which the project will be constructed, and may add perspective to the attendees regarding certain risks or challenges that the projects may face.

4.1 Project Scope

The first topic for the Procurement Strategy Session will be to outline the project's scope. This topic will be covered by the LA DOTD's Project Manager, and would generally cover the following items:

- A) Status of preliminary design/Preliminary Engineering;
- B) Type and status of environmental documentation, permitting, and environmental mitigation, if necessary;
- C) General overview of utility identification and anticipated number of relocations;
- D) Anticipated number and complexity of Right-of-Way acquisitions;
- E) Identification of the project footprint; and
- F) Other major issues, such as major river crossings, Maintenance of Traffic (MOT), surveying, safety, major adjacent projects, adjacent affected landowners or airports, etc.

This may be the first time that some of the attendees are hearing some of the information, so the presenter should feel free to share details, as the details will assist in making some of the strategic decisions later in the Procurement Strategy Session. However, since the Procurement Strategy Session occurs early in the project planning, where certain details may be unknown, it is acceptable to acknowledge this, as it may facilitate the discussion whether it may be to the LA DOTD's and Design-Builder's benefit to shift a particular scope item to the Design-Builder.

4.2 Stakeholder Identification

Identification of the stakeholders for the project is included in the Procurement Strategy Session because stakeholder support of a project is key to its ultimate success. Whether the stakeholder has an "approval" role (such as a funding or regulatory agency) or is a "public face" of a project (like a neighborhood group), knowing the stakeholders' issues, and addressing those issues during the project, can be accomplished through the DB contract. Some examples of stakeholders that the LA DOTD may encounter on its DB projects are as follows:

- A) The Federal Highway Administration;
- B) Railroads;
- C) Utilities;
- D) Cities;
- E) Parishes;
- F) The United States Army Corps of Engineers;
- G) The Environmental Protection Agency;
- H) The United States Coast Guard;
- I) Wildlife and fisheries agencies;
- J) Businesses and landowners;
- K) The Louisiana Department of Environmental Quality; and
- L) Neighborhood communities.

Since DB is a different way of doing business, stakeholders as well as the LA DOTD may have to adjust their standard operating procedures. Early involvement of stakeholders, especially those responsible for approvals, will help to identify and streamline any adjustments that will need to be made to their internal procedures for DB.

4.3 Project Goals

Project goals are set early in the project planning process and are key to the procurement strategy. The project goals guide project decisions, and should be clear and well-defined. If the LA DOTD has preferences for the project, the goals are one place to express these preferences, although any technical requirements should also be articulated in the design criteria and/or specifications to ensure that the Design-Builder will be contractually bound by the LA DOTD's preferences.

Project goals are essentially broken into three main categories, which generally correspond to the three main criteria that drive the Project Selection process: time, price, and quality.

Time

Time goals are frequently driven by major milestone dates, such as Notice to Proceed (NTP), opening to traffic, final acceptance, and completion of major pieces of the work.

Price

The ultimate price goal is typically to deliver the project within a stated price or within budget. Other price-related goals may include certain life cycle costs or funding or financing goals.

Quality/Technical/Production

Goals related to the quality or technical or production aspects of a project tend to be more wide-ranging, but are nonetheless important to the success of the project. Some examples of quality/technical/production goals from other projects are enumerated below:

- A) Build a safe, reliable, durable, and maintainable project;
- B) Provide a design life of 50 years;
- C) Serve as a catalyst for economic recovery and future growth;
- D) Remain sensitive to stakeholders throughout design and construction;
- E) Include a long-term warranty; and
- F) Minimize disruption to residents, business, and the traveling public during construction.

Quality/technical/production goals may include some more aspirational factors, as well as some more concrete goals. However, when taken together, all of the goals should help the proposers to understand the LA DOTD's overarching desires for the outcome of the project.

4.4 Risk Identification, Assessment, and Allocation

An important step to project planning and procurement strategy, and one frequently overlooked by public agencies, is a formal risk analysis process. Identifying project risks up front through a formal process, assessing the likelihood of those risks, and subsequently allocating the risks to the party best able to manage and mitigate the risk will aid in the reduction of overall project costs and contract disputes. Additionally, identification of higher-risk areas will help the LA DOTD to focus its efforts during project planning and preliminary design. For example, while a rule of thumb for PE efforts for the project generally may be 20% to 30%, in an area determined to be higher risk, the LA DOTD may decide to take the level of engineering to a higher level to reduce the risk to the LA DOTD and the Design-Builder.

Many different risk analysis methods have been created for infrastructure projects. A relatively straightforward risk identification, assessment, and allocation is spelled out below that can be used on large and small projects. The risk identification, assessment, and allocation set forth in this DB Manual contemplates the use of the Risk Matrix and Risk Worksheet, both found in Exhibit E – Procurement Strategy Session.

Step 1

The first step is to identify the risks for the project. While the Risk Worksheet will have many "standard" project risks already listed, part of the purpose of the Procurement Strategy Session will be to brainstorm risks unique to the particular project at hand. All risks should be listed, regardless of the likelihood of occurrence. Some risks frequently found on projects are as follows:

- A) Archeological finds;
- B) Community opposition;
- C) Environmental approvals;
- D) Exceeding project budget;
- E) Geotechnical conditions;
- F) Hazardous materials;
- G) Maintenance of traffic;
- H) Railroad coordination;
- I) Right-of-Way acquisition; and
- J) Utility relocation.

Each risk should be noted as a risk that would impact budget, schedule, or both.

Step 2

After identifying the project's risks, the next step is to assess the likelihood of occurrence of each risk over the course of the entire contract, including any warranty periods. The probability of occurrence should be rated from a "1" (low) to a "3" (high).

Step 3

The next step is to determine the impact that the occurrence of a certain risk will have on the project. If the occurrence of a risk will have a highly detrimental impact to the project, the rating would be a "3." If the occurrence of a risk would only have a minor impact to the project, it would be rated a "1."

Step 4

An overall risk rating is then determined by simply multiplying the probability rating (Step 2) by the impact rating (Step 3), resulting in a risk range of "1" to "9."

Step 5

The final step is analyzing which risks have received moderate or high risk ratings during Step 4 (i.e., ratings of "4" to "6" would be considered moderate; ratings of "7" or higher would be considered high). Risks with risk ratings of moderate or high should be afforded particular

attention as to allocation and mitigation. Risks with low risk ratings would typically be attended to with standard contract terms and conditions, unless there are special circumstances warranting different arrangements.

The risks that have received a moderate or high risk rating should be allocated to the party that can best manage the risk to the benefit of all of the parties. This may be the LA DOTD, the Design-Builder, or a third party. Mitigation measures should also begin to be identified, such as specific contract provisions, additional PE, or third-party agreements.

4.5 Options and Challenges to Design-Build Contracting

The main challenge to remember with DB is that it is not traditional, design-bid-build procurement and contracting. That difference starts with the laws authorizing its use, at both the state and federal level. At the state level, L.R.S. 48:250.2 and 48:250.3 set forth very specific guidelines for DB procurements. At the federal level, 23 CFR Part 636 provides even more detail as to the options for DB procurement.

Some of the other DB contracting options to take into consideration are listed below:

A) Award Method

The award method should have been determined during the Project Selection process, however, to briefly re-cap the discussion, the determination must be made how the DB contract will be awarded. The basic options are as follows:

- 1) Low price;
- 2) Price and technical proposal "equally" important;
- 3) Technical proposal more important than price;
- 4) Stipulated price, best technical proposal; and
- 5) Any of the above with Alternate Technical Concepts.

B) Sensitivity Analysis

If any award method other than low price is chosen for the project, then a sensitivity analysis must be conducted to determine the weighting between the technical proposal and price (if the technical proposal is more important than price) and the break points between the various rating factors. This information will be included in the RFP, and is critically important to both the LA DOTD and the proposers.

C) Short-Listing

In accordance with current state law, the LA DOTD may short-list the most highly qualified firms after receipt of the SOQs and prior to release of the RFP. However, if the LA DOTD is planning on short-listing, it should determine the number during the Procurement Strategy Session and indicate the number of firms that will be on the Short-List in the RFQ. Under state law, there is no limit on the number of entities to be included on the short-list, although if fewer

than three responses are received in response to the RFQ, the Secretary would need to approve proceeding with the procurement. If federal funds are involved, federal regulation states that the short-list cannot exceed five unless the LA DOTD determines that it is in the LA DOTD's interest and consistent with the LA DOTD's purpose and objects of two-phase DB contracting to exceed a short-list of five.

D) Draft Request for Proposals

One nationally recognized best practice is to release a "draft" version of the RFP to the short-listed proposers for a review and comment period in advance of the "final" RFP. This allows the proposers to comment on some of the LA DOTD's ideas in the RFP without prejudice, and allows the LA DOTD to change the terms and conditions of the RFP prior to release of the final document based on this feedback. The typical "draft" RFP period is approximately one month (three weeks review by the proposers and one week to update the "final" RFP by the LA DOTD).

E) Technical Concepts Review and/or Alternate Technical Concepts

Technical Concepts Reviews and Alternate Technical Concepts (ATC) are similar processes that occur prior to the proposal due date, but allow proposers to confidentially present ideas to the LA DOTD.

Technical Concept Reviews allow proposers to present potential solutions to the LA DOTD prior to the proposal due date to inquire as to whether the proposed solution is within the parameters (i.e., responsive to) the RFP. The LA DOTD is limited to "yes" or "no" responses. If the proposer is given a "yes" response, it may proceed with its solution. If a proposer is given a "no" response, it runs the risk of being found non-responsive when it submits its proposal. However, if the LA DOTD is presented with a proposed solution that is currently outside the parameters of the RFP, the LA DOTD may issue an addendum to the RFP to open up the RFP to allow such a solution. But, the addendum cannot reveal the proposed solution, since that may be considered technical leveling or technical transfusion. Technical leveling and technical transfusion are prohibited activities any time the LA DOTD interacts with a proposer. Technical leveling would occur when one proposer is coached to improve its proposal up to the level of other proposals, typically through successive rounds of discussions. Technical transfusion would occur if information from one proposer is disclosed to a competitor.

Similar to Technical Concepts Review, an ATC is also a proposed solution presented to the LA DOTD by a proposer prior to the proposal due date. However, under the ATC process, the proposer is allowed to submit proposed solutions that are outside the parameters of the RFP. The LA DOTD then determines whether it will accept such proposed solutions in spite of the fact that they are not within the parameters of the RFP. If so accepted, then the ATC may be submitted with the proposer's proposal.

F) Stipends

Under both state and federal law, the LA DOTD may award a stipend to the unsuccessful proposers that submit responsive proposals for a DB procurement. The amount of the stipend must be stated in the RFP, and should be in an amount commensurate with the complexity of the project. Similarly, the process that will be used by the LA DOTD to distribute the stipend must be identified in the RFP. If a project will be a "not-to-exceed" DB project, the stipend discussion will need to include consideration of what will be included in the definition of a "responsive" proposal for the purpose of receipt of a stipend.

G) Project Budget Re-Analysis

As the project has progressed from first being identified in the Project Selection process and now to the Procurement Strategy Session, it will be beneficial to ensure that the project budget has remained consistent with the scope of the project, especially if the project scope has changed or been altered in any way during project development. A re-analysis of the LA DOTD's project budget will be conducted to review the reliability of the budget given the current scope of the project.

4.6 Project Approaches

Specific project approaches tend to be more technical in nature, and it will be during this discussion that many of the LA DOTD's technical staff will drive more of the discussion. A basic list of topics to cover is enumerated below, however, it will be necessary to have appropriate staff in attendance in order to make some fruitful determinations in these topic areas.

- A) Preliminary Engineering;
- B) Prescriptive versus performance-based specifications;
- C) Quality program;
- D) Design review process;
- E) Public relations;
- F) Partnering and dispute resolution options/method/procedure;
- G) Incentive fees;
- H) Warranties;
- I) Utility relocations;
- J) Right-of-Way acquisition;
- K) Coordination on marine issues, including the Army Corps of Engineers;
- L) Railroad coordination; and
- M) Insurance.

4.7 Identification of Evaluation Factors

While it may seem early to begin to identify the evaluation factors for the project, it is those factors that drive a significant amount of the drafting of the procurement documents. As such, the Procurement Strategy Session is the right time to begin the discussion of the evaluation factors.

The evaluation factors should focus specifically on information pertinent to the project that will help the LA DOTD differentiate between the proposers that will propose. The LA DOTD should not ask for information that will be ignored by the LA DOTD or that will be time-consuming or "busy work" for the proposers, especially if it will not be useful in distinguishing between the proposers. However, if the information is complex but truly useful to the evaluation of the most advantageous proposer, the LA DOTD should not shy away from soliciting that information.

Because of the inherent differences between the RFQ and the RFP, the nature of the information solicited during the two phases is significantly different. One similarity is that at both phases the proposers' submissions must undergo a responsiveness review to ensure that each proposer has submitted a document that appropriately responds to the RFQ or RFP, dependent upon the phase of the procurement. The responsiveness review is conducted by the DB Procurement Management Team and only reviews whether the proposer responded to all parts of the RFQ or RFP, as appropriate, not the quality of the proposer's response. The quality of the proposer's response is the purview of the rating committee.

Request for Qualifications

The RFQ is seeking the qualifications information from the proposers and, as such, should not have evaluation factors that seek substantial technical information. Thus, the RFQ evaluation factors typically involve the following areas pertaining to the qualifications of the proposer or its personnel:

- A) Legal and organizational structure and relationships;
- B) Bonding capacity;
- C) Past experience of the proposer and the firms that make up the proposer;
- D) Past experience of certain of the key managers; and
- E) Record of past performance, including past litigation, claims, debarments, etc.

Information evaluated during the RFQ phase is not re-evaluated during the RFP phase, unless a material change has occurred. Additionally, evaluation factors that include legal information, bonding (financial) information, and past experience of key managers (other than those evaluated during the RFQ phase) will often be utilized during both the RFQ and RFP phases.

Request for Proposals

In addition to price, the LA DOTD will seek more technical information in response to the RFP phase of the procurement. Again, the evaluation factors should reflect the complexities of the project, and should be tailored to ask the proposers for information that will be useful to the LA DOTD in differentiating the proposers. Overarching RFP evaluation factors typically include the following areas:

- A) Final legal documentation regarding the organizational structure and

- relationships;
- B) Bonding commitments;
- C) Management approaches to quality, design management, and construction management;
- D) Additional key personnel experience; and
- E) Proposed technical solutions, such as pavement design or structural design solutions.

4.8 Overview of the Procurement Process

An overview of all of the steps available to the DB procurement process should be discussed and the desired steps in the procurement process should be identified. The typical steps in a DB procurement include the following:

- A) Notice of Intent;
- B) Group informational/one-on-one meetings (optional);
- C) Request for Qualifications;
- D) Statement of Qualification evaluation;
- E) Short-listing;
- F) Draft Request for Proposals;
- G) Request for Proposals;
- H) Technical concepts review/Alternate Technical Concepts (optional);
- I) Proposal evaluation;
- J) Presentations/interviews with Proposers that submit Proposals;
- K) Selection;
- L) Award;
- M) Contract execution/Notice to Proceed.

While some of the steps are not optional because they are statutorily prescribed, such as the NOI having a current ten-day advertisement requirement, some steps are not required but are a national best practice, and so are at the desire of the LA DOTD, such as the draft RFP. Thus, the optional steps should only be used as the LA DOTD's schedule dictates. At the end of this exercise, a procurement schedule should be roughly laid out in order to demonstrate to the attendees the anticipated length of the procurement.

4.9 Procurement Strategy Documentation

The results of the Procurement Strategy Session are compiled by the DB Procurement Management Team, in the format of formal minutes that memorialize the recommendations made by the group for the procurement. These minutes become a part of the formal procurement file maintained by the DB Procurement Management Team.

As the RFQ and RFP documents are drafted by the DB Procurement Management Team, the recommendations formalized in the minutes will be incorporated into the documents and, if approved by the Chief Engineer, carried forward into the final documents.

Section 4.0 Tasks

- Draft memorandum to Chief Engineer recommending attendees at the Procurement Strategy Session for Chief Engineer's approval
- Secure location for Procurement Strategy Session
- Prepare Procurement Strategy Session Microsoft Power Point® presentation
- Conduct Procurement Strategy Session
- Draft Procurement Strategy Session minutes

Section 4.0 Deliverables

- Memorandum to Chief Engineer recommending attendees at the Procurement Strategy Session
- Procurement Strategy Session Microsoft Power Point® presentation
- Procurement Strategy Session minutes

5.0 CHAPTER 5 - CONFIDENTIALITY OF DOCUMENTS

Prior to discussing any documents pertinent to the procurement process, the overarching issue of confidentiality warrants special attention. The validity of the procurement process in its entirety, from the release of the initial procurement documents through the execution of the ultimate DB Contract, is dependent on the confidentiality of the process. The integrity of any contracting process is critical to the fairness (and the appearance of fairness) and the confidence that the proposers, the stakeholders, and the public have in the LA DOTD. Therefore, the activities of the DB Procurement Management Team and the evaluators must be held in the strictest confidence and all information provided by the proposers or generated during the evaluations must be safeguarded. This heightened level of sensitivity to maintaining confidentiality over the procurement process commences the day that the NOI is published.

5.1 Participant Confidentiality

Each participant in the procurement process, whether he or she is a member of the DB Procurement Management Team or a member of one of the evaluation teams or selection committees to be discussed later in this DB Manual, will be required to sign a Confidentiality and Non-Disclosure Statement, which is attached to this DB Manual at Exhibit F - Example Confidentiality and Non-Disclosure Statement and Example NOI.

In an effort to maintain the confidentiality of the process and open and fair competition, all attempts at communication to anyone in the LA DOTD related to the procurement must be directed to the Contract Services Administrator, the lead of the DB Procurement Management Team. It is essential that this single-point-of-contact be maintained for the LA DOTD so that all proposers receive the same information related to the procurement, thereby minimizing the risk that one proposer will receive different information or that the playing field will be "unleveled" among the proposers.

5.2 Confidentiality of Documents

Once proposers submit procurement documents at any phase of the procurement, those documents will be stored in a secured area, and access to the documents will be managed by the DB Procurement Management Team. Only the DB Procurement Management Team and evaluators of the submitted procurement documents will have access to the documents until such time that the documents are made public after execution of the DB Contract - the documents will not be made accessible to the general public, competing proposers, or other employees of the LA DOTD not evaluating the submitted procurement documents. In addition, any working papers containing procurement sensitive information of the DB Procurement Management Team and evaluators, including notes, will be maintained in the secure area.

Additionally, the DB Procurement Management Team may set additional confidentiality procedures on an as-needed basis for individual procurements as warranted by particular circumstances.

Section 5.0 Tasks

- Prepare Confidentiality and Non-Disclosure Statements for all participants in the procurement process
- Determine if additional confidentiality rules are necessary for the procurement
- At each phase of the procurement, secure a location for the proposers' submitted procurement documents and establish rules for accessing the procurement documents

Section 5.0 Deliverables

- Confidentiality and Non-Disclosure Statements

6.0 CHAPTER 6 - NOTICE OF INTENT AND REQUEST FOR QUALIFICATIONS

Two of the procurement documents required under L.R.S. 48:250.3 are the Notice of Intent (NOI) and the Request for Qualifications (RFQ), both of which serve to work as part of the process to funnel the field of potential proposers from a broad, open field to a more narrow field of the most highly qualified proposers for a particular project.

6.1 Notice of Intent

The NOI is the public announcement that solicits Letters of Interest (LOI) from interested proposers (or, potential members of proposer teams). Submission of an LOI ensures that the firm that submits the LOI will receive a copy of the RFQ and will be invited to any informational meetings scheduled for the project.

As per L.R.S. 48:250.3, the NOI must be advertised on the LA DOTD's Internet Web page for a minimum of ten days prior to the deadline for receipt of the LOIs. The NOI may be advertised in additional media or publications if the number of responses received is inadequate.

The NOI is required to contain a brief description of the project, provide the potential proposers' enough information to determine their interest in the project, and the appropriate guidance for the potential proposers to submit an LOI. Additionally, it is a best practice for the LOI to include information that facilitates the formation of proposer teams and that establishes any ground rules pertaining to communications or personal or organizational conflicts of interest, under either federal or state law, that may affect the project. An example of an NOI is included at Exhibit F - Example Confidentiality and Non-Disclosure Statement and Example NOI, and contains at a minimum the information that should be included in any NOI prepared for a DB project.

Section 5.2 Tasks

- Draft Notice of Intent
- Publish Notice of Intent
- Receive and log Letters of Interest

Section 5.2 Deliverables

- Notice of Intent
- Log of Letters of Interest

6.2 Request for Qualifications

Under Louisiana's current DB law, the LA DOTD is required to carry out a two-step procurement process. The first step in that two-step process is a Request for Qualifications, or RFQ. The RFQ is also a statutorily prescribed procurement document, as per L.R.S. 250.3.

6.2.1 Purpose

The preparation of a proposal for a DB project requires significantly more resources and monetary investment from proposers than a bid on a traditional design-bid-build project. However, proposers are typically willing to make these investments if they believe they have a reasonable likelihood of success in a procurement.

The primary purpose of the RFQ is to determine a short-list of proposers most qualified to submit a proposal in response to the Request for Proposals (RFP), which will be discussed more fully in Chapters 8 and 9. Although the LA DOTD may have an urge to begin to seek technical information from proposers at this stage of the procurement, in reality at this stage of the procurement the project will rarely be defined to a point that will allow proposers to intelligently articulate technical solutions to issues on the project. The RFQ is better left to seeking qualifications information and some limited questions seeking to clarify the proposers' broad and basic understanding of the project and its general risks and requirements. This approach is consistent with both Louisiana's DB law, as well as the FHWA's DB regulation.

6.2.2 Standard Request for Qualifications Terms and Conditions

The general format and content of the RFQ can be fairly standardized from project-to-project, since at this early first phase of the two-step procurement process, the RFQ will always serve the same purpose: to short-list the most highly qualified firms for the purpose of submitting proposals in response to the RFP.

Under the Louisiana DB law, the RFQ is required to identify all information to be submitted by the proposers, standard response forms, and criteria that will be used to determine the qualifications of the proposers. In addition, best practices indicate that the following topics should also be included in the RFQ:

- 1) General information, including, project goals, roles of the LA DOTD versus the successful Design-Builder, project schedule, rules of contact, conflicts of interest, and stipends;
- 2) An overview of the procurement process, including the procurement schedule;
- 3) An explanation of the evaluation process, including identification of the request for clarifications process and of how the short-list will be identified;
- 4) Detail of how the SOQs are to be submitted (as per the Louisiana DB law), including, date, time, and place of receipt; page limit, general format, and number of copies; and the evaluation factors and the objective for each evaluation factor;
- 5) The protest procedure; and
- 6) Any additional legal rights, warranties, or disclaimers or other language determined to be necessary on a project-by-project basis.

In addition to the topics listed above which are addressed in the main body of the RFQ, appendices should be used to convey the following information:

- a) Appendix A - A detailed description of the project and the scope of work anticipated to be included under the DB contract.
- b) Appendix B - An outline of the format of the SOQ, as well as all other submittal requirements such as font size, page size, pagination, and line spacing.
- c) Appendix C - A compilation of the forms to be submitted with the SOQ.

6.2.3 Evaluation Factors

Evaluation factors are typically either "pass/fail" evaluation factors or "technical" evaluation factors, which are rated on a basis other than "pass/fail."

6.2.3.1 Pass/Fail Evaluation Factors

The pass/fail evaluation factors usually include the following:

A) Legal Pass/Fail Evaluation Factor

The Legal Pass/Fail Evaluation Factor generally looks at the legal make-up of the proposer (if it is a Joint Venture), licensing status with both the Louisiana State Licensing Board for Contractors and the Louisiana Professional Engineering and Land Surveying Board, debarment/disqualification status, and lobbying and other certifications.

B) Financial Pass/Fail Evaluation Factor

The Financial Pass/Fail Evaluation Factor includes a statement from the proposer's surety indicating the surety's willingness (or, a Joint Venture of sureties) to provide the performance and payment bonds to the proposer for the project and, if necessary for a particular project, review of financial statements of the proposer and any third-party guarantors and the financial strength of the proposer.

6.2.3.2 Technical Evaluation Factors

The technical evaluation factors in the Request for Qualifications often include the following:

A) Organization and Key Managers Technical Evaluation Factor

The Organization and Key Managers Technical Evaluation Factor includes identification of specific key personnel that the proposer will commit to the project if selected and the resumes and references for those key personnel, as well as their proposed roles and the division of work and responsibilities among those key personnel. The key personnel identified during the RFQ phase must

carry over to the RFP phase, and will be neither re-evaluated, nor will they be open for changes between the phases.

B) Experience of the Firms Technical Evaluation Factor

The Experience of the Firms Technical Evaluation Factor includes identification of specific past projects that the proposer (or, if the proposer is a Joint Venture, its members) has completed that are similar to the project being proposed on. The LA DOTD may also seek experience of the lead designer and major or specialty subcontractors, depending on the type or size of the project.

C) Past Performance Technical Evaluation Factor

The Past Performance Technical Evaluation Factor frequently includes review of the proposer's history of major litigation, claims, disputes, arbitration proceedings, assessments of stipulated damages, terminations for cause, disqualifications, or other disciplinary actions. Proposers are required to provide references from the owners that took action, so that reference calls may be made in order to make correct determinations as to the nature of the action.

Under the federal regulations, if a proposer does not have a record of past performance or its record of past performance is not available, the proposer may not be evaluated either favorably or unfavorably. *See* Section 4.4.2.5(B)(1) of the Example Request for Qualifications included in Exhibit G - Example Request for Qualifications and Example Evaluation and Short-List Plan for additional information on this issue. Evaluators should note that a proposer intentionally withholding past performance information is different than a proposer not having a record of past performance or a proposer with a record of past performance that is not available for a particular purpose, and those instances should not be treated similarly.

D) Project Understanding Technical Evaluation Factor

The Project Understanding Technical Evaluation Factor allows the proposer to articulate its knowledge of the specific project issues, concerns, and risks at this early phase of the procurement. This evaluation factor is an opportunity for proposers that have done their "homework" on the project to distinguish themselves early in the procurement, and can be particularly helpful on projects that have complex issues.

Each evaluation factor must list both the factor and the specific "submission requirements" for the factor so that every proposer knows exactly what to submit to the LA DOTD in its SOQ. This is critical in order to maintain a level playing field among the proposers. It is also a best practice for the LA DOTD to identify specific objectives underlying each evaluation factor (in addition to the overall project goals discussed at Section 4.3). The evaluation factor objectives help the proposers understand the LA DOTD's major concerns as they pertain to a specific area within the project, and coupled with the project goals, the goals and objectives provide the proposers with a great source of information as to the LA DOTD's priorities for each project.

Finally, information that has been evaluated during the RFQ/SOQ phase should not be re-evaluated during the RFP/Proposal phase. However, information that builds upon information that was originally submitted during the RFQ/SOQ phase may be evaluated during the

RFP/Proposal phase. One example of this is key personnel. It is critical for the LA DOTD to evaluate certain key personnel - typically the Principal-in-Charge, Project Manager, Design Manager, and Construction Manager - during the RFQ/SOQ phase. The reason it is critical for the evaluation certain key personnel during the RFQ/SOQ phase is that the qualifications of those key personnel are essential to the successful management of the project, and the LA DOTD would be remiss short-listing proposers without seeking this information. But, because DB projects are limited in information at the RFQ/SOQ phase, it would be unrealistic and unfair to expect the proposers to identify the remainder of their key personnel, especially when a clear picture of the project, and therefor a clear picture of the proposers' potential roles and responsibilities, does not yet exist. For that reason, it is reasonable to have the proposers wait to fill out the remainder of their key personnel until the RFP/Proposal phase, when there are more "knowns" in the project.

See Section 1.9 of the Example Instructions to Proposers included in Exhibit H - Example Instructions to Proposers and Example Evaluation and Selection Plan for the process for changes to key personnel during the procurement process.

6.2.4 Request for Qualifications Preparation

The Request for Qualifications will be prepared by the DB Procurement Management Team, with input by the LA DOTD's Project Manager.

The preparation of the RFQ will require coordination within the LA DOTD, as well as the Federal Highway Administration, if federal funds are used. If other stakeholders are integral to the project, their involvement in the RFQ preparation will also need to be taken into account. The RFQ preparation time and procurement schedule will need to consider the involvement of all of these parties and any time necessary for third-party review and comment resolution prior to the RFQ being final and ready for release to the entities that have submitted LOIs.

In preparing the RFQ, remain heedful to not ask for more information than is necessary to achieve the LA DOTD's project goals and objectives (*see* Sections 4.2 and 6.2.3.2). Asking for more information than is necessary only increases the cost of SOQ preparation by the proposers and increases the burden on the LA DOTD of due diligence review of the submitted information. Remember, the LA DOTD is under an obligation to review thoroughly all information that it requests. Focusing only on information that differentiates proposers will assist the LA DOTD in keeping the information requested to a minimum.

Another item that must be addressed in the RFQ is the number of proposers that will be included in the short-list. *See* Section 4.5(C).

Additionally, if the amount of the stipend and the process by which the stipend will be distributed is known at the time the RFQ is issued, it would be helpful to Proposers to identify this information in the RFQ, although under both state and federal requirements the stipend information is not required to be distributed until the RFP. So, if the stipend amount and distribution process has not been established at the time the RFQ is released, it may be stated in the RFP and still meet legal requirements.

Section 6.2 Tasks

- Prepare Request for Qualifications
- Determine maximum number for short-list

Section 6.2 Deliverables

- Request for Qualifications

6.3 Request for Qualifications Concurrence and Approvals

Prior to release, the RFQ must be approved by the Chief Engineer. Additionally, enough time must be allowed to give sufficient time for FHWA review and concurrence of the RFQ prior to its release.

Section 6.3 Tasks

- Chief Engineer approval
- Federal Highway Administration concurrence

Section 6.3 Deliverables

- Chief Engineer approval memorandum
- Federal Highway Administration concurrence memorandum

7.0 CHAPTER 7 - ISSUING THE REQUEST FOR QUALIFICATIONS AND STATEMENT OF QUALIFICATIONS EVALUATION AND SHORT-LISTING

In a procurement, the procedure that is followed is equally as important as the documents that are prepared. In Section 6.0, the preparation of the NOI and RFQ documents were discussed. In this Section 7.0, the procedure for releasing the RFQ and evaluating the SOQ that is submitted by the proposers in response to the RFQ is detailed.

7.1 Issuing the Request for Qualifications

The RFQ will be issued by the DB Procurement Management Team and is only released to entities that have submitted LOIs. The purpose of issuing the RFQ only to entities that have submitted an LOI is for purposes of practical control. This way, if the LA DOTD subsequently issues an addendum, it is only responsible for ensuring the addendum reaches those entities on its controlled list.

An example RFQ is included at Exhibit G - Example RFQ and Example Evaluation and Short-List Plan.

Section 7.1 Tasks

- Issuance of the RFQ to entities that submitted Letters of Interest

7.2 Proposer Questions and Answers

For a reasonable time prior to the submission of SOQs, proposers should have the opportunity to submit questions regarding the RFQ specifically or the procurement process or project generally.

Any question received must be responded to in writing and released to all proposers, without indicating which proposer submitted the question. It is the responsibility of the DB Procurement Management Team to compile, log, and track the proposer questions as they are submitted. It is also the responsibility of the DB Procurement Management Team to coordinate with appropriate LA DOTD personnel to respond to each proposer question submitted, as necessary. Finally, the DB Procurement Management Team will coordinate the release of the responses to proposer questions. This means that all the questions and answers will be sent to all of the entities that submitted LOIs.

If response by the LA DOTD to a certain question necessitates a change to the RFQ documents, the questions and answers will be released with a corresponding addendum revising the RFQ. Frequently, there are multiple rounds of question and answer documents for a single RFQ.

Additionally, it is a best practice to answer the questions in the chronological order received. The purpose of doing so is to prevent confusion among proposers as to whether their questions were received by the LA DOTD and to minimize follow-up correspondence by the proposers.

Section 7.2 Tasks

- Review proposer questions and assign to LA DOTD personnel for response
- Prepare question and answer document

- Send questions and answers to entities that submitted LOIs

Section 7.2. Deliverables

- Question and answer document

7.3 Request for Qualifications Addendum

Addenda may need to be issued to the RFQ, as anticipated by the LA DOTD to provide information not originally available at the RFQ release date, or to correct errors discovered by the LA DOTD in the RFQ, or, as indicated in Section 7.2, in response to questions received from proposers. These are all normal and reasonable purposes for addenda and should not alarm anyone. However, the need for a high number of addenda to an RFQ may be indicative of either poor quality checks prior to the RFQ's release or of insufficient project development prior to the RFQ release, and the LA DOTD should evaluate any RFQ that result in a high number of addenda for the reasons why.

Addenda will be prepared by the DB Procurement Management Team and will be subject to the approval of the Chief Engineer, who approved the original RFQ. Addenda will be released the same way as the questions and answers: this means that addenda would be sent to all of the entities that submitted LOIs.

Section 7.3 Tasks

- Draft addenda
- Chief Engineer approval
- Send addenda to entities that submitted LOIs

Section 7.3 Deliverables

- Addenda
- Chief Engineer approval memorandum

7.4 Group Informational Meetings

During the RFQ/SOQ phase, it is standard for group informational meeting to be held with proposers early in the procurement to share information regarding the project and the procurement itself. At the RFQ/SOQ phase, this group informational meeting also can be used by the proposers to arrange teams. Additionally, if facilitated in a way that conveys open and fair competition among the proposers, the group informational meeting can represent an opportunity by the LA DOTD to demonstrate its commitment to trust with the proposers.

The group informational meeting can address a range of topics, including the following:

- A) Orientation to the LA DOTD's Design-Build process;
- B) Scope of the project, especially areas of high risk or complexity;
- C) Timing of availability of specific project information, for example, any geotechnical information that the LA DOTD may make available;

- D) Any special environmental or community mitigation requirements;
- E) The procurement and project schedules;
- F) An overview of the procurement process; and
- G) Federal requirements, including Disadvantaged Business Enterprise (DBE) goals, if any.

The group informational meeting should preferably be held in a location in proximity to the project site, to facilitate any potential proposers visiting the site before or after the meeting. The group informational meeting is a joint effort between the DB Procurement Management Team and the LA DOTD's Project Manager, with the DB Procurement Management Team leading the agenda items pertaining to the procurement and the LA DOTD's Project Manager leading the agenda items pertaining to the technical issues facing the project. A Microsoft Power Point® presentation or other project information should be provided, and an attendance record maintained.

At the end of the group informational meeting, time should be allowed for a question and answer period. While the LA DOTD is free to answer the questions during the question and answer period, if the answer is unknown to a certain question or if a question is answered incorrectly, it is the LA DOTD's duty to provide a correct response to the question to all proposers. For that purpose, a transcript should be made of the entire group informational meeting and the questions and answers should be compiled and released in the same fashion as a traditional question and answer document (*see* Section 7.2) in order to maintain a level playing field among the proposers. In the past, video taping has been tried for this same purpose, and has not been effective, as the sound quality on the video tapes has been poor and inadequate to create a record for any subsequent use.

It should be noted that any relevant stakeholders, including the FHWA for federally-funded projects, should be invited to the group informational meeting.

Section 7.4 Tasks

- Secure group informational meeting space
- Prepare group informational meeting Microsoft Power Point® presentation (or other presentation materials)
- Prepare group informational meeting agenda
- Prepare group informational meeting sign-in sheet
- Hire court reporter
- Review transcript and compile question and answer document
- Send questions and answers to entities that submitted LOIs

Section 7.4 Deliverables

- Microsoft Power Point® presentation (or other presentation materials)
- Group informational meeting agenda
- Group informational meeting sign-in sheet

- Question and answer document

7.5 Evaluation and Short-List Plan

The Evaluation and Short-List Plan (E&SL Plan) is the LA DOTD's internal document that details the step-by-step procedure for the evaluation process of the SOQs submitted by the proposers in response to the RFQ through to the announcement of the short-list. The E&SL Plan's step-by-step detail addresses specifically each of the committees and teams involved in the evaluations of the SOQs and their roles and responsibilities. The document is tied directly to the RFQ, but provides the detail of the process necessary to direct the members of the committees and teams to carry forth the process correctly.

The E&SL Plan is critical to promote open and fair competition and to maintain a level playing field among the proposers. The evaluation process itself is set up to ensure that all proposers are treated consistently in order to avoid any perception of favoritism in the process. Prior to any deviation from the E&SL Plan, the LA DOTD's counsel should be consulted. An example E&SL Plan is included at Exhibit G - Example RFQ and Example E&SL Plan.

Section 6.5 Tasks

- Draft the Evaluation and Short-List Plan

Section 6.5 Deliverables

- Evaluation and Short-List Plan

7.6 Evaluating and Short-Listing the Proposers

As noted above in Section 7.5, the evaluations of the SOQs must be disciplined and follow the process set forth in the E&SL Plan. As also discussed at Section 5.1, the strictest confidentiality must be maintained during the evaluation process to promote trust between the LA DOTD and the proposers.

7.6.1 Design-Build Qualifications Evaluation Committee

In accordance with L.R.S 48:250.3, the Chief Engineer, with concurrence of the Secretary, establishes the DB Qualifications Evaluation Committee to evaluate the SOQs. The members of the DB Qualifications Evaluation Committee should be LA DOTD personnel who are uniquely qualified to review the SOQs for a particular project. For federally-funded projects, the FHWA should also be included on the DB Qualifications Evaluation committee as an ex officio member.

Each of the members of the DB Qualifications Evaluation Committee will be required to sign the Confidentiality and Non-Disclosure Agreement discussed in Section 5.1 as well as a Conflict of Interest Affidavit, requiring the member to disclose any real or perceived personal conflicts of interest with any of the proposers. The use of the Conflict of Interest Affidavit serves to provide assurance to the LA DOTD and the proposers that the LA DOTD personnel evaluating the proposals do not have conflicts of interest and will treat all proposers fairly.

If necessary, and in accordance with L.R.S. 48:250.3, if the DB Qualifications Evaluation Committee requires assistance in the evaluation of the SOQs, additional LA DOTD personnel may be used. One way to accomplish this may be to break out the additional LA DOTD personnel into Evaluation Teams. Those Evaluation Teams would each take one or more of the evaluation factors to review. However, in order to provide a consistent evaluation of each of the factors and to maintain a level playing field among the proposers, if an Evaluation Team will be used to evaluate one evaluation factor, then Evaluation Teams should be used to evaluate all evaluation factors.

Section 7.6.1 Tasks

- Establish Design-Build Qualifications Evaluation Committee and determine if Evaluation Teams will be used
- Prepare Design-Build Qualifications Evaluation Committee appointment and concurrence memorandum for Chief Engineer and Secretary signature
- Prepare Conflict of Interest Affidavit and have Design-Build Qualifications Evaluation Committee members sign the affidavit
- Have Design-Build Qualifications Evaluation Committee members sign Confidentiality and Non-Disclosure Statements (as already prepared as per Section 5.1)

Section 7.6.1 Deliverables

- Design-Build Qualifications Evaluation Committee appointment and concurrence memorandum
- Conflict of Interest Affidavit

7.6.2 Statement of Qualifications Evaluations

The evaluations must be put on the schedules of the members of the DB Qualifications Evaluation Committee well in advance in order to ensure the availability of the members to complete the evaluations in a timely fashion. If one of the members of the DB Qualifications Evaluation Committee proves to be unavailable for all or a portion of the evaluations, that member should be replaced with someone who is available.

The DB Procurement Management Team will commence the evaluation process with an evaluation orientation, which will inform the members of the DB Qualifications Evaluation Committee of the particulars of the project and the details of the procurement process, including the SOQ evaluation factors and the rating process. All of the members of the DB Qualifications Evaluation Committee are required to attend this evaluation orientation.

The DB Procurement Management Team is also responsible to prepare evaluation worksheets for use by the DB Qualifications Evaluation Committee during the evaluation of the SOQs. These evaluation worksheets should set forth the exact requirements as set forth in the RFQ, and can help to streamline and facilitate each evaluator's review of each SOQ. The evaluation worksheets should be handed out to the members of the DB Qualifications Evaluation Committee at the evaluation orientation and should remain confidential for the duration of the procurement process.

In accordance with L.R.S. 48:250.3, if fewer than three SOQs are received in response to the RFQ, the Secretary must approve proceeding with the DB process. So, the first function after receipt of the SOQs is to ensure that at least three SOQs have been received. If not, the DB Procurement Management Team must meet with the Secretary to determine if the DB process will progress. If not, the procurement must be formally cancelled through a written notice to the proposers that submitted SOQs.

Finally, the DB Procurement Management Team is responsible for the responsiveness review of each SOQ upon its receipt from the proposers on the SOQ due date. The responsiveness review is only a check of whether a proposer has submitted all of the required "pieces" of the SOQ. The responsiveness review is not a review by the DB Procurement Management Team as to their opinion of the quality of the SOQ. The opinion of the quality of the SOQ is a role reserved strictly for the DB Qualifications Evaluation Committee. The DB Procurement Management Team's role is to simply ensure that the SOQs are ready for review, and the DB Procurement Management Team should ensure to not overstep its bounds. The responsiveness review can be greatly simplified by the creation of a responsiveness checklist - a checklist of all of the submission requirements from the RFQ. This will streamline and facilitate the DB Procurement Management Team's responsiveness review time.

Section 7.6.2 Tasks

- Set appointment notice for Statement of Qualifications evaluations on Design-Build Qualifications Evaluation Committee and Design-Build Procurement Management Team schedules
- Reserve space for the Design-Build Qualifications Evaluation Committee for Statement of Qualifications evaluations
- Determine if Design-Build process will proceed (only if fewer than three Statements of Qualifications are received) and prepare either a procurement cancellation notice (no-go) or an approval memorandum for the Secretary's signature
- Prepare evaluation orientation Microsoft Power Point® presentation
- Prepare evaluation worksheets
- Prepare Statement of Qualification responsiveness checklist
- Reserve/identify secure space/location for storage of SOQs and DB Qualifications Evaluation Committee evaluation materials

Section 7.6.2 Deliverables

- Cancellation notice (no-go) or approval memorandum (only if fewer than three Statements of Qualifications received)
- Microsoft Power Point® evaluation orientation presentation
- Evaluation worksheets
- Statement of Qualification responsiveness checklist

7.6.3 Requests for Clarifications

At certain times, it may prove to be difficult for the DB Qualifications Evaluation Committee to continue on with its evaluations because a proposer has submitted an SOQ that contains an error, omission, ambiguity, or weakness. In those instances, at the sole discretion of the DB Qualifications Evaluation Committee, the committee may determine it would like to submit a request for clarification to a proposer. A request for clarification must be agreed upon and submitted by the DB Qualifications Evaluation Committee as a whole. The purpose for this is because, at times, one evaluator may have missed or not understood a certain portion of an SOQ, but when discussed with the DB Qualifications Evaluation Committee in its entirety, the need for the request for clarification is eliminated.

As per the requirement that the Contract Services Administrator, as the lead of the DB Procurement Management Team, be the single-point-of-contact for the LA DOTD for the procurement, all requests for clarification must be submitted to the DB Procurement Management Team to be sent to the proposer. Typically, a request for clarification should not require more than 24 hours for a response since it is only a correction of an error, omission ambiguity, or weakness. If a proposer requires longer than 24 hours to respond to a request for clarification, this is likely indicative of the fact that the request rises beyond a request for clarification and should not be asked.

Once the response is received by the DB Procurement Management Team, the team will review the response for responsiveness and deliver the response to the DB Qualifications Evaluation Committee for its evaluation.

Section 7.6.3 Tasks

- Draft requests for clarification
- Review responses to requests for clarification for responsiveness and distribute to the Design-Build Qualifications Evaluation Committee

Section 7.6.3 Deliverables

- Requests for clarification

7.6.4 Short-List

After the evaluations of the SOQs have been completed, the DB Qualifications Evaluation Committee presents its short-list to the Chief Engineer for recommendation to the Secretary (in accordance with L.R.S. 48:250.3). Once the Secretary concurs in the recommendation of the short-list, the proposers that submitted SOQs must be notified of the short-list. This notification commences the protest period. Currently L.R.S. 48:250.3 does not set a maximum for the short-list, but does indicate that if there are fewer than three SOQs received, then the Secretary or designee must approve proceeding with the procurement.

Section 7.6.4 Tasks

- Draft memorandum presenting short-list to the Chief Engineer for recommendation to the Secretary
- Draft short-list notification to the proposers

Section 7.6.4 Deliverables

- Short-list presentation memorandum to the Chief Engineer for recommendation to the Secretary
- Short-list notification to the proposers

7.6.5 Statement of Qualifications Protests

The RFQ sets forth a protest procedure for the RFQ/SOQ phase of the procurement, which is a mandatory administrative remedy which must be followed prior to any judicial recourse during this phase. If contacted regarding a protest, contact counsel with any questions to ensure that procedure is followed and to preserve the LA DOTD's rights for any future judicial action.

8.0 CHAPTER 8 - REQUEST FOR PROPOSALS AND DESIGN-BUILD CONTRACT DOCUMENTS

As per L.R.S. 48:250.3, the second phase in the "two-phase" DB procurement is the Request for Proposals (RFP)/proposal phase.

8.1 Request for Proposals

The RFP is divided into three main sections, and the drafting and compilation of the document will be substantially completed by the DB Procurement Management Team. In a DB project, a significant portion of the LA DOTD's resources will go into the creation of the RFP document and subsequent evaluation of the proposals submitted in response to the RFP. The three main sections of the RFP are as follows:

- A) Instructions to Proposers;
- B) Contract Documents; and
- C) Reference Documents.

Each of these three sections is discussed in more detail below.

The purpose of the RFP is to solicit proposals that will allow the LA DOTD to determine which proposer will provide the best combination of technical and price factors to deliver the project. The RFP should not attempt to solve problems for the proposers (unlike a design-bid-build Invitation for Bids), but should rather identify problems and provide the proposers the parameters within which to solve the identified problems. Since the RFP is the document that will eventually govern the management of the project, it is essential to the success of the project, and therefore should be the focus of the LA DOTD during its preparation.

8.2 Instruction to Proposers

The Instructions to Proposers (ITP) sets forth the rules, process, and procedures that the proposers must follow in the submission of their proposals. The ITP includes three appendices, as follows:

- A) Appendix A - Appendix A includes the detailed instructions for the submission of the Technical Proposal;
- B) Appendix B - Appendix B includes the detailed instructions for the submission of the Lump Sum Price Proposal, including a determination of the timing of the submission of the Lump Sum Price Proposal. Traditionally, the Lump Sum Price Proposal is submitted at the same time as the Technical Proposal. On certain occasions, if circumstances dictate (such as where a procurement schedule has been constrained) there may be cause for delaying the receipt of the Lump Sum Price Proposal. However, under no circumstances should the receipt of the Lump Sum Price Proposal be delayed later than the determination of the proposers' Technical Scores; and

- C) Appendix C - Appendix C includes the standard forms required for the proposal, both the Technical Proposal and Lump Sum Price Proposal.

Like the RFQ, the general format and content of the ITP can be fairly standardized from project-to-project. This standardization will again assist in the preparation of the proposals and the resulting evaluation by the LA DOTD. Further, consistency can also be attributed to the fact that under the Louisiana DB law, the RFP is generally required to request the following information:

- 1) Design strategy and preliminary design concepts;
- 2) Construction sequencing; and
- 3) Techniques, materials, and methods.

An example ITP is included at Exhibit H - Example ITP and Example Evaluation and Selection Plan.

8.2.1 Evaluation Factors

Evaluation factors are typically either "pass/fail" evaluation factors or "technical" evaluation factors, which are rated on a basis other than "pass/fail."

8.2.1.1 Pass/Fail Evaluation Factors

The pass/fail evaluation factors usually include the following:

- A) Legal Pass/Fail Evaluation Factor

The Legal Pass/Fail Evaluation Factor generally updates any documentation regarding the legal make-up of the proposer (if it is a Joint Venture), licensing status with both the Louisiana State Licensing Board for Contractors and the Louisiana Professional Engineering and Land Surveying Board, debarment/disqualification status, and lobbying and other certifications. If the project is a federal-aid project, at the RFP/proposal phase, the DBE program is also now included, since the goal will have been identified for the project.

- B) Financial Pass/Fail Evaluation Factor

The Financial Pass/Fail Evaluation Factor requires confirmation from the proposer's surety indicating the surety's willingness (or, a Joint Venture of sureties) to provide the performance and payment bonds to the proposer for the project and, if necessary for a particular project, review of financial statements of the proposer and any third-party guarantors that they can support the cash flow necessary for the project.

8.2.1.2 Technical Evaluation Factors

The technical evaluation factors in the Request for Proposals often include the following:

- A) Management Approach Technical Evaluation Factor

The Management Approach Technical Evaluation Factor includes an overview

of the proposer's quality plan, design management plan, construction management plan, and construction sequencing.

B) Technical Solutions Technical Evaluation Factor

The Technical Solutions Technical Evaluation Factor will identify certain technical areas on the specific project, such as, structures, pavement, maintenance of traffic, or other areas of technical concern, and seek each proposer's preliminary design strategies and concepts as well as techniques, materials, and methods to solve those identified areas.

C) Key Personnel and Experience Technical Evaluation Factor

The Key Personnel and Experience Technical Evaluation Factor includes identification of specific key personnel that the proposer will commit to the project if selected and the resumes and references for those key personnel, as well as their proposed roles and the division of work and responsibilities among those key personnel. The key personnel identified during the RFQ phase must carry over to the RFP phase, and will be neither re-evaluated, nor will they be open for changes between the phases.

Like the RFQ/SOQ phase, each evaluation factor must list both the factor and the specific "submission requirements" for each factor so that every proposer knows exactly what to submit to the LA DOTD in its proposal. Again, this is critical in order to maintain a level playing field among the proposers. It is also a best practice for the LA DOTD to identify specific objectives underlying each evaluation factor (in addition to the overall project goals discussed at Section 4.3). The evaluation factor objectives help the proposers understand the LA DOTD's major concerns as they pertain to a specific area within the project, and coupled with the project goals, the goals and objectives provide the proposers with a great source of information as to the LA DOTD's priorities for each project.

As stated earlier under Section 6.2.3.2, information that has been evaluated during the RFQ/SOQ phase should not be re-evaluated during the RFP/proposal phase. However, information that builds upon information that was originally submitted during the RFQ/SOQ phase may be evaluated during the RFP/proposal phase. One example of this is key personnel. It is critical for the LA DOTD to evaluate certain key personnel - typically the Principal-in-Charge, Project Manager, Design Manager, and Construction Manager - during the RFQ/SOQ phase. The reason it is critical for the evaluation certain key personnel during the RFQ/SOQ phase is that the qualifications of those key personnel are essential to the successful management of the project, and the LA DOTD would be remiss short-listing proposers without seeking this information. But, because DB projects are limited in information at the RFQ/SOQ phase, it would be unrealistic and unfair to expect the proposers to identify the remainder of their key personnel, especially when a clear picture of the project, and therefore a clear picture of the proposers' potential roles and responsibilities, does not yet exist. For that reason, it is reasonable to have the proposers wait to fill out the remainder of their key personnel until the RFP/proposal phase, when there are more "knowns" in the project.

8.3 Contract Documents

After award of the DB contract, the ITP falls away (because the ITP documents pertain to the procurement of the DB contract and have no further relevance to the project) and the Contract Documents become the DB contract for the project. The Contract Documents are made up of the six following parts:

- A) Part 1 - Design-Build Agreement - The DB Agreement is the signatory document, and is typically signed at least in triplicate. It should be remembered that an originally signed copy must also be prepared for every parish affected by the project, so add additional copies for every parish that the project goes through. *See Exhibit J - Example Design-Build Agreement for a template DB Agreement and appendices;*
- B) Part 2 - Design-Build Section 100 - The DB Section 100 is a modification of Section 100 of the LA DOTD's Standard Specification for Roads and Bridges for purposes of DB, including identifying the risks, roles, and responsibilities of the LA DOTD and Design-Builder; design management; and design and construction Quality Control (QC), among other things. *See Exhibit K - Example Design-Build Section 100 for the template of the DB Section 100 documents;*
- C) Part 3 - Design Requirements and Performance Specifications - The Design Requirements and Performance Specifications are tailored to fit the needs of each specific project, and are focused on the end performance results, rather than the prescriptive "how tos" of a standard specification;
- D) Part 4 - Request for Proposals Plans - The RFP Plans are any plans pertaining to the project that have been completed to date, including Preliminary Engineering (PE);
- E) Part 5 - Engineering Data - The Engineering Data is raw data that is warranted by the LA DOTD, such as traffic counts or geotechnical information, which the Design-Builder will be able to contractually rely on for purposes of the project;
- F) Part 6 - Design-Builder's Proposal - After award of the DB contract, the Design-Builder's Proposal is incorporated fully into the DB contract.

8.4 Reference Documents

Reference Documents are documents that may assist the proposers in preparation of their proposals, but that contain information that the LA DOTD cannot warrant as accurate. Reference Documents include documents from other projects or entities other than the LA DOTD. At award of the DB contract, like the ITP, the Reference Documents fall away from the Contract Documents and do not become a part of the DB contract.

8.5 Request for Proposals Preparation

The Request for Proposals will be prepared by the DB Procurement Management Team, with input by the LA DOTD's Project Manager.

The preparation of the RFP will require coordination within the LA DOTD, as well as the Federal Highway Administration, if federal funds are used. If other stakeholders are integral to the project, their involvement in the RFP preparation will also need to be taken into account. The RFP preparation time and procurement schedule will need to take into account the involvement of all of these parties and any time necessary for third-party review and comment resolution prior to the RFP being final and ready for release to the short-list.

In preparing the RFP, remain heedful to not ask for more information than is necessary to achieve the LA DOTD's project goals and objectives (*see* Sections 4.2 and 8.2.1.2). Asking for more information than is necessary only increases the cost of proposal preparation by the proposers and increases the burden on the LA DOTD of due diligence review of the submitted information. Remember, the LA DOTD is under an obligation to review thoroughly all information that it requests. Focusing only on information that differentiates proposers will assist the LA DOTD in keeping the information requested to a minimum.

Section 8.5 Tasks

- Prepare Request for Proposals

Section 8.5 Deliverables

- Request for Proposals

8.6 Request for Proposals Approvals/Concurrence

The RFP must be approved prior to release by the Chief Engineer.

If the project is a federal-aid project, the RFP must also receive concurrence and approval from the FHWA prior to release, so sufficient time for FHWA coordination should be included in the procurement schedule. It should be noted that in compliance with 23 C.F.R. 635.112 and 636.109, there are certain requirements regarding the timing of release of the RFP and the National Environmental Policy Act (NEPA) process. If the RFP will be released prior to the completion of the NEPA process (for projects that include federal funding), consult with counsel and the FHWA to ensure that appropriate steps are being taken to reserve the LA DOTD's eligibility under federal regulation.

Section 8.6 Tasks

- Prepare Chief Engineer approval memorandum
- Federal Highway Administration coordination and concurrence, for federal-aid projects

Section 8.6 Deliverables

- Chief Engineer approval memorandum
- Federal Highway Administration concurrence and approval memorandum

9.0 CHAPTER 9 - ISSUING THE REQUEST FOR PROPOSALS AND PROPOSAL EVALUATION AND SELECTION

Just as was discussed in relation to the evaluation of SOQs, the procedure for evaluating the proposals is equally as important as the preparation of the RFP documents when it comes to the procurement process. The process and procedures that are used during the issuance of the RFP and subsequent proposal evaluation are set forth in this Section 9.0.

9.1 Draft Request for Proposals

For some projects, schedule permitting, it may be desirable to the LA DOTD to provide a draft RFP to the short-list for review and comment prior to the release of the final RFP. This is considered a best practice, and provides the following benefits to the LA DOTD:

- A) Allows the proposers to identify any terms of the RFP that would be "deal killers" prior to release of the final RFP document, allowing the LA DOTD to reconsider and potentially revise those particular terms and conditions;
- B) Allows the LA DOTD to incorporate any good comments or ideas that the proposers submit in response to the draft RFP;
- C) Provides an additional QC check of the RFP documents prior to their final release;
- D) Allows the proposers additional preparation time for their proposals, typically resulting in higher quality proposals;
- E) Is a method for the LA DOTD to release a draft of the RFP document to the short-list of Proposers prior to receiving NEPA clearance. This is in lieu of proceeding with a final RFP with FHWA concurrence and approval prior to completion of NEPA, in that the draft RFP is not a final document issuance by the LA DOTD and still retains flexibility to respond to the NEPA process, but does provide information to the Proposers for their comment; and
- F) Further encourages communication and trust between the LA DOTD and proposers in the procurement process.

The draft RFP will be released by the DB Procurement Management Team to the short-list.

The short-list may submit their comments on the draft RFP in writing or the LA DOTD may opt to hold individual meetings with each proposer on the short-list to receive its comments on the draft RFP. Either way, it is the LA DOTD's discretion whether to incorporate each individual comment.

If the LA DOTD receives written comments, the written comments should be compiled into a single document, with an indication whether the comment was incorporated into the final RFP. The written comments should not be attributed to the proposer making the comment, and should be released along with the final RFP to assist the short-list with understanding the changes made between the draft and the final RFPs.

If the LA DOTD conducts individual meetings in order to receive the comments from the proposers on the short-list, a transcript should be made of the individual meetings to ensure that a record exists of all of the recommended changes from each of the proposers.

Section 9.1 Tasks

- Release draft Request for Proposals to short-list for comment
- Receive and review comments from short-list in either written format or during meetings with individual proposers
- If meetings with individual proposers are held, schedule meeting times and secure meeting location and retain court report
- If written comments are received from short-list, compile master comment document for release with final Request for Proposals
- Incorporate comments into final Request for Proposals

Section 9.1 Deliverables

- Written comment compilation (if written comments are solicited)

9.2 Issuance of Request for Proposals

The final RFP will be issued by the DB Procurement Management Team to the short-list.

The final RFP should be issued to allow enough time for proposers to fairly produce a good and responsive proposal. It should be remembered that to respond to the RFP, the proposers are not just preparing a Lump Sum Price Proposal, but also preparing some level of design and technical solutions as well as other written responses to the Technical Proposal requirements.

Section 9.2 Tasks

- Send final RFP to short-list

9.3 Proposer Questions and Answers

For a reasonable time prior to the submission of proposals, proposers should have the opportunity to submit questions regarding the RFP specifically or the procurement process or project generally.

Any question received must be responded to in writing and released to all proposers, without indicating which proposer submitted the question. It is the responsibility of the DB Procurement Management Team to compile, log, and track the proposer questions as they are submitted. It is also the responsibility of the DB Procurement Management Team to coordinate with appropriate LA DOTD personnel to respond to each proposer question submitted, as necessary. Finally, the DB Procurement Management Team will coordinate the release of the responses to proposer questions. This means that all the questions and answers will be sent to all of the proposers on the short-list.

If response by the LA DOTD to a certain question necessitates a change to the RFP documents, the questions and answers should be released with a corresponding addendum revising the RFP.

Frequently, there are multiple rounds of question and answer documents for a single RFP.

Additionally, it is a best practice to answer the questions in the chronological order received. The purpose of doing so is to prevent confusion among proposers as to whether their questions were received by the LA DOTD and to minimize follow-up correspondence by the proposers.

Section 9.3 Tasks

- Review proposer questions and assign to LA DOTD personnel for response
- Prepare question and answer document
- Send questions and answers to the short-list

Section 9.3 Deliverables

- Question and answer document

9.4 Request for Proposals Addendum

Addenda may need to be issued to the RFP, as anticipated by the LA DOTD to provide information not originally available at the RFP release date, or to correct errors discovered by the LA DOTD in the RFP, or, as indicated in Section 9.3, in response to questions received from proposers. These are all normal and reasonable purposes for addenda and should not alarm anyone. However, the need for a high number of addenda to an RFP may be indicative of either poor quality checks prior to the document's release or of insufficient project development prior to the RFP release, and the LA DOTD should evaluate any RFP that results in a high number of addenda for the reasons why.

Addenda will be prepared by the DB Procurement Management Team and will be subject to the approval of the Chief Engineer, who approved the original RFP. Additionally, on federal-aid projects, any addenda that result in a major change to the RFP will require approval of the FHWA. Minor addenda do not require pre-approval of the FHWA.

Addenda will be released the same way as the questions and answers: this means that addenda will be sent to all of the proposers on the short-list.

Section 9.4 Tasks

- Draft addenda
- Chief Engineer approval
- FHWA approval for major addenda, for federal-aid projects
- Send addenda to the short-list

Section 9.4 Deliverables

- Addenda
- Chief Engineer approval memorandum
- Federal Highway Administration approval memorandum

9.5 Informational Meetings

During the RFP/proposal phase, it will likely be beneficial for some informational meetings to be held with proposers to disseminate information regarding the project and the procurement itself and to allow the proposers to seek information from the LA DOTD. During the RFP/proposal phase, the informational meetings can take one of two forms: group meetings or one-on-one meetings.

9.5.1 Group Meetings

Group meetings will be more general in nature, and serve more as project and procurement updates, with the DB Procurement Management Team and LA DOTD's Project Manager sharing duties of running the meetings. At the end of the group meeting, time should be allowed for a question and answer period. While the LA DOTD is free to answer the questions during the question and answer period, if the answer is unknown or if a question is answered incorrectly, it is the LA DOTD's duty to provide a correct response to the question to all proposers. For that purpose, a transcript should be made of the entire group meeting and the questions and answers should be compiled and released in the same fashion as a traditional question and answer document (*see* Section 9.3) in order to maintain a level playing field among the proposers. In the past, video taping has been tried for this same purpose, and has not been effective, as the sound quality on the video tapes has been poor and inadequate to create a record for any subsequent use.

Section 9.5.1 Tasks

- Secure group meeting space
- Prepare group meeting Microsoft Power Point[®] presentation (or other presentation materials)
- Prepare group meeting agenda
- Prepare group meeting sign-in sheet
- Hire court reporter
- Review transcript and compile question and answer document
- Send questions and answers to short-list

Section 9.5.1 Deliverables

- Microsoft Power Point[®] presentation (or other presentation materials)
- Group meeting agenda
- Group meeting sign-in sheet
- Question and answer document

9.5.2 One-on-One Meetings

One-on-one meetings are specific in nature, geared toward the individual proposer's specific issues. In these meetings, the individual proposer is responsible for proposing the agenda for the meeting, and the LA DOTD only adds agenda items that it needs to address.

Since the individual proposer will submit its agenda in advance, it is the LA DOTD's responsibility to have personnel on hand who will be able to address the agenda issues that the proposer has identified. However, the LA DOTD should not bring too many people to the one-on-one meetings. The purpose of the meetings is to respond to each proposer's agenda items, not to overwhelm the proposers or for the LA DOTD to "take over" the meeting. If the LA DOTD personnel are unable to answer a question raised at the one-on-one meeting, they should not try to answer the question, because a wrong answer can be detrimental to the proposer's preparation of its proposal. If the LA DOTD personnel commit to trying to find the answer for that particular proposer, then it is incumbent upon that LA DOTD personnel to follow-up and find the answer. The response should be submitted to the Contract Services Administrator who, as the lead of the DB Procurement Management Team, is the single-point-of-contact for the proposers and will be able to provide the correct response to the proposer.

While the interactions that occur during the one-on-one meetings are confidential, a transcript should be made of each one-on-one meeting and retained as a record of the meetings. In the past, video taping has been tried for this same purpose, and has not been effective, as the sound quality on the video tapes has been poor and inadequate to create a record for any subsequent use.

Section 9.5.2 Tasks

- Secure one-on-one meeting spaces
- Procure one-on-one meeting agendas from the proposers
- Prepare one-on-one meeting sign-in sheets
- Hire court reporter
- Review transcripts for accuracy

Section 9.5.2 Deliverables

- One-on-one meeting sign-in sheets

9.6 Technical Concept Reviews and Alternate Technical Concepts

Regardless of the LA DOTD's attempts to provide clear technical parameters for the project, there may be a desire on the part of the proposers to clarify the requirements of the RFP. Two mechanisms that may be used by the LA DOTD are technical concept reviews or Alternate Technical Concepts (ATC).

9.6.1 Technical Concept Reviews

The technical concept review process allows a proposer to submit, in writing, an idea related to its Technical Proposal to the LA DOTD for review prior to submission of the final proposal. The proposer's submission of the technical concept review allows the proposer to solicit the LA DOTD's opinion as to whether the idea falls within or outside the current technical parameters as they are set forth in the RFP. In responding to the proposer's technical concept review submission, the LA DOTD would only respond affirmatively or negatively as to whether the submission is currently within the parameters of the Technical Proposal.

The technical concept review process must be kept confidential, as sharing any of this information would compromise the development of the proposer's proposal. However, if a proposer submits a technical concept that is not currently inside the parameters of the RFP, but the LA DOTD would like to expand the RFP requirements to allow the technical concept, the LA DOTD could issue an RFP addendum to do so. But, the LA DOTD would have to be extremely careful to issue the addendum in such a way as to not reveal the technical concept that was submitted, since doing so would compromise open and fair competition against the proposer that originally submitted the technical concept.

9.6.2 Alternate Technical Concepts

Alternate Technical Concepts are similar to technical concept reviews in that they do allow proposers to submit information to the LA DOTD for review and comment prior to submission of the proposer's final proposal. However, the purpose of the ATC is different. The purpose of the ATC is to seek exemption for a specific technical solution from the current technical parameters of the RFP. The LA DOTD reviews the suggested alternate solution and determines whether or not it would accept such an alternative. If yes, then the proposer is allowed to submit the ATC as a part of its proposal. If no, then the ATC is rejected.

The LA DOTD should keep in mind that under the current FHWA regulations, if an ATC process is used, a Special Experimental Project-14 (SEP-14) application was submitted to the FHWA's headquarters for approval of the LA DOTD's ATC process for the DB program. Approval was granted by the FHWA on October 28, 2009, and allows a proposer to submit an approved ATC in lieu of the baseline RFP requirements. Additionally, the FHWA requires that after contract award for each project that utilizes the ATC process, the LA DOTD must submit an evaluation of one to two pages describing the number of proposers, the number of approved ATCs, a short description of the different ATCs, and an evaluation of the effectiveness of the process in generating innovation and competition.

Section 9.6.2. Tasks

- Prepare ATC evaluation report upon award of the DB contract
- Submit ATC evaluation report to the FHWA

Section 9.6.2 Deliverables

- ATC evaluation report

9.7 Evaluation and Selection Plan

The Evaluation and Selection Plan (E&S Plan) is the LA DOTD's internal document that details the step-by-step procedure for the evaluation process of the proposals submitted by the proposers in response to the RFP through to the award of the DB contract. The E&S Plan's step-by-step detail addresses specifically each of the committees and teams involved in the evaluations of the proposals and their roles and responsibilities. The document is tied directly to the RFP, but provides the detail of the process necessary to direct the members of the committees and teams to carry forth the process correctly.

The E&S Plan is critical to promote open and fair competition and to maintain a level playing field among the proposers. The evaluation process itself is set up to ensure that all proposers are treated consistently in order to avoid any perception of favoritism in the process. Prior to any deviation from the E&S Plan, the LA DOTD's counsel should be consulted. An example E&S Plan is included at Exhibit H - Example ITP and Example E&S Plan.

Section 9.7 Tasks

- Draft the Evaluation and Selection Plan

Section 9.7 Deliverables

- Evaluation and Selection Plan

9.8 Evaluating the Successful Proposer

As noted above in Section 9.7, the evaluations of the proposals must be disciplined and follow the process set forth in the E&S Plan. As also discussed at Section 5.1, the strictest confidentiality must be maintained during the evaluation process to promote trust between the LA DOTD and the proposers.

9.8.1 Proposal Review Committee

In accordance with L.R.S 48:250.3, the Chief Engineer, with concurrence of the Secretary, establishes the Proposal Review Committee to evaluate the proposals. The members of the Proposal Review Committee should be LA DOTD personnel who are uniquely qualified to review the proposals for a particular project, and who have not served on the DB Qualifications Evaluation Committee. The LA DOTD's Project Manager must serve as the Chair of the Proposal Review Committee. For federally-funded projects, the FHWA should be included on the Proposal Review Committee as an ex officio member.

Each of the members of the Proposal Review Committee will be required to sign the Confidentiality and Non-Disclosure Agreement discussed in Section 5.1 as well as a Conflict of Interest Affidavit, requiring the member to disclose any real or perceived personal conflicts of

interest with any of the proposers. The use of the Conflict of Interest Affidavit serves to provide assurance to the LA DOTD and the proposers that the LA DOTD personnel evaluating the proposals do not have conflicts of interest and will treat all proposers fairly.

If necessary, and in accordance with L.R.S. 48:250.3, if the Proposal Review Committee requires assistance in the evaluation of the proposals, additional LA DOTD personnel and nationally recognized DB experts may be used to assist the Proposal Review Committee. One way to accomplish this may be to break out the additional LA DOTD personnel and other experts into Evaluation Teams. Those Evaluation Teams would each take one or more of the evaluation factors to review. However, in order to provide a consistent evaluation of each of the factors and to maintain a level playing field among the proposers, if an Evaluation Team will be used to evaluate one evaluation factor, then Evaluation Teams must be used to evaluate all evaluation factors.

Section 9.8.1 Tasks

- Establish the Proposal Review Committee and determine if Evaluation Teams will be used
- Prepare Proposal Review Committee appointment and concurrence memorandum for Chief Engineer and Secretary signature
- Prepare Conflict of Interest Affidavit and have Proposal Review Committee members sign the affidavit
- Have Proposal Review Committee members sign Confidentiality and Non-Disclosure Statements (as already prepared as per Section 5.1)

Section 9.8.1 Deliverables

- Proposal Review Committee appointment and concurrence memorandum
- Conflict of Interest Affidavit

9.8.2 Proposal Evaluations

The proposal evaluations must be put on the schedules of the members of the Proposal Review Committee well in advance in order to ensure the availability of the members to complete the evaluations in a timely fashion. If one of the members of the Proposal Review Committee proves to be unavailable for all or any portion of the evaluations, that member should be replaced with someone who is available.

The DB Procurement Management Team will commence the evaluation process with an evaluation orientation, which will inform the members of the Proposal Review Committee of the particulars of the project and the details of the procurement process, including the proposal evaluation factors and the rating process. All of the members of the Proposal Review Committee are required to attend this evaluation orientation.

The DB Procurement Management Team is also responsible to prepare evaluation worksheets for use by the Proposal Review Committee during the evaluation of the proposals. These evaluation worksheets should set forth the exact requirements as set forth in the RFP, and can help to streamline and facilitate each evaluator's review of each proposal. The evaluation worksheets

should be handed out to the members of the Proposal Review Committee at the evaluation orientation and should remain confidential for the duration of the procurement process.

Finally, the DB Procurement Management Team is responsible for the responsiveness review of each proposal upon its receipt from the proposers on the proposal due date. The responsiveness review is only a check of whether a proposer has submitted all of the required "pieces" of the proposal. The responsiveness review is not a review by the DB Procurement Management Team as to their opinion of the quality of the proposal. The opinion of the quality of the proposal is a role reserved strictly for the Proposal Review Committee. The DB Procurement Management Team's role is to simply ensure that the proposals are ready for review, and the DB Procurement Management Team should ensure to not overstep its bounds. The responsiveness review can be greatly simplified by the creation of a responsiveness checklist - a checklist of all of the submission requirements from the RFP. This will streamline and facilitate the DB Procurement Management Team's responsiveness review time.

The steps of the evaluation process are briefly and generally outlined below. However, each procurement is unique and proposers should look to a specific RFP to determine the specific steps being utilized by the LA DOTD for that specific procurement.

- A) The DB Procurement Management Team will prepare and conduct an evaluation and selection orientation for the Proposal Review Committee;
- B) The DB Procurement Management Team will receive the proposals and review the Technical Proposals for responsiveness and then prepare the Technical Proposals for evaluation;
- C) The DB Procurement Management Team will distribute the Technical Proposals to the Proposal Review Committee. Lump Sum Price Proposals, which are submitted in a separate sealed container, will be safeguarded and not opened or revealed to anyone until the public opening of the Lump Sum Price Proposals;
- D) The Proposal Review Committee members will review the Technical Proposals and submit requests for clarifications to the Proposal Review Committee as a whole for approval. If approved, the Proposal Review Committee forwards requests for clarifications to the DB Procurement Management Team at any time;
- E) The DB Procurement Management Team will issue requests for clarifications throughout the evaluation process, as required;
- F) The Proposal Review Committee will attend proposer presentations and interviews;
- G) After receipt of responses to requests for clarifications, if any, and attendance at proposer presentations and interviews, the Proposal Review Committee members will rate each pass/fail evaluation factor and rate and score each technical evaluation subfactor using their evaluation workbooks. *See Exhibit I - Example Evaluation Workbook* for an example of an evaluation workbook;
- H) After receipt of the evaluation workbooks from the Proposal Review Committee members, the Chair of the Proposal Review Committee will complete the

calculation of each proposer's technical evaluation factor scores and final total technical score;

- I) The DB Procurement Management Team will notify each proposer of the proposers' final pass/fail evaluation factor ratings, technical evaluation subfactor ratings and scores, technical evaluation factor scores, and final total technical score and conduct any confirmation meetings requested by proposers;
- J) The DB Procurement Management Team will conduct the public opening of the Lump Sum Price Proposals and determine the adjusted score of each proposal;
- K) The Lump Sum Price Proposals will be reviewed for responsiveness and reasonableness by a Price Evaluation Team. Lump Sum Price Proposals found to be nonresponsive or unreasonable in price will be removed from further consideration; and
- L) The results of the evaluation process will be submitted to the Secretary who will, in his or her sole determination, select the successful proposal or reject all proposals.

Section 9.8.2 Tasks

- Set appointment notice for proposal evaluations on Proposal Review Committee and Design-Build Procurement Management Team schedules
- Reserve space for the Proposal Review Committee
- Prepare evaluation orientation Microsoft Power Point® presentation
- Prepare evaluation worksheets
- Prepare proposal responsiveness checklist
- Prepare evaluation workbooks
- Reserve/identify secure space/location for storage of proposals and Proposal Review Committee evaluation materials

Section 9.8.2 Deliverables

- Microsoft Power Point® evaluation orientation presentation
- Evaluation worksheets
- Proposal responsiveness checklist
- Evaluation workbooks

9.8.3 Requests for Clarifications

At certain times, it may prove to be difficult for the Proposal Review Committee to continue on with its evaluations because a proposer has submitted a proposal that contains an error, omission, ambiguity, or weakness. In those instances, at the sole discretion of the Proposal Review Committee, the committee may determine it would like to submit a request for clarification to a proposer. A request for clarification must be agreed upon and submitted by the Proposal Review

Committee as a whole. The purpose for this is because, at times, one evaluator may have missed or not understood a certain portion of a proposal, but when discussed with the Proposal Review Committee in its entirety, the need for the request for clarification is eliminated.

As per the requirement that the Contract Services Administrator, as the lead of the DB Procurement Management Team, be the single-point-of-contact for the LA DOTD for the procurement, all requests for clarification must be submitted to the DB Procurement Management Team to be sent to the proposer. Typically, a request for clarification should not require more than 24 hours for a response since it is only a correction of an error, omission ambiguity, or weakness. If a proposer requires longer than 24 hours to respond to a request for clarification, this is likely indicative of the fact that the request rises beyond a request for clarification and should not be asked.

Once the response is received by the DB Procurement Management Team, the team will review the response for responsiveness and deliver the response to the Proposal Review Committee for their evaluation.

Section 9.8.3 Tasks

- Draft requests for clarification
- Review responses to requests for clarification for responsiveness and distribute to the Proposal Review Committee

Section 9.8.3 Deliverables

- Requests for clarification

9.8.4 Proposer Presentations and Interviews

The LA DOTD may invite the individual proposers that submit proposals to provide presentations and/or attend interviews with the Proposal Review Committee. The presentations and/or interviews can only address the information contained in the proposers' Technical Proposals, and must specifically exclude any price or schedule information, since the public opening of the Lump Sum Price Proposal opening will not yet have occurred.

9.8.5 Technical Score

After each member of the Proposal Review Committee assigns a rating for each technical evaluation subfactor, a technical score will be determined for each member's technical evaluation subfactor using rating/scoring conversion table, which will be identified in the RFP. The members of the Proposal Review Committee will then submit their evaluation workbooks to the Chair of the Proposal Review Committee for calculation of each proposer's Technical Evaluation Factor scores and final total technical score.

After the Proposal Review Committee has determined the final total technical scores of each of the proposers, the DB Procurement Management Team will notify each of the proposers of all of the proposers' technical scores. Within a prescribed time period, a proposer may request a meeting with the LA DOTD to confirm its technical score, including review of the final rating and scoring of each member of the Proposal Review Committee. However, no detailed

information concerning information contained in another proposer's proposal will be discussed or provided to the requesting proposer at the meeting. All technical score confirmation meetings will be held prior to the opening of Lump Sum Price Proposals.

Section 9.8.5 Tasks

- Notify proposers of technical scores
- Set technical score confirmation meetings, if requested

Section 9.8.5 Deliverables

- Technical score notification letters

9.8.6 Lump Sum Price Proposal Opening

After the technical score confirmation time has expired, the Lump Sum Price Proposal may be opened at a public opening and the lowest adjusted score calculated. The lowest adjusted score is calculated according to the following formula set forth in L.R.S. 48:250.3:

Adjusted Score = [(Lump Sum Price Proposal) + (Time Value)] ÷ Final Technical Proposal Technical Score.

After calculation of the lowest adjusted score, just as with a low-bid procurement, the Lump Sum Price Proposals must be reviewed for responsiveness and reasonableness.

For the purposes of the responsiveness and reasonableness review, a small Price Evaluation Team should be assembled to expeditiously conduct the review. Any proposer found to have not submitted a responsive or reasonable Lump Sum Price Proposal could be found to be ineligible for award of the DB contract. It is the Price Evaluation Team's responsibility to document its findings in a memorandum to the DB Procurement Management Team prior to that team moving forward with the formal award of the DB contract.

Section 9.8.6 Tasks

- Identify Price Evaluation Team members
- Set appointment notice for Lump Sum Price Proposal evaluations for the Price Evaluation Team and DB Procurement Management Team schedules
- Schedule meeting space for Lump Sum Price Proposal opening
- Conduct Lump Sum Price Proposal opening
- Schedule space for the Price Evaluation Team
- Review Lump Sum Price Proposals for responsiveness and reasonableness
- Draft Lump Sum Price Proposal responsiveness and reasonableness memorandum
- Reserve/identify secure space/location for storage of Lump Sum Price Proposals and Price Evaluation Team evaluation materials

Section 9.8.6 Deliverables

- Lump Sum Price Proposal responsiveness and reasonableness memorandum

9.8.7 Proposal Protests

The RFP sets forth a protest procedure for the RFP/proposal phase of the procurement, which is a mandatory administrative remedy which must be followed prior to any judicial recourse during this phase. If contacted regarding a protest, contact counsel with any questions to ensure that procedure is followed and to preserve the LA DOTD's rights for any future judicial action.

9.9 Award and Execution of the Design-Build Contract

After the protest period has lapsed, the DB Procurement Management Team will send an award letter to the successful proposer notifying it of award of the DB contract. The letter typically includes one electronic copy of the entire completed set of the DB Contract Documents (with all of the "blanks" filled in) for the successful proposer's review. If the LA DOTD is planning a signing ceremony for the DB contract, this letter would set forth the particulars for the ceremony, inviting the successful proposer to attend.

For federally-funded jobs, a concurrence in the award, as well as a post award tabulation will need to be submitted to the FHWA. The post-award tabulation may include detailed pricing information if available, or lump sum price information if itemized pricing was not used.

As a reminder, the following documents will need to be received and reviewed by the DB Procurement Management Team prior to execution of the DB contract:

- A) Required payment and performance bonds;
- B) Insurance certificates;
- C) Full details of who will sign the DB contract and evidence as to the authority, power, and capacity of said individual(s) to bind the successful proposer to the DB contract;
- D) The proposer's Federal Internal Revenue Service Identification Number; and
- E) Evidence that the successful proposer, designer, and any subcontractors performing design and/or construction work are properly licensed, if not previously provided.

As stated earlier, it should be assumed that three original copies of the DB contract should be executed, plus one original for each parish in which the project will be conducted. After execution of the DB contract, a written Notice to Proceed should be provided to the Design-Builder prior to commencement of any work under the DB contract.

Section 9.9 Tasks

- Draft award letter to successful proposer

- Draft and submit award concurrence letter to the FHWA
- Compile and submit post-award tabulation to the FHWA
- Schedule DB contract execution ceremony (if signing ceremony scheduled)
- Draft Notice to Proceed

Section 9.9 Deliverables

- Award letter to successful proposer
- Federal Highway Administration award concurrence letter
- Post-award tabulation
- Notice to Proceed

9.10 De-Briefs

After execution of the DB contract, the LA DOTD may offer de-briefings to the unsuccessful proposers. The unsuccessful proposers may or may not take the LA DOTD's offer. If any of the unsuccessful proposers request a de-briefing, the LA DOTD's Project Manager, as the Chair of the Proposal Review Committee should lead the de-briefing, with support from the DB Procurement Management Team. The de-briefing should focus on providing the unsuccessful proposer with information on both the strengths and weaknesses in the proposer's proposal, with a focus on how that particular proposer can improve in the next procurement. The de-briefings should occur as soon after DB contract execution as possible so that the information is still fresh in the mind of the LA DOTD's Project Manager.

While the information from the rating of all proposals is public at the point of the de-briefings, since the de-briefings occur after execution of the DB contract, the purpose of the de-briefing is not to spend time making a comparison between the unsuccessful proposer's proposal and other proposals. This activity should be avoided and is not constructive. It is more constructive for the LA DOTD's Project Manager to proactively review the evaluation worksheets of the Proposal Review Committee members and to summarize the documented strengths and weaknesses from those evaluation worksheets into a format that is concise and easy to follow for purposes of the de-brief. That will help to guide the discussion and provide the unsuccessful proposer with the constructive and organized de-brief which it deserves.

Section 9.10 Tasks

- Schedule de-briefs
- Prepare summary de-brief documents

Section 9.10 Deliverables

- Summary de-brief document

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT A – DESIGN-BUILD PROJECT
OVERVIEW**



Project Background

To date, the Louisiana Department of Transportation and Development (LA DOTD) has utilized the Design-Build (DB) project delivery method on the projects which are briefly detailed in the following pages.

John James Audubon Bridge Project

BRIEF PROJECT DESCRIPTION:

The project begins at LA 10 on the west bank of the Mississippi River in Pointe Coupee Parish (including an interchange). The project terminates at US 61 on the east bank of the Mississippi River just south of St. Francisville in West Feliciana Parish (including an interchange). The project consists of the design and construction of the following elements:

- A) The cable-stayed main span structure;
- B) Pointe Coupee approaches;
- C) West Feliciana approaches;
- D) Miscellaneous roadway elements; and
- E) Associated aesthetics and landscaping.

EVALUATION FACTORS:

The evaluation factors, listed in descending order of importance, were as follows:

- A) Legal (pass/fail);
- B) Financial (pass/fail);
- C) Technical Solutions;
- D) Key Personnel and Experience;
- E) Management Approach; and
- F) Project Support.

Within the Technical Solutions Technical Evaluation Factor, the following subfactors all had the same importance:

- 1) Cable-stayed bridge design concept;
- 2) Approach structures and other bridges design concepts;
- 3) Drainage; and
- 4) Roadway geometric design concepts.

Within the Management Approach Technical Evaluation Factor, the following subfactors had a descending order of importance:

- a) Project Management Plan;

- b) Project Controls; and
- c) Organization.

AWARD BASIS:

The award of the DB contract was made on the statutory lowest adjusted score basis, where technical score was weighed more importantly than price.

PROCUREMENT SCHEDULE:

The Notice of Intent (NOI) was published on November 15, 2004, and the DB Contract was executed on April 14, 2006. In the case of this project, there were several intervening issues, including Hurricanes Katrina and Rita. Hurricane Katrina hit Louisiana approximately one week after release of the Scope of Services Package for the project, and Hurricane Rita approximately one month after that. While the hurricanes were not the only reasons that the procurement took the length of time that it did, they did serve to lengthen the time of the procurement due to difficulty on the part of the proposers to be able to convene to work on their proposals (getting people in to Louisiana was very difficult for several months after the hurricane events) and getting pricing on materials and labor became a virtual impossibility as the materials and labor pools were suddenly non-existent for the job. However, the LA DOTD had already anticipated that the procurement for this job would be a longer procurement due to the fact that the job was extremely complex (a cable-stayed bridge structure) as well as the first DB project that the LA DOTD was undertaking. So, the length of the procurement is not solely attributable to the hurricanes. Approximately only two months were added in to the procurement schedule due to the effects of the hurricanes.

Interstate-12 Widening Design-Build Project
O'Neal Lane Interchange to Walker

BRIEF PROJECT DESCRIPTION:

The Interstate-12 (I-12) Widening DB Project begins at the O'Neal Lane Interchange in East Baton Rouge Parish and proceeds easterly into Livingston Parish towards Walker. The project was procured as a "not-to-exceed" DB-to-budget. With the tie-in to the six-lane section at O'Neal Lane as the starting point, proposals demonstrated the length of I-12 widening and rehabilitation toward the east that could be provided on a set not-to-exceed DB contract amount. The project consists of all or a portion of the design and construction of the following major elements:

- A) Interstate-12 mainline widening;
- B) O'Neal lane interchange (LA 3245);
- C) Amite River bridge;
- D) 4-H Road overpass (LA 1032);
- E) Range Avenue interchange (LA 3002);
- F) Pete's Highway (LA 16) bridge modification;

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- G) Juban Road interchange (LA 1026); and
- H) Walker interchange (LA 447).

EVALUATION FACTORS:

The evaluation factors, listed in descending order of importance, were as follows:

- A) Legal (pass/fail);
- B) Financial (pass/fail);
- C) Technical Solutions;
- D) Key Personnel and Experience; and
- E) Management Approach.

It should be noted that with the I-12 Widening DB Project, the LA DOTD opted to drop the Project Support Technical Evaluation Factor. The Project Support Technical Evaluation Factor would typically consider information such as public outreach, maintenance of traffic, or aesthetics. With this project, the LA DOTD made a determination it would prefer to include some of those topics with the Technical Solutions Technical Evaluation Factor. However, on some future projects, it may make sense for the LA DOTD to utilize a separate Project Support Technical Evaluation Factor again.

Within the Technical Solutions Technical Evaluation Factor, the first subfactor was significantly more important than the other subfactors. The remaining subfactors were of equal importance, with the exception of the last subfactor, which was less important:

- 1) Length of I-12 reconstruction that provides functional benefit to the motoring public with high quality design and construction relative to items (3), (4), and (5) below. Extended project length at the expense of quality design and construction will be rated low, and may possibly be rated as “unacceptable”;
- 2) Maintenance of traffic and traffic control;
- 3) Bridge design concepts;
- 4) Roadway geometry and pavement design; and
- 5) Miscellaneous project elements.

Within the Management Approach Technical Evaluation Factor, the following subfactors had a descending order of importance:

- a) Project management plan;
- b) Project controls; and
- c) Organization.

AWARD BASIS:

The award of the DB contract was made on the statutory lowest adjusted score basis, where technical score was weighed more importantly than price. This was a not-to-exceed DB to budget project.

PROCUREMENT SCHEDULE:

The NOI was published on May 5, 2008, and the DB contract was executed in mid-December 2008. In the case of this procurement, it was able to be significantly more streamlined because the LA DOTD had template documents, it was a not-to-exceed DB to budget, and the nature of the project was significantly less complex as a freeway reconstruction project.

Interstate-10 Widening Design-Build Project

BRIEF PROJECT DESCRIPTION:

The project begins just southeast of the Siegen Lane interchange on Interstate-10 (I-10) in East Baton Rouge Parish and proceeds southeasterly toward the Highland Road interchange. The starting point of this project is a tie-in to the end of the full six-lane section at Siegen Lane. This project carries the proposed six-lane interstate section as close as possible to the Highland Road overpass. The six-lane widened interstate section transitions back to the existing four-lane interstate section at the northwest end of the Highland Road overpass bridge approach slabs. The project includes a dual exit ramp for eastbound traffic at the Highland Road interchange.

EVALUATION FACTORS:

The evaluation factors, listed in descending order of importance, were as follows:

- A) Legal (pass/fail);
- B) Financial (pass/fail);
- C) Technical Solutions;
- D) Key Personnel and Experience; and
- E) Management Approach.

Within the Technical Solutions Technical Evaluation Factor, the following subfactors were identified:

- 1) Kansas City Southern Railroad (KCS RR) overpass structure;
- 2) Maintenance of traffic and traffic control;
- 3) Wards Creek Diversion Canal bridge structure;
- 4) Roadway geometry and drainage;
- 5) Pavement design;
- 6) Added value; and
- 7) Miscellaneous project elements.

Within the Technical Solutions Technical Evaluation Factor, the importance of the subfactors for the Technical Solutions Technical Evaluation Factor for the I-10 Widening DB Project became a bit more complex, described as follows:

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"The subfactor in [1] will be more important than the subfactor in [2]. The subfactors in [1] and [2] will be significantly more important than the other subfactors listed in [3] through [7]. The subfactors listed in [3] through [5] will be of equal importance and more important than the subfactors listed in [6] and [7]."

Within the Management Approach Technical Evaluation Factor, the following subfactors had a descending order of importance:

- a) Project management plan;
- b) Project controls; and
- c) Organization.

AWARD BASIS:

The award of the DB contract was made on the statutory lowest adjusted score basis, where technical score was weighed more importantly than price. This was a not-to-exceed DB to budget project.

PROCUREMENT SCHEDULE:

The NOI was published on January 13, 2009, and the DB contract was executed in January 2010. It should be noted that this procurement was subject to a protest and a lawsuit, both of which were favorably resolved for the LA DOTD. Additionally, the Louisiana State Legislature took a significant interest in this project and its procurement, making it the subject of a legislative hearing that took place on February 4, 2010. It was the additional attention that this project received that prompted the creation of the DB Task Force that met during the spring and summer of 2010.

United States 90 Interchanges at Louisiana 85 Design-Build Project

BRIEF PROJECT DESCRIPTION:

The project begins approximately 4,000 feet north of Louisiana 85 (LA 85) along United States 90 (US 90) and ends approximately 4,000 feet south of LA 85 along US 90, and includes the following:

- A) A grade-separated interchange which is to replace the existing, at-grade US 90 intersection with LA 85;
- B) Two parallel overpasses, each consisting of two lanes with shoulders, and each capable of spanning future widening of LA 85 to a five-lane section, on US 90 over LA 85;
- C) Concrete barrier rail, guardrail or other necessary pier protection on/for the new US 90 overpasses;
- D) Modification of existing drainage facilities and associated structures and/or construction of new drainage facilities and associated structures to accommodate the new interchange and reconstructed service roads and their runoff; and
- E) Relocation of a microwave tower.

EVALUATION FACTORS:

The evaluation factors, listed in descending order of importance, were as follows:

- A) Legal (pass/fail);
- B) Financial (pass/fail);
- C) Technical Solutions;
- D) Key Personnel and Experience; and
- E) Management Approach.

Within the Technical Solutions Technical Evaluation Factor, the following subfactors were identified:

- 1) Design concepts for US 90 overpass structures crossing LA 85;
- 2) Pavement design;
- 3) Roadway geometry and drainage;
- 4) Maintenance of traffic and traffic control;
- 5) Utility coordination;
- 6) Added value; and
- 7) Miscellaneous project elements.

Like the I-10 Widening DB Project, the importance of the subfactors within the Technical Solutions Technical Evaluation Factor was a bit more complex for the US 90 DB Project, described substantially as follows:

"The subfactors listed in [1] and [2] will be of equal importance and will be significantly more important than the other subfactors listed in [3] through [7]. The subfactors listed in [3] through [5] will be of equal importance and more important than the subfactors listed in [6] and [7]."

Within the Management Approach Technical Evaluation Factor, the following subfactors had a descending order of importance:

- a) Project management plan;
- b) Project controls; and
- c) Organization.

AWARD BASIS:

The award of the DB contract was made on the statutory lowest adjusted score basis, where technical score was weighed more importantly than price.

PROCUREMENT SCHEDULE:

The NOI was published on January 13, 2009, and the DB contract was executed in January 2010, following roughly the same schedule as the I-10 Widening DB Project, although this project was not subject to the same scrutiny as the I-10 Widening DB Project.

Interstate-12 Widening Design-Build Project
Amite River Bridge to Juban Road (WB) and
Pete's Highway to Juban Road (EB)

BRIEF PROJECT DESCRIPTION:

The project consists of the widening of the mainline of I-12 from four lanes to six lanes from the eastern terminus (eastbound and westbound lanes) of the "original" I-12 Widening DB Project (see above) proceeding eastward to the Juban Road interchange. The project consists of all or a portion of the design and construction of the following major elements:

- A) Interstate-12 mainline widening;
- B) 4-H Club Road overpass (LA 1032);
- C) Range Avenue interchange (LA 3002);
- D) Grey's Creek bridges; and
- E) Aesthetics and landscaping.

EVALUATION FACTORS:

The evaluation factors were as follows:

- A) Legal (pass/fail);
- B) Financial (pass/fail);
- C) Technical Solutions; and
- D) Management Approach.

As a reaction to the legislative hearing and lawsuit referenced in the I-10 Widening DB Project overview, the Key Personnel Technical Evaluation Factor was dropped from this procurement in an effort to streamline the evaluation process. Additionally, at the request of proposers, the Technical Evaluation Factors were assigned percentage weights in lieu of importance. As such, the Technical Solutions Technical Evaluation Factor was assigned a weight of 90%. The Management Approach Technical Evaluation Factor was assigned a weight of 10%.

Within the Technical Solutions Technical Evaluation Factor, the following subfactors were identified:

- 1) Maintenance of Traffic and Traffic Control Subfactor;
- 2) 4-H Club Road and Range Avenue Bridge Structures Subfactor;
- 3) Roadway Geometry and Drainage Subfactor;

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- 4) Grey's Creek Bridge Structure; and
- 5) Project Coordination Subfactor.

Each Technical Solutions Technical Evaluation Subfactors (1) through (4) was assigned a weight of 25%. The subfactor (5) was rated on an "acceptable"/"unacceptable" basis only.

Again in the interest of streamlining the evaluation process in reaction to feedback on the I-10 Widening DB Project, the Management Approach Technical Evaluation Subfactors were revised for the first time and given equal weights of 33 1/3%:

- a) Design Management Subfactor;
- b) Construction Management Subfactor; and
- c) Organization Subfactor.

AWARD BASIS:

The award of the DB contract was made on the statutory lowest adjusted score basis, where price was weighted more importantly than technical score. This was a not-to-exceed DB to budget project.

PROCUREMENT SCHEDULE:

The NOI was published on July 29, 2009, and the DB contract was executed on April 28, 2010. It should be noted that approximately a month extension of the proposal due date was given to proposers after revisions were made to the procurement process based on the feedback that was driven by the I-10 Widening DB Project.

Intelligent Transportation Systems

To date, the LA DOTD has successfully procured the following Intelligent Transportation Systems (ITS) projects utilizing the DB project delivery method.

State Project Number 737-99-0799; Baton Rouge to New Orleans ITS - Phase 1

This project affects Interstates-10 and -310 and United States 61 and 51 in Jefferson, St Charles, and St. John the Baptist Parishes. The NOI was advertised on November 26, 2007, and the DB contract was executed on June 23, 2008. The estimated DB contract value is \$10.465 million.

State Project Number 737-99-0604; Baton Rouge to Lafayette ITS - TIM Phase 2

This project includes Interstates-10 and -49 and United States 90 and 190 in Acadiana, Iberville, Lafayette, Pointe Coupee, St. Martin, St. Landry, and West Baton Rouge Parishes. The NOI was advertised on November 3, 2008, and the DB contract was executed on August 11, 2009. The estimated DB contract value is \$7.962 million.

State Project Number 737-96-0058; Baton Rouge to New Orleans ITS - TIM Phase 3

This project affects Interstates-10, -110, and -12 and United States 61 (US 61) in Ascension and East Baton Rouge Parishes. The NOI was advertised on January 15, 2010, and the DB contract is anticipated to be executed in April 2011. The estimated DB contract value is \$8.5 million.

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

EXHIBIT B – TERMS AND DEFINITIONS



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The following terms and definitions are used throughout the Design-Build Manual.

Addenda/Addendum - Supplemental additions, deletions, and modifications to the provisions of the Request for Qualifications (RFQ) after the release date of the RFQ or Request for Proposals (RFP) after the release date of the RFP, as appropriate.

Advertisement - The public announcement in the form of the Notice of Intent (NOI) inviting prospective Proposers to obtain an RFQ and submit a Letter of Interest (LOI). The Advertisement includes a brief description of the Work proposed to be the subject of the procurement with an announcement where the RFQ may be obtained, the terms and conditions under which LOIs will be received, and such other matters as the LA DOTD deems advisable to include therein.

Affiliate - Any of the following:

- A) A Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:
 - 1) The Proposer; or
 - 2) Any other Principal Participant.
- B) An Affiliate may also be any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
 - 1) The Proposer; or
 - 2) Any Principal Participant; or
 - 3) Any Affiliate of the Proposer under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

Amendment - A formal alteration by addition, deletion, or modification of the terms of the executed Contract. Amendment is an umbrella term and includes Plan Changes, Change Orders, or Supplemental Agreements.

Approval - The LA DOTD’s written statement indicating that the subject Work complies with Contract requirements. Approvals will only be given for those submittals, activities, or Work specifically identified for “Approval” or “approval” in the Contract Documents.

As-Built Plans - Final Plans reflecting the Work as actually performed under the Contract.

Award - The decision of the LA DOTD to accept a responsive Proposal from a responsible Proposer for the Work identified in the RFP, subject to the execution and approval of a satisfactory Contract; provision of Payment, Performance, and, if used, Retainage Bonds to secure the payment and performance thereof; provision of such insurance as is required under the

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Contract; and the satisfaction of such other conditions as may be specified or otherwise required by law.

Baseline Progress Schedule - The time-scaled, cost-loaded, and resource-loaded Critical Path network, updated from time to time in accordance with the Contract and depicting the Price Centers (PC) and subordinate activities and their respective prices (distributed over time), durations, sequences, and interrelationships that represent the Design-Builder's Work plans; the Design-Builder's Work Breakdown Structure (WBS) for designing, constructing, and completing the Project; and the total Lump Sum Contract Price, distributed over the period of the Contract.

Basic Project Configuration - The salient characteristics of the Project as defined and/or illustrated in the RFP, including any permitted deviations thereto contained in the Design-Builder's Proposal. Basic Project Configuration elements may include the following:

- A) The horizontal and vertical alignments;
- B) Number of intersections;
- C) Number of bridges;
- D) Number of lanes;
- E) The general location of the limits of the Project;
- F) The minimum vertical clearances; and
- G) The Right-of-Way limits.

Calendar Day – Every Day on the calendar, beginning and ending at midnight, Central time.

Change Order – A general term denoting changes to the DB Contract. Change Order as a general term includes Plan Changes.

Chief Engineer – The Chief Engineer of the Louisiana Department of Transportation and Development.

Clarifications - A written exchange of information initiated by the LA DOTD that takes place between a Proposer and the LA DOTD after the receipt of all Statements of Qualifications (SOQ) or Proposals, as appropriate, during the evaluation process. The purpose of Clarifications is to address ambiguities, omissions, errors or mistakes, and clerical revisions in an SOQ or Proposal.

Construction Subcontractor - A Subcontractor (or Affiliate) retained by the Design-Builder that is involved in the actual construction of the Project.

Consultation and Written Comment - The LA DOTD's reviews, observations, and/or inspections based solely on information submitted by the Design-Builder, as well as independent investigation or inquiry by the LA DOTD, and the LA DOTD's written responses resulting from such LA DOTD actions.

Contract - The written agreement between the LA DOTD and the Design-Builder setting forth the obligations of the parties thereunder, including, but not limited to, for the performance of the

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prescribed Work. The Contract includes the Advertisement; Contract Documents; the Design-Builder's Proposal (with the exception of the Proposal Bond); the Notice to Proceed (NTP); Payment, Performance, and Retainage Bonds; and any Supplemental Agreements, Amendments, and Change Orders that are required to complete the Work in an acceptable manner and Contract time, including authorized extensions thereof, all of which constitute one instrument.

Contract Documents – The Contract Documents include the DB Agreement, DB Section 100, Design Requirements and Performance Specifications, the RFP Plans, the Engineering Data, the Design-Builder's Proposal, and all provisions required by law to be inserted in the Contract whether actually inserted or not. Whenever separate publications and the LA DOTD's Standard Specifications are referenced in the Contract Documents, it is understood to mean the publications and Specifications, as amended, which are current on the Proposal due date, unless otherwise noted.

Contract Price – *See* Lump Sum Contract Price.

Contract Time – The number of working days or Calendar Days allowed for completion of the Contract, including authorized time extensions. When a calendar date of completion is shown in the Contract in lieu of a number working or Calendar Days, Work must be completed by that date, including authorized time extensions.

Critical Path - Each path shown on the Baseline Progress Schedule for which there is zero float.

Day - A Calendar Day, unless otherwise defined or modified.

Deficiency - A material failure of an SOQ or Proposal, as appropriate, to meet the LA DOTD's requirements or a combination of significant Weaknesses in an SOQ or Proposal that increases the risk of unsuccessful Contract performance to an unacceptable level.

Design-Build - A project delivery methodology by which the LA DOTD contracts with a Design-Builder which is responsible for delivering the Project design and construction.

Design-Build Team - *See* Design-Builder.

Design-Builder - The entity contractually responsible for delivering the Project design and construction.

Design-Builder's Project Manager - The Design-Builder's on-site designated representative and single point of contact for all aspects of the Work.

Design Review - A comprehensive and systematic examination of the design as specified in the Contract to verify that it is in conformance with the requirements of the Contract, as performed by the Design-Builder for all stages of the design except As-Built Plans, which is performed by the LA DOTD. During all stages of the design, except As-Built Plans, the LA DOTD will contribute to the review through Oversight, including, participation, auditing, and spot-checking.

Designer - A Principal Participant, Specialty Subcontractor, or in-house designer that furnishes or performs the design of the Project.

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Differing Site Condition - Subsurface or latent physical conditions that are encountered at the Site and differ materially from the conditions indicated in the Contract. Also, unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the type of Work provided for in the Contract, provided in all cases that the Design-Builder had or should have no actual or constructive knowledge of such conditions as of the Proposal due date.

Dispute - A matter of Contract performance or Contract compensation, including granting of extensions of time, in which there is or may be disagreement between the Design-Builder and the LA DOTD and which may involve adjustment of or the addition of new Work to the Contract, extension of time for performance, and/or adjustments in compensation necessitated by the resolution of such disagreement.

Extra Work – Work not provided for in the Contract as awarded but found essential by the LA DOTD for satisfactory completion of the Contract within its intended scope.

Federal Requirements – The provisions required to be part of federal-aid construction contracts.

Final Acceptance - The acceptance of the Work by the LA DOTD's designated representative upon the completion of the Work as defined in the Contract and through Oversight and Design Acceptance of that Work by the LA DOTD. Final Acceptance does not relieve the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract.

Instructions To Proposers - Those documents containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

Louisiana Department of Transportation and Development's Project Manager or LA DOTD's Project Manager- The engineer representing the Department and having direct supervision of the administration and execution of the Contract.

Lump Sum Contract Price - The total lump sum amount paid for the Work to be performed under the DB Contract, as it may be adjusted from time to time to account for Change Orders. The Lump Sum Contract Price may also be known as the Contract Price.

Notice to Proceed - Written notice to the Design-Builder to proceed with Contract Work, including the date of beginning of Contract Time.

Oversight - Actions by the LA DOTD to satisfy itself that the Design-Builder is designing, constructing, and managing the Work in accordance with the Contract Documents. It includes actions identified in the Contract Documents by the terms QA, accept/acceptance, inspect/inspection, audit, ensure, certify, confirm, review, verify, or terms of similar import. The Louisiana Department of Transportation and Development's comments as a result of Oversight are conveyed to the Design-Builder through Consultation and Written Comment. Neither the activity of Oversight nor the lack of Consultation and Written Comment on the part of the LA DOTD will be construed to relieve the Design-Builder and its organization from the responsibility and costs for meeting all Contract and regulatory requirements.

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Partnering - Those actions taken to include all parties with an appropriate and vested interest in the Project in the management of the Project, such that the Project is completed in the most efficient, timely, safe, and cost effective manner for the mutual benefit of all concerned. These actions include, but are not limited to, communication, organization, establishing goals, continuous improvement, problem identification, conflict resolution, and managing change. Interested parties may include, but are not limited to, the LA DOTD; the Design-Builder; Subcontractors; Suppliers of goods and services to the Project; the community within which the Project is constructed; the community served by the Project; federal, state, and local governments or other public agencies; and utilities.

Payment/Performance/Retainage Bonds - The approved form of security, executed by the Design-Builder and Surety, guaranteeing completion of duties under the Contract and Amendments, Supplemental Agreements, Change Orders, or Plan Changes thereto, and payment of all legal debts, including liens and monies due the LA DOTD, pertaining to the Contract.

Performance Specification - A specification that establishes Contract requirements in terms of design parameters and performance goals to be met. Performance Specifications also may include parameters for determining performance and corrective action to be taken.

Periodic Payment Schedule - The schedule submitted with the Design-Builder's Proposal (which schedule may be amended by Change Order) that will be the basis for the assessment of periodic payments for each PC.

Person - Any individual, firm, corporation, company, Limited Liability Company (LLC), Joint Venture (JV), or partnership.

Plan Change – Any alteration, deviation, addition, or omission as to the preexisting Contract. A Plan Change may also be referred to as an Amendment, Supplemental Agreement, or Change Order.

Price Center - A component of the Project for which the Design-Builder provides a Price Center Value (PCV) for all Work included in that component. A PC may be a major contract item or series of interrelated items as identified in the Lump Sum Price Proposal.

Price Center Value - That value allocated by the Design-Builder to a PC as set out in the Lump Sum Price Proposal.

Price Reasonableness - A price, in its nature and amount, that does not exceed that which would be incurred by a prudent person in the conduct of competitive business. What is reasonable depends upon a variety of considerations and circumstances, including the following:

- A) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the Proposer's business or the Contract performance;
- B) Generally accepted sound business practices and federal and state laws and regulations;

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- C) The Proposer's responsibilities to the LA DOTD, other customers, the owners of the business, its employees, and the public at large;
- D) Any significant deviations from the Proposer's established practices;
- E) Comparisons of price information to the engineer's estimate and to the LA DOTD's historic costs for similar Work; and
- F) Comparisons of price information submitted by other Proposers.

Principal Participant - Any of the following entities:

- A) The Design-Builder;
- B) An individual firm, all general partners, or LLC or JV members of the Design-Builder; and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Design-Builder.

Program Audit - All planned and systematic actions by the LA DOTD and/or its designated Quality Assurance Consultant necessary to provide confidence that the DB QC team is effectively ensuring that all Work complies with the Contract requirements and that all material incorporated in the Work and all elements of the Work will perform satisfactorily for the purpose intended. Actions include, but are not limited to: design audits, checks, and reviews; construction audits, including, specification compliance reviews, document control, and working plan review; review of material Sampling and Testing results at production sites and the Project site; Fabrication audit of manufacturing/processing facilities and equipment; calibration of test equipment, and independent verification of materials if determined to be necessary.

Program Audit activities will be documented. Program Audit also includes issuance and tracking Non-Conformance Reports (NCR), assisting in the evaluation of Change Order requests, and research and evaluation of items as assigned by the LA DOTD's Project Manager.

Progress Check Point - A defined step towards the completion of Work within a PC identified in the Schedule of Progress Check Points (PCP). Progress Check Points are defined by the Design-Builder in its Proposal and are approved by the LA DOTD with acceptance of that Design-Builder's Proposal. Any changes to the PCPs after submission of the Design-Builder's Proposal are subject to the Approval of the LA DOTD's Project Manager, in his sole discretion.

Project - The improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

Project Scope - The brief description of the Work to be performed to design and construct the Project as contained in the Contract.

Project Specifications - Those Specifications developed by the Design-Builder to define and control the specific requirements, conditions, means, and methods to be used on the Project. Project Specifications will be based on the Contract requirements and must provide finished

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products that meet or exceed the quality requirements of the Contract. Project Specifications are subject to the review and Consultation and Written Comment of the LA DOTD's Project Manager during Design Reviews.

Proposal - The offer (in response to the RFP) of the Proposer for the Work, when executed and submitted in the prescribed format and on the prescribed forms and including any Clarifications.

Proposer - A Person submitting an SOQ for the Project in response to this RFQ, and, if selected for the Short-List, an entity submitting a Proposal.

Quality Assurance – The independent and random verification conducted by the Design-Builder of its QC program.

Quality Assurance/Quality Control Manager - The individual employed by the QC Engineering Firm who is responsible for the overall QC program for the Project, including the quality of management, design, and construction.

Quality Control - The total of all activities performed by the QC Engineering Firm, Design-Builder, Designer, subcontractors, producers, or manufacturers to ensure that a product meets Contract requirements. Quality Control includes design reviews and checks; inspection of material handling and construction; calibration and maintenance of sampling and testing equipment; working plan review; document control; production process control; and any inspection, sampling, and testing done for these purposes. Quality Control also includes documentation of QC efforts.

Quality Control Engineering Firm - An independent engineering/testing firm employed by the Design-Builder responsible for administering and managing the construction QC inspection, sampling, and testing and verification. The QC Engineering Firm and any subcontractors or subconsultants thereto must not be owned or controlled by the Design-Builder, any Principal Participant of the Design-Builder, any Affiliate of any Principal Participant, any Construction Subcontractor, the Designer, a firm associated with or subsidiary to the Designer, or any design subcontractor or subconsultant of any tier to the Design-Builder.

Quality Plan - The plan that sets out the Design-Builder's means of complying with its obligations in relation to QC, which plan must be provided and maintained in accordance with the Contract following Consultation and Written Comment thereof by the LA DOTD's Project Manager.

Quality Program - The overall quality program and associated activities including the LA DOTD's QA, the Design-Builder's and/or the QC Engineering Firm's QC, the Contract quality requirements, and the Design-Builder's Quality Plan.

Reference Documents - The documents provided with and so designated in the RFP. The Reference Documents, including plans contained therein and/or so designated, are not Contract Documents and were provided to the Proposers for informational purposes and for use in the Proposer's Proposal preparation, at the Proposer's discretion.

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Request for Proposals - A written solicitation issued by the LA DOTD seeking Proposals to be used to identify the Proposer offering the best value to the LA DOTD. The RFP includes the Instructions To Proposers (ITP), Contract Documents, and Reference Documents. This document is issued only to Proposers that are on the Short-List.

Request for Qualifications - The written solicitation issued by the LA DOTD seeking SOQs to be used to identify and short-list the most highly qualified Proposers to receive the RFP for the Project.

Schedule of Progress Check Points - The schedule describing the PCPs and stipulating dates by which PCPs are to be achieved in order to maintain periodic payments in accordance with the Contract.

Short-List - The list of those Proposers that have submitted SOQs that the LA DOTD determines, through evaluation of the SOQs, are the most highly qualified Proposers and that will be invited to submit Proposals in response to a RFP.

Stakeholder - Any party that has a vested interest in the Project or authority to approve or control specific aspects of the Project or elements that will impact the outcome of the Project. This includes, but is not limited to, the LA DOTD, Federal Highway Administration (FHWA), local city and parish governments, permitting agencies, and utility companies and the associated staff members of these entities.

Standard Specifications – The Louisiana Specifications for Roads and Bridges 2006 Edition. The Standard Specifications are a Reference Document for the purposes Projects

Statement of Qualifications - The information prepared and submitted by a Proposer in response to the RFQ.

Subcontractor – An individual, partnership, corporation, or any other legal entity or any acceptable combination thereof, or JV or LLC, to which the Design-Builder sublets part of the Work. Any individual, partnership, corporation, or any other legal entity will not be considered to be a Subcontractor if it is a subsidiary which is wholly-owned or majority-owned by the Design-Builder or the Principal Participants of the Design-Builder, or an Affiliate of the Design-Builder, or affiliated or otherwise controlled by the Design-Builder or Principal Participants of the Design-Builder such that a true and independent Subcontractor-Design-Builder relationship reached by bidding or arms-length negotiation does not result therefrom.

Supplemental Agreement – A written agreement between the Design-Builder and the LA DOTD covering work not otherwise provided for, or revisions in or amendments to terms of the Contract, or Plan Changes, or conditions specifically prescribed in the Specifications as requiring Supplemental Agreements. Such Supplemental Agreement becomes part of the Contract when approved and properly executed.

Surety - The corporation, partnership, or individual, other than the Design-Builder, executing bonds furnished by the Design-Builder and obligating itself thereunder.

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Weakness - A flaw in the SOQ or Proposal, as appropriate, that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ or Proposal is a flaw that appreciably increases the risk of unsuccessful Contract performance.

Work – The labor, Materials, services, Equipment, and incidentals necessary for successful completion of the Project and the carrying out of all obligations imposed by the Contract prior to Final Acceptance and excluding any warranty or guaranty work included under the Contract.

Louisiana Federal-Aid Highway Program Stewardship Agreement 2007

Amendment #2
Design-Build

Developed in Partnership by the
Federal Highway Administration and the
Louisiana Department of Transportation and Development



**LOUISIANA
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STEWARDSHIP AGREEMENT**

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Introduction

On December 10, 2002 in response to Section 1307 of TEA-21, FHWA published the final rule which established regulations for design-build contracting as 23 CFR Part 636. Subsequent modifications required by Section 1503 of SAFETEA-LU resulted in revisions published in a final rulemaking on August 14, 2007. Among the revisions made by SAFETEA-LU were the elimination of the dollar thresholds for "qualified" projects; and permission to release an RFP or award a design-build contract prior to completion of NEPA. SAFETEA-LU allows the States to use the design-build contracting method for any project they deem necessary. States are no longer required to submit Special Experimental Project Number 14 (SEP-14) request to use the design-build contracting method. Design-build procurement processes which deviate from the requirements of 23 CFR Part 636 may require an FHWA Headquarters' SEP-14 work plan and approval.

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Definitions

The following definitions apply to this Amendment:

Acceptance Program – All factors that comprise the LADOTD determination of the quality of the product as specified in the contract requirements. These factors include verification sampling, testing, quality assurance, and inspection and may include results of quality control sampling and testing.

Design-Build Contract – Means an agreement that provides for design and construction of improvements by a contractor or private developer. The term encompasses design-build-maintain, design-build-operate, design-build-finance and other contracts that include services in addition to design and construction. Franchise and concession agreements are included in the term if they provide for the franchisee or concessionaire to develop the project which is the subject of the agreement.

Design-Builder – Means the entity contractually responsible for delivering the project's design and construction phases, and may include maintenance, operation and financing responsibilities.

Final Design – Means any design activities following preliminary design and expressly includes the preparation of final construction plan and detailed specifications for the performance of construction work.

Independent Assurance Program – Activities that are an unbiased and independent evaluation of all the sampling and testing procedures used in the acceptance program. Test procedures used in the acceptance program which are performed in the LADOTD's central laboratory would not be covered by an independent assurance program.

Preliminary Design – Defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. Prior to completion of the NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process.

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Price Proposal – Means the price submitted by the offeror to provide the required design and construction services.

Proposal Modification – Means a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

Quality Assurance – All those planned and systematic actions necessary to provide confidence that a product or service will satisfy given requirements for quality, including, Contractor Quality Control, Agency Acceptance, Agency Independence Assurance, Dispute Resolution, Laboratory Accreditation and Qualification, and personnel Qualification/Certification.

Quality Control – All design-builder’s operational techniques and activities that are performed or conducted to fulfill the contract requirements. The LADOTD and FHWA will formalize an agreement on a programmatic level for specific testing frequencies and levels for an acceptance program for design-build. Until such time that a programmatic design-build acceptance program is agreed to by the LADOTD and FHWA, the acceptance program for each design-build project will be reviewed and approved by the FHWA as a part of the design-build Request for Proposal development process.

Request for Proposal (RFP) – Means the document that describes the procurement process, forms the basis for the final proposals and may potentially become an element in the contract.

Request for Qualifications (RFQ) – Means the document issued by the LADOTD in Phase I of the two-phased selection process. It typically describes the project in enough detail to let potential offerors determine if they wish to compete and forms the basis for requesting qualifications submissions from which the most highly qualified offerors can be identified.

Short Listing – Means the narrowing of the field of offerors through the selection of the most qualified offerors who have responded to an RFQ.

Technical Proposal – Means that portion of a design-build proposal which contains design solutions and other qualitative factors that are provided in response to the RFP document.

Verification Sampling and Testing – Sampling and testing performed to validate the quality of the product for those quality characteristics that contain pay adjustment tables.

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I. Construction and Contract Administration for Design-Build Projects

This section specifies the roles and responsibilities of FHWA and LADOTD on both full oversight and delegated design-build projects.

1. Delegation of Oversight Responsibilities

The following table defines oversight responsibilities for Federal-Aid funded Design-Build projects in Louisiana.

Design-build Projects	Oversight Responsibility
All Interstate Projects	FHWA
All NHS (non-Interstate) Projects	FHWA
Non-NHS and Locally Administered Projects	LADOTD
All Major Projects (>500 million). All routes.	FHWA
All Bridges Projects on any route with and estimated construction cost > \$ 50 million.	FHWA
All ITS Projects (see note 2 below)	FHWA

Note 1: NHS-projects are defined by system, irrespective of Federal funding source.

Note 2: As defined by 23 CFR 940 an ITS project is any project that in whole or in part funds the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of on or more ITS User Services as defined in the National ITS Architecture.

Exceptions:

1. State Administered projects (delegated) may be selected for full oversight by mutual agreement between FHWA and LADOTD. The selection will be agreed upon by the FHWA Assistant Division Administrator and the LADOTD Chief Engineer. Examples of projects which may be selected: Complex Emergency Relief projects, Major or complex bridge structure projects, or projects which involve a high degree of public controversy or environmental impacts.
2. A full oversight project may be delegated by mutual agreement between FHWA & LADOTD. The selection will be agreed upon by the FHWA Assistant Division Administrator and the LADOTD Chief Engineer. Examples of projects likely to be selected: NHS projects which do not affect traffic such as landscaping, rest area construction, fencing, signing, and enhancement projects.

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2. Roles and Responsibilities of FHWA and LADOTD

a. Delegated (State Administered) Projects

(1) LADOTD Project Responsibilities on Delegated Projects

As a condition to accepting Federal-aid highway funds, LADOTD agrees to follow all applicable project and program requirements. In addition, as party to this agreement, LADOTD assumes project oversight responsibilities in accordance with the following:

NHS Projects Delegated to LADOTD

LADOTD assumes oversight responsibility for the design, plans, specifications, estimates, design exceptions, contract award, and inspection of all NHS projects which have been delegated to LADOTD as defined in Section II of the 2007 Stewardship Agreement. All NHS projects must comply with all Title 23 U.S.C. and non-Title 23 U.S.C. requirements.

Non-NHS Projects

LADOTD assumes oversight responsibility for the design, plans, specifications, contract award, and inspection of projects not on the NHS. Non-NHS projects are required to be designed, constructed, operated, and maintained in accordance with State law, regulations, directives, safety standards, design standards, and construction standards, in lieu of many Title 23 U.S.C. requirements. Title 23 U.S.C. requirements that are applicable to all Federal-aid projects include, but are not limited to transportation planning, procurement of professional services, Davis-Bacon wage rates, advertising for bids, award of contracts, use of convict produced materials, Buy America Act provisions and other requirements. All non-NHS projects must also comply with all non-Title 23 U.S.C. requirements.

Local Agency Projects

LADOTD is responsible for assuring that all local agency Federal-aid projects comply with all applicable Federal and State requirements. LADOTD is not relieved of this responsibility even though the project may be delegated to the local agency. In accordance with 23 CFR 1.11 and 635.105, LADOTD is responsible for ensuring that the local agency has adequate staffing, project delivery systems, and sufficient accounting control to administer the project. If it is determined that a local agency is not equipped to adequately administer the project then LADOTD will either administer the project or withhold

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funding for the project until the local agency makes the necessary changes required to administer the project in accordance with State and Federal requirements.

(2) FHWA Project Responsibilities on Delegated Projects

For projects delegated to LADOTD, as defined in Section II of the 2007 Stewardship Agreement, FHWA retains authority for the following actions and approvals:

1. FMIS Transactions
 - a. Project Authorizations
 - b. Modifications to project agreements
 - c. Final vouchers
2. Waivers to Buy America requirements (FHWA Washington Headquarters (HQ) approval required as noted in Mr. Horne's July 3, 2003 memorandum).
3. SEP-14/SEP-15 method (FHWA HQ approval required for experimental contracting/project delivery methods).
4. Environmental approvals except those specifically delegated under Sections 6004 and 6005 of SAFETEA-LU.
5. Addition of access points to the Interstate Highway System.
6. Use of Interstate airspace for non-highway-related purposes.
7. Hardship acquisition and protective buying.
8. All non-Title 23 U.S.C. requirements including but not limited to:
 - a. National Environmental Policy Act (NEPA) of 1969
 - b. Section 4 (f) of the DOT Act of 1966
 - c. Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970

b. Full Oversight Projects

(1) FHWA Project Responsibilities on Full Oversight Projects

In addition to the 2007 Louisiana Federal-Aid Highway Program Stewardship Agreement, Section I – Construction Contract Administration, the following responsibilities apply to design-build projects:

1. RFQ Review and Concurrence
2. RFP Review and Approval – RFP shall be consistent with applicable design build provisions on 23 CFR including those in Parts 636 Design-Build Contracting.
3. Alternate Technical Concepts Approval

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4. Addenda Approval
5. Supplemental Agreement Approvals
6. Contract Concurrence in Award
7. Contract Change Order Approval

3. Methods of Oversight

a. Program Approval Actions

Approval actions remain as established in the 2007 Louisiana Federal-Aid Highway Program Stewardship Agreement, Section I – Construction Contract Administration.

b. Project Approval Actions

In addition to the 2007 Louisiana Federal-Aid Highway Program Stewardship Agreement, Section I – Construction Contract Administration, the following responsibilities apply to design-build projects:

1. FHWA will review and approve the RFQ for Construction Engineering and Inspection services associated with any design-build project to ensure the Construction Engineering and Inspection services scope of work, in particular, complies with the FHWA's expectations for the design-build acceptance program.
2. FHWA will concur with the issuance of the RFQ.
3. FHWA will review and approve Public Interest Findings for proprietary or patented items.
4. FHWA will approve the RFP prior to its release to the short-listed design-build entities. FHWA approval of the RFP document carries the same significance as PS&E approval.
5. FHWA will review and approve all Alternate Technical Concepts.
6. FHWA will approve all major addenda and proposal revisions prior to its issuance which results in major changes to the RFP.
7. FHWA will approve all supplemental agreements.
8. FHWA will concur in award.
9. FHWA will approve design exception requests.
10. FHWA will review and concur with all plan submittals (grade and drains, roadway, bridge structures, etc.) prior its release for construction.
11. FHWA will review and approve all Contract Change Orders.
12. On design-build projects where a RFP is approved by FHWA prior to the completion of the NEPA process:

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- a. The RFP approval will only constitute the FHWA’s approval of the LADOTD request to release the RFP.
- b. FHWA will concur with the Contract Award.
- c. FHWA will concur with issuance of Notice to Proceed for preliminary design services.
- d. Once the NEPA process is completed, FHWA will review the preliminary design to ensure that any decision and commitment reached on the NEPA documents are implemented on the preliminary plans. FHWA approval will be needed if modifications are required on the preliminary plans. The procurement process will stop until the NEPA process is completed.
- e. After the completion of the NEPA process, FHWA authorization will be required to proceed with final design and construction.

The following table defines approval actions on full oversight and state administered projects (delegated) in Louisiana.

PROJECT ACTIVITIES		AGENCY RESPONSIBLE	
		Full Oversight Projects	State Administered Projects (Delegated)
Approval Actions	Reference Document		
Concur on Request for Qualifications (RFQ)	23 CFR 636	FHWA	LADOTD
Approve Request for Proposal (RFP or SOSP)	23 CFR 635.112(i)(1), 636	FHWA	LADOTD

RFP=Scope of Service Package (SOSP)

c. Monitoring for Full Oversight Projects

1. FHWA Division Office will:

In addition to the 2007 Louisiana Federal-Aid Highway Program Stewardship Agreement, Section I – Construction Contract

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Administration, the following responsibilities apply to design-build projects:

- a. FHWA will participate in the Statement of Qualification Review as an observer to provide assistance on federal regulations during the process.
- b. FHWA will participate in Alternate Technical Concept reviews and Alternate Technical Concept review committee meetings during the process.
- c. FHWA will participate in the Technical Proposal Review and offeror selection as an observer to provide assistance on federal regulations during the process.
- d. FHWA will participate on over the shoulder reviews.
- e. On Major Design-Build Projects, FHWA will concur with the Initial Financial Plan prior to FHWA concurrence in the issuance of the RFP.
- f. FHWA assigned personnel will sign any required confidentiality agreement during the procurement process.

2. LADOTD will:

In addition to the 2007 Louisiana Federal-Aid Highway Program Stewardship Agreement, Section I – Construction Contract Administration, the following responsibilities apply to design-build projects:

- a. LADOTD will involve FHWA assigned personnel early and continuously during the development of the RFQ and RFP.
- b. LADOTD will invite FHWA assigned personnel to the Statement of Qualifications Review.
- c. LADOTD will perform a Value Engineering study on all Federal-aid highway projects on the National Highway System with an estimated cost of \$25 million or more prior to the release of the Request for Proposals.
- d. LADOTD will involve FHWA assigned personnel on the

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Value Engineering Study and presentation.

- e. LADOTD will invite the FHWA assigned personnel to the Proposal Review Committee.
- f. LADOTD will request FHWA approval on Public Interest Findings for proprietary or patented items prior to the release of the RFP.
- g. LADOTD will request FHWA approval (via formal request) prior to releasing the Request for Proposal (RFP) document to the short-listed Design-Builders.
- h. LADOTD will distribute Alternate Technical Concept submissions to assigned FHWA personnel for review and approval and invite FHWA assigned personnel to Alternate Technical Concept reviews and committee meetings.
- i. LADOTD will request approval from FHWA Division Administrator prior to issuing addenda which result in major changes to the RFP. Minor addenda need not receive prior approval.
- j. LADOTD will submit a post-award tabulation of Proposal prices and proposer's evaluation scores with the Request for Concurrence in Award.
- k. LADOTD will provide FHWA with assurance that all Proposers have received all issued addenda prior the FHWA approval of the RFP.
- l. LADOTD will request FHWA approval of any plan submittals (grade and drains, roadway, bridge structures, etc) prior its release for construction.
- m. LADOTD will request FHWA concurrence for Initial Financial Plans on Major Design-Build Projects prior to issuance of a RFP.
- n. LADOTD will submit an Evaluation Report (1-2 pages) for those approved Alternate Technical Concepts (ATCs) that are used as the bases for price and technical proposals.

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d. Business Standards

The time frames stated herein may be reduced in emergency or unusual situations as approved by the FHWA Division Administrator. Established timeframes assume early and continuous coordination. Early coordination during the RFQ and RFP development is strongly encouraged.

1. LADOTD will allow FHWA 10 business days, from receipt date, to review and concur with the issuance of the RFQ.
2. LADOTD will allow FHWA 15 business days, from receipt date, to review and/or approve the RFP.
3. LADOTD will E-mail Alternate Technical Concepts to the FHWA assigned personnel for review within two business days of receipt from a Proposer. LADOTD will allow FHWA 5 business days from receipt date, to review and/or approve ATCs.
4. LADOTD will allow FHWA 10 business days, from receipt date, to review and/or approve major addenda.
5. LADOTD will allow FHWA 10 business days, from receipt date, to review and/or concur in award.
6. LADOTD will allow FHWA 10 business days, from receipt date, to review and/or approve the submitted plans.
7. LADOTD will allow FHWA 10 business days, from receipt date, to review and/or concur with the Initial Financial Plans on Major Design-Build Projects.
8. LADOTD will submit the ATC's Evaluation Report to the FHWA Louisiana Division Office within 8 weeks of contract award.

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STEWARDSHIP AGREEMENT

**Louisiana Stewardship Agreement
Amendment #2
Design-Build**

FHWA and LADOTD mutually agree to the delegations defined in this section of the Stewardship Agreement as allowed by Title 23 Section 106 and further agree to abide by the procedures, practices, and business standards outlined throughout this Stewardship Agreement.

It is further agreed that incremental changes may be made to this agreement with the concurrent approval of the Chief Engineer of the LADOTD and the Assistant Division Administrator of FHWA for Louisiana, while retaining the integrity of the overall Stewardship Agreement.

This agreement supplements the existing stewardship agreement dated 09/01/2007 between the FHWA and the LADOTD.


Charles W. Bolinger
FHWA LA Division Administrator


Sherri H. LeBas
Secretary
Louisiana Department of
Transportation and Development

Effective Date: 8/26/2011



**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT D – DESIGN-BUILD
ORIENTATION AND TRAINING**



Example Design-Build

Orientation & Training

March 29, 2011

Training Objective

- Understanding of Design-Build Delivery Method and LA DOTD's DB Procurement Process

The Design-Build Relationship

- **DB is a different way of doing business**
 - **Built on the tenets of teamwork, trust, and ownership**
 - **The team is DOTD and the Design-Builder working together for the success of the Project**
 - **The relationship is not arms length or adversarial**
 - **Quality is embodied in the process**
 - **Flexibility and opportunity for innovation and creativity are encouraged**
 - **Uses partnering**
 - **Empowers decision-making at the lowest levels of the team**

Design-Build Versus Design-Bid-Build

- Big Projects Split ... “Spread the Work”
- Separate Designer and Contractor
- Designer ... “Mini-Brooks Bill” (Qualifications Based Selection)
- Full Design Review
- Owner Owns Design
- Contractor ... “Low Bid” ... Open Bidding
- Owner Manages Interfaces
- Owner Quality Control/Quality Assurance
- Changes and Claims and Litigation

Design-Build Versus Design-Bid-Build

Some National Best Practices

- Prequalification / Short Listing
- Best Value Award Method
- Packaging
- Financing
- Warranties and Long-Term Maintenance
- Design-Build and Construction Management at Risk
- Contractor **Quality Control/Quality Assurance**
- Incentives ... Award Fees
- Trust ... Partnering

The Design-Build Decision

Reasons for Design-Build

- **Time Savings**
 - Early Completion/Less Public Impact
- **Cost: Savings/Known Early/Certainty**
 - Lower Cost and Certainty of Final Cost
- **Increased Quality**
 - Innovation/Creativity
 - Maximize Strength of Contractor
- **Available Owner Staffing**
 - Less Management/Coordination by Owner

The Design-Build Decision

Reasons for Design-Build

- Less Management Effort
 - Single Source Responsibility/Accountability
- Improved Risk Management
- Less Conflict
 - Avoid Adversarial Interface/Disputes between Design & Construction
 - Change Orders Reduced
 - Claims Reduced

The Design-Build Decision

Contractor Concerns

- “Design-Build only works on ‘big’ projects.”
- “The ‘big’ contractors will take all the work.”
- “Won’t be able to get a fair subcontract price ... I’ll be squeezed”
- “Don’t want to be responsible for design or MPT or quality.”

The Design-Build Decision

Contractor Concerns (continued) ... but

- “If I could have designed this ...”
- “I do quality work ... I’m offended by the implication, that I can’t be trusted!”
- “We take ‘pride’ in our construction.”
- “I welcome the responsibility to plan, design, construct and control this project.”

The Design-Build Decision

Owner Concerns

- #1: “Quality.”
- “I can’t trust a contractor.”
- “My job is to protect the public trust and safety.”
- “We are the only ones that can assure the project is done right.”
- “We’ll lose control.”

Procurement Strategy



**When is the right
time to start
strategizing your
procurement?**

Steps in the Procurement Process ... *Best Practices*

- Notice of Intent (**NOI**)
- Informational Meeting
- Request for Qualifications (**RFQ**)
- Short Listing
- **Draft Request for Proposals (RFP)**
- Issue **RFP**
- **Technical Concepts Review/Alternate Technical Concepts**
- Proposal Evaluation
- Selection / Award
- Contract Execution / Notice to Proceed

The DB Procurement Process ... *What's Different?*

- Basic Documents are:
 - Notice of Intent (**NOI**)
 - Request for Qualifications (**RFQ**)
 - Request for Proposals (**RFP**)

Specifications for Design-Build

- Prescriptive vs. Performance
 - Prescriptive (traditional)
 - “How to” do it
 - Performance
 - Define “required results”

Technical Provisions

■ Quality Program

- Responsibility of Design-Builder
- Design: “... procedures for design quality; checking; design review ... and approval of Working Plans.”
- Construction: “... procedures for Materials handling and construction quality; Inspection, sampling and testing of Materials, plants, production and construction; Material certifications; calibration and maintenance of Equipment; and monitoring of environmental compliance.”
- Documentation of all **quality activities** related to design and construction

Technical Provisions

■ Quality – Department’s Role

- **Oversight** to Provide Confidence that Design-Builder is Performing to **Quality Plan**
- Design: “... monitoring and verification ... through auditing, spot-checking, and participation in the review of the design.”
- Independent Assurance & Documentation of **the Design-Builder’s Quality Program**
- Final Inspection and Acceptance

Technical Provisions - *Design Review*

- Design-Builder Responsible for:
 - Design Quality Control Plan
 - Conducting Design Review of:
 - Preliminary Design
 - Readiness for Construction or Interim Design
 - Final Design
 - Working Plans
 - Signing and Stamping of Drawings

Technical Provisions - *Design Review*

- Department Responsible for:
 - Participating in Design Review
 - Providing “Consultation and Written Comment” ... **Department does not Approve Design Prior to As-Built Plans.**
 - Non-Conformance Reports
 - Conducting Design Review and **Approval** of As-Built Plans

Technical Provisions - *Construction Oversight*

- Responsibility of Department
- More Efficient use of Staff
- Elements:
 - Facilitates Design-Builder's Success
 - Empowered to Resolve Issues
 - Use of Verification, Auditing & Checking Techniques
 - Verification & IA Sampling & Testing
 - QA Documentation
 - Final Inspection and Acceptance

Technical Provisions - *Change Orders*

- Mechanics the Same; Justifications Different
- Most Changes are Derived Based on Incorrect or Erroneous Information Provided in Contract:
 - EX: Faulty Warranted Geotechnical Investigation Data
 - Significant Changes in Character of the Work
 - Necessary Basic Project Configuration Change
 - Changes in Environmental Mitigation
 - Accuracy of Existing Utility Relocations
 - Significant Variation in Harmful / Hazardous Materials
 - Inaccuracies in Preliminary Design
- Site Conditions Different from Those that could be Reasonably Discerned from an Inspection of the Site

Design-Build

Orientation and Training

**Wrap-Up
and
Conclusion**

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT E – PROCUREMENT
STRATEGY SESSION**

**EXAMPLE POWER POINT™
PRESENTATION**



Project

Procurement Strategy Workshop

March 29, 2011

Workshop Objectives

- Understand Design-Build (DB) project delivery method and LA DOTD's DB procurement process
- Outline Project scope
- List Project stakeholders
- Identify Project goals
- Identify, assess, and allocate risk
- Decide on specific Project approaches
- Select RFQ evaluation factors
- Tentatively select RFP evaluation factors

Getting Started ... *The Process of Developing a DB Procurement Strategy*



Discuss the Status of the Project Elements

Examples:

- Preliminary Engineering
- Environmental documentation
- Utility identification/relocation
- Right-of-Way acquisition
- Project footprint

Getting Started ... *The Process of Developing a DB Procurement Strategy*

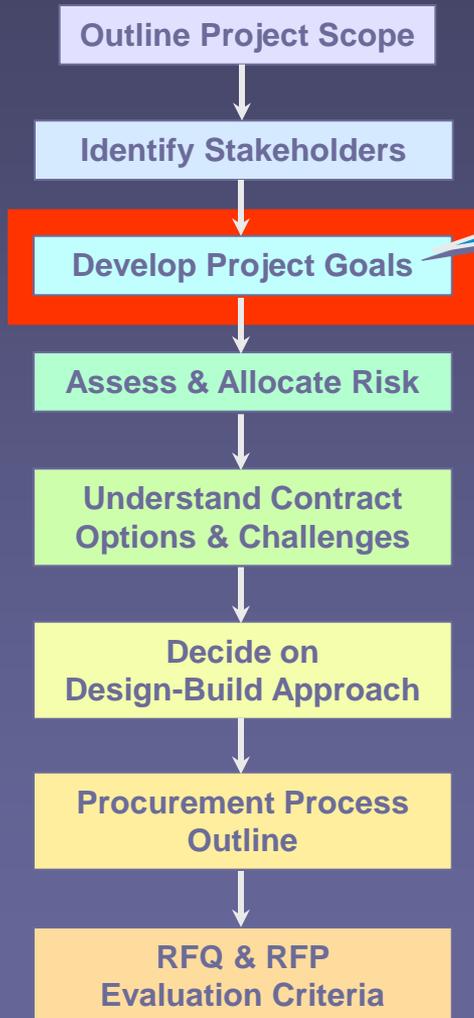


Involvement in the Process
Builds “Ownership”

Examples:

- FHWA
- Coast Guard
- RRs/Utilities
- Wildlife; Fish
- Cities
- Businesses
- Parishes
- Land Owners
- COE / EPA
- State DEQ
- Neighborhood Communities

Getting Started ... *The Process of Developing a DB Procurement Strategy*



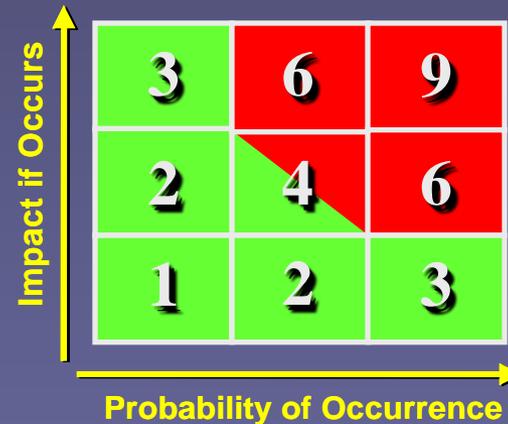
- TIME
- QUALITY
- COST

Key to the Strategy!
“Guide Every Decision”

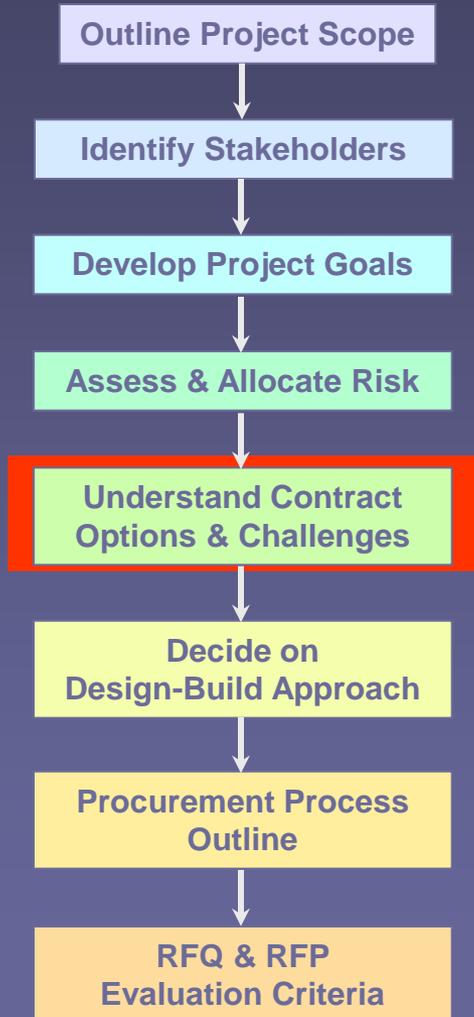
Getting Started



Risk Analysis



Getting Started ... *The Process of Developing a DB Procurement Strategy*



There are many ways to contract for Design-Build

... some better than others

Understanding Contracting Options

- Take into account state and federal law ...
and Rules and Regs
- Options ... *Some Examples*
 1. Emphasis on price (effectively “low bid”)
 2. Price and Technical Proposal weighted “equally”
 3. Technical Proposal weighted more heavily than price
 4. Stipulated price
 5. Any of the above options with Alternative Technical Concepts

FHWA and Design-Build

FHWA Design-Build Regulations allow:

- One- or Two-Phase Process; Short-Listing
- Low Bid or Best Value Selection (any combination of quality & price)
- Prescriptive or Performance Specs and Minimum PE
- Draft **RFP** Review; Alternative Technical Concepts; Stipends
- Tradeoffs; Discussions; Proposal Revisions (Best and Final Offers)
- Limited Negotiations after Selection and Prior to Contract Execution
- ROW Acquisition Activities by Agency or Design-Builder After Award; Utility Relocations by Design-Builder

FHWA and Design-Build

FHWA Design-Build Regulations require:

- Certain steps must be followed if DB RFP issued prior to NEPA decision
- Approval of **RFP** Document by FHWA Division Administrator ... *Project Authorization*
- Verification sampling and testing, acceptance testing, and Independent Assurance (Quality Assurance) by the Agency

Getting Started ... *The Process of Developing a DB Procurement Strategy*



Design-Build is a “**different way**” of doing business, and there are “**different ways**” to do the Design-Build Business.

Deciding on a Design-Build Approach

- Every Design-Build Project is **Unique**
- **Variations** in Approach to DB:
 - Bidding to **Proposing** to Negotiating
 - Low Price to **Best Value** to QBS to Sole Source
 - Significant to **Little** to No Preliminary Design
 - Traditional to **Shared** to No Owner's Risk
 - Prescriptive or **Performance** Specifications

Specifications for Design-Build

- Prescriptive vs. Performance
 - Prescriptive (traditional)
 - “How to” do it
 - Performance
 - Define “required results”

Getting Started ... *The Process of Developing a DB Procurement Strategy*



Other Approaches

- Owner's Role (conversely, Design-Builder's role) in:

... **QC and QA**

... **Design Review**

... **Public Relations**

... **Permits**

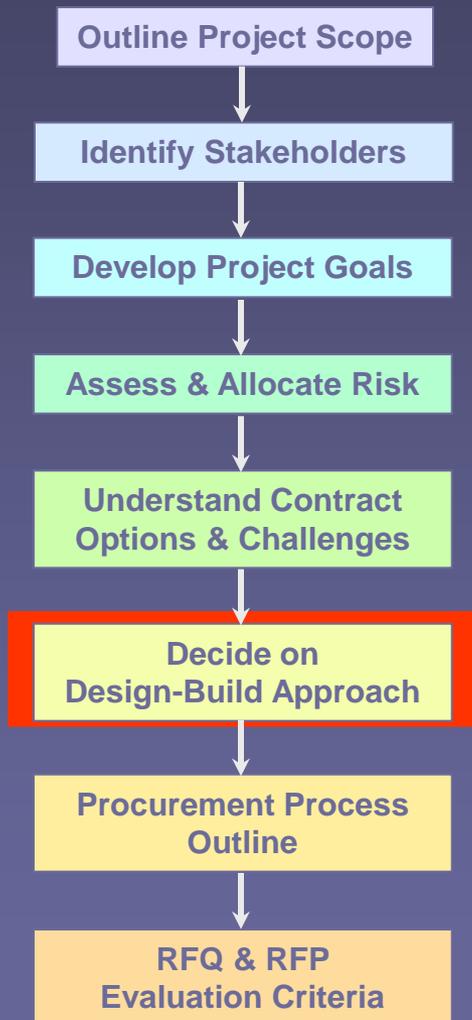
- Partnering

- Incentives (Award Fees)

- Fast-Track

... **Early Construction**

Getting Started ... *The Process of Developing a DB Procurement Strategy*



Other Approaches ... *continued*

- Financing
- Warranties/Maintenance
- Utility Agreements
- ... *Relocation by DB*
- Concurrent ROW
- ... *Executed by DB*
- RR Coordination
- Community Gateways
- Wrap-up Insurance
- Stipends

Getting Started ... *The Process of Developing a DB Procurement Strategy*

Typical Steps



- Notice of Intent (**NOI**)
- Informational Meeting/One-on-One Meetings
- Request for Qualifications (**RFQ**)
- Short-Listing
- Review Draft Request for Proposals (**RFP**)
- Issue **RFP**
- Technical Concepts Review/Alternate Technical Concepts
- Proposal Evaluation
- Selection
- Award
- Contract Execution / Notice to Proceed

Notice of Intent (NOI) ... *Elements*

- Contents

- Brief Project Description and Scope of Work
- Brief Description of Procurement Process
- “Teamwork” Statement

“... seeking Design-Builders... committed to quality, have proven experience in design and construction of... will bring innovative design-build approaches to ensure timely completion... willing to partner with LADOTD for the mutual success of the Project”

- Purpose

- Announces Project
- Defines Project
- Stimulates Interest
- Initiate Communication

- ◆ *Facilitates Formation of DB Teams*
- ◆ *Provides Contact Info*

Request for Qualifications (RFQ) ... *Elements*

- Brief Project Description
- Outline of Overall Procurement Process
- “Rules of the Game”
- Evaluation and Short List Criteria
- Information to Submit with Statement of Qualifications (SOQ)
 - Forms

The Request for Proposals (RFP) ... *Elements*

- Instructions to Proposers
- **Contract Documents**
 - Agreement & DB Section 100, General Provisions
 - Performance Specifications
 - Engineering Data
 - Plans
- Reference Documents (Project Data & Info.)

Instructions to Proposers

- Factors to be Evaluated
- What to Submit (and when)
 - Forms
- Criteria Guiding Evaluation
 - “What’s Important to Owner”
- Ratings Guidelines
- How Selection will be Made
- Stipend

The DB Procurement Process ... *What's Different?*

- Informational Meetings
 - Initial Industry Meeting
 - Meetings with Short-Listed Proposers
 - Group
 - One-on-One
- Draft **RFP** Review
- Technical Concepts Review
- Alternative Technical Concepts

The Evaluation & Selection Process ... *What's Different?*

- The **Best Practice** Evaluation Process uses:
 - Clarifications
 - Adjectival Rating Method and Point conversion
 - Recommendations by Evaluation Teams
 - Consensus of Committees for:
 - Quality Ratings for Each Technical Evaluation Factor
 - Overall Technical Quality Rating for Each Proposal

The DB Procurement Process

... What's Different?

- Confirmation of Final Total Technical Scores
 - Notification of all Proposers' Scores
 - Two Days to Request Meeting in Writing
 - If Meeting Granted:
 - No information from competing Proposals will be shared
 - Meeting will be held prior to Lump Sum Price Proposal opening

The DB Procurement Process

... What's Different?

- Determining the Winner
 - Open Price ... Price & Schedule (if Time Value used) are sealed until after final technical scores are determined.
 - Calculate Adjusted Score (lowest wins)
- Award and Post Award
 - Review Price
 - Award to Winner / Notify Unsuccessful
 - Conduct Debriefings
 - Make Final Technical Ratings / Scores Available for Public Review (each member and each proposal)

The Evaluation & Selection Process ... *What's Different?*

■ The Adjectival Ratings:

EXCEPTIONAL ~ The proposer has demonstrated an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the department. This rating indicates a consistently outstanding level of quality, with very little or no risk that this proposer would fail to meet the requirements of the solicitation. There are essentially no weaknesses.

GOOD ~ The proposer has demonstrated an approach that is considered to exceed stated criteria. This rating indicates a generally better than acceptable quality, with little risk that this proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE ~ The proposer has demonstrated an approach that is considered to meet the stated criteria. This rating indicates an acceptable level of quality. The proposal demonstrates a reasonable probability of success. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE ~ The proposer has demonstrated an approach that indicates significant weaknesses/deficiencies and/or unacceptable quality. The proposal fails to meet the stated criteria and/or lacks essential information and is conflicting and/or unproductive. There is no reasonable likelihood of success; weaknesses/deficiencies are so major and/or extensive that a major revision to the proposal would be necessary.

In assigning ratings the Department may assign “+” or “-” (such as “Exceptional -”, “Good +”, “Acceptable +”) to the ratings to more clearly differentiate between the Proposals.

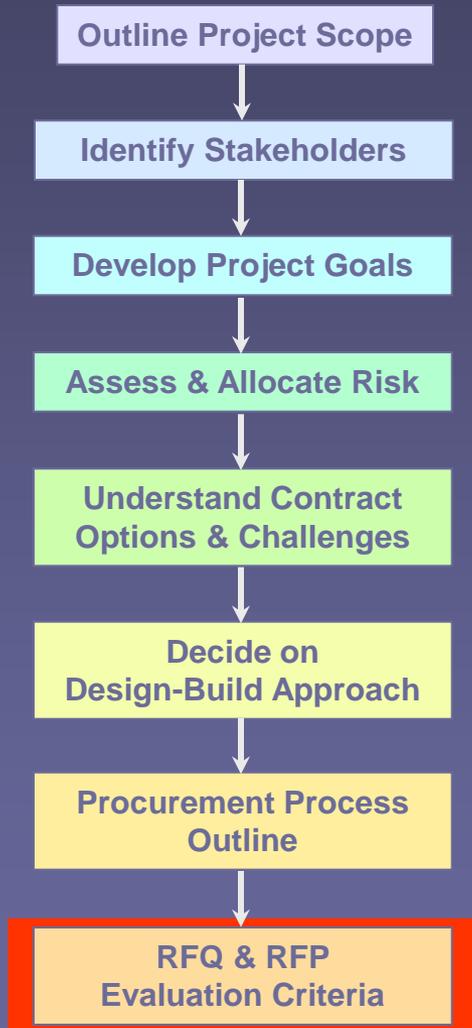
The Evaluation & Selection Process ... *What's Different?*

- Evaluation Process Guided by :
 - Evaluation & Short-List Plan (RFQ)
 - Evaluation & Selection Plan (RFP)
- A Procurement Management Team to Manage Actual Evaluation Process

“RFQ and RFP Evaluation & Selection Plans”

- Critical to the Discipline, Confidentiality, Fairness, Credibility, & Dependability of the **Process**
- Modeled after the Federal “Source Selection Plan”
- Contains all the Functions, Procedures & Guidelines for Everyone in **the Process**

Getting Started ... *The Process of Developing a DB Procurement Strategy*



Starts Preparation of:

- Evaluation & Selection Plans
- Notice of Intent (**NOI**)
- Request for Qualifications (**RFQ**)
- Request for Proposals (**RFP**)

The DB Procurement Process ... *What's Different?*

- **RFQ** Evaluation Factors:
 - (Pass/Fail) Legal
 - (Pass/Fail) Financial
 - Organization and Key Managers
 - Experience
 - Past Performance
 - Project Understanding

The DB Procurement Process ... *What's Different?*

- **RFP** Evaluation Factors:
 - (Pass/Fail) Legal
 - (Pass/Fail) Financial
 - Management Approach
 - Key Personnel and Experience
 - Technical Solutions
 - Project Support

Procurement Strategy Workshop

“Understanding the Design-Build Process”

Questions & Answers

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT E – PROCUREMENT
STRATEGY SESSION**



RISK IDENTIFICATION, ASSESSMENT, AND ALLOCATION

Risk Identification	Risk Assessment			Risk Allocation			Mitigation/Effect of Allocation/Comments
	Probability	Impact	Risk Score	LA DOTD	Contractor	Share	
Archeological							
Community Opposition							
Constructability							
Coordination – Governmental Entities							
Coordination - Other LA DOTD Contracts							
Delay in Environmental Approvals							
Environmental Permit Compliance							
Exceeding Project Budget							
Financing (Availability)							
Financing (Timing)							
Geotechnical Conditions							

RISK IDENTIFICATION, ASSESSMENT, AND ALLOCATION

Risk Identification	Risk Assessment			Risk Allocation			Mitigation/Effect of Allocation/Comments	
	Probability	Impact	Risk Score	LA DOTD	Contractor	Share		Insure
Hazardous Materials								
Hydraulics/Scour								
Maintenance of Traffic								
Major Design Errors								
Owner Directed Design Changes								
Permits (Administrative)								
Price of Steel and/or Concrete and other Market Fluctuations after Award								
Project Bonding								
Railroad Coordination								
Relocations by Utilities								

RISK IDENTIFICATION, ASSESSMENT, AND ALLOCATION

Risk Identification	Risk Assessment			Risk Allocation			Mitigation/Effect of Allocation/Comments	
	Probability	Impact	Risk Score	LA DOTD	Contractor	Share		Insure
Right-of-Way Acquisition								
Safety								
Schedule								
Security								
Third Party Litigation								

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT F – EXAMPLE
CONFIDENTIALITY AND NON-
DISCLOSURE STATEMENT AND
EXAMPLE NOTICE OF INTENT**



**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT F – EXAMPLE
CONFIDENTIALITY AND NON-
DISCLOSURE STATEMENT**



[Insert the name of the project] PROJECT

**CONFIDENTIALITY AND NON-DISCLOSURE STATEMENT
FOR DESIGN-BUILD CONTRACT PROCUREMENT**

I, _____, as a participant in the procurement for the **[Insert the name of the project]** Project (Project), hereby agree to the following, except as otherwise provided by law:

- A) I will maintain the confidentiality of all proprietary or trade secret information that I gain access to as a result of my participation in the procurement process. Proprietary or trade secret information includes codes, patterns, formulae, designs, devices, methods, or processes. Confidential information includes information submitted from or on behalf of any of the Proposers submitting Statements of Qualifications (SOQ) and/or Proposals in response to the Request for Qualifications (RFQ) and/or Request for Proposals (RFP), as appropriate, (either as part of its SOQ or Proposal or included in supplemental information requested by the LA DOTD and including information from supporting firms, such as, sureties or banks); all evaluation process materials; and/or any other information that might be considered sensitive which I have heard, seen, or reviewed (collectively known as “Procurement Information”);
- B) I will follow the Evaluation and Short-List (E&SL) Plan and/or Evaluation and Selection (E&S) Plan, as appropriate, as issued by the LA DOTD. I will maintain security and control over all documents containing Procurement Information in my custody during the procurement process. I will not make copies of any documents or remove documents from the locations assigned for evaluations and will return all documents to the Design-Build (DB) Procurement Management Team when my work with the documents is completed; and
- C) I will not divulge any Procurement Information regarding the procurement process to any representative of the Proposers submitting Proposals in response to the RFP. I will not divulge any Procurement Information regarding the procurement process to any person not directly involved in the procurement process, including, the media; members of the public; employees of firms or consultants that have not submitted an SOQ or a Proposal in response to the RFQ or RFP, as appropriate; other LA DOTD employees; or stakeholder employees. Internal Procurement Information exchange will be conducted only as necessary to conduct the procurement process. If contacted by any representative of a Proposer that has submitted an SOQ or a Proposal in response to the RFQ or RFP, as appropriate; the media; the public; or any employee of the LA DOTD, stakeholders, firms, or consultants not involved in the procurement process, I will not discuss the procurement process and will promptly report every such case of attempted communications to the DB Procurement Management Team.

This Confidentiality and Non-Disclosure Agreement is subject to the laws of the State of Louisiana and applicable rules and regulations.

Louisiana Department of Transportation and Development

Signed: _____ Date: _____

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT F – EXAMPLE NOTICE OF
INTENT**



Louisiana Department of Transportation and Development



_____**[Insert the name of the project]**_____

DESIGN-BUILD PROJECT
NOTICE OF INTENT



The Louisiana Department of Transportation and Development (LA DOTD) is announcing the LA DOTD’s intent to enter into a Design-Build (DB) procurement with a Design-Builder, possessing both professional engineering design capability and qualified construction contracting capability, for the _____**[Insert the name of the project]**_____ Project.

The major elements of the Project as currently proposed includes the following elements:

- _____**[Insert a major project element. Expand this list as needed for a specific project.]**_____.
- _____**[Insert a major project element. Expand this list as needed for a specific project.]**_____.
- _____**[Insert a major project element. Expand this list as needed for a specific project.]**_____.
- _____**[Insert a major project element. Expand this list as needed for a specific project.]**_____.

The anticipated contract award and completion dates for the Project are _____**[Insert the anticipated contract award date]**_____ and _____**[Insert the anticipated contract completion date]**_____, respectively. The estimated total design and construction cost of the Project will not exceed \$ _____**[Insert the estimated total design and construction cost of the project]**_____.

The selection process will consist of two phases. Responses to this Notice of Intent (NOI) and the following Request for Qualifications (RFQ) will be evaluated to establish a short-list of proposers that will be invited to submit proposals in response to the Request for Proposals (RFP). The selection process will evaluate the ability of the proposers to plan, design, construct, and control this Project to provide a quality product, on or ahead of schedule, for the stated budget. A key factor in the selection process will be the length of the project achieved within the stated budget.

The Louisiana Department of Transportation and Development is seeking a Design-Builder that is committed to quality; has proven experience in the management, design, and construction of highway projects; will bring innovative approaches to the Project; will ensure timely completion; and is willing to partner with the LA DOTD for the mutual success of the Project.

Firms/Teams interested in providing the services for this Project should provide a Letter of Interest (LOI) to _____**[Insert the name of the Contract Services Administrator]**_____, Contract Services Administrator, who is the official LA DOTD point of contact for this project by E-mail (_____**[Insert the E-mail address of the Contract Services Administrator]**_____).

Louisiana Department of Transportation and Development

All correspondence with the LA DOTD on matters concerning this project should be made through the Contract Services Administrator and is required to be via E-mail.

An LOI from firms/teams in response to this NOI will be due by ____ **[Insert the time by which LOIs will be due]** ____ (Central Time) on ____ **[Insert the LOI due date]** ____ . The LOI should, at a minimum, name the proposed PRIMARY team members (if the LOI is being submitted by a team) and contact information (name, telephone number, address, and E-mail address) for the official point of contact for the firm/team.

Firms/teams that provide the LA DOTD with an LOI will be issued RFQ and will be placed on a list of interested firms that will be placed on the LA DOTD Web site (<http://www.dotd.la.gov>). Those firms that submit an LOI will also be invited to attend a Project group informational meeting.

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT G - EXAMPLE REQUEST FOR
QUALIFICATIONS AND EXAMPLE
EVALUATION AND SHORT-LIST PLAN**



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

EXAMPLE REQUEST FOR QUALIFICATIONS



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1.0 INTRODUCTION AND GENERAL INFORMATION

The purpose of this Request for Qualifications (RFQ) is to seek Statements of Qualifications (SOQ) from a limited number of qualified Proposers for the design, construction, and other identified activities for the _____ **[Insert the name of the project]** _____ Design-Build (DB) Project (Project).

Statements of Qualifications will only be accepted from Proposers intending to provide services required under the Contract. Responses from individual engineering, construction, or consultant firms not offering to provide all required services will not be accepted.

This RFQ is being issued concurrently with development of the environmental documentation and acquisition of all environmental permits that may determine particular items within the final scope of services as well as many Project requirements. Any Work described herein is subject to adjustment as a result of the environmental documentation/permits and by other decision of the Louisiana Department of Transportation and Development (LA DOTD).

1.1 ABBREVIATIONS AND DEFINITIONS

This Request for Qualifications includes abbreviations and specific defined terms as indicated below.

1.1.1 Abbreviations

CPA	Certified Public Accountant
CFO	Chief Financial Officer
DB	Design-Build
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
IA	Independent Assurance
ITP	Instructions To Proposers
JV	Joint Venture
LOI	Letter Of Interest
LLC	Limited Liability Company
LA DOTD	Louisiana Department of Transportation and Development
MOU	Memorandum Of Understanding
NOI	Notice Of Intent
NTP	Notice To Proceed
PE	Preliminary Engineering
PI	Public Information
QA	Quality Assurance
QC	Quality Control
RFQ	Request For Qualifications
ROW	Right(s)-Of-Way
SEC	Securities and Exchange Commission
SOQ	Statement Of Qualifications
US	United States

1.1.2 Definitions

“Addenda/Addendum” means supplemental additions, deletions, and modifications to the provisions of the RFQ after the Advertisement date of the RFQ.

“Advertisement” means a public announcement in the form of the Notice Of Intent (NOI) inviting prospective Proposers to obtain an RFQ and submit an SOQ. The Advertisement includes a brief description of the Work proposed to be the subject of the procurement with an announcement where the RFQ may be obtained, the terms and conditions under which SOQs will be received, and such other matters as the LA DOTD may deem advisable to include therein. The Advertisement for this Project was published on ____ **[Insert the date that the NOI was published]** ____.

“Affiliate” means any of the following:

- A) A Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:
 - 1) The Proposer; or
 - 2) Any other Principal Participant; or
- B) An Affiliate may also be any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
 - 1) The Proposer;
 - 2) Any Principal Participant; or
 - 3) Any Affiliate of the Proposer under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

“Clarifications” means a written exchange of information that takes place between a Proposer and the LA DOTD after the receipt of all SOQs during the evaluation process. The purpose of Clarifications is to address ambiguities, omissions, errors or mistakes, and clerical revisions in an SOQ.

“Construction Subcontractor” means a subcontractor retained by the Proposer that will be involved in the actual construction of the Project.

“Constructor” means a Principal Participant or Construction Subcontractor retained by the Proposer that is involved in the actual construction of the Project.

“Contract” means the written agreement between the LA DOTD and the successful Proposer setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the Work, the furnishing of labor and material, and the basis of payment. The Contract includes the Contract Documents identified in the Request for Proposals (RFP); the successful Proposer’s Technical Proposal; the successful Proposer’s Price Proposal; the Notice To Proceed (NTP); and any amendments, supplemental agreements, and change orders that are required to complete the design and construction of the Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

“Contract Documents” means the Design-Build (DB) Agreement, DB Section 100, Design Requirements and Performance Specifications, any RFP Plans, any identified Engineering Data, the successful Proposer’s Technical Proposal, the successful Proposer’s Price Proposal, and all provisions required by law to be inserted in the Contract whether actually inserted or not. Whenever separate publications and the LA DOTD’s Standard Specifications are referenced in the Contract Documents, it is

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understood to mean the publication and Specifications, as amended, which are current on the date of Advertisement, unless otherwise noted.

“Deficiency” means a material failure of an SOQ to meet the LA DOTD’s requirements or a combination of significant Weaknesses in an SOQ that increases the risk of unsuccessful Contract performance to an unacceptable level.

“Department” means the Louisiana Department of Transportation and Development.

“Design-Build” means a project delivery methodology by which the LA DOTD contracts with a Person that has responsibility for the design and construction of a project under a single contract with the LA DOTD.

“Design-Builder” means the Person selected pursuant to the RFP that enters into the Contract with the LA DOTD to design and construct the Project (also referred to as the “DB Team”).

“Designer” means a Principal Participant, Specialty Subcontractor, or in-house designer that leads the team furnishing or performing the design of the Project.

“Independent Assurance” means activities that are an unbiased and independent (of the Design-Builder or Project staff) evaluation of all the design, sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Builder’s or LA DOTD’s) used in the acceptance program, including the Design-Builder’s Quality Control (QC). The LA DOTD, or the Quality Assurance/Quality Control (QA/QC) Engineering Firm retained by the LA DOTD, will perform Independent Assurance (IA).

“Instructions To Proposers” means those documents containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

“Lead Principal Participant” means the Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Proposer’s organization.

“Louisiana Department of Transportation and Development” means the Department or its representatives.

“Louisiana Department of Transportation and Development’s Project Manager” means the engineer representing the LA DOTD and having direct supervision of the administration and execution of the Contract.

“Person” means any individual, firm, corporation, company, Limited Liability Company (LLC), Joint Venture (JV), or partnership.

“Principal Participant” means any of the following entities:

- A) The Proposer;
- B) Individual firms, all general partners, or Joint Venture members of the Proposer; and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Proposer.

“Project” means the improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

“Proposal” means the offer (in response to the RFP) of the Proposer for the Work, when executed and submitted in the prescribed format and on the prescribed forms.

“Proposer” means a Person submitting an SOQ for the Project in response to this RFQ, and, if selected for the Short-List, an entity submitting a Proposal.

“Quality Assurance” means the independent and random verification conducted by the Design-Builder of its Quality Control (QC) program.

“Quality Assurance/Quality Control Manager” means the individual employed by the QC Engineering Firm who is responsible for the overall QC program for the Project, including the quality of management, design, and construction.

“Quality Control” means the total of all activities performed by the QC Engineering Firm, Design-Builder, Designer, subcontractors, producers, or manufacturers to ensure that a product meets Contract requirements. Quality Control includes design reviews and checks; inspection of material handling and construction; calibration and maintenance of sampling and testing equipment; working plan review; document control; production process control; and any inspection, sampling, and testing done for these purposes. Quality Control also includes documentation of QC efforts.

“Quality Control Engineering Firm” means an independent engineering/testing firm employed by the Design-Builder responsible for administering and managing the construction QC inspection, sampling, and testing and verification. The QC Engineering Firm and any subcontractors or subconsultants thereto must not be owned or controlled by the Design-Builder, any Principal Participant of the Design-Builder, any Affiliate of any Principal Participant, any Construction Subcontractor, the Designer, a firm associated with or subsidiary to the Designer, or any design subcontractor or subconsultant of any tier to the Design-Builder.

“Quality Program” means the overall quality program and associated activities including the Department’s QA, the Design-Builder’s and/or the QC Engineering Firm’s QC, the Contract quality requirements, and the Design-Builder’s Quality Plan.

“Reference Documents” means the documents provided with and so designated in the RFP. The Reference Documents, including plans contained therein and/or so designated, are not Contract Documents and are provided to the Proposers for informational purposes and for use in the Proposer’s Proposal preparation, at the Proposer’s discretion.

“Request for Proposals” means a written solicitation issued by the LA DOTD seeking Proposals to be used to identify the Proposer offering the best value to the LA DOTD. The RFP includes the Instructions To Proposers (ITP), Contract Documents, and Reference Documents. This document is issued only to Proposers that are on the Short-List.

“Request For Qualifications” means the written solicitation issued by the LA DOTD seeking SOQs to be used to identify and short-list the most highly qualified Proposers to receive the RFP for the Project.

“Secretary” means the Secretary of the Louisiana Department of Transportation and Development.

“Short-List” means the list of those Proposers that have submitted SOQs that the LA DOTD determines, through evaluation of the SOQs, are the most highly qualified Proposers and that will be invited to submit Proposals in response to an RFP.

“**Specialty Subcontractor**” means those consultants or subcontractors identified by the Proposer to perform Work critical to the success of the Project, such as, the Designer, or any subcontractors for bridges, structures, pavement, or other specialty Work.

“**Statement Of Qualifications**” means the information prepared and submitted by a Proposer in response to this RFQ.

“**Verification Sampling and Testing**” means sampling and testing performed to validate the quality of the product. The LA DOTD, or a firm retained by the LA DOTD, will perform Verification Sampling and Testing.

“**Weakness**” means a flaw in the SOQ that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ is a flaw that appreciably increases the risk of unsuccessful Contract performance.

“**Work**” means the furnishing of all labor, material, equipment, and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of all the duties and obligations imposed by the Contract.

1.2 PROJECT GOALS

The Louisiana Department of Transportation and Development’s goals for the Project are as follows:

- A) **[Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- B) **[Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- C) **[Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- D) **[Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**

1.3 ROLE OF THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

In the context of the Project, the Louisiana Department of Transportation and Development is responsible for the following activities:

[The activities that the Department will conduct should be listed below. Some examples are inserted for example.]

- A) The appropriate environmental clearances and permits except those specifically assigned to the Design-Builder;
- B) Preparation of the RFQ and RFP, evaluation of SOQs and Proposals, determination of the Short-List, and selection of the Design-Builder;
- C) Contract procurement and administration;
- D) Oversight and audit of the Design-Builder’s Quality Program, including Verification Sampling and Testing;

- E) Providing due diligence information and data included in the Request for Proposals; and
- F) Approval and acceptance of Work and payment for Work.

1.4 PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES, AND PROJECT STATUS

See Appendix A.

1.5 PROJECT SCHEDULE

The anticipated time of Contract award is [Insert the anticipated contract award date] . The Project goal for completion is [Insert the anticipated contract completion date] .

See Section 2.2 for the procurement schedule.

1.6 CONTRACT TYPE

The Contract will be a fixed price, lump sum Design-Build Contract.

1.7 PAYMENT AND STIPULATED AND/OR GENERAL DAMAGES

The Design-Builder shall provide a retainage bond in the amount of five percent of the Contract amount. See Louisiana Revised Statutes 48:256.1 for further information regarding retainage.

The Contract will provide for stipulated damages relating to failure to meet the specified completion dates.

1.8 GOVERNING LAW

The laws of the State of Louisiana will govern the Request For Qualifications, Scope of Services Package, and Contract.

1.9 INSURANCE, BONDING, LICENSING, AND SECURITIES

The Design-Builder shall provide specified insurance, including, but not necessarily limited to, professional liability insurance covering design as well as Commercial General Liability (CGL), property (including builder's risk), umbrella/excess liability, environmental liability, public liability, automobile liability, owner's protective liability, employer's liability, and workers' compensation. The Design-Builder may use multiple insurance providers to provide the various types of insurance identified in the RFP; however, the Design-Builder shall use one single insurance provider for each type of insurance (i.e., the Design-Builder may have a one insurance provider for professional liability and a different insurance provide for CGL, but the Design-Builder may not have two different insurance providers for professional liability insurance). The types of insurance, insurance limits, and named insured will be commensurate with this Project and its level of risk. Details of the insurance requirements will be provided in the RFP.

Proposers on the Short-List submitting a Proposal shall provide Proposal bonds in the amount shown on Table 4.4. The Design-Builder shall provide performance and payment bonds and/or other security acceptable to the LA DOTD, in the amount of 100% and 100%, respectively, of the Contract amount.

Prior to award of the Contract, all Persons participating in this procurement and/or the Contract must obtain all licenses and permits and take all necessary steps to conduct business in the State of Louisiana

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and perform the Work required under the Contract, including proposing and carrying out contracts consistent with the laws of the State of Louisiana.

Please note that under Louisiana state law, all of the Principal Participants of the Proposer with which the LA DOTD will contract for services must be licensed, as appropriate, with either the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors prior to award of the Contract. Interested firms are advised that the licensing application processes for the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors will take a minimum of 75 days. Interested firms are further advised that award of the Contract is anticipated to occur within one week of determination of the lowest adjusted score.

Please note that in accordance with the laws of the State of Louisiana, if a Proposer is not licensed appropriately prior to award of the Contract, the Contract will not be executed with that Proposer and the LA DOTD reserves the right to award the Contract to the Proposer with the next lowest adjusted score.

The Design-Builder may be required to provide a number of other commitments including the following, where applicable:

- A) Parent company and other guaranties;
- B) Statements of joint and several liability by Principal Participants [*see* Section 4.4.2.1(B)(6)(c)];
- C) Parent company securities; and
- D) Warranties.

1.10 RULES OF CONTACT

The following rules of contact shall apply during Contract procurement for the Project. Contact includes face-to-face, telephone, facsimile, Electronic-mail (E-mail), or formal written communications.

The rules are designed to promote a fair, unbiased, legally defensible procurement process. The LA DOTD is the single source of information regarding the Contract procurement.

The selection process began on **[Insert the NOI publication date]** , with the publication of the NOI, and is anticipated to be completed with the award of the Contract. These rules of contact are now in effect. The specific rules are as follows:

- A) After submittal of SOQs, no Proposer or any of its members may communicate with another Proposer or members of another Proposer with regard to the Project or the SOQs, except that a Proposer may communicate with a subcontractor that is on both its team and another Proposer's team, so long as those Proposers establish a protocol to ensure that the subcontractor will not act as a conduit of information between the Proposers. (Communications among Proposers and their members is allowed during LA DOTD sponsored workshops and meetings);
- B) Contact between the Proposers and the LA DOTD (questions and responses to questions) must only be through the LA DOTD's and Proposer's designated representatives;
- C) The Proposers shall not contact LA DOTD employees, including, department heads, members of the DB Qualifications Evaluation Committee, members of the Proposal Review Committee, and any official regarding the Project except through the process identified above;

- D) The Proposers shall not contact stakeholder staff regarding the Project;
- E) Any contact determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification;
- F) Any official contact regarding the Project will be disseminated from the LA DOTD on LA DOTD letterhead. Any official contact will be in writing and signed by the LA DOTD's designated representative; and
- G) The LA DOTD will not be responsible for any verbal communication or any other information or contact that occurs outside the official communication process specified herein.

1.11 PROPOSER QUESTIONS

The LA DOTD will only consider questions submitted in writing by Proposers regarding the RFQ, including requests for clarification and requests to correct errors. All such requests must be submitted in writing in the format shown on Form Q (Appendix C) to the Contract Services Administrator.

No questions of any nature pertaining to this Project to any other LA DOTD office, consultant, or employee will be considered. All responses shall be in writing and shall be delivered without attribution to all Proposers.

Only questions received by 2:00 p.m. (Central Time) on the date specified in *Section 2.2* will be addressed. Questions will not be accepted by telephone. Only couriered, mailed, E-mailed, or facsimiled inquiries will be accepted.

Questions must include the requestor's name, address, E-mail address, and telephone and facsimile numbers and the Proposer he/she represents.

A response to questions will be issued without attribution and sent to all recipients of this RFQ not later than the date specified in *Section 2.2*.

1.12 REQUEST FOR QUALIFICATIONS ADDENDA

If necessary, the LA DOTD will issue Addenda to modify conditions or requirements of this RFQ to recipients of this RFQ not later than the date identified in *Section 2.2*.

1.13 NOTIFICATION OF FIRMS ON THE SHORT-LIST

Each Proposer will be notified in writing whether or not it has been selected for the Short-List. Notifications may be expected not later than the date specified in *Section 2.2*.

1.14 COSTS

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, attending briefing(s), providing supplemental information, and all subsequent costs and expenses (if selected for the Short-List).

1.15 INELIGIBLE FIRMS

The Proposer is responsible to disclose all potential organizational conflicts of interest in its SOQ. A potential organizational conflict of interest may occur where consultants and/or subcontractors that

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assisted the LA DOTD in the preparations of this RFQ or the RFP, including _____ **[Insert the names of any firms ineligible to propose on the project because they assisted the Department in the preparation of the procurement documents]** _____, will not be allowed to participate as a Proposer or a member of a Proposer in response to that RFQ/RFP. However, the LA DOTD may determine that there is not an organizational conflict of interest for a consultant or subcontractor under the following circumstances:

- A) Where the role of the consultant or subcontractor was limited to provision of preliminary design, reports, or similar “low level” documents that will be incorporated into the RFP and did not include assistance in the development of the ITP or evaluation criteria at either the RFQ or RFP phase; or
- B) Where all documents and reports that were delivered to LA DOTD by the consultant or subcontractor are made available to all the Proposers through the RFQ or the RFP.

The Proposer is required to provide information concerning potential organizational conflicts of interest in its Proposal. The successful Proposer and its Principal Participants must disclose all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest. The successful Proposer and its Principal Participants must state how their interests, or those of their chief executives, directors, key Project personnel, or any proposed subcontractor may result, or could be viewed as, an organizational conflict of interest.

In addition, any firm that is rendered ineligible through any state or federal action is ineligible to participate with any Proposer/Proposal. A Proposer must not submit an SOQ or Proposal, nor will an SOQ or Proposal be considered, if the Proposer or any Principal Participant, including those entities identified in *Section 1.18(A)* through *(D)*, is on the LA DOTD's list of Disqualified Contractors or Consultants or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of submission of the SOQ; submission of the Proposal; opening of the Price Proposal; or award.

1.16 ORGANIZATIONAL AND CONFIDENTIALITY REQUIREMENTS

Only prospective Proposers that are capable of completing this Project in its entirety will be eligible for the Short-List.

Each of the following circumstances shall be deemed an organizational conflict of interest disqualifying the affected Proposers.

Participation by any of the following Persons on more than one Proposer's team:

- A) A Principal Participant;
- B) A Designer;
- C) A subcontractor responsible for performing more than 15% of the design or subcontractor responsible for performing more than 20% of the construction; or
- D) An Affiliate of any Person identified in *Section 1.18(A)* through *(C)* on another Proposer's team.

All Proposers affected by the conflict of interest will be disqualified, even if the Person or Affiliate causing the conflict is intended to have a different or lesser role than that described above. Firms serving solely as an environmental coordinator or public involvement/community relation's coordinator may be on multiple teams.

It is a requirement of the LA DOTD that the Proposer's organization, including, Principal Participants, Specialty Subcontractors, and key management personnel, identified in the SOQ remain intact for the duration of the procurement process including the subsequent Contract. A Proposer may propose substitutions for participants after the SOQ submittal. However, such changes will require written approval by the LA DOTD, which approval may be granted or withheld in the LA DOTD's sole discretion. Requests for changes must be made in writing no later than 30 working days prior to the due date for submittal of the Proposals. Requests for changes in any of the Principal Participants, the Designer, other firms meeting criteria listed in Section 1.16, or Specialty Subcontractors will be particularly scrutinized.

The Proposer may be given access to records which are confidential under state laws solely for the purpose of performing the required services under the Contract. The Proposer shall be required to sign a nondisclosure statement prior to its receipt of such documents obligating each employee, agent, or subcontractor of the Proposer not to make inappropriate use of or improperly disclose any of the contents of such documents.

1.17 PROPOSAL STIPEND

[It should be indicated here if a Proposal stipend will be provided and, if so, how much.]

2.0 PROCUREMENT PROCESS

2.1 OVERALL PROCUREMENT PROCESS

The process for procurement of the Contract will be in accordance with Louisiana Revised Statutes Title 48 Sections 250.2 and 250.3. An adjusted score approach will be used by the LA DOTD. The adjusted score will be determined using the methodology as provided in Louisiana Revised Statutes Title 48 Section 250.3 as follows:

- A) The technical score will be determined for each Proposal using the technical evaluation and weighting factors as stipulated in the RFP. During the scoring process, the Price Proposals will not be disclosed;
- B) Prior to determining the adjusted scores, each Proposer will be notified confidentially of its respective final total technical score and the Proposer will have ten business days to request a review of its final technical score; and
- C) Following any review of the Proposers' technical scores, the technical scores will be finalized and the Price Proposals will be opened. The adjusted score for each Proposal will be determined by the Price Proposal divided by the technical score. The award of the Contract will be made in accordance with Louisiana Revised Statutes Title 48 Section 250.3.

The procurement process will include the following two phases:

- 1) Request For Qualifications (determination of the Short-List); and
- 2) Request for Proposals (selection of the Design-Builder from the Proposers on the Short-List that submit Proposals).

Evaluation of the SOQs and Proposals will be based on information submitted in the SOQs and Proposals or otherwise available to the LA DOTD.

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Pass/fail and technical evaluation factors will be present in both the Request for Qualifications and Request for Proposals phases.

The selection of the Design-Builder for the Contract will be based on both pass/fail evaluation factors and a combined evaluation of technical evaluation factors and price.

2.1.1 Request For Qualifications Phase

Statements of Qualifications submitted in response to this RFQ must include a response to each pass/fail and technical evaluation factor. The Short-List of Proposers that will be invited to submit Proposals will be determined based on evaluation of the pass/fail and technical factors set forth herein. This RFQ sets forth what is required to be included in the SOQ (*see Section 4.0* for SOQ submittal requirements).

At the end of the SOQ evaluations, the LA DOTD will determine the Short-List. Proposers on the Short-List will then be invited to provide Proposals.

2.1.2 Request for Proposals Phase

The RFP will provide further specific instructions on what to submit, the evaluation factors, the objectives and requirements for evaluation, and the evaluation rating and scoring guidelines for the RFP phase of the procurement.

In addition to a responsiveness review of the Proposal, the evaluation factors for the RFP will include, but not be limited to, the following:

- A) **[Insert the preliminary RFP evaluation factor. Add additional letters to the list as needed for a specific project.]**
- B) **[Insert the preliminary RFP evaluation factor. Add additional letters to the list as needed for a specific project.]**
- C) **[Insert the preliminary RFP evaluation factor. Add additional letters to the list as needed for a specific project.]**
- D) **[Insert the preliminary RFP evaluation factor. Add additional letters to the list as needed for a specific project.]**

While price is an important factor in the RFP phase of the procurement, technical evaluation factors (including time) are also significant in determining the success of the Project. The LA DOTD will perform an assessment of the technical factors and, once combined with price, select the Design-Builder with the lowest adjusted score.

The weighting of technical evaluation factors in the selection will be set forth in the Request for Proposals.

2.2 PROCUREMENT SCHEDULE

The following represents the current schedule for the procurement. The schedule is subject to change at the discretion of the LA DOTD.

[Insert the dates, as appropriate for the specific project, into the table below.]

Activity	Due Date
Issue Request for Qualifications	
Final Date for Receipt of Proposer’s Questions	
Issue Date for Final Addendum and/or Answers to Proposer’s Questions	
Statement of Qualifications Due Date	
Short-List Announced	
Issue Request for Proposals	
Proposal Due Date	
Open Price Proposal	
Award	
Contract Execution	
Notice to Proceed	

3.0 EVALUATION PROCESS FOR THE STATEMENT OF QUALIFICATIONS

3.1 EVALUATION OBJECTIVE

The objective of the RFQ phase of the procurement is to create a Short-List of ____ of the highest rated Proposers with the general capability (technical, financial, and management), capacity, and experience necessary to successfully undertake and complete the Work. The Design-Builder will have primary responsibility to plan, design, manage, and control the Project and to complete the Project on or ahead of schedule. The LA DOTD has set high responsibility standards for the Design-Builder that are reflected in the technical evaluation factors of this RFQ and will be reflected in the RFP and the Contract. Specific objectives relating to each of the technical evaluation factors listed in *Section 3.3* are included in *Sections 4.4.2.1 through 4.4.2.6* of this RFQ.

3.2 REVIEW AND EVALUATION OF THE STATEMENT OF QUALIFICATIONS

The information submitted in accordance with *Section 4.0* will be evaluated in accordance with both the pass/fail evaluation factors listed in *Section 3.3.2* and the technical evaluation factors provided in *Section 3.3.3*.

3.3 EVALUATION FACTORS FOR THE REQUEST FOR QUALIFICATIONS/STATEMENT OF QUALIFICATIONS

This *Section 3.3* outlines the evaluation factors for the RFQ phase of the procurement. The tentative evaluation factors for the RFP phase of the procurement are listed in *Section 2.1.2*.

The LA DOTD has identified for this Project the following evaluation factors that are of particular importance to the LA DOTD. This information is provided here to assist Proposers in organizing their teams and preparing their SOQs.

3.3.1 Statement of Qualifications Responsiveness

An initial responsiveness review of the SOQ will be performed prior to any evaluation in order to determine that all information requested in this RFQ is provided and in the format specified in Appendix B.

3.3.2 Pass/Fail Evaluation Factors

[Example pass/fail evaluation factors are included in this Example RFQ. However, the pass/fail evaluation factors should be tailored on a project-by-project basis.]

The pass/fail evaluation factors are as follows:

- A) Legal; and
- B) Financial.

If a Proposer passes all pass/fail evaluations, its SOQ will be further evaluated using the factors for technical rating in *Section 3.3.3*. If a Proposer fails any single pass/fail requirement resulting in a Deficiency, the SOQ will be rated a fail and the Proposer will not be included on the Short-List.

3.3.3 Technical Evaluation Factors

[Example technical evaluation factors are included in this Example RFQ. However, the technical evaluation factors should be tailored on a project-by-project basis.]

The technical evaluation factors are as follows:

- A) Organization and Key Managers;
- B) Experience of the Firms;
- C) Past Performance; and
- D) Project Understanding.

The technical evaluation factors of Organization and Key Managers, Experience of the Firms, and Past Performance are of equal importance and are more important than the technical evaluation factor of Project Understanding.

[The rating process included in this Example RFQ is an adjectival rating method. The rating method should be tailored to the specific procurement.]

The ratings assigned to the technical evaluation factors will be compiled to determine an overall technical rating for the SOQ. Numerical scores will not be assigned. Ratings for each technical evaluation factor and the overall technical rating for the SOQ will be based on the following adjectival rating criteria:

EXCEPTIONAL: The Proposer has provided information relative to its qualifications which is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no Weaknesses.

GOOD: The Proposer has presented information relative to its qualifications which is considered to exceed stated objectives/requirements and offers a generally better than acceptable quality. Weaknesses, if any, are very minor and no correction is necessary.

ACCEPTABLE: The Proposer has presented information relative to its qualifications which is considered to meet the stated objectives/requirements and has an acceptable level of quality. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE: The Proposer has presented information relative to its qualifications that contains significant Weaknesses and/or Deficiencies and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive.

Weaknesses/Deficiencies are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

The evaluators may also use a plus (+) or minus (-) suffix to further differentiate the strengths or limitations within a technical rating.

Any SOQ that receives a consensus rating of unacceptable in one or more technical evaluation factors shall receive an overall SOQ technical rating of unacceptable and shall not be included on the Short-List.

3.4 REQUESTS FOR CLARIFICATION

The Proposer shall provide accurate and complete information to the LA DOTD. If information is not complete, the LA DOTD shall either declare the SOQ non-responsive or notify the Proposer through a request for Clarification that it will not be allowed to participate further in the procurement of this Project until all information required is provided. Any insufficient statements or incomplete affidavits will be identified by the LA DOTD with a request for Clarifications, and which may include a request for submittal of corrected, supplemental, or missing documents. If a Clarification is not provided prior to the deadline for submission of the Clarification, the SOQ may be declared non-responsive. Proposers should take special notice of the fact that the LA DOTD is not obligated to request any Clarifications from any Proposer not submitting accurate and complete information, nor is the LA DOTD obligated to conduct multiple rounds of requests for Clarifications with any Proposer.

The LA DOTD may waive technical irregularities in an SOQ of the Proposer that do not alter the quality or quantity of the information provided.

The LA DOTD may, at its sole discretion, request Clarifications and/or supplemental information from Proposers during the SOQ evaluation and Short-List process.

All requests for Clarifications and responses thereto must be in writing via E-mail. Clarifications are limited to answering the specific information requested by the LA DOTD.

The LA DOTD does not anticipate conducting interviews during the RFQ phase, but reserves the right to do so. If the LA DOTD elects to conduct interviews, the Proposers shall be notified in writing.

In the event a material error is discovered in the RFQ during the SOQ evaluation process, the LA DOTD will issue an Addendum to all Proposers that have submitted SOQs requesting revised SOQs based upon the corrected RFQ.

3.5 DETERMINATION OF THE SHORT-LIST

The LA DOTD will establish a Short-List of an appropriate number (as determined by the LA DOTD) of the highest rated Proposers in order to ensure adequate competition ([insert the short-list number here]). The Short-List will be created by eliminating the lowest rated Proposers until an appropriate number of acceptable Proposers remain. Neither the overall technical ratings nor the ranking of the Proposers on the Short-List will be disclosed to Proposers during the procurement process.

3.6 CHALLENGE

The decision of the LA DOTD on the Short-List and the subsequent award of the Contract shall be final and shall not be appealable, reviewable, or reopened in any way, except as provided in *Section 5.0* of this RFQ (for challenges to the Short-List) or as provided in the RFP (for the award of the Contract). Parties

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participating in the RFQ phase of this procurement shall be deemed to have accepted this condition and the other requirements of this RFQ.

Subject to applicable Louisiana state law, contents of SOQs, less proprietary information, to the extent protected under applicable Louisiana state law, will remain confidential until execution of the Contract.

4.0 STATEMENT OF QUALIFICATIONS SUBMITTAL REQUIREMENTS

4.1 DATE AND TIME OF RECEIPT

All SOQs must be received no later than 2:00 p.m. (Central Time) on the SOQ due date specified in *Section 2.2*. The SOQs must be clearly identified as such and be enclosed in sealed containers. Late submittals will not be considered and will be returned unopened to the address indicated on the cover of the package.

4.2 SUBMITTAL ADDRESS

The Statements of Qualifications shall be submitted to the following address:

Louisiana Department of Transportation & Development
Attention: [Insert the name of the Contract Services Administrator]
Contract Services Administrator

<u>Courier</u>	<u>Mail</u>
1201 Capitol Access Road Baton Rouge, LA 70802-4438	P.O. Box 94245 Baton Rouge, LA 70802-9245.

Each Proposer shall be responsible for obtaining a written receipt appropriate to the means of delivery from the LA DOTD office specified in this *Section 4.2* at time of delivery of its SOQ. It is the Proposer's sole responsibility to ensure delivery of its SOQ to the LA DOTD at the time and place specified herein and the LA DOTD will have no liability or responsibility therefore.

4.3 PAGE LIMIT, FORMAT, AND QUANTITIES

The SOQ must be limited to no more than 60 pages in Sections 2 through 7 of the SOQ (*see Appendix B*), including required forms but exclusive of dividers and appendices. One original and ten copies of the SOQs and appendices shall be provided. The signed original copy must be identified as the original on the cover(s) and all subsequent copies must be marked as "Copy ____ of 10 Copies." All copies shall be provided in loose-leaf binders. Bound copies will not be accepted. The document must be organized to correspond with the outline presented in Appendix B.

4.4 CONTENT OF THE STATEMENT OF QUALIFICATIONS

This section describes the specific information that must be included in the SOQ. An outline of the required format for the SOQ is provided in Appendix B. Required forms for the SOQ are contained in Appendix C. Any material modification to the forms may result in the SOQ being declared non-responsive.

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Proposers should provide brief, concise information that addresses the objectives and the requirements of the Project consistent with the evaluation factors described in *Section 4.4.2*. Lengthy narratives containing extraneous information are discouraged.

The LA DOTD will maintain a confidential process for the duration of this procurement. In accordance with Louisiana Revised Statutes 48:255.1, the LA DOTD may require each Proposer to furnish sufficient information that shall indicate the financial and other capacities of the Proposer to perform the proposed Work. This information shall be subject to audit and shall be submitted by the Proposer in a format clearly marked "confidential," and the information contained therein will be treated as confidential and will be exempted from the provisions of Louisiana Revised Statutes 44:1 through 37.

Further, if the Proposer submits information in its SOQ that it wishes to protect from disclosure, the Proposer must do the following:

- A) Clearly mark all proprietary or trade secret information as such in its SOQ at the time the SOQ is submitted and include a cover sheet stating "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION" and identifying each section and page which has been so marked;
- B) Include a statement with its SOQ justifying the Proposer's determination that certain records are proprietary or trade secret information for each record so defined;
- C) Submit one full copy of the SOQ that has all the proprietary or trade secret information deleted from the SOQ and label such copy of the SOQ "Public Copy"; and
- D) Defend any action seeking release of the records it believes to be proprietary or trade secret information and indemnify, defend, and hold harmless the LA DOTD and the State of Louisiana and its agents and employees from any judgments awarded against the LA DOTD and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the LA DOTD's cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting an SOQ, the Proposer agrees that this indemnification survives as long as the confidential business information is in possession of the State.

All records pertaining to this procurement will become public information after execution of the Contract, unless such records are proprietary or trade secret information.

4.4.1 Cover Letter

The Proposer shall provide a one-page letter indicating its desire to be considered for the Project and stating the official names and roles of all Principal Participants and the Designer, subconsultants and subcontractors meeting the criteria in *Section 1.16*, and Specialty Subcontractors. The Proposer shall identify a single point of contact for the Proposer and the address, E-mail address, and telephone and facsimile numbers where questions should be directed. Authorized representatives of the Proposer's organization must sign the letter. If the Proposer is not yet a legal entity or is a JV, LLC, or general partnership, authorized representatives of all proposed Principal Participants shall sign the letter. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in *Section 4.4.2.1(C)*.

The Proposer shall attach the Acknowledgment of Receipt (Appendix C) acknowledging receipt of the RFQ and any Addenda and/or responses to questions issued by the LA DOTD.

4.4.2 Evaluation Factor Objectives and Requirements

In providing the SOQ, Proposers should be guided by the Project goals in *Section 1.2* and the objectives listed in *Sections 4.4.2.1* through *4.4.2.7*. An objective is stated for each evaluation factor to provide Proposers the expectations of the LA DOTD. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The SOQ evaluation ratings will be based on how well the SOQ responds to the requirements and meets or exceeds the Project goals and the objectives for each of the evaluation factors.

4.4.2.1 Legal

A) Objective

To identify legally constituted Proposers able to submit Proposals and enter into the Contract and complete the Work and that have obtained all required licenses.

B) Requirements and information to be provided in Section 1 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ section organization)

- 1) Form L-1 (Appendix C), Proposer's Organization Information, for the Proposer's organization;
- 2) Form L-2 (Appendix C), Principal Participant and Designer Certification, for each Principal Participant and the Designer covering the last five years;
- 3) Evidence of the Proposer's and its Principal Participants', if it is a JV, LLC, or partnership, registration with the Louisiana Secretary of State indicating that the Proposer is registered to do business in the State of Louisiana or a commitment signed by authorized representatives of the Proposer and its Principal Participants, if relevant, to become registered prior to award of the Contract. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in *Section 4.4.2.1(C)*. Additionally, if the Proposer is a JV, LLC, or partnership, which has not yet been legally formed, the Proposer's registration with the Louisiana Secretary of State is not required at this time, however, if the Proposer is a JV, LLC, or partnership which has not yet been legally formed, the registration of the Proposer's Principal Participants with the Louisiana Secretary of State is nonetheless required;
- 4) Evidence that one or more Principal Participants of the Proposer, or the Proposer itself, holds the appropriate licenses from the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors or a commitment signed by authorized representatives of the Proposer and its Principal Participants, if relevant, to become licensed prior to award of the Contract. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in *Section 4.4.2.1(C)*;
- 5) If a Joint Venture, Limited Liability Company, or partnership, include the following:
 - a) Identity of the Lead Principal Participant of the entity, if any (Form L-1, Appendix C);
 - b) Percent equity share held by each member (Lead Principal Participant column of Form L-1, Appendix C). Each member of a JV, LLC, or partnership must be an equity partner in the organization; and

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- c) An express statement from each of the equity members of the entity as to their joint and several liability in accordance with *Section 1.9(B)*;
- 6) Notarized Power(s) of Attorney for each Principal Participant indicating the authority of the Principal Participant’s representative to sign for that Principal Participant; and
- 7) Notarized Power(s) of Attorney from each Principal Participant indicating the authority of the Proposer’s designated point of contact to sign documents for and on behalf of the Proposer’s organization.

4.4.2.2 Financial

A) Objective

To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the Project, including bonding.

B) Requirements and information to be submitted in Section 2 of the Statement of Qualifications (*see Appendix B to this RFQ for SOQ section organization*)

The Proposer shall submit a letter from a single surety or co-sureties indicating that the Proposer is capable of obtaining Proposal, performance, and payment bonds covering the Contract. The bonding/security capacity levels in Table 4.4 represent minimum levels necessary to pass the pass/fail criteria of *Section 3.3.2(B)*. The surety submitting such letter must be listed on the US Department of Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register or by a Louisiana domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best’s Key Rating Guide. No surety or insurance company shall write a bond which is in excess of the amount indicated as approved for it by the US Department of the Treasury Financial Management Service list of approved bonding companies and a Louisiana-domiciled insurance company not on the US Department of Treasury Financial Management Service list of approved bonding companies shall not write bonds exceeding ten percent of policyholder’s surplus as shown in the A.M. Best’s Key Rating Guide. In addition, any surety bond written for the Project shall be written by a surety or insurance company that is licensed to do business in the state of Louisiana. The letter must specifically state that the surety/insurance company has evaluated the Proposer’s and each Principal Participant’s backlog and work-in-progress in determining its bonding capacity. If the letter is submitted by co-sureties or a joint venture of sureties, the letter must clearly state that the sureties making up the co-surety or the joint venture are bound in solido for the full amount of the bond. **Letters indicating “unlimited” bonding/security capability are not acceptable.**

Table 4.4

Proposal Bond/Security	Payment Bond/Security	Performance Bond/Security
Five Percent of Proposal Amount	100% of Contract Amount (<i>see Louisiana Revised Statutes 48:256.3</i>)	100% of Contract Amount (<i>see Louisiana Revised Statutes 48:255</i>)

The Contract amount is not anticipated to exceed \$ _____ **[Insert the anticipated contract amount]**_____.

4.4.2.3 Organization and Key Managers

- A) Objective
 - 1) To identify Proposers that will effectively manage all aspects of the Contract in a quality, timely, and effective manner and will integrate the different parts of its organization collectively and with the LA DOTD in a cohesive and seamless manner; and
 - 2) To identify the best personnel for key management positions with demonstrated experience and expertise in and record of producing quality work on projects of a similar nature to this Project. The key management positions for the purposes of this RFQ are the Principal-in-Charge, the Design-Builder's Project Manager, the Construction Manager, and the Design Manager.
- B) Requirements and information to be submitted in Section 3 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ section organization)
 - 1) Organization and communication structure among the Proposer, its Principal Participants, and its Designer; and
 - 2) Resumes of key managers.

4.4.2.4 Experience of the Firms

- A) Objective
 - 1) To identify the best design and construction firms available with demonstrated experience, expertise, and capacity in and record of producing quality Work on projects similar in nature to the Project.
 - 2) To identify Proposers which have the following attributes:
 - a) A superior record of completing contracts on time and within budget;
 - b) A superior record of managing contracts to minimize delays, claims, dispute proceedings, litigation, and arbitration; and
 - c) Good safety records.
 - 3) To identify Proposers that have the technical and management experience and expertise to plan, organize, and execute the design and construction and assure the quality and safety of the Project.
- B) Requirements and information to be submitted in Section 4 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ section organization)
 - 1) Using Form E-1 (Appendix C), Past Project Description, the Proposer shall provide no more than ten and a minimum of two descriptions of past projects per each Principal Participant, Designer, other team members meeting the criteria listed in *Section 1.16*, and Specialty Subcontractors highlighting experience in the last five years relevant to the Project. The Proposer shall describe those projects having a scope comparable to that anticipated for the Project; and
 - 2) Using Form E-2 (Appendix C), Subcontractor Information, except for the designated Designer (which has already been included in Forms L-1 and E-1, Appendix C), the Proposer shall identify subcontractors (including consultants) the Proposer plans to use, to the extent they are known, indicating what portion of the Work such subcontractor is anticipated to undertake. The Proposer shall

submit a maximum one-page summary of experience for each listed subcontractor, including consultants.

4.4.2.5 Past Performance

- A) Objective
- 1) To avoid Proposers with firms or personnel with a history of legal and financial problems that could adversely impact the Project generally; and
 - 2) To obtain the commitment of the Proposer, Principal Participants, and Designer regarding representations made in the SOQ.
- B) Requirements and information to be submitted in Section 5 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ section organization)
- 1) Using Form PP (Appendix C), Past Performance, the Proposer shall provide the information requested in *Section 4.4.2.5(B)(1) (a) through (e)*. If a Proposer has no record of relevant past performance or if the information relative to a category is not available the Proposer shall enter a declarative statement to that effect on Form PP. If the record of relevant past performance does not exist and/or is not available, the Proposer shall receive a technical rating of acceptable- for this factor. The Proposer shall attach additional sheets to Form PP as necessary. For each instance of litigation, arbitration, or termination for cause or default, the Proposer shall provide the owner's name and the name of its current representative (and current telephone number and E-mail address) who can be contacted for additional information. With respect to the information solicited in this *Section 4.4.2.5*, failure to provide this information, conditional or qualified submissions to requests or questions posed (i.e., "to our knowledge," "to the extent of available information," "such information is not readily available," or "such information is not maintained in the manner requested,"), incomplete or inaccurate submissions, or non-responsive submissions may, in the sole discretion of the LA DOTD, lead to a lower evaluation rating for this technical evaluation factor or result in a Deficiency that would cause the LA DOTD to declare the SOQ non-responsive.

a) Litigation and Arbitration Proceedings

The Proposer shall provide a list of all litigation and arbitration proceedings involving amounts in excess of \$1 million and related to performance in which any Principal Participant, Designer, or other firms meeting criteria in *Section 1.16(A) through (D)* has been involved during the past five years. The Proposer shall include all litigation and arbitration proceedings initiated by owners and federal, state, and local regulatory agencies against the Proposer and all litigation and arbitration proceedings initiated against owners and federal, state, and local regulatory agencies by the Proposer or by third parties and in which the Proposer was involved. The Proposer shall indicate whether the litigation or arbitration proceeding was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to the participant. The Proposer shall indicate any unresolved, outstanding litigation and arbitration proceedings;

b) Termination for Cause or Default

The Proposer shall describe the conditions surrounding any contract (or portion thereof) entered into by the Proposer or by any Principal Participant, Designer, or other firm meeting criteria listed in *Section 1.16(A)* through *(D)* over the past five years that has been terminated for cause or default or which required completion by another party. The Proposer shall describe the reasons for termination and the amounts involved; and

c) Disciplinary Action

The Proposer shall indicate any disciplinary action taken against the Proposer or any Principal Participant, Designer, or other firm meeting the criteria in *Section 1.16(A)* through *(D)* within the past five years by any governmental agency or licensing board, including suspension from the right to propose/bid or removal from any Proposer/bid list; and

2) Safety

Submit Form S (Appendix C), Safety Questionnaire, for each Principal Participant and Construction Subcontractor meeting criteria listed in *Section 1.16*.

4.4.2.6 Project Understanding

A) Objective

- 1) To identify those Proposers demonstrating an understanding of the management issues, technical issues, and risks associated with the Project.
- 2) To identify those Proposers demonstrating an understanding of how the DB process and the Proposer's organization will contribute to the success of the Project and meet the LA DOTD's Project goals.
- 3) To identify those Proposers which understand the risk sharing and the teaming relationship between the Design-Builder and the LA DOTD.

B) Requirements and information to be submitted in Section 7 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ section organization)

- 1) The Proposer shall list and briefly describe the significant issues and risks facing the selected Proposer and/or the LA DOTD; and
- 2) The Proposer shall briefly describe how the Proposer will use its organization and the DB process to ensure a successful Project considering the LA DOTD's Project goals listed in *Section 1.2*.

5.0 PROTESTS

This *Section 5.0* sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, will be final and conclusive. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies set forth in this RFQ, it shall indemnify, defend, and hold the

LA DOTD and its directors, officers, officials, employees, agents, representatives, and consultants harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees, and damages incurred or suffered as a result of such Proposer's actions. The submission of an SOQ by a Proposer shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

5.1 WRITTEN PROTESTS ONLY

All protests must be in writing. Protests shall be submitted to _____ **[Insert the name of the Protest Official]** (Protest Official). Any protest not set forth in writing within the time limits specified in these procedures is null and void and shall not be considered. Protests regarding this RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the LA DOTD in an effort to remove the grounds for protest.

The Protest Official may, in his/her discretion, discuss the protest with the protestor prior to issuance of the Protest Official's written decision. The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it shall be decided on the basis of the written submissions by the Protest Official or his/her designee whose decision shall be final and conclusive. The Protest Official or his/her designee shall issue a written decision regarding any protest to each Proposer.

5.2 PROTEST CONTENTS

All Protests must include the following information:

- A) The name and address of the Proposer;
- B) The State Project number(s);
- C) A detailed statement of the nature of the protest and the grounds on which the protest is made; and
- D) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury.

The protestor must demonstrate or establish a clear violation of a specific law or regulation.

The Protest Official will not be obligated to postpone the SOQ due date or Short-List announcement in order to allow a protestor an opportunity to correct a deficient protest or appeal unless otherwise required by law or regulation.

If the protest is denied, the protestor shall be liable for the LA DOTD's costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the LA DOTD as a consequence of the protest. If the protest is granted, the LA DOTD shall not be liable for payment of the protestor's costs.

5.3 PROTEST PRIOR TO THE STATEMENT OF QUALIFICATIONS DUE DATE

Not less than seven calendar days prior to the SOQ due date, all protests, including protests based upon alleged restrictive specifications or alleged improprieties in the solicitation, must be filed with the Protest Official.

The Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the RFQ process should be delayed beyond the scheduled SOQ due date. If the

Protest Official determines that the scheduled SOQ due date should be delayed, all Proposers will be notified by written Addendum of the delay and the reason thereof.

If the protest is determined to be valid, the Protest Official will respond in writing to the protestor to each material issue raised in the protest in a timely manner prior to the LA DOTD proceeding further with the RFQ. Should a protestor wish to appeal the decision of the Protest Official, the protestor shall follow the procedures as outlined in *Section 5.6*.

The failure of a Proposer to file a basis for a protest regarding this RFQ will preclude consideration of that ground in any protest regarding the Short-List decision unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests.

5.4 PROTEST PRIOR TO ANNOUNCING THE SHORT-LIST

When a protest or appeal has been timely filed with the Protest Official prior to announcing the Short-List, the LA DOTD will not announce the Short-List, except in the case of emergency as determined by the Secretary, until after the resolution of the protest or appeal.

5.5 PROTEST REGARDING SHORT-LIST DECISION

If the Short-List decision is being protested, a protestor shall protest in writing to the Protest Official as soon as practical, but not later than seven calendar days after the protestor knew or should have known it was not included on the Short-List. If the protest has been timely filed, the Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the procurement should be delayed or the Short-List considered for revision.

If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to the protestor to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement.

The LA DOTD will not proceed with the procurement for seven calendar days after the decision is rendered by the Protest Official unless the protestor waives in writing its right to appeal to the Protest Official.

Should a protestor wish to appeal the decision of the Protest Official concerning any Short-List decision, a protestor shall follow the procedures as outlined in *Section 5.6*.

5.6 RIGHT OF APPEAL

In the event that a protestor receives an unfavorable decision from the Protest Official to its protest, the protestor shall have the right to appeal the decision of the Protest Official by submitting a written appeal to the Chief Engineer or designee within seven calendar days after receipt of the decision of the Protest Official.

The Chief Engineer will notify the protestor in writing in a prompt manner of his decision regarding the protest and the appeal. If the protest and appeal were filed prior to the release of the Short-List, the LA DOTD will not announce the Short-List for seven calendar days after the decision of the Chief Engineer, unless an emergency is determined to exist, in the sole opinion of the Secretary.

If the matter is not resolved after the appeal, the protestor may continue the protest only by appeal to judicial authority.

6.0 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS AND DISCLAIMERS

6.1 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS

The LA DOTD may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFQ. The LA DOTD reserves the right, in its sole and absolute discretion, to any of the following:

- A) Rejection of any or all Statements of Qualifications;
- B) Issuance of a new Request for Qualifications;
- C) Cancellation, modification, or withdrawal of the Request for Qualifications;
- D) Issuance of Addenda, supplements, and modifications to this Request for Qualifications;
- E) Modification of the Request for Qualifications process (with appropriate notice to Proposers);
- F) Appointment of the DB Qualifications Evaluation Committee and evaluation teams to review SOQs and seek the assistance of outside technical experts in the SOQ evaluation;
- G) Approval or disapproval of the use of particular subcontractors and/or substitutions and/or changes in SOQs;
- H) Revision and modification, at any time before the SOQ due date, of the factors it will consider in evaluating SOQs and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the LA DOTD will circulate an Addendum setting forth the changes to the evaluation criteria or methodology. The LA DOTD may extend the SOQ due date if such changes are deemed by the LA DOTD, in its sole discretion, to be material and substantive;
- I) Correspondence with the Proposers responding to this SOQ, including holding meetings, to seek Clarifications and an improved understanding and evaluation of the SOQs;
- J) Seeking or obtaining data from any source that has the potential to improve the understanding and evaluation of the SOQs;
- K) Disqualification of any team that changes its SOQ without LA DOTD written approval; and/or
- L) Refusal to issue an RFQ to a prospective Proposer and to refuse to receive or open an SOQ, once submitted, or reject an SOQ if such refusal or rejection is based upon, but not limited to, the following:
 - 1) Failure on the part of the Proposer or a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the LA DOTD (or the State of Louisiana);
 - 2) Default (wherein a surety has been notified to assume performance of the contract) on the part of the Proposer, a Principal Participant, or a Designer under previous contracts with the LA DOTD (or the State of Louisiana);

Louisiana Department of Transportation and Development

- 3) Unsatisfactory performance by the Proposer, a Principal Participant, and/or a Designer under previous contracts with the LA DOTD (or the State of Louisiana);
- 4) Issuance of a notice of disqualification, debarment, or suspension to the Proposer, a Principal Participant, and/or a Designer;
- 5) Submittal by the Proposer of more than one SOQ for the same Work under the Proposer's own name or under a different name;
- 6) Existence of an organizational conflict of interest under *Section 1.16* or evidence of collusion between a prospective Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designers) in the preparation of an SOQ, proposal, or bid for any LA DOTD construction project; and/or
- 7) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Principal Participant is responsible which, in the judgment of the LA DOTD, might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded.

The RFQ does not commit the LA DOTD to enter into a Contract nor does it obligate the LA DOTD to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a Contract. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFQ and any subsequent RFP is contingent upon sufficient appropriations and authorizations being made by the Louisiana State Legislature for performance of a Contract between the successful Proposer and the LA DOTD.

In no event shall the LA DOTD be bound by or be liable for any obligations with respect to the Work or the Project until such time (if at all) as the Contract, in form and substance satisfactory to the LA DOTD, has been executed and authorized by the LA DOTD and approved by all required parties and then only to the extent set forth therein.

6.2 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT DISCLAIMERS

In issuing this RFQ and undertaking the procurement process contemplated hereby, the LA DOTD specifically disclaims the following:

- A) Any obligation to award or execute a Contract pursuant to this Request for Qualifications; and
- B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement.

In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

7.0 COMPLIANCE WITH APPLICABLE LAWS

In connection with this RFQ and the Contract, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of this Project and the performance of the Contract.

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT G - EXAMPLE EVALUATION
AND SHORT-LIST PLAN**



CONFIDENTIAL - PROCUREMENT SENSITIVE

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]

STATEMENT OF QUALIFICATIONS EVALUATION AND SHORT-LIST PLAN

Note: If found, please return this copy in an envelope to:

[Insert the name of the Contract Services Administrator]

Contract Services Administrator
Louisiana Department of Transportation and Development
1201 Capitol Access Road
Baton Rouge, Louisiana 70802-4438



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1.0 INTRODUCTION

1.1 PURPOSE

This document provides the methodology and criteria for evaluation of the Statements of Qualifications (SOQ) received in response to the Request for Qualifications (RFQ) issued by the Louisiana Department of Transportation and Development (LA DOTD) for the _____ **[Insert the name of the project]** _____ Design-Build (DB) Project (Project).

It is the intent of this SOQ Evaluation and Short-List Plan (E&SL Plan) to establish a disciplined process and a fair and uniform basis for the evaluation of SOQs in accordance with the Project goals identified in Section 1.2 of the RFQ. The contracting agency for this Project procurement is the LA DOTD. Award of the Project is to be based upon the adjusted score approach and procurement procedures of Louisiana Revised Statutes Section 48:250.3 for DB contracts (which consider price and the technical factors).

Acronyms and definitions of terms that are initially capitalized in this E&SL Plan can be found at Sections 1.1.1 and 1.1.2 of the RFQ, respectively.

1.2 DESCRIPTION

The description of the Project is contained in Appendix A – Project Description, Design-Builder Responsibilities, and Project Status of the RFQ.

1.3 BASIS OF EVALUATION

This document sets forth standards of acceptability and desirability with regard to evaluation factors set forth in the RFQ. Evaluators should assign technical ratings after examining the SOQs and after consideration of the evaluation factors deemed necessary to achieve the Project goals and the context under which the Project goals and evaluation factors were developed. Evaluators should place significant flexibility and responsibility on the Design-Builder to plan, design, construct, manage, and control the Work and to complete the construction on schedule. The Project schedule may necessitate “fast track” design and construction. High responsibility standards have been set to encourage Proposers to submit high quality SOQs and Proposals demonstrating their capability (legal, financial, management, and technical), capacity, experience, and creative yet sound design/construction solutions that, when combined with price, will be most advantageous to the LA DOTD.

The organization, overall procedures, evaluation factors, rating scheme, and evaluation process for the SOQs are set forth in this E&SL Plan.

1.4 REQUEST FOR QUALIFICATIONS

The RFQ is a companion document to this E&SL Plan. It is the primary document that defines the evaluation factors, evaluation objectives, and submittal requirements for each evaluation factor for the SOQs. The RFQ is the primary reference document for all evaluators in the evaluation process and a copy will be provided to evaluators. For the most part, this E&SL Plan attempts to avoid duplicating information contained in the RFQ. However, in the event of a discrepancy between the E&SL Plan and the RFQ, the RFQ governs.

2.0 PROCUREMENT PROCESS

The DB Contract will be procured using a lowest adjusted score (taking price and the total technical score into account) as the method of selection. The intent of the LA DOTD is to award the DB Contract to a qualified Proposer that provides the best combination of price and quality as determined by adjusted score.

2.1 STEPS/PLANNED SCHEDULE OF OVERALL PROCESS

The overall procurement process has the following steps (dates are planned dates and may vary in actual execution):

A) Notice of Intent

The Notice of Intent (NOI), in the form of an LA DOTD advertisement published on the LA DOTD's main Web site, was published beginning on ____ **[Insert the date that the NOI was first published]** ____ and continuing for ____ **[Insert the number of days that the NOI was advertised]** ____ consecutive days. The NOI was also published in the ____ **[Identify where the NOI was published, including the Department's Web site and any other periodicals]** ____ and the ____ **[Identify where the NOI was published, including the Department's Web site and any other periodicals]** _____. The NOI invites interested firms to request a copy of the RFQ by submitting a Letter of Interest (LOI) to the LA DOTD.

B) Request for Qualifications

The RFQ was issued on ____ **[Insert the date of issuance of the RFQ]** ____ to the NOI respondents that submitted an LOI. The intent of the RFQ is to establish a Short-List of ____ **[Insert the maximum number of proposers that will be invited to the Short-List]** ____ of the highest rated Proposers that will be invited to submit Proposals in response to the Request for Proposals (RFP).

C) Statement of Qualifications

Statements of Qualifications in response to the RFQ are anticipated to be due on ____ **[Insert the anticipated due date of the SOQs]** _____.

D) Evaluation of Statements of Qualifications and Short-List

Announcement of the Short-List planned for ____ **[Insert the anticipated due date for announcement of the Short-List]** _____.

E) Request for Proposals

Issuance of the RFP to those Proposers on the Short-List, for the purpose of receiving Proposals (technical and price) by which a Design-Builder will be selected, is planned for ____ **[Insert the anticipated issuance date for the RFP. If a draft RFP will be issued, include the anticipated issuance date of the draft RFP as well.]** _____.

F) Proposals

Proposals in response to the RFP are anticipated to be due on ____ **[Insert the anticipated Proposal due date. If the due dates for the Technical Proposals and Lump Sum Price Proposals have been split apart, state both due dates here.]** _____.

- G) Evaluation and Rating of Technical Proposals
The process of evaluating and rating the Proposals will be done in accordance with the Proposal Evaluation and Selection Plan (E&S Plan) during ____ [Insert the anticipated beginning date of Proposal evaluations] ____ through ____ [Insert the anticipated end date of Proposal evaluations] ____.
- H) Notification of Technical Score
It is anticipated that each Proposer will be notified on ____ [Insert the anticipated date on which Proposers will be notified of their technical scores] ____ of its technical score.
- I) Public Price Opening
Opening of Price Proposals and calculation of adjusted scores is planned for ____ [Insert the anticipated opening date of the Lump Sum Price Proposals] ____.
- J) Award
Award of the Contract is planned for ____ [Insert the anticipated award date of the DB Contract] ____.
- K) Contract Execution and Notice to Proceed
Contract execution and Notice to Proceed (NTP) are anticipated to occur no later than ____ [Insert the date by which DB Contract execution and NTP are anticipated to have occurred] ____.

2.2 ONE PROCESS/TWO PHASES

The procurement will be accomplished through one overall process that includes two phases as follows:

- A) **Request for Qualifications and Statement of Qualifications (Phase One)**
Phase One consists of the selection of Proposers to the Short-List (____ [Insert the maximum number of Proposers that may be included on the Short-List] ____ Proposers).
- B) **Request for Proposals and Proposals (Phase Two)**
Phase Two consists of the selection of the Design-Builder from the Short-List of Proposers.

Pass/fail and technical evaluation factors will be present in both the RFQ and SOQ and RFP and Proposal steps.

2.3 GENERAL DESCRIPTION OF THE OVERALL EVALUATION PROCESS

The selection of the Design-Builder for the DB Contract will be based on an evaluation of pass/fail and technical evaluation factors and price.

The RFQ sets out what is required to be submitted by Proposers in their SOQs. The Instructions to Proposers (ITP) portion of the RFP will set out what is required to be submitted in the Proposals. Both the RFQ and RFP will provide specific instructions on the evaluation factors, the objectives/requirements for evaluation, and the evaluation rating guidelines.

Statements of Qualifications and Proposals submitted in response to the RFQ and RFP, respectively, must include a response to each pass/fail and technical evaluation factor.

If required information is missing from an SOQ during Phase One or a Proposal during Phase Two, the LA DOTD may, in its sole discretion, either declare the SOQ or Proposal non-responsive due to Weaknesses (non-minor) or Deficiencies or send a written request for Clarification to the Proposer relating to the missing information or to minor Weaknesses or errors.

In Phase One, the DB Qualifications Evaluation Committee may, through the use of Clarifications, seek to resolve minor ambiguities, errors, omissions, or mistakes in an SOQ in order to better understand and evaluate the SOQ. Likewise, in Phase Two, Clarifications may be used for the same purpose for evaluating and understanding a Proposal.

Evaluation of the pass/fail and technical evaluation factors during Phase One will be the basis of determining the Short-List of the highest rated Proposers that will be invited to submit Proposals in response to the RFP.

Statements of Qualifications ratings will not carry over to Phase Two.

Price will only be submitted in Phase Two (in response to the Request for Proposals).

In Phase Two, both pass/fail and technical evaluation factors and price are being considered. Final total technical ratings and scores will be determined by the Proposal Review Committee and the notification process (notifying the Proposers of their respective total technical scores) will be completed prior to the public opening of price.

After completion of the technical evaluation, the DB Procurement Management Team will notify each Proposer of its total technical score.

The DB Procurement Management Team will conduct a public opening of the Price Proposals and determine the adjusted score of each Proposal.

The Proposal prices will be reviewed for responsiveness and reasonableness. Proposals found to be nonresponsive or unreasonable in price will be removed from further consideration.

2.4 GRAPHICAL REPRESENTATION OF PHASE ONE (REQUEST FOR QUALIFICATIONS/STATEMENTS OF QUALIFICATIONS)

Attachment A provides a flow diagram that graphically depicts the evaluation and Short-List process for the SOQs.

3.0 STATEMENT OF QUALIFICATIONS EVALUATION AND SHORT-LIST ORGANIZATION, FUNCTIONS, AND GENERAL PROCEDURES

Prior to the start of the evaluation, individuals who will have responsibilities in the RFQ and SOQ (Phase One) evaluation and Short-List organization will be designated by letter (*see* Section 7.0 of this E&SL Plan). The DB Qualifications Evaluation Committee is designated in accordance with Louisiana Revised Statutes 48:250.3(E)(1).

3.1 DESIGN-BUILD PROCUREMENT MANAGEMENT TEAM

The DB Procurement Management Team is responsible for controlling and maintaining the integrity of the entire evaluation and Short-List process according to this E&SL Plan. The membership of the DB Procurement Management Team will consist of members that are not involved in any of the Evaluation Teams or the DB Qualifications Evaluation Committee. The Chief Engineer, the Secretary, and any observers may not serve on the DB Procurement Management Team. The DB Procurement Management Team performs the following specific functions:

- A) Not only maintains strict confidentiality with regard to its function within the evaluation process but also is the primary group responsible for managing and monitoring the entire process for confidentiality, integrity, and procurement sensitivity;
- B) Ensures that all participants in the evaluation and Short-List process sign a certification of confidentiality and non-disclosure and statements concerning conflicts of interest. If apparent conflicts are disclosed the resolution process for the conflicts will be determined by the Executive Counsel;
- C) Provides orientation sessions on the evaluation process for the members of the DB Qualifications Evaluation Committee prior to the start of evaluations;
- D) Provides guidance and assistance to the DB Qualifications Evaluation Committee throughout the entire process;
- E) Reserves secure evaluation/conference rooms for the DB Qualifications Evaluation Committee;
- F) Receives, opens, and safeguards all Statements of Qualifications;
- G) Reviews each SOQ for responsiveness to the RFQ to include all required forms, properly filled in and/or executed; required information submitted for all evaluation factors; and ensures an SOQ that is in the required format and ready for evaluation of indicated sections;
- H) Prepares the Statements of Qualifications for evaluation;
- I) Distributes evaluation packages to the DB Qualifications Evaluation Committee; facilitates the evaluations; and accumulates and safeguards results/reports from the DB Qualifications Evaluation Committee;
- J) Notifies the DB Qualifications Evaluation Committee of any errors, Deficiencies, minor discrepancies or irregularities, apparent clerical or other mistakes, and any apparent instance of failure discovered during the responsiveness review and recommends options and/or action(s) to be taken. Based on decision of the DB Qualifications Evaluation Committee, the DB Procurement Management Team follows up with Proposer(s) and the DB Qualifications Evaluation Committee;
- K) Assists the Chair of the DB Qualifications Evaluation Committee in any briefings/presentations that may be required to the Chief Engineer and/or the Secretary;
- L) Coordinates, prepares, and issues written Clarifications requests to Proposers (based on evaluations and/or reviews by the DB Qualifications Evaluation Committee). The DB Procurement Management Team distributes Proposers' responses to Clarifications requests to the DB Qualifications Evaluation Committee;
- M) Assists the Secretary with the announcement of the Short-List;
- N) Maintains a complete file of the entire SOQ evaluation and Short-List process, including all narratives, reports, Clarifications, and decisions and recommendations of the DB Qualifications Evaluation Committee and the Secretary's approval; and
- O) Assists the DB Qualifications Evaluation Committee and the Secretary in preparation of written reports and determinations and assists in the debriefing of Proposers.

3.2 DESIGN-BUILD QUALIFICATIONS EVALUATION COMMITTEE

The DB Qualifications Evaluation Committee will present its recommended Short-List to the Chief Engineer for recommendation to the Secretary. All deliberations and decisions of the DB Qualifications Evaluation Committee will be documented. Access to reports of the DB Qualifications Evaluation Committee as well as any deliberations of the DB Qualifications Evaluation Committee is limited to the Secretary, Chief Engineer, DB Qualifications Evaluation Committee, and Procurement Management Team.

The Design-Build Qualifications Evaluation Committee members perform the following specific functions:

- A) Maintain strict confidentiality of the evaluation process and all SOQs. Members of the DB Qualifications Evaluation Committee must not have any direct written or verbal communication with any member of a Proposer's organization during the evaluation process;
- B) Evaluate the SOQs and assign ratings to each pass/fail and technical evaluation factor and the overall SOQ;
- C) During the evaluations, prepare (if necessary) concise questions (to be transmitted to Proposers by the DB Procurement Management Team as requests for Clarifications) to better understand and evaluate an SOQ. Any requests for Clarifications may be agreed upon by the DB Qualifications Evaluation Committee as a whole;
- D) Considering the SOQs and clarifying information received as responses to requests for Clarifications, assign a pass/fail evaluation factor or a technical evaluation factor rating, as applicable, for each pass/fail or technical evaluation factor for each Proposer. Any particular reservations of an individual DB Qualifications Evaluation Committee member with respect to the evaluation ratings will be noted. The narrative will identify specific strengths, Weaknesses, and Deficiencies in support of the rating;
- E) Re-evaluate and assign final pass/fail and technical evaluation factor ratings to each SOQ as a result of receipt of responses to requests for Clarifications from Proposers (as occasioned by DB Qualifications Evaluation Committee deliberations), as well as overall ratings for each SOQ;
- F) Rank the SOQs in descending order of overall rating. Statements of Qualifications of equal overall rating will be ranked in the order determined by the DB Qualifications Evaluation Committee;
- G) Prepares documentation of the evaluation and deliberations leading to its selection of a recommended Short-List. The documentation must contain specific factual terms. Broad or general statements of a subjective nature and statements of opinion are to be avoided. A spreadsheet as well as narrative comparison of all SOQs including specific strengths, Weaknesses, and Deficiencies is to be developed for each of the pass/fail and technical evaluation factors, as well as for the overall rating of each SOQ. The documentation must clearly reflect that the evaluation, determinations of failure under pass/fail, assignment of technical ratings, ranking of the SOQs, and selection of a recommended Short-List were conducted in accordance with the procedures set forth in this E&SL Plan; and
- H) Submit the DB Qualifications Evaluation Committee Short-List recommendation to the Chief Engineer and support the Chair of the DB Qualifications Evaluation Committee in any briefings of the Chief Engineer and/or the Secretary that may be required.

3.3 CHAIR OF THE DESIGN-BUILD QUALIFICATIONS EVALUATION COMMITTEE

The Chair of the Design-Build Qualifications Evaluation Committee performs the following functions:

- A) Ensures that the SOQ evaluation and Short-List process is properly conducted and that the confidentiality of the process is maintained;
- B) Chairs the Design-Build Qualifications Evaluation Committee;
- C) Resolves Design-Build Qualifications Evaluation Committee conflicts and/or impasses;
- D) Briefs the Chief Engineer and/or the Secretary on recommendations for the Short-List;
- E) Meets as appropriate with the Design-Build Qualifications Evaluation Committee members;
- F) Assures timely completion of the evaluation process;
- G) Participates in actual evaluation of the Statements of Qualifications;
- H) Prepares brief narrative questions as may be required for Clarifications during the evaluation of SOQs by the DB Qualifications Evaluation Committee;
- I) Directs and coordinates preparation of the DB Qualifications Evaluation Committee written narratives to support the pass/fail and technical ratings assigned to each Proposer by identifying specific strengths, Weaknesses, and Deficiencies of each SOQ. All aspects of each SOQ will be fully considered; and
- J) Debriefs Proposers making or not making the Short-List, if so requested.

3.4 CHIEF ENGINEER

The Chief Engineer receives and reviews the recommended Short-List and the DB Qualifications Evaluation Committee's documentation from the DB Qualifications Evaluation Committee. The Chief Engineer then recommends the Short-List to the Secretary.

3.5 SECRETARY

The Secretary performs the following functions:

- A) Receives the recommended Short-List from the DB Qualifications Evaluation Committee and Chief Engineer; and
- B) Invites the Proposers on the Short-List to submit Proposals in response to the Request for Proposals.

3.6 OBSERVERS

Observers may be designated as desired and determined by the Secretary for the purpose of verifying that the procedures outlined in this E&SL Plan are being followed. Observers will be designated in writing. Observers will be held to the same standards of confidentiality, non-disclosure, and no conflict as members of the DB Qualifications Evaluation Committee. It must be stressed that observers are not participants in this evaluation and short-list process. Observers are not to interject or interfere with the evaluation and short-list process. If it is determined that an observer is acting inappropriately during the evaluation and short-list process, he or she will be immediately dismissed from the process. If an observer, at any time during the evaluation and short-list process, has questions or issues, he or she should bring those questions or issues to the attention of the DB Procurement Management Team immediately.

3.7 GENERAL PROCEDURES

Specific procedures are described within the functions of the above individual elements of the evaluation and short-list organization. Below are general procedures that are either common to all portions or organizational elements of the SOQ evaluation and short-list process or need special emphasis.

3.7.1 Confidentiality and Safeguarding of Information

The issue of confidentiality has been stressed under each of the organizational functions. The integrity of any contracting process is critical to the fairness (and the appearance of fairness) and the confidence that the Proposers, the stakeholders and the public have in the LA DOTD. Therefore, the deliberations of the DB Qualifications Evaluation Committee and the knowledge of individual participants in the evaluation process must be held in the strictest confidence and all information provided by the Proposers or generated by the evaluation must be safeguarded. All personnel associated with the process will sign certifications of confidentiality and non-disclosure and statements concerning conflicts of interest. The DB Procurement Management Team will set rules, guidelines, and procedures for the safeguarding of all information. After receipt of SOQs, no information concerning the number or identity of the Proposers or information contained in the SOQs will be made available to the public or anyone in the LA DOTD not having a need-to-know until after announcement of the Short-List. Proper care to protect and safeguard all SOQ and evaluation data on a strict need-to-know basis must be exercised. During the evaluation and short-list process, only the DB Procurement Management Team can approve the release of any information. Only those individuals actively participating in the evaluation process (members of the DB Qualifications Evaluation Committee and DB Procurement Management Team; the Chief Engineer; and the Secretary) have a need-to-know.

3.7.2 Clarifications

Because of the significant flexibility and responsibility placed on the Design-Builder to plan, design, construct, manage (necessitating “fast track” design and construction), and control the Work, Clarifications may be required as part of the SOQ evaluation and short-list process. During the process of evaluations, there will be instances where meaningful evaluation cannot take place or proceed or where an erroneous evaluation might occur without seeking Clarifications of an issue. In such cases, it will be to the benefit of the LA DOTD and the Proposer for Clarifications to be quickly obtained. The DB Qualifications Evaluation Committee should expeditiously submit a request for Clarifications in writing to the DB Procurement Management Team. The DB Procurement Management Team, after reviewing and preparing questions, will send a request to the Proposer and upon receipt of a response from the Proposer will forward it to the DB Qualifications Evaluation Committee. The DB Procurement Management Team will keep a copy of all Clarifications requests and responses as part of the official record of the evaluation and short-list process.

3.7.3 Addenda

The evaluation process may highlight, through evaluation of the evaluation factors of the SOQs or through the process of Clarifications, errors or inconsistencies in the RFQ provisions that require correction. All recommendations for addenda from the DB Qualifications Evaluation Committee should be forwarded expeditiously to the DB Procurement Management Team in writing with proposed addendum language and backup rationale. The DB Procurement Management Team will take appropriate action to have the request reviewed and will prepare and issue the addendum.

4.0 EVALUATION FACTORS

The RFQ contains the pass/fail and technical evaluation factors. Evaluators should refer to the RFQ for the exact definition of the evaluation factors, specific criteria, evaluation objectives, and submittal

requirements for each evaluation factor. The following is a general description of the pass/fail and technical evaluation factors.

4.1 PASS/FAIL EVALUATION FACTORS

[Example pass/fail evaluation factors are included in this Example E&SL Plan. However, the pass/fail evaluation factors should be tailored on a project-by-project basis and reflect the pass/fail evaluation factors stated in the RFQ.]

The pass/fail evaluation factors are as follows:

- A) Legal; and
- B) Financial.

4.2 TECHNICAL EVALUATION FACTORS

[Example technical evaluation factors are included in this Example E&SL Plan. However, the technical evaluation factors should be tailored on a project-by-project basis and reflect the technical evaluation factors stated in the RFQ.]

The technical evaluation factors are as follows:

- A) Organization and Key Managers;
- B) Experience of the Firm;
- C) Past Performance; and
- D) Project Understanding.

The technical evaluation factors of Organization and Key Managers, Experience of the Firms, and Past Performance are of equal importance and are more important than the technical evaluation factor of Project Understanding.

5.0 EVALUATION

5.1 PASS/FAIL EVALUATION

The RFQ contains pass/fail evaluation factors that must be evaluated on a pass/fail basis before an SOQ can proceed to the technical evaluation. Any SOQ that receives a rating of fail in one or both pass/fail evaluation factors will receive an overall rating of fail.

5.2 TECHNICAL EVALUATION

The technical evaluation factors must be rated in accordance with the rating guidelines provided below. To assist in the evaluation, the RFQ provides a detailed description of the technical evaluation factors, the objectives and requirements for each technical evaluation factor, the relative importance of the technical evaluation factors, and the information to be submitted.

5.3 RATING GUIDELINES

[The rating process included in this Example E&SL Plan is an adjectival rating method. The rating method should be tailored to the specific procurement and should reflect the rating method disclosed to the Proposers in the RFQ.]

The technical evaluation factors and the overall SOQ will be rated by an adjectival method. The DB Qualifications Evaluation Committee will read and assess SOQs to determine if the requirements are met and then assign ratings to each individual technical evaluation factor and overall for each SOQ. Evaluation worksheets, which will be provided by the DB Procurement Management Team, will document strengths, Weaknesses, and Deficiencies and a detailed narrative with reference to the specific areas in the SOQ that support the technical rating assigned. The assessment of the separate technical aspects of each SOQ will be the basis of arriving at the overall SOQ rating. The following adjectival ratings must be used in evaluation of each technical evaluation factor and the rating of the overall SOQ.

The overall and technical evaluation factor adjectival ratings must reflect the rating that best describes in a comprehensive and global sense the SOQ and/or technical evaluation factor, as appropriate. Professional judgment should be exercised in arriving at technical ratings when considering the strict and exact interpretation of the adjectival definitions [i.e., a technical evaluation factor rating (or, overall SOQ rating) of acceptable may be provided even if the evaluation factor (or SOQ) contains minor Weaknesses in a sub-element]. It is the design and intent of the evaluation scheme that one sub-element should not have a significant and controlling influence over the entire evaluation factor (or SOQ). Moreover, identified and documented Weaknesses (non-minor) and Deficiencies should be reflected in the ratings assigned and should be a safeguard against the potential of short-listing a Proposer with an SOQ that contains Deficiencies.

EXCEPTIONAL ~ The Proposer has provided information relative to its qualifications which is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no Weaknesses.

GOOD ~ The Proposer has presented information relative to its qualifications which is considered to exceed stated objectives/requirements and offers a generally better than acceptable quality. Weaknesses, if any, are very minor and no correction is necessary.

ACCEPTABLE ~ The Proposer has presented information relative to its qualifications which is considered to meet the stated objectives/requirements and has an acceptable level of quality. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE ~ The Proposer has presented information relative to its qualifications that contains significant Weaknesses and/or Deficiencies and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive. Weaknesses/Deficiencies are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

Additionally, plus (+) or minus (-) ratings may be assigned to each rating to indicate and further differentiate whether the technical evaluation factor or overall SOQ is in the top third (high) of a rating category (a plus rating) or is in the lower third (low) of a rating category (a minus rating). [Example: a technical rating of acceptable (+) reflects an acceptable technical evaluation factor or overall technical rating which is approaching/bordering on being good (-).]

Any SOQ that receives a rating of unacceptable in one or more technical evaluation factors will receive an overall technical rating of unacceptable.

5.4 NON-SELECTION

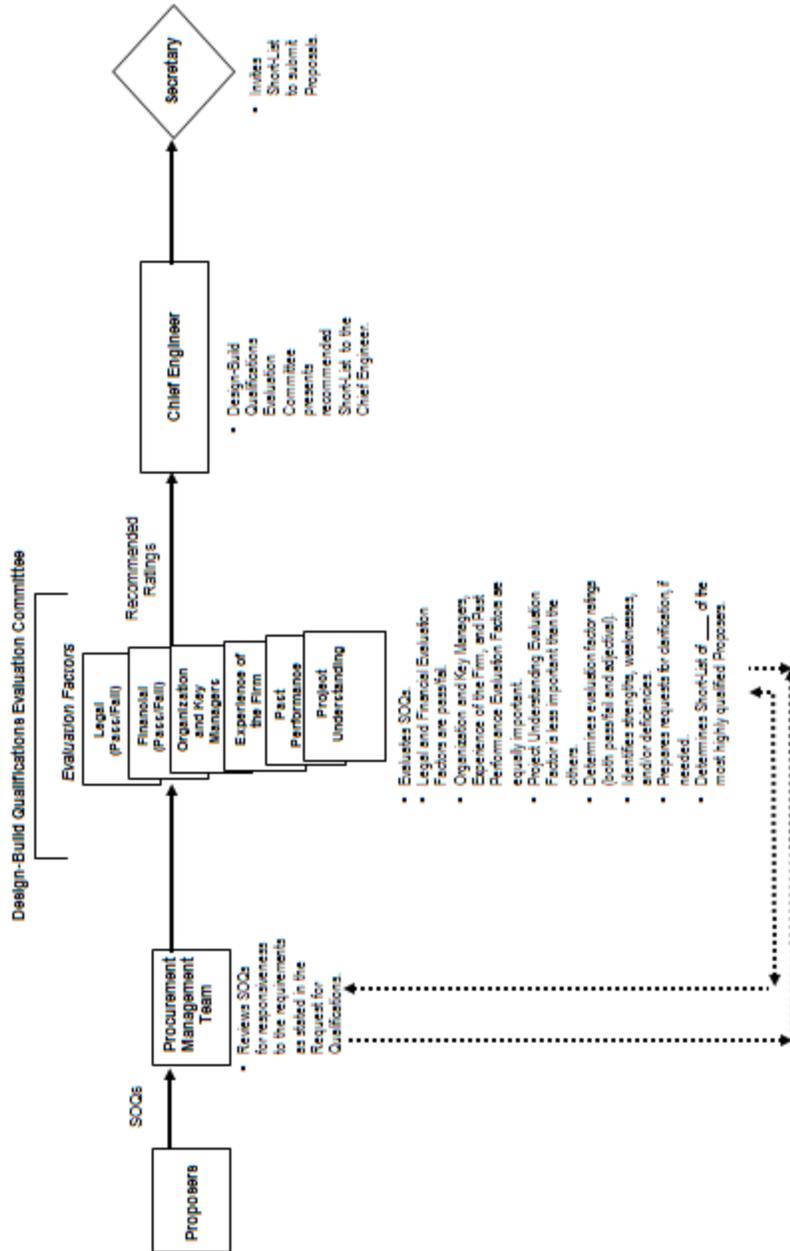
No Proposer that fails a pass/fail factor or receives an unacceptable rating on a technical evaluation factor will be entitled to be on the Short-List.

6.0 DETERMINATION OF SHORT-LIST

In conducting its responsibilities, the DB Qualifications Evaluation Committee will recommend a Short-List of **[Insert the maximum number of Proposers that may be included on the Short-List]** of the highest rated Proposers in order to ensure adequate competition. The Short-List will be created by eliminating the lowest rated Proposers until an appropriate number remains. Neither the overall ratings of all the Proposers nor the ranking of the Proposers on the Short-List will be disclosed to the Proposers.

Attachment A
Flow Diagram for the Evaluation and Short-List Process

Statements of Qualifications
 Clarifications



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

EXAMPLE REQUEST FOR QUALIFICATIONS

APPENDIX C

STATEMENT OF QUALIFICATIONS FORMS



FORMS

	Acknowledgement of Receipt
<u>Form E-1</u>	Past Project Description
<u>Form E-2</u>	Subcontractor Information
<u>Form L-1</u>	Proposer's Organization Information
<u>Form L-2</u>	Principal Participant and Designer Certification
<u>Form PP</u>	Past Performance
<u>Form Q</u>	Questions
<u>Form S</u>	Safety Questionnaire

FORM E-1
PAST PROJECT DESCRIPTION

Name of Proposer: _____

Name of Firm: _____
Project Role: _____ Principal Participant: ____ Designer: ____ Other (Describe): _____
Years of Experience: _____ Roads/Streets: _____ Bridges/Structures: _____ Utility Relocations: _____
Project Name, Location, Description, and Nature of Work for which the Firm was responsible: _____ _____ _____ _____ _____ _____ _____
Describe Site Conditions: _____ _____ _____ _____ _____ _____
(Use additional sheets as necessary to describe project and site conditions)
List any awards, citations, and/or commendations received for the project: _____ _____ _____
Name of Client (Owner/Agency): _____ Address: _____ _____ Contact Name: _____ Telephone number: _____ Owner's Project or Contract No.: _____ E-mail Address: _____ Original Contract Value (US\$): _____ Final Value (US\$): _____ Percent of Total Work Performed by Firm: _____ Commencement Date: _____ Planned Completion Date: _____ Actual Completion Date: _____ Amount of Claims: _____ Any Litigation? Yes ____ No _____

FORM L-1
PROPOSER'S ORGANIZATION INFORMATION

PROPOSER			
Name of Entity: Address:			
Contact Name:		Title:	
Telephone Number:		Facsimile Number:	E-mail:
NAME(S) OF PROPOSER ENTITY(IES)			
Company Name	Address, E-mail Address, and Telephone Number	State of Incorporation	Lead Participant (include percent) <u>Yes</u> <u>No</u>
Principal Participant(s)			
Designer			
Other Firm(s)			

FORM L-2
PRINCIPAL PARTICIPANT AND DESIGNER CERTIFICATION

Complete this Form L-2 for each Principal Participant and the Designer.

1. Has the firm* ever failed to complete any work it agreed to perform or had a contract terminated because it was in default? If yes, describe.

2. Has the firm* or any officer thereof been indicted or convicted of bid or other contract related crimes or violations or any felony or misdemeanor related to performance under a contract within the past five years? If yes, describe.

3. Has the firm* ever sought protection under any provision of any bankruptcy act? If yes, describe.

4. Has the firm* ever been debarred from performing work for the federal government or any state or local government? If yes, describe.

(Must be signed by an officer of the firm)

Firm: _____

By: _____

Title: _____

Name of Proposer: _____

* (Note: "Firm" includes any Affiliate, including a parent company or subsidiary companies.)

Louisiana Department of Transportation and Development

**FORM PP
PAST PERFORMANCE**

Name of Proposer: _____

Firm Name: _____

Litigation and Arbitration

Project/Issue	Owner/Agency Initiated Action	Resolution/Outcome	Indicate if Unresolved or Outstanding Action	Current Owner Contact Name and Telephone and Facsimile Numbers

Termination for Cause or Default

Project	Describe Reason for Termination	Dollar Amount Involved	Current Owner Contact Name and Telephone and Facsimile Numbers

FORM PP
PAST PERFORMANCE

Disciplinary Action

Project	Describe Action Taken	Current Owner Contact Name and Telephone and Facsimile Numbers

Louisiana Department of Transportation and Development

FORM S
SAFETY QUESTIONNAIRE

Proposer's Name: _____

Firm Name: _____

1. Provide the following information for the last three years:

Item	2008	2009	2010
Employee hours worked (Do not include non-work time, even though paid)			
Number of lost workday cases			
Number of restricted workday cases			
Number of cases with medical attention only			
Number of fatalities			
Experience modifier for workers' compensation			

2. Are internal accident reports and report summaries sent to management? To what levels and how often?

Position	No	Yes	Monthly	Quarterly	Annually

3. Do you hold site meetings for supervisors? Yes _____ No _____

How Often? Weekly ____ Bi-Weekly ____ Monthly ____ Less often, as needed ____

4. Do you conduct project safety inspections? Yes _____ No _____

By whom? _____

How Often? Weekly ____ Bi-Weekly ____ Monthly ____

5. Does the firm have a written safety program? Yes _____ No _____

6. Does the firm have an orientation program for new hires? Yes _____ No _____

If yes, what safety items are included? _____

Louisiana Department of Transportation and Development

FORM S
SAFETY QUESTIONNAIRE

7. Does the firm have a program for newly hired or promoted foremen? Yes ___ No ___

If yes, does it include instruction of the following?

Topic	Yes	No
Safety Work Practices		
Safety Supervision		
On-site Meetings		
Emergency Procedures		
Accident Investigation		
Fire Protection and Prevention		
New Worker Orientation		

8. Does the firm hold safety meetings which extend to the laborer level? Yes ___ No ___

How often? Daily ___ Weekly ___ Bi-Weekly ___ Less often, as needed ___

9. For the Proposer only, indicate the safety record on the last Project to which the indicated key personnel were assigned:

Key Person	Total hours worked by all employees on the Project	Number of lost workday cases on the Project	Number of restricted workday cases on the Project	Number of cases with medical attention only on the Project	Number of fatalities on the Project
Project Principal					
Project Manager					
Construction Manager					

STATE OF LOUISIANA

[Insert name of the project]
DESIGN-BUILD PROJECT

[Insert name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

EXAMPLE REQUEST FOR QUALIFICATIONS

APPENDIX A

PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES, AND PROJECT STATUS



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2.0 DESIGN-BUILDER RESPONSIBILITIES 1
3.0 PROJECT STATUS..... 2

1.0 PROJECT DESCRIPTION

[Insert a detailed physical description specific to the project here.]

2.0 DESIGN-BUILDER RESPONSIBILITIES

The successful Design-Builder shall be responsible for furnishing all labor, material, plant, equipment, services, and support facilities for the following (this list is not intended to be all-inclusive):

- A) Design and construction of all Project components;
- B) Design and construction management;
- C) Project-related Public Information (PI) activities (including development and maintenance of a Project Web site);
- D) Coordination with Project stakeholders, other contractors, and utility owners;
- E) Design Quality Control;
- F) Construction Quality Control;
- G) Environmental permit compliance monitoring;
- H) Additional environmental investigations and permit modifications resulting from the Design-Builder's design and/or construction activities;
- I) Maintenance and protection of traffic and access to properties (both temporary and permanent access);
- J) Project safety and security;
- K) Preliminary Engineering (PE), such as surveys and geotechnical investigations not provided by the LA DOTD;
- L) Harmful and hazardous materials remediation (design and construction);
- M) Drainage and erosion control;
- N) Construction waste disposal and handling;
- O) Required clearances, licenses, construction easements, and permits for the Design-Builder's Work, Work sites, and storage areas on- or off-site;
- P) Ancillary works, such as access roads, driveways, temporary fencing, relocation of drainage, Work sites, and temporary works;
- Q) Location, acquisition, permits, and transportation for material;
- R) Coordination and relocation of any utilities and municipal drainage facilities;
- S) Site clearance (if applicable);
- T) Maintenance of the Project during the Contract period (design and construction maintainability, maintenance needs, and maintenance and inspection access); and
- U) Project warranties, as required in the Request for Proposals.

3.0 PROJECT STATUS

[The status of the following activities should be updated for the specific project.]

The following is a summary of the status of the Work being completed for the Project as well as existing Work and/or information (this list is not intended to be all-inclusive):

A) Survey

B) Preliminary Design Engineering

C) Traffic Data

D) Right-Of-Way

E) Environmental

F) Aesthetic Design Guidelines

G) Preliminary Geotechnical Information Borings

Louisiana Department of Transportation and Development

H) Design Criteria

I) Performance Measures

J) Project Requirements

K) Reference Documents

L) Warranties

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

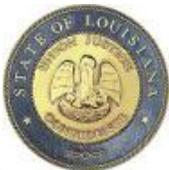
[Insert the name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

EXAMPLE REQUEST FOR QUALIFICATIONS

APPENDIX B

FORMAT AND ORGANIZATION FOR STATEMENT OF QUALIFICATIONS



Louisiana Department of Transportation and Development

The outline presented in this Appendix B must be followed for preparing the Statement of Qualifications (SOQ). Specific content requirements for each section of the SOQ are described in the Request for Qualifications (RFQ) as referenced in the outline. This format has been created to facilitate responses to the RFQ and to facilitate the evaluation and Short-List process.

The Statement of Qualifications must be packaged into a cover letter and the following seven separate sections:

[The evaluation factors referenced in this Appendix B are examples only and should reflect the evaluation factors that were established during the Procurement Strategy Session and articulated in the RFQ.]

- A) Section One - Legal;
- B) Section Two - Financial;
- C) Section Three – Organization and Key Managers;
- D) Section Four - Experience of the Firms;
- E) Section Five - Past Performance;
- F) Section Six - Project Understanding.

The sections and appendices must consist of loose-leaf pages. The six sections must be placed together in one three-ring binder.

Text must be in a standard font, a minimum of ten points in height, single-spaced. Pages shall be 8 1/2 inch by 11 inch white paper with simple lettered/numbered dividers for each section. Single sided pages must be used. The Proposer shall number each page in each section consecutively (i.e., 1-1, 1-2; 2-1, 2-2; 3-1, 3-2, and so on). The Proposer shall center page numbers at the bottom of each page.

The Proposer shall make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

The information must be easily reproducible by normal black and white photocopying machines. Color photographs and renderings must be adequately bound and suitably protected for handling and circulation during review and evaluation.

Statements of Qualifications will become the property of the Louisiana Department of Transportation and Development (LA DOTD). Copies of each SOQ will be retained after the SOQ evaluation process for the Project files.

Louisiana Department of Transportation and Development

Statement of Qualifications Section Number	Section Title and Required Information	Request for Qualifications Reference
	Cover Letter and Acknowledgement of Receipt	4.4.1
Section One	<p>Legal</p> <ul style="list-style-type: none"> • Form L-1; • Form L-2; • Louisiana Secretary of State registration or commitment to obtain; • Evidence of appropriate licensing or commitment to obtain; • Identity of lead Principal Participant, if a Joint Venture (JV), Limited Liability Company (LLC), or partnership; • Percent share of each Principal Participant, if known, if a JV, LLC, or partnership; • Express statement of joint and several liability, if a JV, LLC, or partnership; • Notarized Power(s) of Attorney for each Principal Participant's representative; • Notarized Power(s) of Attorney for each Principal Participant for the Proposer's designated point of contact; and 	<p>4.4.2.1(B)</p> <p>4.4.2.1(B)(1)</p> <p>4.4.2.1(B)(2)</p> <p>4.4.2.1(B)(3)</p> <p>4.4.2.1(B)(4)</p> <p>4.4.2.1(B)(5(a))</p> <p>4.4.2.1(B)(6)(b)</p> <p>4.4.2.1(B)(6)(c)</p> <p>4.4.2.1(B)(7)</p> <p>4.4.2.1(B)(8)</p>
Section Two	<p>Financial</p> <ul style="list-style-type: none"> • Surety letters 	4.4.2.2(B)
Section Three	<p>Organization and Key Managers</p> <ul style="list-style-type: none"> • Organization and communication structure; and • Resumes. 	<p>4.4.2.3(B)</p> <p>4.4.2.3(B)(1)</p> <p>4.4.2.3(B)(2)</p>
Section Four	<p>Experience of the Firms</p> <ul style="list-style-type: none"> • Form E-1; and • Form E-2. 	4.4.2.4(B)
Section Five	<p>Past Performance</p> <ul style="list-style-type: none"> • Form PP; and • Form S. 	<p>4.4.2.5(B)</p> <p>4.4.2.5(B)(1)</p> <p>4.4.2.5(B)(2)</p>

Louisiana Department of Transportation and Development

Statement of Qualifications Section Number	Section Title and Required Information	Request for Qualifications Reference
Section Six	<p>Project Understanding</p> <ul style="list-style-type: none">• Discussion of significant issues and risks facing the selected Proposer and the LA DOTD; and• Description of how the Proposer will use its organization and the Design-Build (DB) process to ensure a successful Project.	4.4.2.6(B)

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT H - EXAMPLE INSTRUCTIONS
TO PROPOSERS AND EXAMPLE
EVALUATION AND SELECTION PLAN**



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH

STATE PROJECT NO. [Insert the state project number]

FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS

EXAMPLE INSTRUCTIONS TO PROPOSERS



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1.0 INTRODUCTION

This Request for Proposals (RFP) is issued by the Louisiana Department of Transportation and Development (LA DOTD) to seek competitive Proposals for the _____ **[Insert the name of the project]** Design-Build (DB) Project (Project). Proposals will only be considered from those Proposers that have been notified of their inclusion on the Short-List.

In the preparation of the Proposals, Proposers should address and/or consider the Project goals identified in Instructions to Proposers (ITP) Section 1.1.

See also Contract Documents, Part 1 – Agreement, Appendix A.

1.1 PROJECT GOALS

The Louisiana Department of Transportation and Development’s goals for the Project are as follows:

- A) [Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- B) [Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- C) [Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**
- D) [Insert goals that were established during the Procurement Strategy Session. Add additional letters to the list as needed for a specific project.]**

1.2 THE PROPOSAL

1.2.1 Documents in the Request for Proposals

The documents issued as part of this Request for Proposals consist of the following:

- A) Instructions to Proposers;
- B) Additional documents issued by Addenda to this Request for Proposals;
- C) Contract Documents Parts 1 through 6, inclusive of the following parts:
 - 1) Part 1 – Design-Build Agreement;
 - 2) Part 2 – Design-Build Section 100;
 - 3) Part 3 – Design Requirements and Performance Specifications;
 - 4) Part 4 – Request for Proposals Plans;
 - 5) Part 5 – Engineering Data; and
 - 6) Part 6 – Design-Builder’s Proposal; and

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D) Reference Documents.

The components of the RFP are intended to be complementary and to describe and provide for a fair and competitive procurement process. Prior to execution of the Contract, the components of the RFP complement one another in the descending order of precedence stated above. Within the Contract Documents Parts 1 through 6, the order of precedence is governed by Contract Documents, Part 2 – DB Section 100, DB Section 102-1.

1.2.2 Executive Summary

An Executive Summary highlighting the positive elements of the Proposer's Technical Proposal must be included with the Technical Proposal. The Executive Summary must not include or allude to any information regarding schedule or price, but should emphasize the benefits to the LA DOTD contained in the Technical Proposal. The Executive Summary will not be considered confidential and, as such, should not contain any confidential proprietary or trade secret information. After the public opening of the Lump Sum Price Proposals, the Executive Summary of any or all Proposers may be made public, at the sole discretion of the LA DOTD.

1.2.3 Technical Proposal

The Technical Proposal must be submitted as specified in Appendix A to this ITP, which is entitled “Technical Proposal Instructions.”

1.2.4 Lump Sum Price Proposal

The lump sum Price Proposal must be submitted as specified in Appendix B – Lump Sum Price Proposal Instructions to this ITP.

1.2.5 Inclusion in Contract

The Technical Proposal and the lump sum Price Proposal submitted by the successful Proposer will be included with and bound into the Contract as Part 6 – Design-Builder’s Proposal at execution.

1.2.6 Required Forms

Failure to provide all the information and all completed forms (*see* Appendix C – Proposal Forms to this ITP) in the format specified in Appendix A – Technical Proposal Instructions and Appendix B – Lump Sum Price Proposal Instructions of this ITP may result in the LA DOTD’s rejection of the Proposal or giving it a lower rating. All blank spaces in the Proposal forms must be filled in as noted and no change will be made in the phraseology of the RFP or in the items mentioned therein. Any alterations, additions (other than expanding forms in order to properly include all required information), or deletions made to the format of the forms contained in Appendix C – Proposal Forms may render a Proposal non-responsive.

1.2.7 Language in Proposal

The verbiage used in each Proposal will be interpreted and evaluated based on the level of commitment provided by the Proposer. Tentative commitments will be given no consideration. For example, phrases such as “we may” or “we are considering” will be given no consideration in the evaluation process since they do not indicate a firm commitment.

1.2.8 Property of the Louisiana Department of Transportation and Development

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All documents submitted by the Proposer in response to this RFP will become the property of the LA DOTD, except for any documents that have been properly identified as containing confidential proprietary or trade secret information in accordance with *Section 2.5*. Documents will not be returned to the Proposer.

1.2.9 Errors

If any mistake, error, or ambiguity is identified by the Proposer at any time during the Proposal process in any of the documents supplied by the LA DOTD, the Proposer shall notify the LA DOTD of the alleged mistake, error, or ambiguity and the recommended correction in writing in accordance with *Section 2.2*. Failure to do so will be deemed a waiver of any claim for additional compensation associated therewith.

1.3 ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
ATC	Alternative Technical Concept
CD-ROM	Compact Disc – Read Only Memory
CFR	Code of Federal Regulations
DB	Design-Build
DBE	Disadvantaged Business Enterprise
FHWA	Federal Highway Administration
ITP	Instructions to Proposers
JV	Joint Venture
LA DOTD	Louisiana Department of Transportation and Development
LLC	Limited Liability Company
LOI	Letter of Interest
NOI	Notice of Intent
NTP	Notice to Proceed
RFP	Request for Proposals
RFQ	Request for Qualifications
SOQ	Statement of Qualifications
UPS	United Parcel Service
US	United States
USPS	United States Postal Service

1.4 DEFINITIONS

“**Addenda/Addendum**” means supplemental additions, deletions, and modifications to the provisions of the RFP after the release date of the RFP.

“**Advertisement**” means the public announcement in the form of the Notice of Intent (NOI) inviting qualified Proposers to obtain a Request for Qualifications (RFQ) and submit a Statement of Qualifications (SOQ). The Advertisement included a brief description of the Work proposed to be the subject of the procurement with an announcement of where the RFQ was to be obtained, the terms and conditions under which SOQs were received, and such other matters as the LA DOTD deemed advisable to include therein. The Advertisement for this Project was published on _____ **[Insert the date the NOI was published]** _____.

“**Affiliate**” means any of the following:

- A) A Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:

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- 1) The Proposer; or
 - 2) Any other Principal Participant.
- B) An Affiliate may also be any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
- 1) The Proposer;
 - 2) Any Principal Participant; or
 - 3) Any Affiliate of the Proposer under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

“**Clarifications**” means a written exchange of information initiated by LA DOTD that takes place between a Proposer and the LA DOTD after the receipt of all Proposals during the evaluation process. The purpose of Clarifications is to address ambiguities, omissions, errors or mistakes, and clerical revisions in Proposals.

“**Deficiency**” means a material failure of a Proposal to meet the LA DOTD’s requirements or a combination of significant Weaknesses in a Proposal that increases the risk of unsuccessful Contract performance to an unacceptable level.

“**Designer**” means a Principal Participant, Specialty Subcontractor, or in-house designer that leads the team furnishing or performing the design of the Project.

“**Instructions to Proposers**” means those documents included in the RFP containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

“**Louisiana Department of Transportation and Development**” means the LA DOTD or its representatives.

“**Person**” means any individual, firm, corporation, company, Limited Liability Company (LLC), Joint Venture (JV), or partnership.

“**Price Reasonableness**” means a price, in its nature and amount, that does not exceed that which would be incurred by a prudent person in the conduct of competitive business. What is reasonable depends upon a variety of considerations and circumstances, including the following:

- A) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the Proposer’s business or the Contract performance;
- B) Generally accepted sound business practices and federal and state laws and regulations;
- C) The Proposer’s responsibilities to the LA DOTD, other customers, the owners of the business, its employees, and the public at large;
- D) Any significant deviations from the Proposer’s established practices;

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- E) Comparisons of price information to the engineer's estimate and to the LA DOTD's historic costs for similar Work; and
- F) Comparisons of price information submitted by other Proposers.

"Principal Participant" means any of the following entities:

- A) The Proposer;
- B) If the Proposer is a JV, partnership, or LLC any joint venturer, partner, or member of the Proposer; and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Proposer.

"Project" means the improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

"Proposal" means the offer (in response to the RFP) of the Proposer for the Work, when executed and submitted in the prescribed format and on the prescribed forms and including any Clarifications.

"Proposer" means an entity submitting a Proposal for the Project in response to this RFP. For purposes of the Contract Documents, the Design-Builder means a Proposer.

"Request for Proposals" means the document identifying the Project and its Work to be performed and Materials to be furnished in response to which a Proposal may be submitted by a Proposer. The RFP includes the ITP, Contract Documents, and Reference Documents. The RFP is issued only to Proposers that are on the Short-List.

"Request for Qualifications" means the LA DOTD's Request for Qualifications issued on ____ **[Insert the date the RFQ was issued]**____, as amended.

"Specialty Subcontractor" means those consultants or subcontractors identified by the Proposer to perform Work critical to the success of the Project, such as the Designer or any subcontractors for bridges, structures, pavement, or other specialty Work.

"Stakeholder" means any party that has a vested interest in the Project or authority to approve or control specific aspects of the Project or elements that will impact the outcome of the Project. This includes, but is not limited to, the LA DOTD, Federal Highway Administration (FHWA), local city and parish governments, permitting agencies, and utility companies and the associated staff members of these entities.

"Statement of Qualifications" means the submission made by a Proposer in response to the RFQ, including all Clarifications thereto submitted in response to requests by the LA DOTD.

"Weakness" means a flaw in the Proposal that is determined by the LA DOTD to increase the risk of unsuccessful Contract performance. A significant Weakness in the Proposal is a flaw that is determined by the LA DOTD to appreciably increase the risk of unsuccessful Contract performance.

For definitions of other initially capitalized terms, *see* Contract Documents, Part 2 – DB Section 100, DB Section 101-3.

1.5 IMPROPER CONDUCT

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1.5.1 Prohibited Activities

If the Proposer, or Person(s) representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to the LA DOTD, including its agents or Person(s) representing the LA DOTD at any time during this procurement process, the LA DOTD will immediately disqualify the Proposer, the Proposer shall forfeit its Proposal Bond, the Proposer shall not be entitled to any payment, and the LA DOTD may sue the Proposer for damages.

1.5.2 Non-Collusion Form

The Proposer shall provide the Non-Collusion Form (Appendix C – Proposal Forms to this ITP). *See also* Appendix A – Technical Proposal Instructions to this ITP.

1.6 LANGUAGE REQUIREMENTS

All correspondence regarding the RFP, Proposal, Alternative Technical Concepts (ATC), and the Contract must be in the English language. If any original documents required for the Proposal are in any other language, the Proposer shall provide an English translation, which will take precedence in the event of conflict with the original language.

1.7 PROPOSAL SCHEDULE

1.7.1 Anticipated Schedule

The following schedule is anticipated. The Louisiana Department of Transportation and Development reserves the right to alter these dates.

[Insert the dates, as appropriate for the specific project, into the table below. If the receipt of the Technical Proposal and the Lump Sum Price Proposal will be split apart, it should be identified in this schedule. However, it should be noted that the Department's standard procedure is to have the Lump Sum Price Proposal submitted at the same time as the Technical Proposal. On certain occasions, if circumstances dictate (such as, where a procurement schedule has been constrained) there may be cause for delaying the receipt of the Lump Sum Price Proposal. However, under no circumstances should the receipt of the Lump Sum Price Proposal be delayed later than the determination of the Proposers' Technical Scores]

Schedule Event	Date
Date for one-on-one meetings regarding ATC and other technical issues, if held (<i>see</i> Section 4.2)	
Final date for receipt of Proposer ATCs	
Issue date for responses to Proposer ATCs	
Date for second round of one-on-one meetings regarding ATC and other technical issues (<i>see</i> Section 4.2)	
Date for third round of one-on-one meetings regarding technical issues (<i>see</i> Section 4.2)	
Final date for receipt of Proposer questions	

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Schedule Event	Date
Issue date for final Addendum and/or answers to Proposer questions	
Proposal due date	
Proposer Presentations	
Public Opening of Price Proposals	
Award	
Contract executed and Notice to Proceed	

1.7.2 Proposal Due Date

The completed Proposal shall be delivered to the LA DOTD's designated representative at the address specified below, no later than 12:00 p.m. (Central Time), on the Proposal due date specified in Section 1.7.1:

By Courier:

Louisiana Department of Transportation and Development
Attention: Contract Services Administrator

By Mail:

1201 Capitol Access Road
Baton Rouge, LA 70802-4438

or

P.O. Box 94245
Baton Rouge, LA 70802-4438.

1.8 INSURANCE

Refer to Contract Documents, Part 2 – DB Section 100, DB Section 107-2.2 for insurance requirements. Insurance certificates must be submitted with the Contract that has been signed by the Proposer, as a condition to execution by the LA DOTD.

1.9 CHANGES TO THE PROPOSER'S ORGANIZATION

It is a requirement of the LA DOTD that the Proposer's organization, including, Principal Participants, Specialty Subcontractors, and key management personnel, identified in the SOQ remain intact for the duration of the procurement process including the subsequent Contract. A Proposer may propose substitutions for participants after the SOQ submittal. However, such changes will require written approval by the LA DOTD, which approval may be granted or withheld in the LA DOTD's sole discretion. Requests for changes must be made in writing no later than 30 working days prior to the due

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date for submittal of the Proposals. Requests for changes in any of the Principal Participants, the Designer, a subcontractor responsible for performing more than 15% of the design, a subcontractor responsible for performing more than 20% of the construction, or Specialty Subcontractors will be particularly scrutinized. A rejection of the requested change by the LA DOTD, or the failure of the Proposer to request LA DOTD approval of the change, may result in the disqualification of the Proposer.

If a request is made to add to the organization, other than the addition of subcontractors, the Proposer shall submit with its request that information specified for a Principal Participant or Designer in the RFQ, including legal and financial data as well as the information for quality evaluation. If a Principal Participant or Designer is being deleted, the Proposer shall submit such information as may be required by the LA DOTD to demonstrate that the changed team meets the RFQ criteria. The LA DOTD specifically reserves the right to accept or reject the requested change. A rejection of the requested change by the LA DOTD, or the failure of the Proposer to request LA DOTD approval of the change, may result in the disqualification of the Proposer.

If the Proposer wishes to change any of the key personnel presented by the Proposer in its SOQ, the Proposer must submit a request to change its organization in writing not later than 30 working days prior to the Proposal due date identified in *Section 1.7.1*. If a request is made to change any key personnel, the Proposer shall submit with its request that information specified for that key personnel in the RFQ, including a resume. The LA DOTD specifically reserves the right to accept or reject the requested change. A rejection of the requested change by the LA DOTD, or the failure of the Proposer to request LA DOTD approval of the change, may result in the disqualification of the Proposer.

The Proposer's submission of a Proposal in response to this RFP is an acknowledgment and certification that the Proposer is committed to assigning the resources identified in its SOQ and Proposal, including Key Personnel and other staff identified by name, equipment, Material, supplies, and facilities to this Project if the Proposer is awarded the Contract, to the extent that assigning these resources remains within the control of the Proposer and its Principal Participants.

1.10 INELIGIBLE FIRMS

The Proposers' attention is directed to 23 Code of Federal Regulations (CFR) Part 636 Subpart A and in particular to Subsection 636.116, regarding organizational conflicts of interest. A potential organizational conflict of interest may occur where consultants and/or subcontractors that assisted the LA DOTD in the preparations of the RFQ or the RFP, **[Insert the names of any firms ineligible to propose on the project because they assisted the Department in the preparation of the procurement documents]**, participate as a Proposer or a member of a Proposer in response to the RFQ and/or RFP. However, the LA DOTD may determine that there is not an organizational conflict of interest for a consultant or subcontractor under the following circumstances:

- A) Where the role of the consultant or subcontractor was limited to provision of preliminary design, reports, or similar "low level" documents that will be incorporated into the RFP and did not include assistance in the development of the ITP or evaluation criteria at either the RFQ or RFP phase; or
- B) Where all documents and reports that were delivered to LA DOTD by the consultant or subcontractor are made available to all the Proposers through the RFQ or the RFP.

The Proposer shall include a full disclosure of all potential organizational conflicts of interest in their Proposal. The successful Proposer and its Principal Participants must disclose all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest. The successful Proposer and its Principal Participants must state how their interests, or those

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of their chief executives, directors, key personnel, or any proposed subcontractor may result, or could be viewed as, an organizational conflict of interest.

In addition, any firm that is rendered ineligible due to any state or federal action is ineligible to participate with any Proposer. A Proposer must not submit a Proposal, nor will a Proposal be considered, if the Proposer or any Principal Participant or Designer is on the LA DOTD's list of Disqualified Contractors or Consultants or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of submission of the Proposal, opening of the Price Proposal, or award. If a Subcontractor identified in a Proposer's Proposal is placed on the LA DOTD's list of Disqualified Contractors or Consultants or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of the submission of the Proposal, opening of the Price Proposal, or award, the LA DOTD specifically reserves the right to require the affected Proposer to replace the disqualified or debarred Subcontractor prior to that Proposer's Proposal being considered or eligible for award under this procurement.

1.11 PROJECT SCOPE AND BUDGET

Proposers shall refer to Contract Documents, Part 1 – Agreement, Appendix A – Project Scope for a description of the Project's scope. The LA DOTD's available funding sufficient for all aspects of this Project is \$ _____ **[Insert the Department's available funding for the project]** _____.

1.12 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS **[THIS SECTION SHOULD BE INCLUDED FOR FEDERAL PROJECTS ONLY]**

The LA DOTD has determined that Disadvantaged Business Enterprises (DBE) requirements apply to design and construction of the Project, and has adopted a DBE Program to provide DBEs opportunities to participate in the business activities of the LA DOTD as service providers, vendors, contractors, subcontractors, advisors, and consultants. The LA DOTD has adopted the definition of DBEs set forth in 49 CFR 6.5. The Proposer's DBE compliance obligations are governed by all applicable federal DBE regulations, including 49 CFR Part 26, as well as applicable requirements set forth in the Contract Documents and the LA DOTD's DBE Program document.

The LA DOTD's DBE requirements applicable to the Contract are set forth in Contract Documents, Part 2 - DB Section 100, DB Section 114-2 and Appendix 114A, and LA DOTD's DBE Program adopted pursuant to 49 CFR Part 26. The DBE participation goal for the Project is _____ **[Insert the assigned DBE goal for the project]** % for the Work performed under the Contract. As set forth in Section A2.2(I) of Appendix A – Technical Proposal Instructions, each Proposer shall submit a certification concerning DBE requirements (Form DBEC, *see* Appendix C – Proposal Forms to this ITP) with its Proposal. Failure to provide the required DBE certification will be considered a breach of the Proposal requirements and will render a Proposal non-responsive.

The selected Proposer shall provide DBE commitments in the form required by the LA DOTD as DBE subcontractors are identified, in accordance with Part 2 - DB Section 100, DB Section 114-2 and Appendix 114A, and the LA DOTD's DBE Program.

1.13 ENVIRONMENTAL STATUS AND MITIGATIONS

[The status of any environmental documentation should be included here.]

2.0 PROCUREMENT PROCESS

2.1 METHOD OF PROCUREMENT

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The Contract will be procured through a single DB Contract per Louisiana Revised Statutes 48:250.2 and 48:250.3. The intent of the LA DOTD is to award the Contract to the qualified Proposer with the lowest adjusted score, as per Louisiana Revised Statutes Section 48:250.3(H)(2).

This procurement process has included the following two steps:

- A) Request for Qualifications and Statement of Qualifications (determination of the Short-List); and
- B) Request for Proposals and Proposals (selection of the Design-Builder from Proposers on Short-List that submit Proposals).

The Design-Builder will be selected based on both pass/fail evaluation factors and technical evaluation factors that, when combined with time value and price, result in the lowest adjusted score.

2.2 RECEIPT OF THE REQUEST FOR PROPOSALS AND OTHER INFORMATION

The RFP and other information may be obtained by Proposers that have been notified of their inclusion on the Short-List from the person designated as the LA DOTD point of contact in *Section 2.2.1*. The LA DOTD will provide the RFP on one set of Compact Disc – Read Only Memory (CD-ROM), as amended.

2.2.1 Louisiana Department of Transportation and Development Designated Point of Contact

The LA DOTD's designated point of contact for this Project is the Contract Services Administrator, [Insert the name of the Contract Services Administrator], or his designee.

The LA DOTD will only consider questions regarding the RFP if submitted in writing by a Proposer on the Short-List. All such requests must be submitted in the Microsoft Word format shown on Form Q (*see* Appendix C – Proposal Forms to this ITP) to the LA DOTD's designated point of contact for this Project at [Insert the E-mail address of the Contract Services Administrator].

All questions must be received by the LA DOTD at the Electronic-mail (E-mail) address specified in this *Section 2.2.1* no later than the date specified in *Section 1.7.1*. Only written requests to the above addressee will be considered. No requests for additional information or clarification to any other LA DOTD office, consultant, or employee will be considered. All responses will be in writing and will be delivered without attribution to all Proposers.

In general, the LA DOTD will not consider any correspondence delivered in any other way except as specified above, except the LA DOTD may convene informational and/or one-on-one meetings with Proposers, as it deems necessary.

2.2.2 Rules of Contact

The rules are designed to promote a fair, unbiased, legally defensible procurement process. The LA DOTD is the single source of information regarding the Contract procurement. The following rules of contact will apply during Contract procurement for the Project, and commenced on the date of the Advertisement. Contact includes face-to-face, telephone, facsimile, E-mail, or formal written communications. Any contact determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification:

- A) A Proposer or any of its team members must not communicate with another Proposer or its team members with regard to the Project, this RFP or either Proposer's Proposal,

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except that subcontractors that are shared between two or more Proposers may communicate with their respective Proposer team members so long as those Proposers establish a protocol to ensure that the subcontractor will not act as a conduit of information between Proposers. Contact among Proposer organizations is allowed during LA DOTD sponsored informational meetings;

- B) The Proposers shall correspond with the LA DOTD regarding this RFP only through the LA DOTD's and Proposer's designated representatives;
- C) The Proposers shall not contact any LA DOTD employees, including, department heads; members of the evaluation teams, DB Qualifications Evaluation Committee, or Proposal Review Committee; and any official who will participate in the decision to award the Contract regarding the Project except through the process identified above. Contact between Proposer organizations and LA DOTD employees is allowed during LA DOTD sponsored informational meetings and one-on-one meetings;
- D) Any communications determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification, at the sole discretion of the LA DOTD;
- E) Any official information regarding the Project will be disseminated from the LA DOTD's designated representative identified in *Section 2.2.1* on LA DOTD letterhead. Any official correspondence will be in writing and signed by the LA DOTD's designated representative;
- F) The LA DOTD will not be responsible for any verbal exchange or any other information or exchange that occurs outside the official process specified herein; and
- G) The Proposers shall not contact Stakeholder staff regarding the Project.

2.3 ADDENDA AND RESPONSES TO QUESTIONS

2.3.1 Addenda

The LA DOTD reserves the right to issue Addenda at any time during the period of the procurement. The LA DOTD is responsible for providing Addenda only to the Proposers on the Short-List. Persons or firms that obtain the RFP from sources other than the LA DOTD bear the sole responsibility for obtaining any Addenda issued by the LA DOTD for the Project.

2.3.2 Correspondence and Information

The Proposer shall note that no correspondence or information from the LA DOTD or anyone representing the LA DOTD regarding the RFP or the Proposal process in general will have any effect unless it is in compliance with *Section 2.2.2*.

2.3.3 Responses to Questions

Each Proposer is responsible for reviewing the RFP prior to the dates specified for submission of questions in *Section 1.7.1* and for requesting interpretation of any discrepancy, deficiency, ambiguity, error, or omission contained therein, or of any provision that the Proposer otherwise fails to understand. Any such question must be submitted in accordance with *Section 2.2.1*. The LA DOTD will provide written responses to questions received from Proposers as specified in *Section 2.2.1*. Summaries of the questions and responses will be sent to all Proposers without attribution. The responses will not be considered part of the Contract but may be relevant in interpreting the Contract.

2.3.4 Date for Issuance of Final Addendum and Responses to Questions

The LA DOTD does not anticipate issuing any Addenda and/or responses to questions later than the date specified in *Section 1.7.1*.

2.4 COMPLIANT PROPOSAL

The Proposer shall submit a Proposal, consisting of a Technical Proposal as well as a Price Proposal, that provides all the information required by the ITP. The Proposer's Proposal may be rejected if the Proposal, or any portion thereof, does not fully comply with the instructions and rules contained in the ITP, including the appendices.

Each Proposal, consisting of a Technical Proposal as well as a Price Proposal, must be submitted in the official format which is specified by the LA DOTD. The Proposer shall sign each copy of the Proposal submitted to the LA DOTD.

Proposals may be considered non-responsive and may be rejected for any of the following reasons:

- A) If the Proposal is submitted in a format other than that furnished or specified by the LADOTD; if it is not properly signed; if the Form of Proposal (*see* Appendix C – Proposal Forms to this ITP) is altered except as contemplated herein; if any form included in Appendix C – Proposal Forms is altered to either add, delete, or change the form in any way (other than expanding forms in order to properly include all required information); or if any part of the required format is deleted from the Proposal package;
- B) If the Proposal or any portion thereof is illegible or contains any omission, erasures, alterations, or items not called for in the RFP or contains unauthorized additions, conditional Proposals, or alternate Proposals not approved through the formal ATC process, or other irregularities of any kind, and if the LA DOTD determines that such irregularities make the Proposal incomplete, indefinite, or ambiguous as to its meaning;
- C) If the Proposer adds any provisions reserving the right to accept or reject an award or to enter into a Contract following award;
- D) If the Proposer attempts to limit or modify the required form of any required surety bond, if the Proposal Bond (*see* Appendix C – Proposal Forms to this ITP) is not provided, and/or if requested information deemed material by the LA DOTD is not provided; and
- E) If for any other reason the Louisiana Department of Transportation and Development determines the Proposal to be non-responsive.

2.5 NON-PUBLIC PROCESS

The LA DOTD will maintain a process to ensure confidentiality for the duration of this procurement. In accordance with Louisiana Revised Statutes Section 48:255.1, the LA DOTD may require each Proposer to furnish sufficient information that will indicate the financial and other capacities of the Proposer to perform the proposed Work. This information will be subject to audit and must be submitted by the Proposer in a format clearly marked "confidential," and the information contained therein will be treated as confidential and will be exempted from the provisions of Louisiana Revised Statutes Sections 44:1 through 37.

Further, if the Proposer submits information in its Proposal that it wishes to protect from disclosure, the Proposer must do the following:

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- A) Clearly mark all proprietary or trade secret information as such in its Proposal at the time the Proposal is submitted and include a cover sheet stating “DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION” and identifying each section and page which has been so marked;
- B) Include a statement with its Proposal justifying the Proposer’s determination that certain records are proprietary or trade secret information for each record so defined;
- C) Submit one copy of the Proposal that has all the proprietary or trade secret information deleted from the Proposal and label such copy of the Proposal “Public Copy” or certify in its cover letter that the Proposal contains no proprietary or trade secret information; and
- D) Upon notice from the LA DOTD that a request for release of information has been received, the Proposer shall immediately defend any action seeking release of the records it believes to be proprietary or trade secret information and indemnify, defend, and hold harmless the LA DOTD and the State of Louisiana and its agents and employees from any judgments awarded against the LA DOTD and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the LA DOTD’s cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting a Proposal, the Proposer agrees that this indemnification and duty to defend survives as long as the confidential business information is in possession of the State.

Proposers and the LA DOTD agree that any records pertaining to this procurement will remain confidential until Contract execution, unless such records are proprietary or trade secret information. Should the LA DOTD receive a request for the release of information not already protected prior to Contract execution, the Proposer, whose information is requested, will defend and hold harmless the LA DOTD as set forth in *Section 2.5(D)*.

2.6 PROPOSAL STIPEND

[If a Proposal stipend will be provided by the Department, include the following language.]

By submitting a Proposal in response to the RFP, the Proposer acknowledges that the LA DOTD reserves the right to use any ideas, representations, or information contained in the Proposal in connection with any Contract awarded for the Project or in connection with a subsequent procurement.

The stipend amount is \$_____ **[Insert the amount of the Proposal stipend]**_____ and shall be paid to each fully responsive Proposer (as determined for both the Technical and Lump Sum Price Proposal) not chosen as the successful Proposer. In order to receive a stipend, the unsuccessful Proposer must receive a rating of pass on all pass/fail evaluation criteria and an overall technical rating of “acceptable-“ (acceptable minus) or higher for all technical evaluation subfactors.

In the event that the procurement is cancelled prior to the Proposal due date, Proposers will be provided the opportunity, at their option, of attending an interview and delivering to the LA DOTD the work product of their Proposal preparations to date. There is no specific format required for such work product. Those Proposers that choose to attend the interview and deliver their work product may be paid a portion of the stipend amount, at the LA DOTD’s discretion, for the work product. No portion of the stipend amount will be paid in the event a Proposer chooses not to attend the interview or chooses not to deliver its work product.

2.7 SUBMISSION OF PROPOSALS

2.7.1 Submission of a Proposal

The Proposal must be submitted in accordance with this Instructions to Proposers and the following requirements:

- A) The Technical Proposal must be accordingly distinguished in a sealed container(s) clearly marked as “Technical Proposal – _____ **[Insert the name of the project]** _____ DB Project.” (See Appendix A – Technical Proposal Instructions.) The lump sum Price Proposals, which must include time value, must be accordingly distinguished in a single sealed container and clearly marked as “Lump Sum Price Proposal - _____ **[Insert the name of the project]** _____ DB Project.” The Proposal, consisting of the Technical Proposal and lump sum Price Proposal, must be delivered to the designated representative at the address identified in *Section 1.7.2*;
- B) The State Project Number _____ **[Insert the state project number]** _____ and the fact that this is a Proposal for the _____ **[Insert the name of the project]** _____ DB Project must be clearly shown on the cover of the containers. The name and address of the Proposer must be clearly marked on the outside of the containers;
- C) When sent by United States Postal Service (USPS) or private carrier [i.e., FedEx, DHL, or United Parcel Service (UPS)], the sealed containers must be sent in accordance with this ITP to the LA DOTD at the address of and in care of the designated representative, and must be received by such designated representative no later than the time, specified in *Section 1.7.2*. In the alternative, a Proposal may be hand-delivered by the Proposer prior to the specified time on the Proposal due date to the designated representative identified in *Section 1.7.2*; and
- D) Where certified copies are required, the Proposer shall stamp the document or cover with the words “Certified True Copy” and have the stamp oversigned by the Proposer’s designated point of contact.

2.7.2 Modifications to a Proposal

A Proposer may modify its Proposal in writing prior to the time and to the person specified in *Section 1.7.2* of the ITP on the Proposal due date identified in *Section 1.7.1*. The modification must conform in all respects to the requirements for submission of a Proposal. Modifications must be clearly delineated as such on the face of the document to prevent confusion with the original Proposal and must specifically state that the modification supercedes the previous Proposal and all previous modifications, if any. If multiple modifications are submitted, they must be sequentially numbered so the LA DOTD can accurately identify the final Proposal. The modification must contain complete Proposal sections, complete pages, or complete forms as described in Appendix A – Technical Proposal Instructions and Appendix B – Lump Sum Price Proposal Instructions of this ITP. Line item changes will not be accepted. Telegraphic, facsimile, or other electronically transmitted modifications will not be considered by the LA DOTD as modifications.

2.7.3 Withdrawal of a Proposal

A Proposer may withdraw its Proposal, consisting of a Technical Proposal as well as a Price Proposal, only by a written and signed request that is received by the LA DOTD prior to the Proposal due date identified in *Section 1.7.1* and prior to the time and to the person specified in *Section 1.7.2*. If a Proposer

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withdraws any portion of its Proposal, consisting of a Technical Proposal as well as a Price Proposal, then it will be deemed to have withdrawn its Proposal in its entirety.

Following withdrawal of its Proposal, the Proposer may submit a new Proposal, provided that it is received prior to the time designated in *Section 1.7.2* on the Proposal due date identified in *Section 1.7.1* and submitted in accordance with the requirements of this ITP. The Proposer agrees that its Proposal will remain valid for 90 calendar days following the Proposal due date identified in *Section 1.7.1*. In the event a Proposer withdraws all or any part of its Proposal within 90 calendar days following the Proposal due date identified in *Section 1.7.1* without written consent of the LA DOTD, the Proposer shall forfeit its Proposal Bond.

2.7.4 Public Opening of Lump Sum Price Proposals

There will be a public opening of the lump sum Price Proposals, at which time the adjusted score for the lump sum Price Proposal will be calculated.

2.7.5 Late Proposals

The Louisiana Department of Transportation and Development will not consider any late Proposals.

2.8 EXAMINATION OF THE REQUEST FOR PROPOSALS AND WORK SITE

The Proposer shall carefully examine the site of the proposed work, including material pits and haul roads, and the complete RFP, including Reference Documents, before submitting a Proposal.

The submission of a Proposal will be considered prima facie evidence that the Proposer has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the Contract. The Proposer must so certify on the Form of Proposal (*see* Appendix C – Proposal Forms) in order for the Proposal to be valid.

3.0 PROPOSAL REQUIREMENTS

3.1 LICENSING REQUIREMENTS

Proposers shall be licensed as required by applicable federal and state laws, rules, and regulations including, but not limited to, Louisiana Revised Statutes Section 48:250.3(B). Evidence of proper licensing shall be required to be provided prior to award of the Contract to the apparently successful Proposer.

3.2 CURRENCY

The lump sum Price Proposal must be priced in United States dollars (US\$) currency only.

3.3 PROPOSAL BOND

3.3.1 Requirements

A Proposal Bond (*see* Appendix C – Proposal Forms) must accompany the lump sum Price Proposal that is submitted for the Project.

3.3.2 Return of Proposal Bond

Proposal Bonds will not be returned to the unsuccessful Proposers. All Proposal Bonds will be destroyed after Contract execution.

3.3.3 Surety Requirements

Any Proposal Bond provided in accordance with this *Section 3.3* must be issued by a surety listed on the United States (US) Department of Treasury Financial Management Service list of approved bonding companies, which is published annually in the Federal Register or by a Louisiana-domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best's Key Rating Guide. No surety or insurance company will write a Proposal Bond which is in excess of the amount indicated as approved for it by the US Department of the Treasury Financial Management Service list of approved bonding companies and a Louisiana-domiciled insurance company not on the US Department of Treasury Financial Management Service list of approved bonding companies must not write Proposal Bonds exceeding ten percent of the policyholder's surplus as shown in the A.M. Best's Key Rating Guide. In addition, any Proposal Bond written for the Project must be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

3.3.4 Rights Reserved

Each Proposer understands and agrees, by submitting its Proposal, that the LA DOTD reserves the right to reject any and all Proposals, or part of any Proposal, and that the Proposal may not be withdrawn for a period of 90 calendar days subsequent to the Proposal due date identified in *Section 1.7.1* without written consent of the LA DOTD.

Each Proposer further understands and agrees that if it should withdraw any part or all of its Proposal within 90 calendar days after the Proposal due date identified in *Section 1.7.1* without the consent of the LA DOTD; should refuse or be unable to enter into the Contract; should refuse or be unable to furnish adequate and acceptable performance and payment bonds; should refuse or be unable to furnish adequate and acceptable insurance, as provided herein; or should refuse or be unable to furnish the information requested in this RFP, it must forfeit its Proposal Bond.

The Proposer understands that any material alteration of documents specified in this *Section 3.3* or any of the material contained on the Proposal Bond (*see* Appendix C – Proposal Forms), other than that requested, will render the Proposal non-responsive and non-compliant.

3.4 SIGNATURES REQUIRED

The Form of Proposal (*see* Appendix C- Proposal Form) and the Price Proposal Cover Sheet (Form PP, Appendix C – Proposal Forms to this ITP) must be signed by all parties or Person(s) constituting the Proposer (i.e., by authorized representatives of all JV or LLC members or general partners, if the Proposer is a JV, LLC, or partnership, if that JV, LLC, or partnership has been specifically created for the purposes of proposing on this Project). If any signatures are provided pursuant to a power of attorney, the original or a certified copy of the power of attorney must be provided, together with evidence of authorization.

3.5 NUMBERS OF DOCUMENTS

3.5.1 Proposal Bond

One original of the Proposal Bond (*see* Appendix C – Proposal Forms) must be provided, with three certified copies.

3.5.2 Technical Proposal

One original and ten certified copies, and one electronic copy, of the Technical Proposal (*see* Appendix A – Technical Proposal Instructions) must be provided.

3.5.3 Lump Sum Price Proposal

One original and three certified hard copies, and one electronic copy, of each lump sum Price Proposal (*see* Appendix B – Lump Sum Price Proposal Instructions) must be provided.

3.5.4 Cost of Preparing Proposal

The cost of preparing the Proposal and any costs incurred at any time before or during the Proposal process, including costs incurred for any informational or one-on-one meetings, must be borne by the Proposer.

3.5.5 Obligation to Award

The LA DOTD is under no obligation to award the Contract to the Proposer submitting the lowest adjusted score Proposal, to award to the apparent successful Proposer, or to award the Contract at all.

4.0 PRE-PROPOSAL MEETINGS AND SUBMITTALS

The LA DOTD reserves the right to hold either joint informational meetings or individual one-on-one meetings with all Proposers at any time prior to the Proposal due date identified in *Section 1.7.1*.

4.1 JOINT INFORMATIONAL MEETINGS

The LA DOTD may hold joint informational meetings with all Proposers at any time prior to the Proposal due date identified in *Section 1.7.1*. If the LA DOTD determines that a joint informational meeting is in the best interest of this procurement, an invitation to the joint informational meeting will be sent to each Proposer on the Short-List identifying the specifics of the time, date, and location; attendees; anticipated agenda; and whether or not attendance at the joint informational meeting is mandatory.

Questions asked by any Proposer at any joint informational meeting where any response is expected will be recorded and the question and response will be provided in writing to all Proposers without attribution.

4.2 ONE-ON-ONE MEETINGS

The LA DOTD may hold one-on-one meetings with individual Proposers at any time prior to the Proposal due date specified in *Section 1.7.1*. If one-on-one meetings are offered to one or more Proposers on the Short-List, they will be offered to all Proposers on the Short-List.

If the LA DOTD determines that one-on-one meetings are in the best interest of this procurement, an invitation to a one-on-one meeting will be sent to each Proposer on the Short-List identifying the specifics

of the time, date, and location; attendees; and whether or not attendance at the one-on-one meetings is mandatory.

Any information and documents necessary for the preparation of Proposals that are disclosed by the LA DOTD during the course of a one-on-one meeting will be made available to all Proposers as soon as practicable, provided that the LA DOTD will not disclose such information if doing so would reveal a Proposer's confidential business strategy. All Proposers and the LA DOTD agree that any other communications exchanged during the course of a one-on-one meeting will remain confidential until Contract execution, unless records are exchanged that are proprietary or trade secret information. Should the LA DOTD receive a request for the release of information, not already protected, prior to Contract execution, the Proposer, whose information is requested, will defend and hold harmless the LA DOTD as set forth in *Section 2.5(D)*.

4.3 ALTERNATE TECHNICAL CONCEPT SUBMITTALS

4.3.1 Alternate Technical Concepts

Sections 4.3.1 through 4.3.5 set forth a process for pre-Proposal review of ATCs conflicting with the requirements for design and construction of the Project, or otherwise requiring a modification of the Contract Documents. This process is intended to allow Proposers to incorporate innovation and creativity into the Proposals, in turn allowing the LA DOTD to consider Proposer ATCs in making the selection decision, to avoid delays and potential conflicts in the design associated with deferring of reviews of ATCs to the post-award period, and, ultimately, to obtain the best value for the public.

Alternate Technical Concepts eligible for consideration hereunder are limited to those deviations from the requirements of the RFP that result in performance and quality of the end product that is equal to or better than the performance and quality of the end product absent the deviation, as determined by the LA DOTD in its sole discretion. A concept is not eligible for consideration as an ATC if, in the LA DOTD's sole judgment, it is premised upon or would require and of the following:

- A) A reduction in Project scope, performance, or reliability;
- B) The addition of a separate project to the Contract (such as expansion of the scope of the Project to include additional roadways);
- C) An increase in the amount of time required for final acceptance of the Project;
- D) Further environmental evaluation of the Project; or
- E) The acquisition of additional Right-of-Way.

Any ATC that has been pre-approved may be included in the Proposal, subject to the conditions set forth herein.

If a Proposer is unsure whether a concept is consistent with the requirements of the RFP or if that concept would be considered an ATC by the LA DOTD, the LA DOTD recommends that Proposer submit such concept for review as an ATC.

4.3.2 Pre-Proposal Submission of Alternate Technical Concepts

A Proposer may submit ATCs for review to the LA DOTD at the address specified in *Section 1.7.2*, until the applicable last date and time for submittal of ATCs identified in *Section 1.7.1*. All ATCs shall be submitted in writing, with a cover sheet identifying Proposer and stating “ _____ **Insert the name of the**

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project ____ DB Project - Confidential ATCs.” The Proposer shall clearly identify the submittal as a request for review of an ATC under this ITP. If the Proposer does not clearly designate its submittal as an ATC, the submission will not be treated as an ATC by the LA DOTD. Alternate Technical Concept submittals must include five copies of a narrative description of the ATC and technical information, including drawings, as described below.

Pre-Proposal Alternate Technical Concept submissions must include the following:

- A) A sequential ATC number identifying the Proposer and the ATC number (multi-part or multi-option ATCs must be submitted as separate individual ATCs with unique sequential numbers);
- B) A description and conceptual drawings of the configuration of the ATC or other appropriate descriptive information, if appropriate;
- C) The locations where, and an explanation of how, the Alternate Technical Concept will be used on the Project;
- D) Any changes in roadway requirements, including traffic maintenance, associated with the ATC;
- E) Any changes in the anticipated life of the item(s) comprising the Alternate Technical Concept;
- F) Any reduction in the time period necessary to design and construct the Project resulting from implementing the ATC, including, as appropriate, a description of method and commitments;
- G) References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations;
- H) The analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed;
- I) A preliminary analysis and quantitative discussion of potential impacts on vehicular traffic (both during and after construction), environmental permitting, community impact, safety, and life-cycle Project and infrastructure costs, including impacts on the cost of repair, maintenance, and operation;
- J) A description of other projects where the ATC has been used, the degree of success or failure of such usage and names and contact information including telephone numbers and E-mail addresses for project owner representatives that can confirm such statements;
- K) A description of added risks to the LA DOTD or third parties associated with implementing the ATC;
- L) An estimate of any additional LA DOTD, Design-Builder, and third-party costs associated with implementation of the ATC;
- M) An estimate of the adjustment to the lump sum Price Proposal should the ATC be approved and implemented; and

- N) An analysis of how the ATC is equal or better in quality and performance than the requirements of the Contract Documents.

The Proposer shall not make any public announcement or disclosure to third parties concerning any ATC until after pre-approval (including conditional pre-approval) has been obtained. Following pre-approval (including conditional pre-approval), if a Proposer wishes to make any such announcement or disclosure, it must first notify the LA DOTD in writing of its intent to take such action, including details as to date and participants, and obtain the LA DOTD's prior written consent, in its sole discretion, to do so.

If the LA DOTD determines, based on a proposed ATC or otherwise, that the RFP contains an error, ambiguity, or mistake, the LA DOTD reserves the right to modify the RFP to correct the error, ambiguity, or mistake, regardless of any impact on a proposed ATC.

4.3.3 Louisiana Department of Transportation and Development Review of Pre-Proposal Submission of Alternate Technical Concepts

The LA DOTD may request additional information regarding proposed ATCs at any time and will, in each case, return responses to each Proposer regarding its ATC on or before the applicable last date set forth in *Section 1.7.1*, provided that the LA DOTD has received all required and requested information regarding such ATC.

The LA DOTD will make a preliminary determination on whether to approve an ATC for submission. However, the Proposer will be responsible for ensuring that the final submittal complies with the requirements of the RFP. After submission of final ATCs, the LA DOTD will make a final determination on whether to approve; conditionally approve, provided certain conditions are met; or reject an ATC.

Approval of an ATC will constitute a change in the specific requirements of the Contract Documents associated with the approved ATC for that specific Proposer. Each Proposer, by submittal of its Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers, and waives any right to object to the LA DOTD's determinations regarding acceptability of ATCs.

The LA DOTD's rejection of a pre-Proposal submission of an ATC will not entitle Proposer to an extension of the Proposal due date or the date that the ATCs are due; provided, however, that the foregoing does not limit the LA DOTD's absolute and sole right to modify the Proposal due date or any other date in connection with this procurement.

The LA DOTD anticipates that its comments provided to a Proposer will be sufficient to enable Proposer to make any necessary changes to its ATCs. However, if a Proposer wishes additional explanation regarding necessary changes, the Proposer may provide a written request for additional explanation under *Section 2.2.1*.

4.3.4 Incorporation of Alternate Technical Concepts in the Contract Documents

Following award of the Contract, the ATCs that were pre-approved by the LA DOTD and incorporated in the Proposal by the successful Proposer will be included in the Contract Documents. If the LA DOTD responded to any ATC by stating that it would be acceptable if certain conditions were met, those conditions will become part of the Contract Documents. Notwithstanding anything to the contrary herein, if the Design-Builder does not comply with one or more LA DOTD conditions of pre-approval for an ATC or the Design-Builder fails to obtain a required third party approval for an ATC, the Design-Builder will be required to comply with the original requirements of the RFP without additional cost or extension of time as set forth in the Contract.

4.3.5 Confidentiality

The ATCs and all communications regarding ATCs submitted by the Proposer and all subsequent communications regarding that ATC will be considered confidential in accordance with *Section 2.5*.

5.0 CONTRACT AWARD AND EXECUTION

5.1 CONTRACT AWARD

Unless all Proposals are rejected or this procurement is cancelled, after evaluation of the pass/fail and technical evaluation factors, the lowest adjusted score will be calculated. The Secretary will solely make the selection of the Proposer with the lowest adjusted score.

Within 15 working days after the LA DOTD notifies the selected Proposer that the LA DOTD will award the Contract to the Proposer, the selected Proposer shall deliver to the LA DOTD one original and three certified copies of the following:

- A) Executed copy of the Design-Build Agreement;
- B) Required payment and performance bonds;
- C) Insurance certificates; and
- D) Evidence that the Design-Builder (including its Principal Participants, if relevant), Designer, and any subcontractors performing design and/or construction work are properly licensed, if not previously provided.

Failure to comply with the above may result in cancellation of the notice of award and forfeiture of the Proposal Bond.

The Contract with the selected Proposer will not be effective until both the Design-Builder and the LA DOTD have signed it.

Refer to Contract Documents Part 1 – Design-Build Agreement for a sample of the DB Agreement that the selected Proposer will be required to sign. The selected Proposer shall not make any additions to, deletions from, or changes in the required DB Agreement.

At the time of the return of the executed Contract, the successful Proposer shall furnish a payment bond and a performance bond. The surety and form of the bonds must be acceptable to the LA DOTD, and may be rejected by the LA DOTD in its sole discretion.

5.2 EXECUTION OF CONTRACT

The successful Proposer will be required to execute ____ **[Insert the number of original copies of the DB Contract the successful Proposer will be required to sign]** ____ originals of the Contract and to comply in all respects with the statutory provisions relating to the Contract within 15 working days of the date of the delivery of the Contract Documents by the LA DOTD. In case of failure or refusal on the part of the successful Proposer to deliver the duly executed Contract to the LA DOTD within the 15 working day period herein mentioned, the amount of the Proposal Bond may be forfeited and paid to the LA DOTD.

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The selected Proposer shall, with its executed Contract, provide the LA DOTD the Proposer's Federal Internal Revenue Service Employer Identification Number, or, if the Proposer is an individual with no employer identification number, the Proposer's Social Security Number.

If the Contract is not executed by the LA DOTD within 20 working days following receipt from the successful Proposer of the signed Contract and all appropriate and satisfactory documents identified in *Section 5.1(A)* through *(D)*, the Proposer shall have the right to withdraw the Proposal without penalty.

If the LA DOTD and the successful Proposer fail to execute the Contract within the time periods identified above, award of the Contract may be made to the apparent "next" successful Proposer, or the work may be re-advertised and completed under a different contract or otherwise, as the LA DOTD may decide.

The Contract will not be effective until it has been fully executed by all of the parties thereto.

6.0 PROPOSAL EVALUATIONS

The Proposals must be submitted in two separate parts as per the ITP, the written Technical Proposal and the lump sum Price Proposal. Other than the Executive Summary and any announcements made at the lump sum Price Proposal public opening, the information contained in the Proposal will not be disclosed to the public or any Proposer until after Contract execution.

The written Technical Proposal will be evaluated by the Proposal Review Committee on the Pass/Fail Evaluation Factors and Technical Evaluation Subfactors identified in the ITP. The Proposal Review Committee consists of the following members, or their designees:

- A) [Insert the name of the Department's Project Manager for the project],
Project Manager and Chair;
- B) [Insert the name of the remaining Proposal Review Committee members for the specific project. Add additional letters to the list as needed.];
- C) [Insert the name of the remaining Proposal Review Committee members for the specific project. Add additional letters to the list as needed.];
- D) [Insert the name of the remaining Proposal Review Committee members for the specific project. Add additional letters to the list as needed.].

If any member of the Proposal Review Committee listed in *Section 6.0(A)* through *(D)* needs to be replaced due to an unforeseeable circumstance, Proposers will be notified as expeditiously as possible.

Each Proposal Review Committee member will be required to review each Technical Proposal in its entirety. After such review is completed, the LA DOTD will schedule Proposer Oral Presentations in accordance with *Section 6.5*. Subsequent to the Proposer Oral Presentations, the Proposal Review Committee will meet to discuss each Proposer's Technical Proposal and Oral Presentation.

After the meeting of the Proposal Review Committee, each Proposal Review Committee member will determine the pass/fail status of each Pass/Fail Evaluation Factor. Each Proposal Review Committee member will then determine the technical rating and assign a technical score for each Technical Evaluation Subfactor.

After each Proposal Review Committee member assigns a technical score for each Technical Evaluation Subfactor, the Chair of the Proposal Review Committee will conduct a mathematical calculation, taking

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into account each member's Technical Evaluation Subfactor technical score and weighting to arrive at the technical score for each Proposer's Technical Evaluation Factors for each member of the Proposal Review Committee.

Upon determination of the technical score for each Proposer's Technical Evaluation Factor for each member of the Proposal Review Committee, the Chair of the Proposal Review Committee will then conduct a mathematical calculation, taking into account each Proposer's Technical Evaluation Factor technical score and weighting for each member of the Proposal Review Committee, to arrive at the member's Technical Proposal Technical Score for each Proposer. The Proposal Review Committee members' Technical Proposal Technical Scores for each Proposer will be averaged to determine that Proposer's Final Technical Proposal Technical Score.

The Lump Sum Price Proposals will be subject to a public opening, at which adjusted scores will be determined. The adjusted scores will be determined by the following formula:

Adjusted Score = [(Lump Sum Price Proposal) + (Time Value)] ÷ Final Technical Proposal Technical Score.

The following applies for purposes of the above formula:

- A) Lump Sum Price Proposal = the Total Proposed Lump Sum Contract Price on Form SP of the Proposal;
- B) Time Value = \$ _____ **[Insert the value of a day that has been determined for the specific project]** x (the number of days from NTP to final acceptance on Form SP of the Proposal); and
- C) Final Technical Proposal Technical Score = the average of the Technical Proposal Technical Scores assigned by each member of the Proposal Review Committee, in accordance with this *Section 6.0*.

The LA DOTD reserves the right to award a Contract, to reject any or all Proposals, or to advertise for new Proposals, if in the judgment of the LA DOTD the best interests of the public will be promoted thereby.

Proposers are encouraged to keep in mind and address the Project goals identified in *Section 1.1* in their Proposals.

6.1 EVALUATION FACTORS AND CRITERIA

[Example pass/fail and technical evaluation factors are included in this Example ITP. However, the pass/fail and technical evaluation factors should be tailored on a project-by-project basis.]

Legal and Financial evaluation factors and elements will be evaluated on a pass/fail basis.

Management Approach, Key Personnel and Experience, and Technical Solutions subfactors and elements will be rated on a qualitative basis by each member of the Proposal Review Committee prior to conversion to a score in accordance with Table 6-2, "Rating/Scoring Conversion Table."

A Proposal must receive a pass on all pass/fail evaluation factors listed in *Section 6.1.2* for the Proposal to be further evaluated and rated based on the technical evaluation factors identified in *Section 6.1.3*.

6.1.1 Proposal Responsiveness

An initial responsiveness review of the Proposal will be performed prior to any evaluation in order to determine that all information requested in this RFP is provided and in the format specified in Appendix A – Technical Proposal Instructions. In addition, a responsiveness review of the lump sum Price Proposals will be performed after opening of the lump sum Price Proposals (*see Section 6.1.4*).

6.1.2 Pass/Fail Evaluation Factors

Each Proposal must achieve a rating of pass on any pass/fail evaluation factor listed in *Sections 6.1.2.1* through *6.1.2.2* to receive further consideration. Failure to achieve a pass rating on any pass/fail evaluation factor after any Clarifications, if utilized, (*see Section 6.2.3*) will result in the Proposal being declared non-responsive and the Proposer being disqualified.

6.1.2.1 Legal Pass/Fail Evaluation Factor

The Legal Pass/Fail Evaluation Factor includes the following elements:

- A) A properly executed Form of Proposal, (Appendix C – Proposal Forms of this ITP);
- B) Evidence of a license to practice engineering and surveying within the State of Louisiana, or a commitment to obtain the appropriate license prior to Contract award, for the Designer or any subcontractor performing design or surveying;
- C) For any known subcontractor performing construction work, evidence of that subcontractor’s license to perform such work within the State of Louisiana or a commitment to obtain the license prior to Contract award;
- D) Completion and submittal of specified forms and documents;
- E) A disclosure regarding any potential organizational conflicts of interest, as further explained at *Section 1.10*; and
- F) Compliance with Instructions to Proposers legal requirements.

The specific information to be submitted is identified in Appendix A – Technical Proposal Instructions, Sections A3.2 and A3.3, to this ITP.

6.1.2.2 Financial Pass/Fail Evaluation Factor

Financial evidence must show updated evidence or reaffirmation of the Proposer’s continuing capability to secure performance and payment bonds covering the specific terms of the Contract. (*See Section A3.4* of Appendix A – Technical Proposal Instructions to this ITP and Contract Documents, Part 2 – DB Section 100, DB Section 103-3 and Appendix 103A, Payment, Performance, and Retainage Bonds Form.)

6.1.3 Technical Evaluation Factors and Subfactors and Their Relative Importance

The following are the technical evaluation factors:

- A) Technical Solutions Technical Evaluation Factor;
- B) Key Personnel and Experience Technical Evaluation Factor; and

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C) Management Approach Technical Evaluation Factor.

The Technical Solutions Technical Evaluation Factors is assigned a weight of ____ **[Insert the weighting assigned to the evaluation factor]** ____%. The Key Personnel and Experience Technical Evaluation Factor is assigned a weight of ____ **[Insert the weighting assigned to the evaluation factor]** ____%. The Management Approach Technical Evaluation Factor is assigned a weight of ____ **[Insert the weighting assigned to the evaluation factor]** ____%.

6.1.3.1 Technical Solutions Technical Evaluation Factor

The Technical Solutions Technical Evaluation Factor is made up of the following subfactors:

- A) **[Insert the Technical Solutions Technical Evaluation subfactor. Add additional letters to the list as needed for a specific project.]** ____;
- B) **[Insert the Technical Solutions Technical Evaluation subfactor. Add additional letters to the list as needed for a specific project.]** ____;
- C) **[Insert the Technical Solutions Technical Evaluation subfactor. Add additional letters to the list as needed for a specific project.]** ____; and
- D) **[Insert the Technical Solutions Technical Evaluation subfactor. Add additional letters to the list as needed for a specific project.]** ____.

Each subfactors listed in *Sections 6.1.3.1(A) through (D)* is assigned a weight of ____ **[Insert the weighting assigned to each subfactor identified]** ____%.

Specific information to be submitted is identified in Section A4.0 of Appendix A – Technical Proposal Instructions to this Instructions to Proposers.

6.1.3.2 Key Personnel and Experience Technical Evaluation Factor

The Key Personnel and Experience Technical Evaluation Factor will include information on key personnel and resumes.

The Proposer should note that the Design-Builder's Project Manager must not be identified to fulfill multiple Key Personnel roles.

Specific information to be submitted is identified in Section A5.0 of Appendix A – Technical Proposal Instructions to this ITP.

6.1.3.3 Management Approach Technical Evaluation Factor

The Management Approach Technical Evaluation Factor consists of the following subfactors:

- A) Design Management Subfactor;
- B) Construction Management Subfactor; and
- C) Organization Subfactor.

The subfactors listed in this *Section 6.1.3.2* are each assigned a weight of ____ **[Insert the weighting assigned to each subfactor identified]** ____%.

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Specific information to be submitted is identified in Section A5.0 of Appendix A – Technical Proposal Instructions to this ITP.

6.1.4 Lump Sum Price Proposal

The Proposer shall submit a Lump Sum Price Proposal, which must include a proposed Lump Sum Contract Price, for all services in fulfillment of the requirements and within the constraints of this RFP. The lump sum Price Proposal must be submitted in accordance with Appendix B – Lump Sum Price Proposal Instructions to this ITP. The total proposed Lump Sum Contract Price shown in the lump sum Price Proposal of the successful Proposer will be the Lump Sum Contract Price if the Contract is awarded.

Specific information to be submitted is identified in Appendix B – Lump Sum Price Proposal Instructions to this ITP. The following elements will be considered in the lump sum Price Proposal evaluations:

- A) Proposed Lump Sum Contract Price;
- B) Consistency of the Proposal Periodic Payment Schedule with the Proposed Baseline Progress Schedule; and
- C) Price Reasonableness (*see* Form SP, Appendix C to this Instructions to Proposers).

Each lump sum Price Proposal must specify the sum for which the work will be performed according to the RFP. The lowest adjusted score will be determined by the LA DOTD by evaluating both pass/fail and technical evaluation factors and combining the final total technical score with the proposed Lump Sum Contract Price using the formula identified in *Section 6.0*.

The price must be indicated in words. For example, “\$1,234,567.89” indicated in words is “one million two hundred thirty-four thousand five hundred sixty-seven dollars and eighty-nine cents.”

The Proposer’s proposed Lump Sum Contract Price must not include any fraction of a cent.

Any Proposal may be deemed nonresponsive which in any manner fails to conform to the conditions of the RFP.

The LA DOTD may determine that the lump sum Price Proposal is non-responsive if the LA DOTD determines, in its sole discretion, that any of the following are applicable:

- 1) The lump sum Price Proposal does not provide all information in conformance with and in the format prescribed by the Instructions to Proposers;
- 2) The lump sum Price Proposal contains a Proposal Periodic Payment Schedule that is significantly inconsistent with the Proposed Baseline Progress Schedule; and/or
- 3) The Price Proposal contains unreasonable prices on Form SP (*see* Appendix C – Proposal Forms to this ITP).

6.2 EVALUATION GUIDELINES

6.2.1 Technical Solutions, Key Personnel and Experience, and Management Approach Technical Evaluation Subfactors

[The rating process included in this Example ITP is an adjectival rating method. The rating method should be tailored to the specific procurement.]

The Technical Evaluation Subfactors identified in *Sections 6.1.3.1* and *6.1.3.2*, and elements thereof, will be evaluated in accordance with the guidelines provided in this *Section 6.2.1* by each member of the Proposal Review Committee.

The Technical Evaluation Subfactors and elements thereof will be rated by each member of the Proposal Review Committee using a qualitative/descriptive (adjectival) method. The following qualitative/descriptive ratings will be used in the rating of each Technical Evaluation Subfactor and element thereof. Each Technical Evaluation Subfactor rating will then be converted into a technical score for each Proposal Review Committee member for each Technical Evaluation Subfactor.

EXCEPTIONAL ~ The Proposer has demonstrated an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the LA DOTD. This rating indicates a consistently outstanding level of quality with very little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no Weaknesses.

GOOD ~ The Proposer has demonstrated an approach that is considered to exceed stated criteria. This rating indicates a generally better than acceptable quality with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE ~ The Proposer has demonstrated an approach that is considered to meet the stated criteria. This rating indicates an acceptable level of quality. The Technical Evaluation Subfactor demonstrates a reasonable probability of success. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE ~ The Proposer has demonstrated an approach that indicates significant Weaknesses/Deficiencies and/or unacceptable quality. The Technical Evaluation Subfactor fails to meet the stated criteria and/or lacks essential information and is conflicting and/or unproductive. There is no reasonable likelihood of success; Weaknesses/Deficiencies are so major and/or extensive that a major revision to the Technical Evaluation Subfactor would be necessary.

In assigning ratings the LA DOTD may assign “+” or “-” (such as, “exceptional -,” “good +,” and “acceptable +”) to the ratings to better differentiate within a rating in order to more clearly differentiate between the Proposers.

6.2.2 Rating/Scoring Conversion Table

[The rating/scoring conversion table included in this Example ITP would need to be analyzed and completed for a specific project if an adjectival rating method is used.]

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After each member of the Proposal Review Committee assigns a rating for each Technical Evaluation Subfactor, a technical score will be determined for each member's Technical Evaluation Subfactor using Table 6-2, Rating/Scoring Conversion Table.

Table 6-2 Rating/Scoring
Conversion Table

Technical Evaluation Subfactor Rating	Technical Evaluation Subfactor Technical Score
Exceptional +	
Exceptional	
Exceptional -	
Good +	
Good	
Good -	
Acceptable +	
Acceptable	
Acceptable -	
Unacceptable	

6.3 CLARIFICATIONS

The Proposer shall provide accurate and complete information to the LA DOTD. If information is not complete, the LA DOTD will either declare the Proposal non-responsive or notify the Proposer that it will not be allowed to participate further in the procurement of this Project until all information requested is provided. Insufficient or omitted information may be brought to the attention of the Proposer by the LA DOTD, in its sole discretion, through a request for Clarifications, including submittal of corrected, additional, or missing documents. If a response is not provided prior to the deadline for submission of the response, the Proposal may be declared non-responsive.

All requests for Clarifications and responses must be in writing by E-mail and be limited to answering the specific information requested by the LA DOTD.

6.4 ADDENDUM AFTER PROPOSAL SUBMISSION

In the event a material error is discovered in the RFP during the Proposal evaluation process, the LA DOTD will issue an Addendum to all Proposers that have submitted Proposals requesting revised Proposals based upon the corrected RFP.

6.5 ORAL PRESENTATIONS

6.5.1 General

The LA DOTD will require Proposers to make formal oral presentations with regard to their Technical Proposals. The purpose of oral presentations is to afford each Proposer the following opportunities:

- A) Highlight the most significant aspects of its Technical Proposal;
- B) Communicate its understanding of the ITP requirements and other documents included in the RFP; and

- C) Respond to LA DOTD questions.

The LA DOTD will use the information gained from the oral presentation to assist in its evaluation of the Technical Evaluation Subfactors.

6.5.2 Ground Rules

No more than four speakers may participate in the oral presentation, but other representatives of a Proposer's team may attend. Oral presentations will be limited to one hour in length. The LA DOTD will terminate briefings promptly at the end of the hour. Presenters may use visual aids to state or illustrate key points and supporting information. One complete copy of the complete presentation (including all visual aids) used in the oral presentation must be left with the LA DOTD at the conclusion of the presentation.

Proposers shall not include or make reference to any price or schedule information in the oral presentations. Oral presentations must not be used to fill in missing or incomplete information that is required in the written Proposals. Topics or issues not addressed in the written Proposal must not be discussed during the oral presentations.

Upon conclusion of the presentation, the presenters will be asked to recess outside the room while the LA DOTD develops clarification questions. After the recess, the presenters will return to answer the questions. This question-and-answer session will be limited to one hour in length.

The LA DOTD may tape record, videotape, and/or transcribe all or any part of the oral presentations.

6.5.3 Order of Presentations

The LA DOTD will establish the order of the oral presentations on a random basis. Oral presentations are anticipated for the dates specified in *Section 1.7.1*. However, once formally established, the oral presentation date and time is not negotiable. The LA DOTD will notify each Proposer by letter of the date, time, and place of the oral presentation. Failure to appear within the specified block of time will result in a Proposer's forfeiture of the opportunity to make an oral presentation. If the Proposer arrives late within the specified block of time, the Proposer will be allowed to make a presentation, but the block of time will not be extended.

6.6 SELECTION DETERMINATION

The Secretary will award the Contract based on the lowest adjusted score. The limited time frame to complete the Project and the importance of quality in the completed Project require that the maximum possible flexibility be afforded the Design-Builder to plan, design, construct, and control the Project. The LA DOTD's procedures for the evaluation and selection of Proposals are structured to provide a comprehensive evaluation of quality that when combined with price will result in the selection of the appropriate Design-Builder.

The Proposal Review Committee will rate the Proposals for pass/fail and technical capability. In determining the successful Proposer, each Proposal Review Committee member will evaluate each Technical Evaluation Subfactors and assign a Technical Evaluation Subfactor rating and score for each Proposer using the guidelines in *Sections 6.2.1* and *6.2.2*. The Chair of the Proposal Review Committee will subsequently conduct mathematical calculations, taking into account each Technical Evaluation Subfactor score and weight, to determine each Proposal Review Committee member's Technical Evaluation Factor scores for each Proposer. The Chair of the Proposal Review Committee will then conduct mathematical calculations, taking into account each Technical Evaluation Factor score and

Louisiana Department of Transportation and Development

weight, to determine each Proposal Review Committee member's Technical Proposal Technical Score for each Proposer. The average of these Technical Proposal Technical Scores will result in the Final Total Technical Score for each Proposer.

The LA DOTD will also determine whether the lump sum Price Proposals are responsive.

The LA DOTD will not Award the Contract to any Proposer that receives a fail rating on any Pass/Fail Evaluation Factor (*Section 6.1.1*) or receives a quality score of less than ____ (i.e., an "unacceptable" rating) for any Technical Evaluation Subfactor (*Sections 6.1.3.1* and *6.1.3.2*). The LA DOTD will not award the Contract to any Proposer that the LA DOTD determines has submitted a non-responsive Proposal (Price Proposal or Technical Proposal).

Unless all Proposals are rejected or this procurement is cancelled, the Contract will be awarded to the responsive Proposer offering a fully compliant Proposal that, after evaluation of the Pass/Fail Evaluation Factors and Technical Evaluation Subfactors, results in the lowest adjusted score.

6.7 CONFIRMATION OF TECHNICAL SCORE

Within two Calendar Days after notification by the LA DOTD of all Technical Proposal Technical Scores, a Proposer may request a meeting with LA DOTD to confirm its Final Total Technical Score, including review of the final rating and scoring of each member of the Proposal Review Committee of the Pass/Fail Evaluation Factors and Technical Evaluation Subfactor ratings for each Technical Proposal. If a technical score confirmation meeting is timely requested, the LA DOTD will notify the Proposer of the time, place, and date for the meeting. No detailed information concerning information contained in another Proposer's Proposal will be discussed or provided to the requesting Proposer at the meeting. All technical score confirmation meetings will be held prior to the opening of lump sum Price Proposals.

7.0 PROTESTS

This *Section 7.0* sets forth the exclusive protest remedies available with respect to the selection determination of the successful Proposer. Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, will be final and conclusive. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies set forth in this RFP, it shall indemnify, defend, and hold the LA DOTD and its directors, officers, officials, employees, agents, representatives, and consultants harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees, and damages incurred or suffered as a result of such Proposer's actions. The submission of a Proposal by a Proposer will be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

7.1 WRITTEN PROTESTS ONLY

All protests must be in writing. Protests must be submitted delivered to ____ **[Insert the name of the Protest Official]** ____ (Protest Official) at the following address.

Louisiana Department of Transportation and Development
Attention: ____ **[Insert the name of the Protest Official]** ____, Protest Official

By Courier:
1201 Capitol Access Road
Baton Rouge, LA 70802-4438

Louisiana Department of Transportation and Development

By Mail:
P.O. Box 94245
Baton Rouge, LA 70804-9245

All protests must be submitted within five calendar days from the public opening of Price Proposals. Any protest not set forth in writing within the time limits specified in these procedures is null and void and will not be considered.

7.2 PROTEST CONTENTS

All Protests must include the following information:

- A) The name and address of the Proposer;
- B) The State Project number;
- C) A detailed statement of the nature of the protest and the grounds on which the protest is made; and
- D) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury.

The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it will be decided on the basis of the written submissions by the Protest Official or his designee.

7.3 PROTEST DECISION

The Protest Official or his designee will issue a written decision regarding any protest within seven calendar days, at which time the LA DOTD will not proceed with the procurement until after the written decision is issued. The decision issued in writing by the Protest Official or his designee is the final decision of LA DOTD. No further right of appeal is granted herein.

8.0 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S RIGHTS AND DISCLAIMERS

8.1 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S RIGHTS

The LA DOTD may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFP. The LA DOTD reserves the right, in its sole and absolute discretion, to do any of the following:

- A) Reject any or all Proposals;
- B) Issue a new Request for Proposals;
- C) Cancel, modify, or withdraw the entire Request for Proposals;
- D) Issue addenda, supplements, and modifications to this Request for Proposals;
- E) Modify the Request for Proposals process (with appropriate notice to Proposers);

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- F) Appoint a Proposal Review Committee and, if necessary, evaluation teams and/or subcommittees to review Proposals and seek the assistance of outside technical experts in Proposal evaluation;
- G) Approve or disapprove the use of subcontractors and/or substitutions and/or changes of Proposer team members or key personnel from the SOQs;
- H) Revise and modify, at any time before the Proposal due date identified in *Section 1.7.1*, the factors it will consider in evaluating Proposals and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the LA DOTD will circulate an addendum to all Proposers on the Short-List setting forth the changes to the evaluation factors or methodology. The LA DOTD may extend the Proposal due date identified in *Section 1.7.1* if such changes are deemed by the LA DOTD, in its sole discretion, to be material and substantive;
- I) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals;
- J) Disqualify any Proposer that changes its organization (as represented in its SOQ) without LA DOTD written approval;
- K) Hold the Proposals under consideration for a maximum of 90 calendar days after the Proposal due date specified in *Section 1.7.1*; and/or
- L) Refuse to issue an RFP to a prospective Proposer and to refuse to consider a Proposal, once submitted, or reject a Proposal if such refusal or rejection is based upon, but not limited to, the following:
 - 1) Failure on the part of a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts;
 - 2) Default on the part of a Principal Participant or Designer under previous contracts;
 - 3) Unsatisfactory performance of previous work by the Proposer, a Principal Participant, and/or a Designer;
 - 4) Issuance of a notice of debarment, suspension, or disqualification under LA DOTD or federal policies or regulations to the Proposer, a Principal Participant, and/or a Designer;
 - 5) Submittal by the Proposer of more than one Proposal for the same work under the Proposer's own name or under a different name;
 - 6) Evidence of collusion between a prospective Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designers) in the preparation of an SOQ, proposal, or bid for any LA DOTD project; and/or
 - 7) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Principal Participant is responsible, which in the

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judgment of the LA DOTD might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded.

This RFP does not commit the LA DOTD to enter into a Contract, nor does it obligate the LA DOTD to pay for any costs incurred in preparation and submission of Proposal(s) or in anticipation of a Contract. By submitting a Proposal, a Proposer disclaims any right to be paid for such costs.

8.2 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S DISCLAIMER

In issuing this RFP and undertaking the procurement process contemplated herein, the LA DOTD specifically disclaims the following:

- A) Any liability or commitment to provide sales tax or other revenues to assist in carrying out any and all phases of the Project; and
- B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement.

In submitting a Proposal in response to this RFP, the Proposer is specifically acknowledging these disclaimers.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

____ [Insert the name of the parish] ____ PARISH
STATE PROJECT NO. ____ [Insert the state project number] ____
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS

EXAMPLE INSTRUCTIONS TO PROPOSERS

APPENDIX A TECHNICAL PROPOSAL INSTRUCTIONS



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A1.0 GENERAL INSTRUCTIONS

This Appendix A – Technical Proposal Instructions to the Instructions to Proposers (ITP) describes the specific instructions for preparing the Technical Proposals.

The Proposer shall submit the information required by this Appendix A – Technical Proposal Instructions in the organization and format, and using the forms, specified herein. Failure to provide the requested information on the forms and in the format specified may result in the Louisiana Department of Transportation and Development (LA DOTD) declaring the Technical Proposal non-responsive. Failure to provide all the information requested in this Appendix A – Technical Proposal Instructions may result in the LA DOTD declaring the Technical Proposal non-responsive.

Upon Award, the Technical Proposal of the selected Proposer will be incorporated into the Contract in Contract Documents Part 6 – Design-Builder's Proposal.

Technical Proposals must be submitted in **[Insert the appropriate number of volumes]** volumes, tabbed appropriately (see Table A – Outline for Submission of the Technical Proposal) containing the following information:

[The outline will typically correspond with the evaluation factors found in the Request for Proposals, and vary on a project-by-project basis.]

- A) Legal;
- B) Financial;
- C) Technical Solutions;
- D) Key Personnel and Experience;; and
- E) Management Approach.

All Proposal information submitted in the Technical Proposal will be used for evaluating the Proposals.

All forms named herein are found in Appendix C – Proposal Forms unless otherwise noted.

Text must be in English in a standard font, a minimum of 12 points in height, single-spaced. Pages must be 8½ inch by 11 inch white paper, with simple lettered/numbered dividers for each section/subsection. Single-sided pages must be used except for pre-printed information, such as corporate brochures.

Drawings or sketches must be submitted on 11 inch by 17 inch and/or 8 ½ inch by 11 inch white paper.

The Proposer shall number each page in each section consecutively (i.e., 1-1, 1-2; 2-1, 2-2). The Proposer shall include page numbers centered at the bottom of each page.

The Proposer shall present information clearly and concisely. Documentation that is illegible may be rejected and may lead to disqualification.

The information must be easily reproducible by normal black and white photocopying machines. Color photographs, renderings, and brochures must be adequately bound and suitably protected for handling and circulation during review.

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The Technical Proposal is limited to a total of ____ **[Insert the page limit]** ____ pages, exclusive of tabs and divider pages, cover letters, calculations, specifications, drawings or sketches, required forms (found in Appendix C – Proposal Forms), organization charts, and resumes. The Quality Plan is also excluded from the page count.

The Proposer should be aware that, in accordance with Louisiana Revised Statutes Section 48:250.3(H)(1)(a)(i), the schedule and price must not be made known to the Proposal Review Committee. **As such, any reference to schedule or price in the Technical Proposal, whether a direct reference or an inference, may render the Proposal non-responsive and preclude the Proposer from selection.**

[Example evaluation factors are included in this Example ITP. However, the evaluation factors should be tailored on a project-by-project basis.]

A2.0 LEGAL PASS/FAIL EVALUATION FACTOR

A2.1 OBJECTIVES

The objective of the Legal Pass/Fail Evaluation Factor is to identify legally constituted Proposers able to submit Proposals, enter into the Contract, and complete the Work and that have obtained all required licenses or committed to do so prior to award of the Contract.

A2.2 LEGAL INFORMATION FOR SECTION 1 OF THE TECHNICAL PROPOSAL

The Proposer shall submit the following legal information:

- A) The Form of Proposal that constitutes a firm offer to the LA DOTD valid for 90 calendar days after the Proposal due date. The Form of Proposal must be executed by the Proposer or by its legally authorized representative, and by each Joint Venture (JV) or Limited Liability Company (LLC) member or general partner (as applicable) by their respective legally authorized representatives, if that JV, LLC, or partnership has been specifically created for the purposes of proposing on this Project;
- B) Form NS, Named Subcontractors and Suppliers, including the percentage of the proposed Lump Sum Contract Price that represents anticipated Subcontractor and Supplier participation (not specific dollar value of participation). The Proposer shall show all Major Subcontractors (Subcontractors performing ten percent or more of the value of the Work), Major Suppliers (Suppliers providing products and Material valued in excess of ten percent of the value of the Work), and the Designer and known Architectural/Engineering (A/E) subconsultants on Form NS;
- C) Evidence in the form of a Certificate of Authority issued by the Louisiana Secretary of State certifying that the Proposer is qualified and authorized to do business in the State of Louisiana, regardless of whether such certificate was submitted with the Proposer's Statement of Qualifications (SOQ);
- D) Evidence that one or more Principal Participants of the Proposer, or the Proposer itself, holds the appropriate licenses from the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors or a commitment signed by authorized representatives of the Proposer and its Principal Participants, if relevant, to become licensed prior to award of the Contract. Not only must the Designer firm itself be appropriately licensed, but so must be any designers of record employed by the Designer firm for this Project;

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- E) A notarized Power of Attorney naming the individual who signed the Proposal on the Proposer's behalf as its attorney-in-fact, with authority to execute and deliver the Proposal, any Clarifications, and the Design-Build (DB) Agreement on the Proposer's behalf and to act for and bind the Proposer in all matters relating to the Proposal. If the individual who signed the Proposal on the Proposer's behalf is an officer of the Proposer, a Power of Attorney is not required.

If the Proposer is a JV, LLC, or partnership that has been specifically created for the purposes of proposing on this Project, it shall also submit the following:

- 1) Evidence that each member of the JV, LLC, or partnership will be jointly and severally liable for any and all of the duties and obligations, including performance, of the Proposer assumed under the Proposal and under any Contract arising therefrom, should its Proposal be accepted by the LA DOTD; and
 - 2) A notarized Power of Attorney executed by each JV member, LLC member, or general partner, naming the individual who signed the Proposal and joint and several liability document on its behalf as its attorney-in-fact, with authority to execute the Proposal, joint and several liability document, and Contract on its behalf and to act for and bind it in all matters relating to the Proposal;
- F) The Non-Collusion Form certifying that the Proposal is not the result of, and has not been influenced by, collusion;
- G) Designation of the Proposer's single point of contact and provision of the information requested on Form C, Single Point of Contact (*see* Appendix C – Proposal Forms). The single point of contact must be the Proposer's designated Project Manager. It is the preference of the LA DOTD that the Proposer grant the single point of contact, at a minimum, a limited Power of Attorney granting the single point of contact the authority to communicate with the LA DOTD during the procurement process and to make commitments on behalf of the Proposer during the procurement process. If such Power of Attorney is granted by the Proposer to its single point of contact, the Power of Attorney must be included in the Proposer's Technical Proposal;
- H) **[For federal-aid projects only]** Form DBEC, Disadvantaged Business Enterprise Certification (*see* Appendix C – Proposal Forms to this ITP) concerning Disadvantaged Business Enterprise (DBE) requirements;
- I) **[For federal-aid projects only]** Form CRCF (*see* Appendix C – Proposal Forms to this ITP), certifying that no federal appropriated funds have been or will be paid for lobbying activities and no other funds have been paid or will be paid to influence governmental decisions regarding the Project; and;
- J) A disclosure of any potential organizational conflicts of interest, as further explained at Section 1.10, including disclosure of all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest. The disclosure must state how the Proposer's interests, or those of its chief executives, directors, Key Personnel, or any proposed Subcontractors may result in, or could be viewed as, an organizational conflict of interest. If the LA DOTD determines that an actual or potential conflict of interest exists that cannot be avoided, neutralized, or mitigated, that Proposer will not be eligible for award of the Contract.

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A3.0 FINANCIAL PASS/FAIL EVALUATION FACTOR

A3.1 OBJECTIVES

To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the Project, specifically bonding.

A3.2 FINANCIAL INFORMATION FOR SECTION 1 OF THE TECHNICAL PROPOSAL

The Proposer shall submit letter(s) of commitment from surety(ies) meeting the requirements below to provide performance and payment bonds as per Part 2 – DB Section 100, DB Section 103-2 and Appendix 103A, Payment, Performance, and Retainage Bond Form.

Each surety must be listed on the United States (US) Department of Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register or by a Louisiana-domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best’s Key Rating Guide. No surety or insurance company will write a bond which is in excess of the amount indicated as approved for it by the US Department of the Treasury Financial Management Service list of approved bonding companies and a Louisiana-domiciled insurance company not on the US Department of Treasury Financial Management Service list of approved bonding companies must not write bonds exceeding ten percent of the policyholder’s surplus as shown in the A.M. Best’s Key Rating Guide. In addition, any bond written for the Project must be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

A4.0 TECHNICAL SOLUTIONS TECHNICAL EVALUATION FACTOR

A4.1 OBJECTIVES

The following are the objectives for the Technical Solutions technical evaluation factor:

- A) To identify Proposers with a demonstrated understanding of the overall Project requirements through the applicable design concepts presented; and
- B) To identify the best overall proposed solution for the Project, including the following elements:
 - 1) _____ [Insert the elements to be included in the proposed overall solution, for example the plan for maintenance of traffic and traffic control. Add additional numbers to the list as needed for a specific project] _____;
 - 2) _____ [Insert the elements to be included in the proposed overall solution, for example identified bridge structures. Add additional numbers to the list as needed for a specific project] _____;
 - 3) _____ [Insert the elements to be included in the proposed overall solution, for example roadway geometry and drainage. Add additional numbers to the list as needed for a specific project] _____; and
 - 4) _____ [Insert the elements to be included in the proposed overall solution, for example coordination with other adjacent projects or contractors. Add additional numbers to the list as needed for a specific project] _____.

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A4.2 TECHNICAL SOLUTIONS INFORMATION FOR SECTION 2 OF THE TECHNICAL PROPOSAL

In the Technical Proposal provided in response to each of Sections A4.2.1 through A4.2.4, the Proposer shall indicate and describe features of the proposed design, construction methods, and/or Material offered by the Proposer that will accomplish the following:

- A) _____ [Insert the feature of the project design, construction or materials to be describe, for example a description of the roadway facility to be provided. Add additional letters to the list as needed for a specific project] _____;
- B) _____ [Insert the feature of the project design, construction or materials to be describe, for example a description of how to maximize coordination efficiencies with adjacent projects. Add additional letters to the list as needed for a specific project] _____;
- C) _____ [Insert the feature of the project design, construction or materials to be describe, for example a description of the traffic maintenance plan during construction. Add additional letters to the list as needed for a specific project] _____;
and
- D) _____ [Insert the feature of the project design, construction or materials to be describe, for example a description of innovative design and/or construction solutions. Add additional letters to the list as needed for a specific project] _____.

A4.2.1 _____ [Insert the name of the subfactor] _____ Subfactor

[Insert the required information that the Proposer must submit for the subfactor here.]

A4.2.2 _____ [Insert the name of the subfactor] _____ Subfactor

[Insert the required information that the Proposer must submit for the subfactor here.]

A4.2.3 _____ [Insert the name of the subfactor] _____ Subfactor

[Insert the required information that the Proposer must submit for the subfactor here.]

A4.2.4 _____ [Insert the name of the subfactor] _____ Subfactor

[Insert the required information that the Proposer must submit for the subfactor here.]

A5.0 KEY PERSONNEL AND EXPERIENCE TECHNICAL EVALUATION FACTOR

A5.1 OBJECTIVES

The following are the objectives for the Key Personnel and Experience Technical Evaluation Factor:

- A) To identify Proposers that will effectively manage all aspects of the Contract in a quality, timely, and effective manner;
- B) To identify the best personnel for key positions with demonstrated experience and expertise in and record of producing quality work on projects of a similar nature to this Project. The Key Personnel positions for the purposes of this Request for Proposals

Louisiana Department of Transportation and Development

(RFP) are identified in Contract Documents, Part 2 –DB Section 100, DB Section 108, Appendix 108C; and

- C) To avoid contracting with personnel with a history of legal and financial problems on other projects that could adversely impact this Project generally.

A5.2 KEY PERSONNEL AND EXPERIENCE INFORMATION FOR SECTION 3 OF THE TECHNICAL PROPOSAL

The Proposer shall submit Form KP, Key Personnel Information (*see* Appendix C – Proposal Forms) and resumes of each of the identified Key Personnel. The Proposer should note that the Design-Builder's PM must not be identified to fulfill multiple Key Personnel roles. Identifying the person who is currently named at the Design-Builder's PM in additional Key Personnel roles may result in a rating of "unacceptable" for this Key Personnel and Experience Technical Evaluation Factor.

A6.0 MANAGEMENT APPROACH TECHNICAL EVALUATION FACTOR

A6.1 OBJECTIVES

The following are the objectives for the Management Approach Technical Evaluation Factor:

- A) To identify Proposers that demonstrate a clear understanding of the Project through their proposed Project approach, including, but not limited to, the construction staging plan; and
- B) To identify Proposers that demonstrate sound, proven Project management techniques for design management, construction management, and the integration of both on DB projects.

A6.2 MANAGEMENT APPROACH INFORMATION FOR SECTION 3 OF THE TECHNICAL PROPOSAL

A6.2.1 Quality Program Subfactor

The Proposer shall submit the following pertaining to its Quality Program:

- A) [Insert the following information to be requested regarding the Quality program, for example the names of independent testing laboratories. Add additional letters to the list as needed for a specific project] _____;
- B) [Insert the following information to be requested regarding the Quality program, for example a summary or detailed outline of the Proposer's Quality Plan. Add additional letters to the list as needed for a specific project] _____;
- C) [Insert the following information to be requested regarding the Quality program, for example a detailed discussion of the Proposer's quality organization, including resumes and qualifications of all of the personnel to be involved in the Quality Program. Add additional letters to the list as needed for a specific project] _____; and
- D) [Insert the following information to be requested regarding the Quality program, for example a discussion of how the quality organization will operate, with a demonstration of how it will be separate and independent from production staff

and why this independence is important. Add additional letters to the list as needed for a specific project] ____.

A6.2.2 Design Management Subfactor

The Proposer shall submit the following pertaining to Design Management:

- A) **____ [Insert the following information to be requested regarding design management, for example the Proposer's plan for splitting the project into design units. Add additional letters to the list as needed for a specific project] ____;**
- B) **____ [Insert the following information to be requested regarding design management, for example a detailed description of the Proposer's design management strategy, including how design and construction will be coordinated. Add additional letters to the list as needed for a specific project] ____;**
- C) **____ [Insert the following information to be requested regarding design management, for example an initial draft of the Proposer's design review plan, including the design reviews anticipated for each identified design unit. Add additional letters to the list as needed for a specific project] ____;** and
- D) **____ [Insert the following information to be requested regarding design management, for example a discussion of how the designers will remain involved during construction, including designers located in different offices or out-of-state. Add additional letters to the list as needed for a specific project] ____.**

A6.2.3 Construction Management Subfactor

The Proposer shall submit a brief narrative description of Proposer's proposed construction management plan, including the following:

- A) **____ [Insert the following information to be requested regarding construction management, for example a discussion regarding subcontractor coordination for consistency of performance. Add additional letters to the list as needed for a specific project] ____;**
- B) **____ [Insert the following information to be requested regarding construction management, for example proposed construction staging, phasing, and sequencing. Add additional letters to the list as needed for a specific project] ____;**
- C) **____ [Insert the following information to be requested regarding construction management, for example a description of the Proposer's approach to problem-solving and dispute resolution, outside of the standard change order and claims process. Add additional letters to the list as needed for a specific project] ____;** and
- D) **____ [Insert the following information to be requested regarding construction management, for example a narrative regarding the Proposer's approach to managing and maintaining schedule, including schedule recovery mechanisms in the event the Proposer falls behind schedule on a project. Add additional letters to the list as needed for a specific project] ____.**

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A6.2.4 Organization Chart Subfactor

The Proposer shall submit an organization chart showing the overall staffing of the Proposer's team, including Key Personnel, the Proposer's construction organization, the Proposer's design organization, and the Proposer's QC organizations (design and construction), including names of independent sampling and testing laboratory(ies) and to whom the QC staff report within the Proposer's organization.

A7.0 FORMAT AND ORGANIZATION OF THE TECHNICAL PROPOSAL

The Technical Proposal must be submitted in the following format and on the forms contained in Appendix C – Proposal Forms:

**TABLE A
OUTLINE FOR SUBMISSION OF THE TECHNICAL PROPOSAL**

Section/Subsection Numbering	Volume/Section title and Required Information	Reference
SECTION 1	LEGAL AND FINANCIAL PASS/FAIL EVALUATION FACTOR INFORMATION	A2.2 and A3.2
	• Form of Proposal;	A2.2(A)
	• Form NS, Named Subcontractors and Suppliers;	A2.2(B)
	• Certificate of Authority;	A2.2(C)
	• Licensing information;	A2.2(D)
	• Power(s) of Attorney;	A2.2(E)
	• Non-Collusion Form;	A2.2(F)
	• Form C, Single Point of Contact;	A2.2(G)
	• Form DBEC, DBE Certification (if a federal-aid project);	A2.2(H)
	• Form CRCF, Certification Regarding Use of Contract Funds for Lobbying (if a federal aid project);	A2.2(I)
	• Organizational conflict of interest disclosure; and	A2.2(J)
	• Surety letter of commitment.	A3.2
SECTION 2	TECHNICAL SOLUTIONS TECHNICAL EVALUATION FACTOR INFORMATION	A4.2
Subsection 2.1	• _____ Subfactor;	A4.2.1
Subsection 2.3	• _____ Subfactor;	A4.2.2
Subsection 2.3	• _____ Subfactor; and	A4.2.3
Subsection 2.4	• _____ Subfactor.	A4.2.4
SECTION 3	KEY PERSONNEL AND EXPERIENCE TECHNICAL EVALUATION FACTOR INFORMATION	A.5.2
Section 3.1	• Form KP, Key Personnel Information, and resumes.	A5.2
SECTION 4	MANAGEMENT APPROACH TECHNICAL EVALUATION FACTOR INFORMATION	A6.2
Subsection 4.1	• Quality Program Subfactor;	A6.2.1
Subsection 4.2	• Design Management Subfactor;	A6.2.2
Subsection 4.3	• Construction Management Subfactor; and	A6.2.3
Subsection 4.4	• Organization Chart Subfactor.	A6.2.4

STATE OF LOUISIANA

[Insert name of the project]

DESIGN-BUILD PROJECT

[Insert name of the parish] PARISH

STATE PROJECT NO. **[Insert the state project number]**

FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

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APPENDIX B

LUMP SUM PRICE PROPOSAL INSTRUCTIONS



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B1.0 INTRODUCTION

This Appendix B – Lump Sum Price Proposal Instructions to the Instructions to Proposers (ITP) specifies the lump sum pricing information to be submitted by all Proposers.

All forms named herein are found in Appendix C – Proposal Forms to the Instructions to Proposers unless otherwise noted.

The Proposer shall submit all information as specified herein using the forms and formats specified. Alterations to the forms will only be permitted where specifically allowed and/or to allow for expansion of spaces for responses in order to accommodate inclusion of the information requested.

B2.0 LUMP SUM PRICE PROPOSAL

The Proposer shall provide a lump sum Price Proposal using the forms listed herein and provided in Appendix C – Proposal Forms to this ITP. Failure to provide the requested information on the forms and in the format specified may result in the Louisiana Department of Transportation and Development (LA DOTD) declaring the lump sum Price Proposal non-responsive. Any alterations, additions, or deletions to the forms identified in Appendix C – Proposal Forms, other than to appropriately complete the forms, may render a lump sum Price Proposal non-responsive and ineligible for Award.

Upon Award, the appropriate lump sum Price Proposal of the selected Proposer will be incorporated into the Contract in Contract Documents Part 6 – Design-Builder's Proposal.

The Proposer shall submit the lump sum Price Proposal under separate cover, clearly marked as required in ITP, Section 2.7.1(A) by the Proposal due date to the addressee and address specified in ITP, Section 1.7.2.

The lump sum Price Proposal must consist of the following items:

[The forms that are to be included in the lump sum Price Proposal will vary on a project-by-project basis. This Example ITP includes example forms for a Price Center form of payment, but the forms would vary depending on the payment concept utilized.]

- A) The Proposal Bond;
- B) Form PP, Lump Sum Price Proposal cover sheet (*see* Appendix C – Proposal Forms);
- C) Form SP , Schedule of Prices;
- D) Form PC1, Preliminaries and General Requirements;
- E) Form PC2, Project-Wide Engineering and Design Activities;
- F) Form PC3, Project-Wide Maintenance of Traffic;
- G) Form PC4, Project-Wide Environmental Mitigation and Compliance;
- H) Form PC5, Project-Wide Hazardous and Contaminated Substances Remediation Activities;
- I) Form PPS-P, Proposal Periodic Payment Schedule (*see* Appendix C – Proposal Forms);

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- J) Form PCP, Schedule of Progress Checkpoints;
- K) Form PCD, Price Center Descriptions;
- L) Proposed Baseline Progress Schedule; and
- M) Form LSI, Letter of Subcontract Intent.

B2.1 LUMP SUM PRICE PROPOSAL SUBMITTAL

The Proposer shall submit the forms identified in Section B2.0 in a separate, sealed envelope.

The Proposer shall secure Form PP to the outside of the envelope containing the forms listed in Section B2.0. The signature requirements for Form PP are the same as the signature requirements for the Form of Proposal. (*See Appendix A – Technical Proposal Instructions, Section A2.2(A).*)

B2.2 SCHEDULE OF PRICES (FORM SP)

The Proposer shall complete and submit Form SP (*see Appendix C – Proposal Forms*) in compliance with the following instructions:

- A) The Proposer shall provide a proposed lump sum price [the Price Center Value (PCV)] for each Price Center on Form SP. If the Proposer shows any components for a Price Center, such as Material, the Proposer shall show a lump sum price for such components on Form SP;
- B) If the Proposer plans to request payment for any Material upon delivery to the Site, the Proposer shall identify the specific type of Material and the price assigned to the Material on Form SP as a component of the appropriate Price Center;
- C) The PCV must be the total price to complete all Work in that Price Center, including such planning, management, overhead, use of tools and equipment, and other Work as required to complete such Work and such costs necessary to integrate the Work with the Work in other Price Centers, except those costs included in other Price Centers;
- D) The PCV for Price Center 1 must be a value between 10% and 20% of the Proposal Price. The price of the mobilization activity within Price Center 1 must not exceed six percent of the proposed Lump Sum Contract Price;
- E) For Price Center 2, the Proposer shall provide a lump sum price for each of the components listed on Form PC2;
- F) The Price Center titles, contents, and limits on Form SP must match those shown on Form PCD;
- G) The sum of all PCVs must equal the proposed Lump Sum Contract Price for the Project;
- H) The proposed Lump Sum Contract Price must be indicated both numerically and in words; and
- I) The Proposer shall submit on Form SP the number of calendar days from Notice to Proceed to Final Acceptance. In no event will the number of calendar days to Final Acceptance for the Project exceed _____ **Insert the maximum number of days before**

Final Acceptance _____ calendar days. The Proposer may propose less than the number of days cited above.

B2.2.1 Preliminaries and General Requirements (Form PC1)

The contents of Price Center 1, Preliminaries and General Requirements, are shown on Form PC1 (*see* Appendix C – Proposal Forms). The Proposer may add activities to (but not delete activities from) Form PC1 as appropriate to reflect its plan to carry out the Work. The Proposer shall provide a price for each activity on Form PC1.

The PCV of Price Center 1 (which includes the price for mobilization) must not be less than ten percent nor more than 20% of the proposed Lump Sum Contract Price.

B2.2.2 Project-Wide Engineering and Design Activities (Form PC2)

The Proposer shall show design activities and components on Form PC2 (*see* Appendix C – Proposal Forms).

The components of Price Center 2, Project-Wide Engineering and Design Activities, are shown on Form PC2. The Proposer may add and/or revise engineering and/or design activities to describe the components of Price Center 2. The Proposer shall ensure Form PC2 is consistent with the major Design Units designated on Form DU, Design Unit Descriptions. The Proposer shall provide a lump sum price for each activity shown on Form PC2. The sum of the lump sum prices of the activities will be the PCV for Price Center 2.

B2.2.3 Project-Wide Maintenance of Traffic (Form PC3)

For Price Center 3, Project-Wide Maintenance of Traffic, the Proposer shall provide lump sum prices for the activities shown on Form PC3 (*see* Appendix C – Proposal Forms). The Proposer may add activities as appropriate to reflect its plan to carry out the Work. The sum of all lump sum prices of the activities will be the PCV for Price Center 3.

B2.2.4 Project-Wide Environmental Mitigation and Compliance (Form PC4)

For Price Center 4, Project-Wide Environmental Mitigation and Compliance, the Proposer shall provide lump sum prices for the activities shown on Form PC4 (*see* Appendix C – Proposal Forms). The Proposer may add activities as appropriate to reflect its plan to carry out the Work. The sum of all prices of the activities will be the PCV for Price Center 4.

B2.2.5 Project-Wide Hazardous and Contaminated Substances Remediation Activities (Form PC5)

For Price Center 5, Project-Wide Hazardous and Contaminated Substances Remediation Activities, the Proposer shall provide a lump sum price for the activities shown on Form PC5 (*see* Appendix C – Proposal Forms). The sum of the prices of the activities will be the PCV for Price Center 5.

B2.2.6 Form PCD

The Proposer shall complete and submit Form PCD, Price Center Descriptions, describing the Price Centers, especially including all the Price Centers not previously described on a Form PC1 through PC5. The Proposer shall adequately describe the physical features and activities included in the Price Center and include all Work included in the Price Center Value of each Price Center as reflected on Form SP (*see* Appendix C – Proposal Forms).

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See Contract Documents, Part 2 – DB Section 100, DB Section 109-1.1, regarding instructions for describing Price Centers.

B2.2.7 Total Proposed Lump Sum Contract Price

The total proposed Lump Sum Contract Price must be provided for the Project on Form SP. The total proposed Lump Sum Contract Price must equal the sum of the PCVs as shown on Form PCD.

B2.2.8 Form PPS-P

The Proposer shall submit a Proposal Periodic Payment Schedule (PPS-P) on Form PPS-P.

The PPS-P must cover the entire period of the Contract specified in monthly increments through Final Acceptance.

The cumulative periodic payment percentages in the PPS-P must be reasonably compatible with the progress of Work indicated in the Proposed Baseline Progress Schedule. “Reasonably compatible” means that the cumulative percentage shown at the quarter points (25%, 50%, and 75%) on the PPS-P must be within ten percent of the cumulative percentages shown on the Proposed Baseline Progress Schedule for each Price Center.

The Proposer shall distribute the proposed Lump Sum Contract Price over the period of the Contract within the limitations described in this Section B2.2 to indicate the Proposer’s desired payment schedule. The resulting curve will be the PPS-P.

In developing the PPS-P, the Proposer shall note the requirements for the Contract Periodic Payment Schedule (Form PPS-C) in Part 2 – DB Section 100, DB Section 109-1.3.

B2.2.9 Form PCP

The Proposer shall submit Form PCP (*see* Appendix C – Proposal Forms and Contract Documents, Part 2 – DB Section 100, DB Section 109-1.4).

B2.2.10 Proposed Baseline Progress Schedule

The term “Proposed Baseline Progress Schedule” as used herein means the time-scaled, critical path network depicting Project Sections, Price Centers and subordinate activities and their respective durations, and sequences and inter-relationships that represent the Proposer’s Work plan for designing, constructing, and completing the Project.

The Proposer shall submit a Proposed Baseline Progress Schedule for the Project meeting the following requirements:

- A) The Proposed Baseline Progress Schedule must be in color hardcopy format and Primavera P3 or P6 format on CD-ROM;
- B) The Proposed Baseline Progress Schedule must be consistent with the LA DOTD’s Project Sections and preferred Price Centers listed on Form PCD for PCs 1 through 5 (*see* Appendix C – Proposal Forms), as well as the Design-Builder’s identified PCs (i.e., all PCs above PC5). Except where a Price Center is shown as a mandatory Price Center, the Proposer may adjust this list to more accurately reflect planned sequences and methods, however, the level of detail shall be similar to that reflected in the list of preferred Price Centers. Mobilization must not be shown as a Price Center. Mobilization must be shown as an activity under Price Center 1;

Louisiana Department of Transportation and Development

- C) All Price Centers must be assigned to the Project as described in Part 2 – DB Section 100, DB Sections 109-1 and 109-2 and shown on Form PCD;
- D) The Proposed Baseline Progress Schedule must reflect all Work included in the proposed Lump Sum Contract Price; and
- E) The Proposed Baseline Progress Schedule shall show Final Acceptance no later than ____ calendar days from Notice to Proceed.

B2.3 PROPOSAL BOND

The Proposer shall submit the Proposal Bond with the lump sum Price Proposal.

See also Instructions to Proposers Section 3.3.

B3.0 FORMAT FOR SUBMISSION OF THE LUMP SUM PRICE PROPOSAL

The Proposer shall organize and submit the lump sum Price Proposal in the format shown in Table B-1, Lump Sum Price Proposal, by the Proposal due date.

**TABLE B-1
Lump Sum Price Proposal**

Section	Description	Appendix Reference
Section 1 (affixed to outside of sealed envelope)	Form PP Lump Sum Price Proposal Cover Sheet	B2.1
Section 2	• Form LSI Letter of Subcontract Intent;	B2.0
	• Form SP Schedule of Prices;	B2.2
	• Form PC1 Preliminaries and General Requirements;	B2.2.1
	• Form PC2 Project-Wide Engineering and Design Activities;	B2.2.2
	• Form PC3 Project-Wide Maintenance of Traffic;	B2.2.3
	• Form PC4 Project-Wide Environmental Mitigation and Compliance;	B2.2.4
	• Form PC5 Project-Wide Hazardous and Contaminated Substances Remediation Activities;	B2.2.5
	• Form PCD Price Center Descriptions	B2.2.6
	• Form PPS-P Proposal Periodic Payment Schedule;	B2.2.7
	• Form PCP Schedule of Progress Checkpoints; and	B2.2.8
	Proposed Baseline Progress Schedule.	B2.2.10
Section 3	• Proposal Bond.	B2.3

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH
STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF FEDERAL PROJECT ONLY]

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APPENDIX C PROPOSAL FORMS



INDEX OF FORMS

<u>Form Designator</u>	<u>Form Title</u>
	Form of Proposal
	Non-Collusion Form
	Proposal Bond
C	Single Point of Contact
CR	Commitment to Assign Identified Resources to Project
CRCF	Certification Regarding Use of Contract Funds for Lobbying
DBEC	Disadvantaged Business Enterprise Certification
DU	Design Unit Descriptions
KP	Key Personnel Information
LSI	Letter of Subcontract Intent
NS	Named Subcontractors
O	One-on-One Meeting Confidentiality and Non-Disclosure Agreement
PC1	Price Center 1, Preliminaries and General Requirements
PC2	Price Center 2, Project-Wide Engineering and Design Activities
PC3	Price Center 3, Project-Wide Maintenance of Traffic
PC4	Price Center 4, Project-Wide Environmental Mitigation and Compliance
PC5	Price Center 5, Project-Wide Hazardous and Contaminated Substances Remediation Activities
PCD	Price Center Descriptions
PCP	Schedule of Progress Checkpoints
PP	Lump Sum Price Proposal Cover Sheet
PPS-P	Proposal Periodic Payment Schedule (Format)
Q	Request for Proposals Question Form
SP	Schedule of Prices

FORM OF PROPOSAL

PROPOSAL OF _____

NAME _____ **TELEPHONE** (____) _____

ADDRESS _____

CONTRACTOR'S LICENSE No. _____ **ENGINEER'S LICENSE No.** _____

TO THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT:

The undersigned proposes to design and construct this Project in accordance with the Contract Documents and certifies to furnish and deliver all the materials and to do all work and labor required for the design and construction of State Project No. ____ **[Insert the state project number]** /Federal Aid Project No. ____ **[Insert the federal-aid project number, if a federal project only]** in ____ **[Insert the name of the parish]** Parish, Louisiana, for the total Lump Sum Contract Price as stated in the Schedule of Prices (Form SP). The undersigned also certifies that it has examined the site of the proposed Work and the Request for Proposals (RFP) before submitting the Proposal and is satisfied as to the requirements therein. As further consideration for the Award of this Contract, the undersigned agrees to the following terms, conditions, and acknowledgments:

- A) To execute the Contract and to furnish bonds in the amount specified in the Contract within 15 working days after Award and, failing to do so, to forfeit the accompanying Proposal Bond to the Louisiana Department of Transportation and Development (LA DOTD) as Liquidated Damages (LD), and the Secretary may proceed to award the Contract to others.
- B) To commence Work within 60 calendar days of Notice of Contract Execution and after receipt of Notice to Proceed (NTP), or such additional time as may be allowed in writing by the Department's Project Manager and to reach Project Substantial Completion by the date specified in the Contract.
- C) To furnish a performance and a payment bond in the penalty of full amount stated in the Contract as surety conditioned for the full, complete, and faithful performance of this Contract.
- D) In accordance with the Contract to repair, maintain, and guarantee all work performed thereunder until accepted by the Chief Engineer.

The undersigned declares that it is the only entity or party interested in the Proposal as principal and that its officers, employees, subsidiaries, or parent corporations [check appropriate box below]:

have not in any way participated in any activities in restraint of trade or been debarred with relation to public contracts either in the State of Louisiana or any other state of the United States (US) during the five-year period immediately preceding this Proposal or either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this Proposal or Contract.

have participated in activities in restraint of trade with relation to public contracts either in the State of Louisiana or any other state of the US during the five-year period immediately preceding this Proposal or entered into collusion or restraint of free competition in connection with this Proposal or this Contract and are of the opinion that they are a responsible Proposer entitled to the award of a contract involving public moneys and attach hereto an explanation of their activities in restraint of free trade, restraint of free competition, or collusion.

The Proposer also hereby certifies that it and its Principal Participants: (i) have developed and have on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs) (____) or are not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative

NON-COLLUSION FORM

STATE PROJECT NO. [Insert the state project number]

FEDERAL AID PROJECT NO. [Insert the federal-aid project number, for federal projects, only]

[Insert the name of the parish] PARISH

AFFIDAVIT

I hereby certify that I am (the) (a) _____ and duly authorized representative of the firm of _____, whose address is _____, and that neither I nor the above firm I here represent has participated in any of the following activities:

- A) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Proposer) to solicit or secure this Contract; and
- B) Agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract; or
- C) Paid, or agreed to pay, to any firm, organization, or person (other than a bona fide employee working solely for me or the above Proposer) any fee, contribution, donation, or consideration of any kind for or in connection with procuring or carrying out this Contract.

I acknowledge that this affidavit is furnished to the Louisiana Department and Transportation and Development (LA DOTD) in connection with this Contract in accordance with the provisions of Louisiana Revised Statutes 38:2224 and is subject to applicable state and federal laws, both criminal and civil.

(Signature) (Date)

SWORN TO AND SUBSCRIBED BEFORE ME AT _____,

THIS _____ DAY OF _____, 2011.

(SEAL)

BY: _____
(Notary Public)

Louisiana Department of Transportation and Development

PROPOSAL BOND

_____, as Principal and _____, as Surety, are bound unto the State of Louisiana, Department of Transportation and Development, (hereinafter called the LA DOTD) in the sum of five percent of the Proposer's total proposed Lump Sum Contract Price, of which the Principal and surety bind themselves and their heirs, executors, administrators, successors, and assigns, as solidary obligors.

Signed and sealed this _____ day of _____, 2011

The condition of this obligation is such that, whereas the Principal has submitted a Proposal to the LA DOTD on a Contract for the construction of State Project No. _____ [Insert the state project number] /Federal Aid Project No. _____ [Insert the federal-aid project number, if a federal project only], the _____ [Insert the name of the project] Design-Build (DB) Project, located in _____ [Insert the name of the parish] Parish, if the Proposal is accepted and the Principal, within the specified time, enters into the Contract in writing and gives bond with Surety acceptable to the LA DOTD for payment and performance of said Contract, this obligation will be void; otherwise to remain in effect.

Principal (or, if Proposer is a Joint Venture, Lead Principal Participant of the JV)

(If a Joint Venture, Principal Participant)

By: _____ Authorized Officer-Owner-Partner

By: _____ Authorized Officer-Owner Partner

Typed or Printed Name

Typed or Printed Name

Surety

By: _____

Typed or Printed Name

To receive a copy of the contract and subsequent correspondence/communication from LA DOTD, with respect to the Proposal Bonds, the following information must be provided:

Bonding Agency or Company Name

Address

Agent or Representative

Telephone/Facsimile Number

FORM C

SINGLE POINT OF CONTACT

Proposer's Name: _____

Name of Point of Contact: _____

Company Affiliation: _____

Address: _____

Office Telephone: _____

Facsimile: _____

Mobile or Pager Number: _____

E-mail Address: _____

FORM CR

COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT

Proposer's Name: _____

Understanding the Louisiana Department of Transportation and Development's (LA DOTD) concern that the Key Personnel resources specifically represented and listed in this Proposal actually be assigned to the Contract (if awarded to this Proposer) and not also be committed to other Projects, _____ (Name of Proposer) commits that the Key Personnel resources shown in the Proposal, including identified design staff, will be available to the extent within this Proposer's control. If awarded the Contract, this Proposer will undertake all reasonable efforts to provide all the Key Personnel identified in its Proposal on a full time basis for the periods necessary to fulfill their responsibilities.

Signed: _____

Printed Name: _____

Title: _____

Date: _____

(To be executed by the Proposer's designated Project Principal-in-Charge.)

FORM CRCF

CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [Insert the federal-aid project number, if a federal project only]
 [Insert the name of the parish] PARISH

The undersigned certifies, to the best of its knowledge and belief (after due inquiry and investigation), to the following:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “**Disclosure Form to Report Lobbying**,” in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

Date: _____, 2011

Signature

Title

[The Proposer may duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all partners, members, or joint venturers of the Proposer and all other Principal Participants.]

FORM DBEC

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION

State Project: _____ **[Insert the state project number]** _____

Federal Aid Project No. _____ **[Insert the federal-aid project number, if a federal project only]** _____

Highway: _____ **[Insert the name of the highway]** _____

Parish: _____ **[Insert the name of the parish]** _____

**DISADVANTAGED BUSINESS ENTERPRISES
REQUIREMENTS**

The following goal for participation by Disadvantaged Business Enterprises (DBE) is established for construction and services for the Project:

DBE

_____ **[Insert the DBE goal for the project]** _____ %

Disadvantaged Business Enterprise Certification

By signing the Proposal, the Proposer certifies that (1) the above DBE goal will be met by obtaining commitments equal to or exceeding the DBE percentage or that Proposer will provide a good faith effort to substantiate the attempt to meet the goal; and (2) if awarded the Contract, the Proposer will meet the requirements set forth in the Contract Documents, Part 2 – Design-Build (DB) Section 100, DB Section 114 and Appendix 114.

Signed: _____

Printed Name: _____

Title: _____

Date: _____

FORM DU

DESIGN UNIT DESCRIPTIONS

Proposer Name : _____

Price Center Code (from Form PCD)	Design Unit Code	Design Unit Description

FORM KP

KEY PERSONNEL INFORMATION

Name of Proposer: _____

[The key personnel included will be tailored to each specific project and should match those identified in the Instructions to Proposers and Part 2 - Design-Build Section 108C]

Position	Name	Years of Applicable Experience	Education/Registration	Parent Firm Name	Percent of Time Dedicated to Project
Principal-in-Charge					
Design-Builder's Project Manager					
Construction Manager					
Design Manager					
Design-Builder's Deputy Project Manager					
Quality Assurance/Quality Control Manager					
Design Quality Control Manager					
Construction Quality Control Manager					
Safety Manager					
Environmental Compliance Manager					
Lead Geotechnical Engineer					

Louisiana Department of Transportation and Development

Traffic Control Supervisor					
Roadway Design Engineer					
Bridge Design Engineer					

Use additional sheets when needed.

FORM LSI

LETTER OF SUBCONTRACT INTENT

_____ (Proposer's name) intends to subcontract Work for the
_____ **[Insert the name of the project]** _____ Design-Build (DB) Project to
_____ (Name of Subcontractor/Consultant) to perform the
following types of Work:

_____.

The anticipated minimum value of the subcontract is _____.

For the Proposer:

For the Subcontractor/Consultant:

(Signature)

Confirmed by: (Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Date)

(Date)

FORM NS

NAMED SUBCONTRACTORS

Proposer Name: _____

Specialty/Assignment /Percentage	Subcontractor Name/ Contact	Address of Head Office	Telephone/Facsimile	For the last two Projects, list the Project Name; Owner; and Owner's Contact's Name, Telephone Number, and E-mail Address	
				Project 1	Project 2

Louisiana Department of Transportation and Development

FORM O

ONE-ON-ONE MEETING CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

I, _____, as the Attorney-in-Fact and designated representative of _____ (Proposer), hereby agree to the following:

- A) I agree, on behalf of the Proposer, that any and all Proposer representatives who participate in the one-on-one meeting process will maintain the confidentiality of all proprietary or trade secret information that the Proposer and its representatives gain access to as a result of their participation in one-on-one meetings. Proprietary or trade secret information includes codes, patterns, formulae, designs, devices, methods, or processes;
- B) I agree, on behalf of the Proposer, that any communications and/or records exchanged during the one-on-one meetings will remain confidential until Contract execution, unless such records are proprietary or trade secret information;
- C) I agree to waive any right, on behalf of the Proposer, to challenge the procurement for the _____ **[Insert the name of the project]** _____ Design-Build (DB) Project (Project) based upon the Proposer's participation in the one-on-one meeting process. Further, if invited to participate in the one-on-one meeting process, and the Proposer opts to not participate in the one-on-one meeting process, I agree to waive any right, on behalf of the Proposer, to challenge the procurement for the Project based upon the Proposer's lack of participation in the one-on-one meeting process; and
- D) I agree, on behalf of the Proposer, that upon notice from the LA DOTD that a request for release of information obtained or exchanged during the one-on-one meeting process has been received, the Proposer shall immediately defend any action seeking release of the records it believes to be proprietary or trade secret information and indemnify, defend, and hold harmless the LA DOTD and the State of Louisiana and its agents and employees from any judgments awarded against the LA DOTD and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the LA DOTD's cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting a Proposal, the Proposer agrees that this indemnification and duty to defend survives as long as the confidential business information is in possession of the State.

This Confidentiality and Non-Disclosure Agreement is subject to the laws of the State of Louisiana and applicable rules and regulations.

Signed: _____

Date: _____

Louisiana Department of Transportation and Development

FORM PC1

PRICE CENTER 1 - PRELIMINARIES AND GENERAL REQUIREMENTS

Activity Code¹	Activity²	Lump Sum Price (Enter Lump Sum Price for Each Activity)
	Payment, Performance, and Retainage Bonds	
	Insurance and Insurance Certificates	
	Project Mobilization	
	Permits and Regulatory Approvals (non-environmental)	
	Environmental Compliance (plans, permits, approvals, reports, records, and monitoring)	
	Project Management	
	Quality Plan and Updates	
	Project Quality Management and Construction Quality Control	
	Safety Plan and Safety Administration	
	Liaison and Coordination with Local Authorities and Agencies	
	On-Site Security, Communications, and Project Identification Signing	
	Design-Builder's Temporary Facilities (provide, erect, service, and maintain)	
	Design-Builder-Provided Facilities and Equipment for the Louisiana Department of Transportation and Development	
	Removal of Temporary and Design-Builder-Provided Facilities and Site Clean-up/Restoration	
	Construction Staking	
	Public Information Activities during Contract	
	Warranty or Guarantee	
	Price Center Value³ (Sum of the Lump Sum Prices for each activity)	

¹ Use codes from Baseline Progress Schedule P3 or P6 Program.

² Other activities may be added by Proposer.

³ Enter sum for the column. Enter amount on Form SP.

FORM PC2

PRICE CENTER 2 - PROJECT-WIDE ENGINEERING AND DESIGN ACTIVITIES

Activity Code¹	Activity²	Lump Sum Price (Enter Lump Sum Price for each activity)
	Design of Temporary and Permanent Works through Final Design (including, design reports, design drawings, and Project Specifications)	
	Geotechnical Investigations	
	Other Preliminary Engineering, such as Preliminary Surveys	
	Design Support during Construction	
	As-Built Drawings, Manuals, and Reports	
	Activities of the Design Quality Control Manager and Staff (Design QC)	
	Price Center Value³ (Sum of lump sum prices for each activity)	

¹ From activities on Baseline Progress Schedule P3 or P6 Program.

² Other activities may be added by Proposer.

³ Enter sum on Form SP.

FORM PC3

PRICE CENTER 3 - PROJECT-WIDE MAINTENANCE OF TRAFFIC

Activity Code ¹	Activity ²	Lump Sum Price (Enter Lump Sum Price for each activity)
	Maintenance of Traffic Plan and Updates	
	Maintenance of Traffic Implementation and Operations	
	Traffic Control Plan(s) and Updates	
	Price Center Value (Sum of lump sum prices for each activity) ³	

¹ From activities on Baseline Progress Schedule P3 or P6 Program.

² Other activities may be added by Proposer.

³ Enter sum on Form SP.

FORM PC4

PRICE CENTER 4 –

PROJECT-WIDE ENVIRONMENTAL MITIGATION AND COMPLIANCE

Activity Code¹	Activity²	Lump Sum Price (Enter Lump Sum Price for each activity)
	Environmental Investigations and Documentation	
	Environmental Mitigation Measures and Plans	
	SPDES Preparation	
	SPDES Implementation	
	Price Center Value³ (Sum of prices for each activity)	

¹ From activities on Baseline Progress Schedule P3 or P6 Program.

² Other activities may be added by Proposer.

³ Enter sum on Form SP.

FORM PC5

PRICE CENTER 5 –

**PROJECT-WIDE
HAZARDOUS AND CONTAMINATED SUBSTANCES REMEDIATION ACTIVITIES**

Activity Code¹	Activity²	Lump Sum Price (Enter Lump Sum Price for each activity)
	Environmental Design and Monitoring of Construction Zone	
	Price Center Value³ (Sum of prices for each activity)	

¹ From activities on Baseline Progress Schedule P3 or P6 Program.

² Other activities may be added by Proposer.

³ Enter sum on Form SP.

FORM PCD

PRICE CENTER DESCRIPTIONS

Project Section	Project Work Breakdown Structure Code	Price Center Code	Price Center Title	Price Center Descriptions
A			Project-Wide Activities	
			PC1 Preliminaries and General Requirements	<i>See Form PC1</i>
			PC2 Project-Wide Engineering and Design Activities	<i>See Form PC2</i>
			PC3 Project-Wide Maintenance of Traffic	<i>See Form PC3</i>
			PC4 Project-Wide Environmental Mitigation and Compliance	<i>See Form PC4</i>
			PC5 Project-Wide Hazardous and Contaminated Substances Remediation Activities	<i>See Form PC5</i>
B				

Louisiana Department of Transportation and Development

Project Section	Project Work Breakdown Structure Code	Price Center Code	Price Center Title	Price Center Descriptions
C				
D				

[Note: Add Construction Price Centers for Sections B thru __. Add additional Sections as required.]

FORM PCP

SCHEDULE OF PROGRESS CHECKPOINTS

Price Center Code	Progress Checkpoint Code	Progress Checkpoint Title	Month after Notice to Proceed Scheduled to be Complete	Description of Work Programmed to be Accomplished Within the Progress Checkpoint

Add additional sheets as required.

FORM PP

LUMP SUM PRICE PROPOSAL COVER SHEET

Proposer's Name: _____

This lump sum Price Proposal is submitted in response to the Request for Proposals, dated _____ **[Insert the date the RFP was issued]** _____ as amended by Addenda, and includes the following:

[The list of items that make up the lump sum Price Proposal will change on a project-by-project basis and should reflect those items identified in the Instructions to Proposers.]

Section 1:

- Form PP (Price Proposal Cover Sheet)

Section 2:

- Schedule of Prices (Form SP), including the proposed Lump Sum Contract Price for the Project;
- Forms PC1 through PC5;
- Proposal Periodic Payment Schedule (Form PPS-P);
- Form LSI, Letter of Intent to Subcontract;
- Form PCD, Price Center Descriptions;
- Proposed Baseline Progress Schedule; and
- Form PCP, Schedule of Progress Checkpoints.

Section 3:

- Proposal Bond

Signed by Parties signing Form of Proposal:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(Signatures)	(Representing)	(Dates)

FORM PPS-P

PROPOSAL PERIODIC PAYMENT SCHEDULE

Month After Notice to Proceed (3)	Total Proposal Price ⁽¹⁾	Planned Cumulative Payment ⁽²⁾
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

1. Enter proposed Lump Sum Contract Price from Form SP.
2. Enter planned cumulative payment for each month between Notice to Proceed and Final Acceptance date.
3. Add months to table to reflect duration of Contract.

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT H - EXAMPLE EVALUATION
AND SELECTION PLAN**



**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT H - EXAMPLE EVALUATION
AND SELECTION PLAN**



CONFIDENTIAL - PROCUREMENT SENSITIVE

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH
STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

PROPOSAL EVALUATION AND SELECTION PLAN

Note: If found, please return this copy in an envelope to:

[Insert the name of the Contract Services Administrator]
Contract Services Administrator
Louisiana Department of Transportation and Development
1201 Capitol Access Road
Baton Rouge, Louisiana 70802-4438



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1.0 INTRODUCTION

1.1 PURPOSE

This document provides the methodology and criteria for evaluation of the Proposals received in response to the Request for Proposals (RFP) issued by the Louisiana Department of Transportation and Development (LA DOTD) for the _____ **[Insert the name of the project]** _____ Design-Build (DB) Project (Project).

It is the intent of this Proposal Evaluation and Selection Plan (E&S Plan) to establish a disciplined process and a fair and uniform basis for the evaluation of the DB Proposals in accordance with the Project goals identified in Section 1.1 of the RFP, Instructions to Proposers (ITP), as amended. Award of the Project is to be based upon the adjusted score approach and procurement procedures of Louisiana Revised Statutes Title 48 Section 250.3 for DB contracts (which consider price, technical score, and time value). Unless otherwise defined herein, refer to the RFP, Contract Documents, Part 2 – DB Section 100, DB Section 101, as applicable, for abbreviations and the definitions of initially capitalized terms contained in this E&S Plan.

1.2 DESCRIPTION

The description of the Project is contained in the RFP, Contract Documents, Part 1 – DB Agreement, Appendix A – Project Scope.

1.3 BASIS OF EVALUATION

This document sets forth standards of acceptability and desirability with regard to evaluation factors set forth in the ITP. Evaluators will assign ratings to the Pass/Fail Evaluation Factors and Technical Evaluation Subfactors after examining the Technical Proposals and after consideration of the context under which the Project goals and Pass/Fail Evaluation Factors and Technical Evaluation Subfactors were developed. Evaluators will place significant flexibility and responsibility on the Design-Builder to plan, design, construct, manage, and control the Work and to complete the construction on schedule. In addition, the design will be guided by the design requirements and Performance Specifications. The Project schedule may necessitate “fast track” design and construction. High responsibility standards have been set to encourage Proposers to submit high quality Statements of Qualifications (SOQ) and Proposals demonstrating their capability (legal, financial, management, and technical), capacity, experience, and creative yet sound design/construction solutions that, when combined with price, will be most advantageous to the LA DOTD.

The organization, overall procedures, Pass/Fail and Technical Evaluation Factors, rating scheme, and evaluation process for the Proposals are set forth in this E&S Plan.

1.4 INSTRUCTIONS TO PROPOSERS

The ITP portion of the RFP is a companion document to this E&S Plan. It is the primary document that defines the Pass/Fail and Technical Evaluation Factors and submittal requirements for each Pass/Fail and Technical Evaluation Factor for the Proposals. The ITP is the primary reference document for all evaluators in the evaluation process. For the most part, this E&S Plan is intended to be complementary to the ITP and attempts to avoid duplicating information contained in the ITP. However, in the event of a discrepancy between the E&S Plan and the ITP, the ITP governs.

For the evaluation of some Technical Evaluation Subfactors, other portions of the RFP (such as, Performance Specifications and RFP Plans) will be of assistance to evaluators.

1.5 GLOSSARY OF TERMS

The following terms are used in this E&S Plan. Definitions of other initially capitalized terms may be found in the RFP, Contract Documents, Part 2 – DB Section 100, DB Section 101.

Chair of the Proposal Review Committee – In accordance with Louisiana Revised Statutes Title 48 Section 250.3(G), the Project Manager of the Project, as appointed by the Chief Engineer of the LA DOTD, with concurrence of the Secretary, is the Chair of the Proposal Review Committee. This person will perform the duties outlined in Section 3.5 of this E&S Plan.

Design-Build Procurement Management Team – The Design-Build Procurement Management Team (or, DB Procurement Management Team) will facilitate the procurement process, including all interactions with the Proposers and the responsiveness review of the Technical Proposals. The Procurement Management Team will also perform the functions set forth in Section 3.1 of this E&S Plan.

Design-Build Qualifications Evaluation Committee – The Design-Build Qualifications Evaluation Committee (or, DB Qualifications Evaluation Committee) was created under Louisiana Revised Statutes Title 48 Section 250.3(E)(1) and tasked with review of the SOQs submitted by the Proposers.

Instructions to Proposers – The Instructions to Proposers are those documents containing directions for the preparation and submittal of information by the Proposers in response to the RFP. The Instructions to Proposers may also be referred to as the ITP.

Price Evaluation Team – The Price Evaluation Team will review the Lump Sum Price Proposals for responsiveness and reasonableness. The Price Evaluation Team will perform the functions specified in Section 3.3 of this E&S Plan.

Proposal Review Committee – In accordance with Louisiana Revised Statutes Title 48 Section 250.3(G), the committee established by the Chief Engineer with concurrence of the Secretary to evaluate the DB Proposals.

Request for Proposals - As defined under Louisiana Revised Statutes Title 48 Section 250.3(F)(1), the document identifying the Project and its Work to be performed and Materials to be furnished in response to which a Proposal may be submitted by a Proposer. The Request for Proposals may also be referred to as the RFP, and includes the ITP, Contract Documents, and Reference Documents. The RFP is issued only to the Short-List.

Request for Qualifications – The written solicitation issued by the LA DOTD seeking SOQs to be used to identify and short-list the Proposers to receive the RFP for the Project. The Request for Qualifications may also be referred to as the RFQ.

Short-List – The Short-List is the list of those Proposers that submitted SOQs that the LA DOTD determined, through evaluation of the SOQs, are the most highly qualified Proposers that will be invited to submit Proposals in response to an RFP.

Statement of Qualifications – The information prepared and submitted by a Proposer in response to the RFQ. The Statement of Qualifications may also be referred to as the SOQ.

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Technical Advisor – In accordance with Louisiana Revised Statutes Title 48 Section 250.3(G), LA DOTD engineering and technical experts and nationally recognized DB experts, selected by the Chief Engineer with the concurrence of the Secretary to serve on the Proposal Review Committee.

2.0 PROCUREMENT PROCESS

The Contract will be procured as per Louisiana Revised Statutes Title 48 Sections 250.2 through 250.3. The intent of the LA DOTD is to award the Contract to the qualified Proposer with the lowest adjusted score, as per Louisiana Revised Statutes Title 48 Section 250.3(H).

2.1 STEPS/PLANNED SCHEDULE OF OVERALL PROCESS

The overall procurement process has the following steps (dates are planned dates and may vary in actual execution):

A) Notice of Intent

The Notice of Intent (NOI), in the form of LA DOTD advertisements published on the LA DOTD's main Web site on from ____ **[Insert the date that the NOI was first published]** ____ to ____ **[Insert the last date that the NOI was published]** ____ . The NOI was also published in the ____ **[Identify any other periodicals that the NOI was published in, in addition to the Department's Web site]** ____ and the ____ **[Identify any other periodicals that the NOI was published in, in addition to the Department's Web site]** ____ . The NOI invited interested firms to submit a Letter of Interest (LOI) requesting a copy of the RFQ.

B) Request for Qualifications

The RFQ was issued on ____ **[Insert the date of issuance of the RFQ]** ____ to the NOI respondents that submitted an LOI. The RFQ was available to firms that submitted an LOI in order to establish a Short-List of the most highly rated Proposers that were invited to submit Proposals in response to the RFP.

C) Statements of Qualifications

Statements of Qualifications in response to the RFQ were due on ____ **[Insert the due date for the SOQs]** ____ . Statements of Qualifications were evaluated by the DB Qualifications Evaluation Committee between ____ **[Insert the date on which the SOQ evaluations began]** ____ and ____ **[Insert the date on which the SOQ evaluations ended]** ____ .

D) Short-List

Notification was sent to the short-listed Proposers on ____ **[Insert the date on which the notification was sent to the Short-List]** ____ .

E) Request for Proposals

Issuance of the RFP to the Short-List, for the purpose of receiving Proposals (technical and price) by which a Design-Builder will be selected, was on ____ **[Insert the date on which the RFP was issued]** ____ .

F) Proposals

Proposals in response to the Request for Proposals are anticipated to be due on ____ **[Insert the anticipated Proposal due date. If the due dates for the Technical Proposals and Lump Sum Price Proposals have been split apart, state both due**

dates here.]_____.

G) Evaluation and Rating of Technical Proposals

The process of evaluating and rating the Technical Proposals will be done in accordance with this E&S Plan and is anticipated to occur from _____ [Insert the anticipated beginning date of Proposal evaluations]_____ through _____ [Insert the anticipated end date of Proposal evaluations]_____.

H) Presentations

Proposers' oral presentations with regard to their Technical Proposals are anticipated to be held on _____ [Insert the anticipated date for Proposer presentations]_____ and _____ [Insert the anticipated date for Proposer presentations]_____.

I) Public Opening of Lump Sum Price Proposals

Opening of Lump Sum Price Proposals and calculation of adjusted scores is planned for _____ [Insert the anticipated opening date of the Lump Sum Price Proposals]_____.

J) Lump Sum Price Proposal Evaluation, Award, Contract Execution, and Notice to Proceed

Lump Sum Price Proposal evaluation is anticipated to occur on _____ [Insert the anticipated date of the Price Evaluation Team meeting]_____ with award of the Contract anticipated by _____ [Insert the anticipated award date of the DB Contract]_____. Contract execution and Notice to Proceed are anticipated to occur no later than _____ [Insert the date by which DB Contract execution and NTP are anticipated to have occurred]_____ with a possible NTP concurrent with Contract execution.

2.2 ONE PROCESS/TWO PHASES

The procurement will be accomplished through one overall process that includes two phases as follows:

A) **Request for Qualifications and Statements of Qualifications (Phase One)**

Phase One consisted of the selection of Proposers to the Short-List.

B) **Request for Proposals and Proposals (Phase Two)**

Phase Two consists of the selection of the Design-Builder from the Short-List of Proposers.

2.3 GENERAL DESCRIPTION OF THE OVERALL EVALUATION PROCESS

The selection of the Design-Builder for the Contract will be based on an evaluation of Pass/Fail and Technical Evaluation Factors and proposed Lump Sum Contract Price.

The RFQ set out what was required to be submitted by Proposers in their SOQs. Similarly, the ITP portion of the RFP sets out what is required to be submitted in the Proposals. The RFP will provide specific instructions on the Pass/Fail and Technical Evaluation Factors, the objectives/requirements for evaluation, and the evaluation rating guidelines.

Proposals submitted in response to the RFP must include a response to each Pass/Fail and Technical Evaluation Factor.

Ratings of individual Pass/Fail and Technical Evaluation Subfactors will be determined individually by

the members of the Proposal Review Committee.

If required information is missing from a Proposal, the LA DOTD may, in its sole discretion, either declare the Proposal non-responsive due to Weaknesses (non-minor) or Deficiencies or send a written request for Clarification to the Proposer requesting the missing information relating to minor Weaknesses, errors, or omissions. The Proposal Review Committee may, through the use of Clarifications, seek to resolve minor ambiguities, errors, omissions, or mistakes in a Proposal in order to better understand and evaluate the Proposal.

Evaluation of the SOQs during Phase One was the basis for determining the Short-List of the highest rated Proposers that were invited to submit Proposals in response to the RFP. Statements of Qualifications ratings will not carry over to Phase Two.

The proposed Lump Sum Contract Price will only be submitted in Phase Two (in response to the RFP).

In Phase Two, both Pass/Fail and Technical Evaluation Factors and proposed Lump Sum Contract Price are being considered. Final Pass/Fail Evaluation Factor ratings and Technical Evaluation Subfactor ratings and scores will be determined by the Proposal Review Committee.

Technical Evaluation Factor scores and the overall Technical Proposal score will be calculated by the Chair of the Proposal Review Committee prior to the public opening of the Lump Sum Price Proposals, at which time the adjusted score for each Proposal will be determined.

After completion of the Technical Proposal evaluations, but prior to the public opening of the Lump Sum Price Proposals, the DB Procurement Management Team will notify each Proposer of all Proposers' final Pass/Fail Evaluation Factor ratings, Technical Evaluation Subfactor ratings and scores, Technical Evaluation Factor scores, and final total technical score.

The DB Procurement Management Team will conduct a public opening of the Lump Sum Price Proposals and determine the adjusted score of each Proposal.

The Lump Sum Price Proposals will be reviewed for responsiveness and reasonableness. Lump Sum Price Proposals found to be nonresponsive or unreasonable will be removed from further consideration.

2.4 GRAPHICAL REPRESENTATION OF PHASE TWO (REQUEST FOR PROPOSALS AND PROPOSALS)

Attachment A provides a flow diagram that graphically depicts the evaluation and selection process for the Proposals.

3.0 PROPOSAL EVALUATION AND SELECTION ORGANIZATION, FUNCTIONS, AND GENERAL PROCEDURES

Prior to the start of the evaluation, individuals who will serve on the Proposal Review Committee were designated by the Chief Engineer, with concurrence from the Secretary.

3.1 DESIGN-BUILD PROCUREMENT MANAGEMENT TEAM

The DB Procurement Management Team is responsible for controlling and maintaining the integrity of the entire evaluation and selection process according to this E&S Plan. The Chief Engineer, the

Louisiana Department of Transportation and Development

Secretary, and any observers may not serve on the DB Procurement Management Team. The DB Procurement Management Team performs the following specific functions:

- A) Not only maintains strict confidentiality with regard to its functions within the evaluation process but also is the primary group responsible for managing and monitoring the entire process for confidentiality, integrity, and procurement sensitivity;
- B) Ensures that all participants in the evaluation and selection process sign a certification of confidentiality and non-disclosure and statements concerning conflicts of interest. If apparent conflicts are disclosed the resolution process for the conflicts will be determined by the Executive Counsel;
- C) Provides orientation sessions on the evaluation process for the members of the Proposal Review Committee prior to start of evaluations;
- D) Provides guidance and assistance to the Proposal Review Committee throughout the entire process;
- E) Reserves secure evaluation/conference rooms for the Proposal Review Committee members and for Proposer Presentations;
- F) Receives and safeguards all Proposals. Lump Sum Price Proposals are kept sealed in a secure location;
- G) Reviews each Technical Proposal for responsiveness to the RFP and for inclusion of all required forms, properly filled in and/or executed and all required information for all Pass/Fail and Technical Evaluation Factors. The Procurement Management Team ensures that a Proposal is in the required format and ready for evaluation;
- H) Notifies the Chair of the Proposal Review Committee and Proposal Review Committee of any apparent non-responsive Proposals;
- I) Prepares the Technical Proposals for evaluation and evaluation worksheets for the Proposal Review Committee;
- J) Distributes evaluation packages to the Proposal Review Committee; monitors the evaluations; and receives and safeguards results/reports of the Proposal Review Committee members;
- K) Assists the Chair of the Proposal Review Committee in any briefings/presentations that may be required to the Chief Engineer and/or the Secretary;
- L) Coordinates, prepares, and issues written Clarifications requests to Proposers (based on evaluations and/or reviews by the Proposal Review Committee). The Procurement Management Team distributes Proposers' responses to Clarifications requests to the members of the Proposal Review Committee;
- M) Notifies each Proposer of the Proposers' final Pass/Fail Evaluation Factor ratings, Technical Evaluation Subfactor ratings and scores, Technical Evaluation Factor scores, and final total technical score;
- N) Conducts a public opening of the Lump Sum Price Proposal and determination of the adjusted scores for each Proposal;
- O) Arranges for the Price Evaluation Team to review the Lump Sum Price Proposals for responsiveness and reasonableness and receives the recommendation from the Price Evaluation Team as to the responsiveness and reasonableness of the Lump Sum Price Proposals;

- P) Assists the Secretary in review of the results of the evaluation process and the selection decision; and
- Q) Assists the Proposal Review Committee and the Secretary in preparation of written reports and determinations and assists in the debriefing of Proposers.

3.2 TECHNICAL ADVISORS AND OBSERVERS

This Project has an ambitious Project schedule. Additionally, significant flexibility and responsibility will be placed on the Design-Builder to plan, design (guided by Performance Specifications/design requirements), construct, manage (necessitating “fast track” design and construction), and control the Work (including the QC for both design and construction). As such, capability, capacity, experience, and Project understanding are very significant to the ultimate success of the Project. Technical Advisors who bring specific expertise to the individual Pass/Fail and Technical Evaluation Factors may be assigned by the LA DOTD to participate on the Proposal Review Committee. The Technical Advisors may be employees of the LA DOTD, other stakeholders, consultants, and/or other experts. Additional Technical Advisors may be added during the evaluation process as may be required, however, the LA DOTD will make every effort to determine the Technical Advisors necessary when determining the membership of the Proposal Review Committee.

Observers may be designated by the Procurement Management Team for the purpose of observing the evaluation and selection process. Observers will be designated in writing and will be held to the same standards of confidentiality, non-disclosure, and no conflict of interest as members of the Proposal Review Committee.

3.3 PROPOSAL REVIEW COMMITTEE

The Proposal Review Committee is responsible for the evaluation of Pass/Fail Evaluation Factors and Technical Evaluation Subfactors.

The Proposal Review Committee will present the results of the evaluation process to the Secretary. All ratings by the Proposal Review Committee members will be documented on evaluation worksheets.

The Proposal Review Committee members perform the following specific functions:

- A) Maintain strict confidentiality of the evaluation process and all Technical Proposals;
- B) Individually review each Technical Proposal;
- C) Identify (if necessary) items requiring additional clarification and prepare through concise questions to submit to the Proposal Review Committee for approval in order to seek out additional Clarifications from Proposers;
- D) Attend Proposer Presentations;
- E) Assign final ratings to each Pass/Fail Evaluation Factor and Technical Evaluation Subfactor as a result of evaluation of the Technical Proposals, responses to requests for Clarifications (if any) from Proposers, and information received during the Presentations. The final rating for each Technical Evaluation Subfactor will be converted to a score using the Rating/Scoring Conversion Table in Section 6.2.2 of the ITP; and
- F) Supports the Chair of the Proposal Review Committee in any briefings of the Chief Engineer and/or the Secretary that may be required.

3.4 CHAIR OF THE PROPOSAL REVIEW COMMITTEE

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The Chair of the Proposal Review Committee is the Department's Project Manager, in accordance with Louisiana Revised Statutes Title 48 Section 250.3(G). The Chair of the Proposal Review Committee performs the following functions:

- A) Ensures that the Proposal evaluation and selection process is properly conducted and that the confidentiality of the process is maintained;
- B) Chairs the Proposal Review Committee;
- C) Resolves Proposal Review Committee conflicts and/or impasses;
- D) Briefs the Chief Engineer and/or the Secretary on the evaluation process;
- E) Schedules meetings and meets as appropriate with Proposal Review Committee members;
- F) Schedules and chairs Proposer Presentations;
- G) Coordinates evaluation processes among Proposal Review Committee members;
- H) Assures timely completion of evaluation processes (if any);
- I) Participates in actual evaluation of the Technical Proposals;
- J) Prepares and/or causes to be prepared brief narrative questions as may be required for Clarifications during the evaluation of the Proposals by the Proposal Review Committee;
- K) After receipt of the final Pass/Fail Evaluation Factor ratings and Technical Evaluation Subfactor ratings and scores from the Proposal Review Committee members, completes the calculation of each Proposer's Technical Evaluation Factor scores and final total technical score;
- L) Presents the adjusted scores to the Secretary for each Proposal; and
- M) If so requested, debriefs the unsuccessful Proposers at the conclusion of the evaluation process.

3.5 PRICE EVALUATION TEAM

The Price Evaluation Team will evaluate the Lump Sum Price Proposals after the public opening of the Lump Sum Price Proposal.

The Price Evaluation Team performs the following functions:

- A) Maintains strict confidentiality of the evaluation process. The Price Evaluation Team must not have any direct written or oral communication with any member of a Proposer's organization during the evaluation process;
- B) After the public opening of the Lump Sum Price Proposals, reviews the Lump Sum Price Proposals for responsiveness and reasonableness. Responsiveness means that the Lump Sum Price Proposal meets the minimum criteria contained in the RFP. Minor irregularities, ambiguities, errors, or omissions do not make a Lump Sum Price Proposal non-responsive. Reasonableness means that the Lump Sum Price Proposal is within the expected range of prices, such expectation resulting from the experience obtained through recent competitive acquisitions completed by the LA DOTD. The definition of Price Reasonableness is contained in the ITP. During the evaluation, prepares (if necessary) concise questions (to be transmitted to Proposers by the Procurement Management Team as requests for Clarifications) to seek clarification for ambiguities, omissions, errors, mistakes, or clerical revisions in order to assist the

evaluators in better understanding the Lump Sum Price Proposal and at arriving at a determination for responsiveness and reasonableness;

- C) Considering the Lump Sum Price Proposals, the LA DOTD Project estimate, and clarifying information received as responses to requests for Clarifications, determines responsiveness and reasonableness for the Lump Sum Price Proposals, and prepares a written recommendation to the DB Procurement Management Team. Any particular reservations of an individual Price Evaluation Team member with respect to the responsiveness and/or reasonableness of the Lump Sum Price Proposal will be noted on the recommendation; and
- D) When requested, provides briefings and/or oral presentations concerning the Lump Sum Price Proposal evaluation to the Chief Engineer and/or the Secretary.

3.6 CHIEF ENGINEER

The Chief Engineer performs the following functions:

- A) Establishes the membership of the Proposal Review Committee and the assignment of the Department's Project Manager as the Chair of the Proposal Review Committee; and
- B) Participates in any briefings as necessary during the evaluation process.

3.7 SECRETARY

The Secretary performs the following functions:

- A) Concurs with the Chief Engineer's establishment and membership of the Proposal Review Committee and the assignment of the Department's Project Manager as the Chair of the Proposal Review Committee; and
- B) After being briefed as to the Proposal Review Committee's determination of Pass/Fail Evaluation Factor ratings, Technical Evaluation Subfactor ratings and scores, Technical Evaluation Factor scores, and final total technical scores for each Technical Proposal; Lump Sum Price Proposal responsiveness and reasonableness for each Lump Sum Price Proposal; and adjusted score for each Proposal, selects the successful Proposal or rejects all Proposals. The Secretary will notify the Proposers of the final selection decision.

3.8 GENERAL PROCEDURES

Specific procedures are described within the functions of the above individual elements of the evaluation and selection organization. Below are general procedures that are either common to all portions or organizational elements of the Proposal evaluation and selection process or need special emphasis.

3.8.1 Confidentiality and Safeguarding of Information

The issue of confidentiality has been stressed under each of the organizational functions. The integrity of any contracting process is critical to the fairness (and the appearance of fairness) and the confidence that the Proposers, the stakeholders, and the public have in the LA DOTD. Therefore, the activities of the Proposal Review Committee and the knowledge of individual participants in the evaluation process must be held in the strictest confidence and all information provided by the Proposers or generated during the Proposal evaluations must be safeguarded. All personnel associated with the process will sign certifications of confidentiality and non-disclosure and statements concerning conflicts of interest. Any

violations of the confidentiality and non-disclosure and statements concerning conflicts of interest will be subject to appropriate action by the LA DOTD.

The DB Procurement Management Team will set rules, guidelines, and procedures for the safeguarding of all information. After receipt of Proposals, no information contained in the Proposals (with the exception of the Executive Summaries) will be made available to the public or anyone in the LA DOTD not having a need-to-know until after execution of the Contract. Proper care to protect and safeguard all Proposal and evaluation data on a strict need-to-know basis will be exercised. The Lump Sum Price Proposals will be submitted in separate sealed envelopes and will not be opened or revealed to anyone until the public opening of the Lump Sum Price Proposals. During the evaluation and selection process, only the DB Procurement Management Team can approve the release of any information. Only those individuals actively participating in the evaluation process (members of the Proposal Review Committee and DB Procurement Management Team; the Chief Engineer; and the Secretary) have a need-to-know. Notification to Proposers concerning the final selection decision will be accomplished by the Secretary.

3.8.2 Presentations

Following submission of the Proposals, Proposers will make oral presentations with regard to their Technical Proposals. Members of the Proposal Review Committee participating in the evaluation of the Technical Proposals should plan on attending the oral presentations. The Procurement Management Team and observers may also attend. Information gained at the oral presentations will be used to assist in the evaluation of each Proposer's Technical Evaluation Subfactors. Upon conclusion of each presentation, the Proposer will be asked to recess outside of the room while the Proposal Review Committee members develop clarification questions. After the recess, the Proposer will return to answer the questions. Proposal Review Committee members may take written notes to assist them in preparing clarification questions and to use as an aid in evaluating the Technical Evaluation Subfactors. One complete copy of the presentation (including all visual aids) used in the oral presentation shall be left with the LA DOTD at the conclusion of the presentation.

3.8.3 Clarifications

During the process of evaluations, there will be instances where meaningful evaluation cannot take place or proceed or where an erroneous evaluation might occur without seeking clarification of an issue. In such cases, it will be to the benefit of the LA DOTD and the Proposer for Clarifications to be quickly obtained. The Proposal Review Committee should expeditiously submit a request for Clarifications in writing to the DB Procurement Management Team. The DB Procurement Management Team, after reviewing and preparing the request for Clarifications, will send the request for Clarifications to the Proposer and upon receipt of a response from the Proposer will forward it to the Proposal Review Committee members.

3.8.4 Addenda

The evaluation process may highlight, through evaluation of the Proposals or through the process of Clarifications, errors or inconsistencies in the RFP that require correction. All recommendations for addenda from the Proposal Review Committee should be forwarded expeditiously to the DB Procurement Management Team in writing with proposed addendum language and backup rationale. The DB Procurement Management Team will take appropriate action to have the request reviewed and, if necessary, will prepare and issue the addendum.

3.9 BRIEF SYNOPSIS OF EVALUATION AND SELECTION PROCESS

- A) The DB Procurement Management Team prepares and conducts an evaluation and selection orientation for the Proposal Review Committee;
- B) The DB Procurement Management Team receives Proposals and reviews the Technical Proposals for responsiveness and then prepares the Technical Proposal information for evaluation;
- C) The DB Procurement Management Team distributes the Technical Proposals to the Proposal Review Committee. Lump Sum Price Proposals, which are submitted in a separate sealed container, will be safeguarded and not opened or revealed to anyone until the public opening of the Lump Sum Price Proposals;
- D) The Proposal Review Committee members review the Technical Proposals and submit requests for Clarifications and suggestions for addenda (if any) to the Proposal Review Committee as a whole for approval. If approved, the Proposal Review Committee forwards requests for Clarifications and suggestion for addenda (if any) to the DB Procurement Management Team at any time;
- E) The DB Procurement Management Team issues requests for Clarifications and addenda throughout the process, as required;
- F) The Proposal Review Committee attends Proposer Presentations;
- G) After receipt of responses to requests for Clarifications, if any, and attendance at Proposer Presentations, the Proposal Review Committee members rate each Pass/Fail Evaluation Factor and rate and score each Technical Evaluation Subfactor;
- H) After receipt of the final Pass/Fail Evaluation Factor ratings and Technical Evaluation Subfactor ratings and scores from the Proposal Review Committee members, the Chair of the Proposal Review Committee completes the calculation of each Proposer's Technical Evaluation Factor scores and final total technical score;
- I) The DB Procurement Management Team notifies each Proposer of the Proposers' final Pass/Fail Evaluation Factor ratings, Technical Evaluation Subfactor ratings and scores, Technical Evaluation Factor scores, and final total technical score and conducts any confirmation meetings requested by Proposers;
- J) The DB Procurement Management Team conducts the public opening of the Lump Sum Price Proposals and determines the adjusted score of each Proposal;
- K) The Lump Sum Price Proposals are reviewed for responsiveness and reasonableness by the Price Evaluation Team. Lump Sum Price Proposals found to be nonresponsive or unreasonable in price will be removed from further consideration; and
- L) The results of the evaluation process are submitted to the Secretary who will, in her sole determination, select the successful Proposal or reject all Proposals.

4.0 EVALUATION FACTORS

The ITP contains the Pass/Fail and Technical Evaluation Factors and the Lump Sum Price Proposal requirements. Evaluators should refer to the ITP for the full definition of the Pass/Fail and Technical Evaluation Factors, specific criteria, evaluation objectives, and submittal requirements for each evaluation factor.

[Example evaluation factors are included in this Example E&S Plan. However, the evaluation factors should be tailored on a project-by-project basis and should reflect the evaluation factors stated in the ITP.]

4.1 PASS/FAIL EVALUATION FACTORS

The Pass/Fail Evaluation Factors are as follows:

- A) Legal Pass/Fail Evaluation Factor; and
- B) Financial Pass/Fail Evaluation Factor.

4.2 TECHNICAL EVALUATION FACTORS

The Technical Evaluation Factors are as follows:

- A) Technical Solutions Technical Evaluation Factor, including the following subfactors:
 - 1) _____ **[Insert the name of any Technical Solutions Technical Evaluation Subfactors. Add numbers to this list as necessary for a specific project]** _____ Subfactor;
 - 2) _____ **[Insert the name of any Technical Solutions Technical Evaluation Subfactors. Add numbers to this list as necessary for a specific project]** _____ Subfactor;
 - 3) _____ **[Insert the name of any Technical Solutions Technical Evaluation Subfactors. Add numbers to this list as necessary for a specific project]** _____ Subfactor; and
 - 4) _____ **[Insert the name of any Technical Solutions Technical Evaluation Subfactors. Add numbers to this list as necessary for a specific project]** _____ Subfactor; and
- B) Key Personnel and Experience Technical Evaluation Factor; and
- C) Management Approach Technical Evaluation Factor, including the following subfactors:
 - 1) Quality Program Subfactor;
 - 2) Design Management Subfactor;
 - 3) Construction Management Subfactor; and
 - 4) Organization Chart Subfactor.

4.3 LUMP SUM PRICE PROPOSALS

Price will be submitted on a lump sum basis and in the format and detail as required by the ITP in Appendix B – Lump Sum Price Proposal Instructions. The Lump Sum Price Proposals will be sealed until opened in the public price opening and afterward the Lump Sum Price Proposals will be evaluated for responsiveness and reasonableness.

4.4 WEIGHTING

[Example weighting is included in this Example E&S Plan. However, the weighting of the evaluation factors should be tailored on a project-by-project basis and should reflect the weighting stated in the ITP.]

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The Technical Evaluation Factors are weighted as follows:

- A) Technical Solutions Technical Evaluation Factor – ____ **[Insert the weighting of the evaluation factor]** ____%;
- B) Key Personnel and Experience Technical Evaluation Factor - ____ **[Insert the weighting of the evaluation factor]** ____%; and
- C) Management Approach Technical Evaluation Factor – ____ **[Insert the weighting of the evaluation factor]** ____%.

Under the Technical Solutions Technical Evaluation Factor, the subfactors have the following importance:

- 1) The subfactors listed in Sections 4.2(A)(1) is weighted ____ **[Insert the weighting of the Technical Evaluation Subfactor]** ____%;
- 2) The subfactors listed in Sections 4.2(A)(2) is weighted ____ **[Insert the weighting of the Technical Evaluation Subfactor]** ____%;
- 3) The subfactors listed in Sections 4.2(A)(3) is weighted ____ **[Insert the weighting of the Technical Evaluation Subfactor]** ____%; and
- 4) The subfactors listed in Sections 4.2(A)(4) is weighted ____ **[Insert the weighting of the Technical Evaluation Subfactor]** ____%.

Under Management Approach, the Quality Program, Design Management, Construction Management, and Organization Chart Subfactors are each weighted ____ **[Insert the weighting of the Technical Evaluation Subfactor]** ____%.

5.0 EVALUATION

5.1 PASS/FAIL EVALUATION FACTORS AND TECHNICAL EVALUATION SUBFACTORS

[The rating process included in this Example E&S Plan is an adjectival rating method at the subfactor level, rolled up into a spreadsheet to determine the overall score. The rating method should be tailored to the specific procurement and should reflect the rating method disclosed to the Proposers in the ITP.]

The ITP contains the detailed description, the objectives and requirements, and the information to be submitted for the Legal and Financial Pass/Fail Evaluation Factors. Any Proposer that receives a "fail" in any Pass/Fail Evaluation Factor is not eligible for award of the Contract.

The Technical Evaluation Subfactors will be rated in accordance with the evaluation guidelines provided in Section 5.2. To assist in the evaluation, the ITP provides a detailed description of the Technical Evaluation Factors and Subfactors, the objectives and requirements for each Technical Evaluation Factor and Subfactor, the weighting of the Technical Evaluation Factors and Subfactors, and the information to be submitted.

Each Proposal Review Committee member will evaluate the Pass/Fail Evaluation Factors and Technical Evaluation Subfactors. After the evaluation is complete, the Proposal Review Committee member will prepare written evaluation worksheets for each Pass/Fail Evaluation Factor and Technical Evaluation Subfactor. The evaluation worksheets must set forth the rating and strengths, Weaknesses, and Deficiencies of each Technical Evaluation Subfactor and must fully support the ratings assigned to each Pass/Fail Evaluation Factor and Technical Evaluation Subfactor. The evaluation worksheets must clearly

describe the technical merit of each Proposer in light of the assigned Pass/Fail Evaluation Factor ratings and Technical Evaluation Subfactor ratings and scores.

5.2 EVALUATION GUIDELINES

The Technical Evaluation Subfactors will be rated by an adjectival method. Each Proposal Review Committee member will read and assess Technical Proposals to determine if the requirements are met and then assign ratings to each Pass/Fail Evaluation Factor and Technical Evaluation Subfactor. Evaluation worksheets will document strengths, Weaknesses, and Deficiencies and a detailed narrative with references to the specific areas in the Technical Proposal that will support the ratings assigned to each Pass/Fail Evaluation Factor and Technical Evaluation Subfactor. The following adjectival ratings will be used in evaluation of each Technical Evaluation Subfactor.

EXCEPTIONAL ~ The Proposer has demonstrated an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the LA DOTD. This rating indicates a consistently outstanding level of quality with very little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no Weaknesses.

GOOD ~ The Proposer has demonstrated an approach that is considered to exceed stated criteria. This rating indicates a generally better than acceptable quality with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE ~ The Proposer has demonstrated an approach that is considered to meet the stated criteria. This rating indicates an acceptable level of quality. The Technical Evaluation Subfactor demonstrates a reasonable probability of success. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE ~ The Proposer has demonstrated an approach that indicates significant Weaknesses/Deficiencies and/or unacceptable quality. The Technical Evaluation Subfactor fails to meet the stated criteria and/or lacks essential information and is conflicting and/or unproductive. There is no reasonable likelihood of success; Weaknesses/Deficiencies are so major and/or extensive that a major revision to the Technical Evaluation Subfactor would be necessary.

In assigning ratings the Proposal Review Committee members may assign “+” or “-” (such as, “exceptional -,” “good +,” and “acceptable +”) to the ratings to better differentiate within a rating in order to more clearly differentiate between the Proposers. (Example: a rating of “acceptable +” reflects an acceptable Technical Evaluation Subfactor which is approaching/bordering on being “good -.”)

The LA DOTD will not Award the Contract to any Proposer that receives a fail rating on any Pass/Fail Evaluation Factor or receives a quality score of less than ____ (i.e., an “unacceptable” rating) for any Technical Evaluation Subfactor. The LA DOTD will not award the Contract to any Proposer that the LA DOTD determines has submitted a non-responsive Proposal (Lump Sum Price Proposal or Technical Proposal).

5.3 PRICE EVALUATION

After the public opening of the Lump Sum Price Proposals, the Price Evaluation Team will review the Lump Sum Price Proposals for responsiveness and reasonableness.

5.4 NON-SELECTION

The LA DOTD will not Award the Contract to any Proposer that receives a fail rating on any Pass/Fail Evaluation Factor or receives a quality score of less than ____ (i.e., an "unacceptable" rating) for any Technical Evaluation Subfactor. The LA DOTD will not award the Contract to any Proposer that the LA DOTD determines has submitted a non-responsive Proposal (Lump Sum Price Proposal or Technical Proposal).

6.0 DETERMINATION OF ADJUSTED SCORE AND SELECTION

After each member of the Proposal Review Committee assigns a rating for each Technical Evaluation Subfactor, a technical score will be determined for each member's Technical Evaluation Subfactor using the ITP's Table 6-2, Rating/Scoring Conversion Table. The members of the Proposal Review Committee will then submit their evaluation worksheets to the Chair of the Proposal Review Committee for calculation of each Proposer's Technical Evaluation Factor scores and final total technical score.

The DB Procurement Management Team will then notify each Proposer, prior to the public opening of the Lump Sum Price Proposals, of the Proposers' final Pass/Fail Evaluation Factor ratings, Technical Evaluation Subfactor ratings and scores, Technical Evaluation Factor scores, and final total technical score and conduct any confirmation meetings requested by Proposers.

At the time of the public opening of the Lump Sum Price Proposals, the DB Procurement Management Team will open the Lump Sum Price Proposals and calculate each Proposer's adjusted score using the following formula:

Adjusted Score = [(Lump Sum Price Proposal) + (Time Value)] ÷ Final Technical Proposal Technical Score.

The following applies for purposes of the above formula:

- A) Lump Sum Price Proposal = the Total Proposed Lump Sum Contract Price on Form SP of the Proposal;
- B) Time Value = \$ _____ **[Insert the value of the day, as determined for the specific project]** _____ x (the number of days from NTP to final acceptance on Form SP of the Proposal); and
- C) Final Technical Proposal Technical Score = the average of the Technical Proposal Technical Scores assigned by each member of the Proposal Review Committee.

Afterwards, the Lump Sum Price Proposals will be evaluated and any Lump Sum Price Proposal found to be nonresponsive or unreasonable will be removed from further consideration.

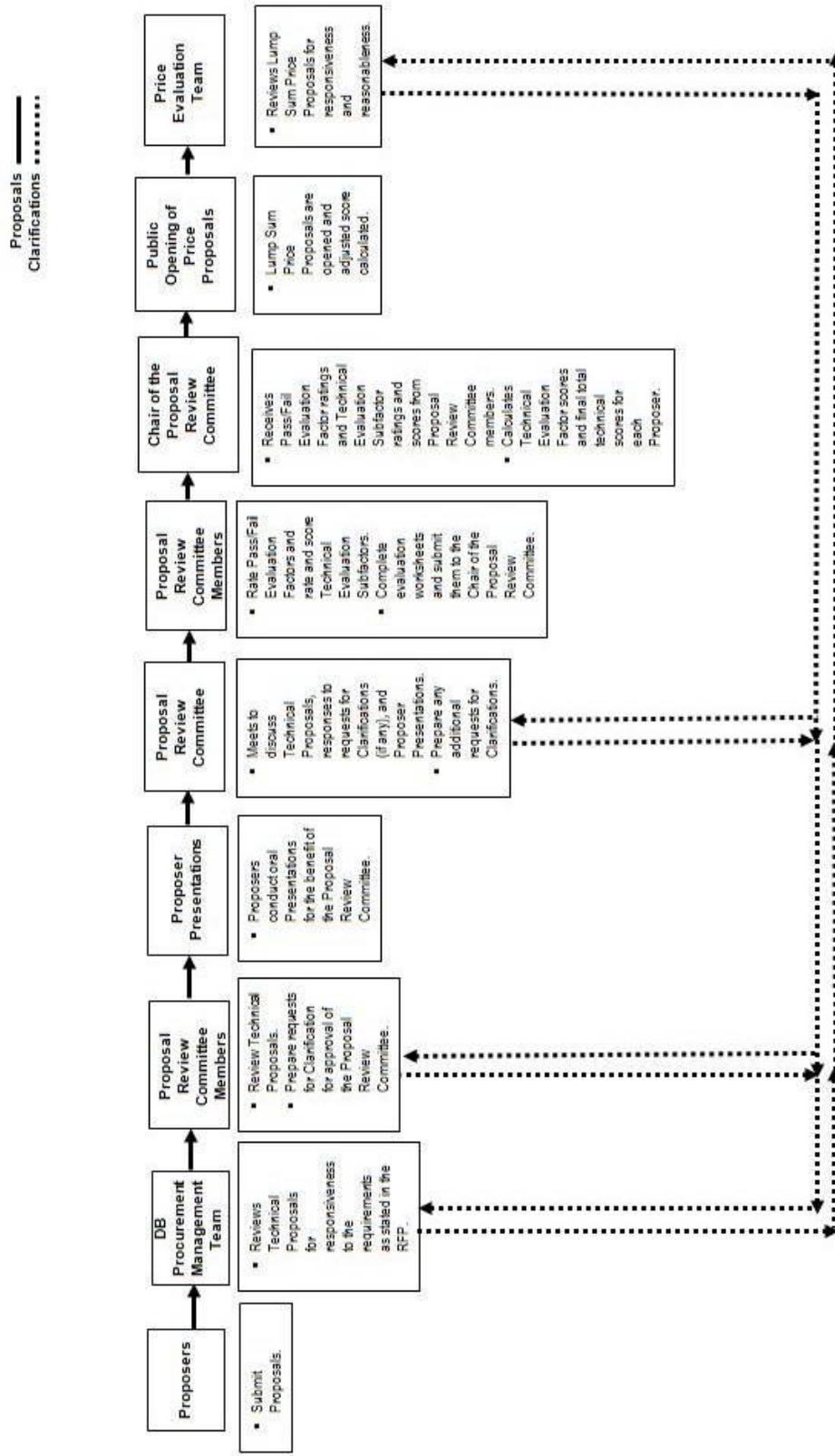
After the determination of the adjusted score and the evaluation of the Lump Sum Price Proposals for responsiveness and reasonableness, the Secretary will make the determination as to the selection of the successful Proposal or rejection all Proposals.

7.0 DESIGNATION OF INDIVIDUALS IN THE EVALUATION ORGANIZATION, EVALUATION SCHEDULE, CONFIDENTIALITY AGREEMENT, AND STATEMENT OF CONFLICT OF INTEREST

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Prior to the start of evaluations, a letter of designation will be sent to all individuals participating in the evaluation process. The letter will include as attachments a copy of this E&S Plan; the Confidentiality and Non-Disclosure Agreement; and an Affirmation Regarding Conflict of Interest.

Attachment A
Flow Diagram for the Evaluation and Selection Process



**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT I - EXAMPLE EVALUATION
WORKBOOK**



State Project Number: ____ - ____ - ____
Federal Aid Project Number: ____ - ____ (____)

_____ Project

_____ Parish

Proposer: _____

Proposal Evaluation Rating,
Score Conversion, and
Adjusted Score Calculation

Date: _____

Rating Conversion Factors

Adjectival Rating	Score Conversion (SC)
Exceptional + Exceptional Exceptional -	
Good + Good Good -	
Acceptable + Acceptable Acceptable -	
Unacceptable	No Score

Value of a Day for Proposal Purposes = \$ _____

Proposal Input

Price Proposal = \$ _____
Number of days = _____

Scoring Summary - _____, Chair

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Scoring Summary -

Technical Solutions Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Management Approach Technical Evaluation Factor

SUBFACTOR	ADJECTIVAL RATING	SCORE CONVERSION (SC)	WEIGHTING (W)	SUBFACTOR SCORE (SS) (SC x W = SS)
				0.00
				0.00
				0.00
FINAL FACTOR SCORE (FS = Σ SS)				0.00

Final Total Technical Score

FACTOR	FINAL FACTOR SCORE (FS)	WEIGHTING (W)	WEIGHTED FINAL FACTOR SCORE (WFFS = FS X W)
Technical Solutions	0.00		0.00
Management Approach	0.00		0.00
FINAL TOTAL TECHNICAL SCORE (Σ WFFS)			0.00

Summary of Evaluation Results and Adjusted Score Calculation

Proposal Reviewers' Scoring Summary

Reviewer	Final Total Technical Score
1 Evaluator 1	0.00
2 Evaluator 2	0.00
3 Evaluator 3	0.00
4 Evaluator 4	0.00
5 Evaluator 5	0.00
6 Evaluator 6	0.00
7 Evaluator 7	0.00
8 Evaluator 8	0.00
Sum of Technical Scores	0.00
Average Final Total Technical Score	0.00

Adjusted Score Calculation

$$\begin{aligned}
 \text{Adjusted Score} &= \frac{\text{Total Lump Sum Price} + (\text{Value per Day}) \times (\# \text{ of Days})}{\text{Average Final Total Technical Score}} \\
 &= \frac{\$ \underline{\hspace{1cm}} + \$ \underline{\hspace{1cm}} \times \underline{\hspace{1cm}}}{0.00}
 \end{aligned}$$

Proposer Adjusted Score	=	#VALUE!
--------------------------------	----------	----------------

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT J - EXAMPLE PART 1 -
DESIGN-BUILD AGREEMENT**



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH
STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

EXAMPLE PART 1 – DESIGN-BUILD AGREEMENT



DESIGN-BUILD AGREEMENT

This Design-Build (DB) Agreement is made and executed in five originals between the Louisiana Department of Transportation and Development acting through its Secretary, hereafter designated as the "LA DOTD," and [Insert the name of the Design-Builder], hereafter designated as the "Design-Builder."

The LA DOTD did advertise for, receive, and accept a Proposal from the Design-Builder for work on an LA DOTD DB project identified as State Project No. [Insert the state project number] and Federal Aid Project No. [Insert the federal-aid project number, for federal projects only].

The Design-Builder's submission is evidenced by a copy of the Proposal incorporated herein as part of the Contract Documents defined hereafter.

In consideration of the agreements herein contained, to be performed by the parties hereto and of the payments hereafter agreed to be made, it is mutually agreed by both parties that:

1.0 CONTRACT DOCUMENTS

The Contract consists of the "Contract Documents" including, but not limited to, the following:

- A) Part 1 – Design-Build Agreement (this instrument);
- B) Appendix A – Project Scope, to this Design-Build Agreement;
- C) Payment, Performance, and Retainage Bond Form and/or Retainage Agreement;
- D) Part 2 - Design-Build Section 100, including appendices;
- E) Part 3 – Design Requirements and Performance Specifications, including appendices;
- F) Part 4 – Request for Proposals Plans, including appendices;
- G) Part 5 – Engineering Data, including all documents listed as included in the Engineering Data; and
- H) Part 6 – Design-Builder's Proposal.

For these purposes, all of the provisions contained in the listed Contract Documents are attached and incorporated herein by reference with the same force and effect as though said Contract Documents were herein set out in full.

2.0 INTENT OF CONTRACT

The Design-Builder agrees to the terms and requirements for the intent of the Contract to provide all Materials, Equipment, and labor and perform the Work required, as broadly described in Appendix A – Project Scope to this DB Agreement and as specifically defined in Parts 2 through 6 of the Contract Documents, to complete the [Insert the name of the project] DB Project (Project) in a thorough and workmanlike manner to the satisfaction of the appropriate officials of the LA DOTD.

3.0 LUMP SUM CONTRACT PRICE

The total Lump Sum Contract Price for this Project is \$ [Insert the total contract amount]. The Design-Builder agrees to accept and the LA DOTD agrees to pay for the Work in lawful money of the United States (US) in a timely manner as set forth in the Contract.

4.0 CONTRACT TIME

The entire Contract must be completed in all details and ready for final acceptance by ____ **[Insert the final acceptance date]** (within ____ **[Insert the number of calendar days to final acceptance]** calendar days).

Performance of Work on this Contract must begin on the date stipulated in the Notice to Proceed (NTP) and must be completed within the time specified in the Contract Documents, subject to such extensions as may be authorized.

5.0 ALTERATION OF CONTRACT

The Design-Builder agrees to the terms and requirements for alteration of the Contract, as such are contained in Part 2 – DB Section 100.

6.0 STIPULATED DAMAGES

The Design-Builder agrees to the assessment of stipulated damages as provided in the Contract Documents at Part 2 – DB Section 100, DB Section 108-7.

The LA DOTD agrees to the assessment of stipulated damages as provided in the Contract Documents at Part 2 – DB Section, DB Section 108-7.

7.0 DAMAGE CLAIMS

The Design-Builder acknowledges that it has reviewed and understands the Contract and specifically agrees to be bound by the terms and conditions thereof.

8.0 JOINT EFFORT

This Contract will be deemed for all purposes prepared by the joint efforts of the parties hereto and will not be construed against one party or the other as a result of the preparation, drafting, submittal, or other event of negotiation, drafting, or execution of the DB Agreement. This Article 8.0 specifically excludes Part 6 – Design-Builder's Proposal and any additional plans, specifications, means, methods, or other documentation prepared by the Design-Builder pursuant to this Contract.

9.0 ASSIGNMENT

This Contract may not be assigned by the Design-Builder, or its rights, title, or interest therein assigned, transferred, conveyed, sublet, or disposed of without the previous consent, in writing, of the LA DOTD. Any attempts to assign the Contract without the LA DOTD's written consent are null and void.

10.0 SUCCESSORS AND ASSIGNS

This Contract will bind the successors, assigns, and representatives of the parties hereto.

This Contract will become effective on the date all parties hereto have signed the same.

11.0 GOVERNING LAW

This Contract will be governed by the laws of the State of Louisiana, except where the federal supremacy clause requires otherwise.

Louisiana Department of Transportation and Development

In witness whereof, the Secretary has hereunto subscribed his name, and the same has been approved by the appropriate officials of the LA DOTD and the Design-Builder has also hereunto subscribed its name.

DESIGN-BUILDER

(Federal Identification Number)

By: _____

(Date)

Witness

Witness

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

By: _____

SECRETARY

(Date)

Witness

Witness

Approved By: _____

(Date)

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

____ [Insert the name of the parish] ____ PARISH

STATE PROJECT NO. ____ [Insert the state project number] ____

FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS

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EXAMPLE PART 1 – DESIGN-BUILD AGREEMENT

APPENDIX A - PROJECT SCOPE



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1.0 INTRODUCTION

This Part 1 – Design-Build (DB) Agreement, Appendix A - Project Scope, to the DB Contract provides a summary description of the physical components of the [Insert the name of the project] DB Project (Project) that the Design-Builder shall design, construct, and/or install and the associated management, control, monitoring, compliance, and professional services and other elements of the Work.

The Design-Builder shall not rely solely on the description contained in this Appendix A - Project Scope to identify all Project components to be designed, constructed, and/or installed. The Design-Builder shall determine the full scope of the Project through thorough examination of the Contract Documents, the Project Site, and as may be reasonably inferred from such examination.

The Design-Builder shall design, furnish, construct, repair, and/or install all components of the Project meeting the requirements of the Contract Documents, except where the Louisiana Department of Transportation and Development (LA DOTD) will furnish and/or install the items as listed in Section 6.0.

2.0 PROJECT CONFIGURATION

The Project includes the major components listed in this Appendix A – Project Scope.

2.1 PROJECT LIMITS

[The specific project limits for each project should be identified here.]

2.2 PROJECT-WIDE REQUIREMENTS

The Project includes the following:

- A) [Insert the project-wide requirements, such as coordination with adjacent projects or contractors. Add additional letters to the list as needed on a project-specific basis.] ;
- B) [Insert the project-wide requirements, such as generally widening of a roadway facility. Add additional letters to the list as needed on a project-specific basis.] ;
- C) [Insert the project-wide requirements, such as widening of a structure. Add additional letters to the list as needed on a project-specific basis.] ; and
- D) [Insert the project-wide requirements, such as modification of drainage structures. Add additional letters to the list as needed on a project-specific basis.] ;

3.0 PROPOSED IMPROVEMENTS

The proposed improvements included in the Project Scope will include, but are not limited to, the following:

- A) [Insert the specific proposed improvements, such as widening of a roadway facility on the westbound or eastbound side to a specified number of lanes at specific station points. Add additional letters to the list as needed on a project-specific basis.] ;
- B) [Insert the specific proposed improvements, such as construction of a new median barrier in a roadway facility on the westbound or eastbound side at specific station

- points and removal of the old median barrier. Add additional letters to the list as needed on a project-specific basis.]_____;
- C) _____[Insert the specific proposed improvements, such as widening of a structure to a specified number of lanes with shoulders. Add additional letters to the list as needed on a project-specific basis.]_____; and
- D) _____[Insert the specific proposed improvements, such as removal and replacement of pier protection systems at specific bridges. Add additional letters to the list as needed on a project-specific basis.]_____.

4.0 ASSOCIATED WORK

The Design-Builder shall, in association with the design and construction of the physical components of the Project, perform the following elements of Work:

- A) Associated aesthetics and landscaping;
- B) Design and construction management;
- C) Coordination with Project Stakeholders and other contractors adjacent to the Work;
- D) Design Quality Control (QC) and design review (*see* Contract Documents, Part 2 – DB Section 100, DB Section 111);
- E) Construction Quality Control (*see* Contract Documents, Part 2 – DB Section 100, DB Section 112);
- F) Quality Assurance;
- G) Environmental mitigation and compliance monitoring (*see* Contract Documents, Part 3 – Design Requirements and Performance Specifications, Appendix A – Performance Specifications, Environmental Performance Specification);
- H) Any additional environmental investigations and monitoring associated with or resulting from the Design-Builder’s actions;
- I) Maintenance of traffic and access to property (both temporary and permanent) (*see* Contract Documents, Part 3 – Design Requirements and Performance Specifications, Appendix A – Performance Specifications, Traffic Management Plan Performance Specification);
- J) Project safety and security;
- K) Any necessary Preliminary Engineering (such as surveys and geotechnical investigations) not provided by the LA DOTD;
- L) Any necessary harmful and hazardous materials remediation (design and construction);
- M) Drainage and erosion control;
- N) Installation of signage, guardrail, and pavement markings. This Work will include an evaluation of the existing pier protection systems and any improvements necessary to bring them to the current standards;
- O) Construction waste disposal and handling;
- P) Required clearances, licenses, construction easements, and permits for the Design-Builder’s Work, Work sites, and storage areas on- or off-site;

- Q) Any necessary ancillary Work, such as, access roads, driveways, temporary fencing, relocation of drainage, Work sites, and temporary Work;
- R) Location, acquisition, permits, and transportation for Material;
- S) Coordination of the relocation of any utilities and municipal drainage facilities and the design and relocation of any utilities as designated in the Contract Documents, Part 3 – Design Requirements and Performance Specifications, Appendix A – Performance Specifications, Utilities Performance Specification;
- T) Site clearance;
- U) Maintenance of the Project during the Contract period (*see* Contract Documents, Part 3 – Design Requirements and Performance Specifications, Appendix A – Performance Specifications, Maintenance during Construction Performance Specification); and
- V) Any other activities, functions, or elements necessary to the successful completion of the Project.

5.0 BASIC PROJECT CONFIGURATION

[The Basic Project Configuration, or the materiality of a change to the Basic Project Configuration, will change on a project-by-project basis, but may include any of the following items.]

The Basic Project Configuration shall consist of the following:

- A) The horizontal and vertical alignments;
- B) Number of interchanges;
- C) Number of bridges;
- D) Number of lanes;
- E) The general location of the limits of the Project;
- F) The minimum vertical and horizontal clearances; and
- G) The Right-of-Way (ROW) limits.

5.1 STANDARD FOR DETERMINING MATERIALITY OF CHANGE IN BASIC PROJECT CONFIGURATION

The following are the standards for determining materiality of Basic Project Configuration changes:

- A) Any change to the Project that affects the Project ROW limits or the minimum vertical and/or horizontal clearances;
- B) A change in the termini of the Project (either or both) by more than one hundred feet longitudinally; and/or
- C) Any change in Section 5.1(A) through (B) requiring a change in the permits secured from the United States (US) Army Corps of Engineers (COE) and the Louisiana Department of Natural Resources (DNR).

See Contract Documents, Part 2 – DB Section 100, DB Section 104.

6.0 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT- PROVIDED MATERIAL OR EQUIPMENT

[The specific materials and equipment, if any, to be provided by the Department will be updated on a project-by-project basis.]

**LOUISIANA DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

DESIGN-BUILD MANUAL

**EXHIBIT K - EXAMPLE PART 2 -
DESIGN-BUILD SECTION 100**



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH

STATE PROJECT NO. **[Insert the state project number]**

FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

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EXAMPLE PART 2 - DESIGN-BUILD SECTION 100



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STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. _____ **[Insert the state project number]** _____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

DB SECTION 101 ACRONYMS AND ABBREVIATIONS AND DEFINITIONS



DB SECTION 101

ACRONYMS AND ABBREVIATIONS AND DEFINITIONS

DB 101-1 REFERENCES

Section, subsection, and subpart titles and headings provide reference only, not interpretation.

Unless specified by year or date, cited publications refer to the most recent issue, including interim publications, in effect on the Proposal due date.

Wherever in these Contract Documents the following terms, abbreviations, or symbols are used, the intent and meaning must be interpreted as follows in this Design-Build (DB) Section 101.

DB 101-2 ACRONYMS AND ABBREVIATIONS

Wherever the following abbreviations or acronyms are used in these Contract Documents, they are to be interpreted as follows.

AA	Aluminum Association
AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	Associated General Contractors of America
AGMA	American Gear Manufacturers Association
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute, Inc.
API	American Petroleum Institute
ARA	American Railway Association
AREA	American Railway Engineering Association
ARRA	American Recovery and Reinvestment Act of 2009
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
AWPA	American Wood-Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
CD-ROM	Compact Disc – Read Only Memory
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CGL	Commercial General Liability
CPM	Critical Path Method
CSL	Contract Submittal List
DB	Design-Build
DBE	Disadvantaged Business Enterprise

Louisiana Department of Transportation and Development

EDSM	The Louisiana Department of Transportation and Development's Engineering Directives and Standards Manual
EMT	Emergency Medical Technician
FAA	Federal Aviation Administration, United States Department of Transportation
FHWA	Federal Highway Administration, United States Department of Transportation
FONSI	Finding of No Significant Impact
FSS	Federal Specifications and Standards, General Services Administration
IA	Independent Assurance
ICC	Interstate Commerce Commission
IMSA	International Municipal Signal Association
IPCEA	Insulated Power Cable Engineers Association
ISO	International Standards Organization
ITE	Institute of Transportation Engineers
ITP	Instructions to Proposers
JV	Joint Venture
LA DOTD	Louisiana Department of Transportation and Development
LLC	Limited Liability Company
LOI	Letter of Interest
MIL	Military Specifications
MUTCD	Manual of Uniform Traffic Control Devices
N/A	Not Applicable
NCHRP	National Cooperative Highway Research Program
NCR	Non-Conformance Report
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NEPA	National Environmental Policy Act
NFPA	National Fire Protection Association
NOI	Notice of Intent
NTP	Notice to Proceed
OSHA	Occupational Safety and Health Administration, United State Department of Labor
PC	Price Center
PCP	Progress Check Point
PCV	Price Center Value
PE	Preliminary Engineering
PPS-C	Contract Periodic Payment Schedule
PPS-P	Proposal Periodic Payment Schedule
QA	Quality Assurance
QC	Quality Control
QPL	Qualified Products List (Louisiana Department of Transportation and Development)
RFP	Request for Proposals
RFQ	Request for Qualifications
RMA	Rubber Manufacturers Association
ROW	Right-of-Way
SAE	Society of Automotive Engineers
SHPO	State Historic Preservation Office
SI	Systeme Internationale - International System of Units
SOQ	Statement of Qualifications
SSPC	Steel Structures Painting Council

Louisiana Department of Transportation and Development

TBD	To Be Determined
UL	Underwriters Laboratories, Inc.
US	United States
USC	United States Code
USDA	United States Department of Agriculture
USDOL	United States Department of Labor
US DOT	United States Department of Transportation
UST	Underground Storage Tank
VE	Value Engineering
WBS	Work Breakdown Structure

DB 101-3 DEFINITIONS

When the following capitalized words or expressions are used in the Contract Documents, they are to be defined as follows:

Acceptance Program - All factors that comprise the Louisiana Department of Transportation and Development's (LA DOTD) determination of the quality of the product as specified in the Contract Documents. These factors include Verification Sampling and Testing, Quality Assurance (QA), and LA DOTD Oversight and auditing of the Design-Builder's activities.

Addenda/Addendum - Supplemental additions, deletions, and modifications to the provisions of the Request for Proposals (RFP) after the release date of the RFP.

Administrative Plans - Those Plans that contain general Project or Plan information, such as, cover sheets, index sheets, and similar non-technical information.

Advertisement - The public announcement in the form of the Notice of Intent (NOI) inviting prospective Proposers to obtain a Request for Qualifications (RFQ) and submit a Letter of Interest (LOI). The Advertisement included a brief description of the Work proposed to be the subject of the procurement with an announcement where the RFQ may be obtained, the terms and conditions under which LOIs will be received, and such other matters as the LA DOTD deemed advisable to include therein. The Advertisement for this Project was published on ____ **[Insert the date the NOI was published]** ____.

Affiliate - Any of the following:

- A) A Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:
 - 1) The Proposer; or
 - 2) Any other Principal Participant.
- B) An Affiliate may also be any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
 - 1) The Proposer; or
 - 2) Any Principal Participant; or
 - 3) Any Affiliate of the Proposer under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

Amendment - A formal alteration by addition, deletion, or modification of the terms of the executed Contract. Amendment is an umbrella term and includes Plan Changes, Change Orders, or Supplemental Agreements.

Approval - The LA DOTD’s written statement indicating that the subject Work complies with Contract requirements. Approvals will only be given for those submittals, activities, or Work specifically identified for “Approval” or “approval” in the Contract Documents. *See also* DB Section 105-10.

As-Built Plans - Final Plans reflecting the Work as actually performed under the Contract.

Award - The decision of the LA DOTD to accept a responsive Proposal from a responsible Proposer for the Work identified in the RFP, subject to the execution and approval of a satisfactory Contract; provision of Payment, Performance, and, if used, Retainage Bonds to secure the payment and performance thereof; provision of such insurance as is required under the Contract; and the satisfaction of such other conditions as may be specified or otherwise required by law.

Baseline Progress Schedule - The time-scaled, cost-loaded, and resource-loaded Critical Path network, updated from time to time in accordance with the Contract and depicting the Price Centers (PC) and subordinate activities and their respective prices (distributed over time), durations, sequences, and interrelationships that represent the Design-Builder’s Work plans; the Design-Builder’s Work Breakdown Structure (WBS) for designing, constructing, and completing the Project; and the total Lump Sum Contract Price, distributed over the period of the Contract.

Basic Project Configuration - The salient characteristics of the Project as defined and/or illustrated in the RFP, including any permitted deviations thereto contained in the Design-Builder’s Proposal. Basic Project Configuration elements may include the following:

- A) The horizontal and vertical alignments;
- B) Number of intersections;
- C) Number of bridges;
- D) Number of lanes;
- E) The general location of the limits of the Project;
- F) The minimum vertical clearances; and
- G) The Right-of-Way limits.

Basic Project Configuration Plan - The Plan designated as such in the Contract Documents that depicts the Basic Project Configuration within the limits specified in the Contract. In general, the Basic Project Configuration Plan describes fundamental elements of the Project that must be included as part of the final design and construction to be furnished by the Design-Builder.

Bridge – A structure, including supports, erected over a depression or an obstruction, such as, water, highway, or railway, which has a track or passageway for carrying traffic or other moving loads and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments, spring lines of arches, or extreme ends of openings for multiple boxes. A Bridge may

include multiple pipes where the clear distance between openings is less than ½ the smaller contiguous opening.

Bridge Length – The greater dimension of a structure measured along the center of the roadway between backs of abutment backwalls or between ends of Bridge floor.

Bridge Roadway Width – The clear width of structure measured at right angles to the center of the roadway between the bottom of curbs or, if curbs are not used, between the inner faces of parapet or railing.

Calendar Day – Every Day on the calendar, beginning and ending at midnight, Central time.

Change Order – A general term denoting changes to the DB Contract. Change Order as a general term includes Plan Changes. No Change Orders are anticipated on this Project.

Chief Engineer – The Chief Engineer of the Louisiana Department of Transportation and Development.

Construction Subcontractor - A Subcontractor (or Affiliate) retained by the Design-Builder that is involved in the actual construction of the Project.

Constructor - A Principal Participant or Subcontractor (or Affiliate) retained by the Design-Builder that is involved in the actual construction of the Project.

Consultation and Written Comment - The LA DOTD's reviews, observations, and/or inspections based solely on information submitted by the Design-Builder, as well as independent investigation or inquiry by the LA DOTD, and the LA DOTD's written responses resulting from such LA DOTD actions. *See also* DB Section 105-10.

Contract - The written agreement between the LA DOTD and the Design-Builder setting forth the obligations of the parties thereunder, including, but not limited to, for the performance of the prescribed Work. The Contract includes the Advertisement; Contract Documents identified in Article 1.0 of Part 1 – DB Agreement; the Design-Builder's Proposal (with the exception of the Proposal Bond); the Notice to Proceed (NTP); Payment, Performance, and Retainage Bonds; and any Supplemental Agreements, Amendments, and Change Orders that are required to complete the Work in an acceptable manner and Contract time, including authorized extensions thereof, all of which constitute one instrument.

Contract Documents – The Contract Documents include the DB Agreement, DB Section 100, Design Requirements and Performance Specifications, the RFP Plans, the Engineering Data, the Design-Builder's Proposal, and all provisions required by law to be inserted in the Contract whether actually inserted or not. *See also* Part 1 – DB Agreement, Article 1.0. Whenever separate publications and the LA DOTD's Standard Specifications are referenced in the Contract Documents, it is understood to mean the publications and Specifications, as amended, which are current on the Proposal due date, unless otherwise noted.

Contract Price – See Lump Sum Contract Price.

Contract Time – The number of working days or Calendar Days allowed for completion of the Contract, including authorized time extensions. When a calendar date of completion is shown in the Contract in lieu of a number working or Calendar Days, Work must be completed by that date, including authorized time extensions.

Control of Access – The condition where the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is controlled by public authority.

Controlled Access Highway – Any highway to or from which access is denied or controlled from or to abutting land or intersecting streets, roads, highways, alleys, or other public or private ways.

Critical Path - Each path shown on the Baseline Progress Schedule for which there is zero float.

Cultural Resource - Any prehistoric or historic period artifact, site, building, structure, material remain, or traditional use area resulting from, or associated with, human cultural activity. Historically important cultural resources are those eligible for inclusion on the National Register of Historic Places.

Culvert – Any drainage structure under a roadway or other facility not defined as a Bridge.

Day - A Calendar Day, unless otherwise defined or modified.

Dedicated Stockpile – A stockpile assembled for a specific project.

Definitive Design - The point in the design process at which the design concepts are defined and the Basic Project Configuration is finalized.

Department – The Department of Transportation and Development of the State of Louisiana.

Department-Directed Changes - Any changes in the Work as described in the Contract (including changes in the standards applicable to the Work) that the LA DOTD has directed the Design-Builder to perform, in writing, as described in the Contract.

Department of Transportation and Development – The Louisiana Department of Transportation and Development through its offices and officers, responsible for developing and implementing programs to assure adequate, safe, and efficient transportation and other public works facilities and services in the state in accordance with Chapter 11 of the Louisiana Revised Statutes Title 36, as amended.

Department's Project Manager - The engineer representing the LA DOTD and having direct supervision of the administration and execution of the Contract.

Design Acceptance - Written confirmation by the LA DOTD after submittal and review of the As-Built Plans that the design conforms to the Contract Documents and reflects the as-built conditions. Design Acceptance is required as part of Final Acceptance.

Design-Build - A project delivery methodology by which the LA DOTD contracts with a Design-Builder which is responsible for delivering the Project design and construction.

Design-Build Team - *See* Design-Builder.

Design-Builder - The entity contractually responsible for delivering the Project design and construction.

Design-Builder's Project Manager - The Design-Builder's on-site designated representative and single point of contact for all aspects of the Work.

Design Plan - The Plan prepared by the Designer during the design development to represent the Project.

Design Review - A comprehensive and systematic examination of the design as specified in the Contract to verify that it is in conformance with the requirements of the Contract, as performed by the Design-Builder for all stages of the design except As-Built Plans, which is performed by the LA DOTD. During all stages of the design, except As-Built Plans, the LA DOTD will contribute to the review through Oversight, including, participation, auditing, and spot-checking.

Design Unit - A distinct portion of the Project of which the design is performed as a contiguous, integrated unit.

Designer - A Principal Participant, Specialty Subcontractor, or in-house designer that furnishes or performs the design of the Project.

Differing Site Condition - Subsurface or latent physical conditions that are encountered at the Site and differ materially from the conditions indicated in the Contract. Also, unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the type of Work provided for in the Contract, provided in all cases that the Design-Builder had or should have no actual or constructive knowledge of such conditions as of the Proposal due date.

Directive Plans - Those Plans that depict required elements and components of the Project within specifically defined parameters. The Design-Builder has limited or no latitude to adjust components or details shown on Directive Plans. Examples of Directive Plans include the following:

- A) Basic Project Configuration Plans that depict the Basic Project Configuration within the limits defined in the Contract; and
- B) Right-of-Way Plans.

Dispute - A matter of Contract performance or Contract compensation, including granting of extensions of time, in which there is or may be disagreement between the Design-Builder and the LA DOTD and which may involve adjustment of or the addition of new Work to the Contract, extension of time for performance, and/or adjustments in compensation necessitated by the resolution of such disagreement.

Equipment - All machinery, equipment, tools, and apparatus necessary for acceptable completion of the Work.

Extra Work – Work not provided for in the Contract as awarded but found essential by the LA DOTD for satisfactory completion of the Contract within its intended scope.

Falsework – Temporary construction Work on which main Work is wholly or partly built and supported until it is strong enough to support itself; a temporary framework used to support part or all of a structure during demolition.

Federal Requirements – The provisions required to be part of federal-aid construction contracts, including the provisions set forth in DB Section 114 and its Appendix 114A – Federal Requirements.

Final Acceptance - The acceptance of the Work by the LA DOTD's designated representative upon the completion of the Work as defined in the Contract and through Oversight and Design Acceptance of that Work by the LA DOTD. Final Acceptance does not relieve the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract.

Force Account - Payment for the directed performance of design and/or construction Work based on the actual cost of labor, Equipment, and Materials furnished, overhead, and profit.

Frontage Road – A street or road on the side of the mainline roadway for service to abutting property and adjacent areas, and for control of access.

Hazardous Materials - Any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 United States Code (USC) 9601, et seq.; the Hazardous Materials Transportation Act, 49 USC 5101, et seq.; the Resource Conservation and Recovery Act, 42 USC 6901, et seq.; the Toxic Substances Control Act, 15 USC 2601, et seq.; the Clean Water Act of 1977, 33 USC 1251, et seq.; the Clean Air Act, 42 USC 7401, et seq.; or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material.

Highway – A public way for vehicular travel, including the entire area within the Right-of-Way.

Independent Assurance - activities that are unbiased and independent (of the Design-Builder or Project staff) evaluations of all the design, sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Builder's or LA DOTD's) used in the acceptance program, including the Design-Builder's Quality Control (QC), as well as Verification Sampling and Testing. The LA DOTD, or the designated QA Consultant retained by the LA DOTD, will perform Independent Assurance (IA).

Indicative Plans - Those Plans that represent the nature and type of Work to be designed and constructed as part of the Project and reflect items for which the LA DOTD has no particular view on the specific configuration or Material used in the final product, such as the following:

- A) Structure type (concrete or steel);
- B) Pavement type (concrete or asphalt);
- C) Drainage Material or size (rigid only); or
- D) Pile type.

Indicative Plans do not necessarily reflect the final locations, quantities, or all elements required to complete the design.

Inspector - A Design-Builder or LA DOTD representative detailed to inspect methods and Materials, Equipment, and Work both on and off the Site of the Project.

Laboratory – The LA DOTD's testing laboratory or any other testing laboratory approved by the Department's Project Manager.

Lead Principal Participant - The Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Design-Builder's organization.

Local Road – A street or road not in the state maintained system.

Local Street – *See* Local Road.

Local Traffic – Traffic that has either its origin or destination, or both, within the limits of the Project.

Louisiana Department of Transportation and Development Plans - Those RFP Plans included in the Contract Documents that were created by the LA DOTD.

Lump Sum Contract Price - The total lump sum amount paid for the Work to be performed under the DB Contract, as it may be adjusted from time to time to account for Change Orders. The Lump Sum Contract Price may also be known as the Contract Price.

Manual of Uniform Traffic Control Devices – The manual adopted by the LA DOTD for a uniform system of traffic control devices used on state Highways.

Materials - Any substances used in the Work.

Materials Sampling Manual – The manual used to establish and standardize construction and maintenance sampling and Material acceptance requirements for the LA DOTD.

Median – The portion of a Highway separating traveled ways for traffic in opposite directions.

Notice to Proceed - Written notice to the Design-Builder to proceed with Contract Work, including the date of beginning of Contract Time.

Oversight - Actions by the LA DOTD to satisfy itself that the Design-Builder is designing, constructing, and managing the Work in accordance with the Contract Documents. It includes actions identified in the Contract Documents by the terms QA, accept/acceptance, inspect/inspection, audit, ensure, certify, confirm, review, verify, or terms of similar import. Louisiana Department of Transportation and Development comments as a result of Oversight are conveyed to the Design-Builder through Consultation and Written Comment. Neither the activity of Oversight nor the lack of Consultation and Written Comment on the part of the LA DOTD will be construed to relieve the Design-Builder and its organization from the responsibility and costs for meeting all Contract and regulatory requirements.

Parish - The parish in which the specified Work is done.

Part - A major subdivision of the Contract Documents.

Partial Suspension - Suspension of Work on some, but not all, items.

Partnering - Those actions taken to include all parties with an appropriate and vested interest in the Project in the management of the Project, such that the Project is completed in the most efficient, timely, safe, and cost effective manner for the mutual benefit of all concerned. These actions include, but are not limited to, communication, organization, establishing goals, continuous improvement, problem identification, conflict resolution, and managing change. Interested parties may include, but are not limited to, the LA DOTD; the Design-Builder; Subcontractors; Suppliers of goods and services to the Project; the community within which the Project is constructed; the community served by the Project; federal, state, and local governments or other public agencies; and utilities.

Pavement Structure – The combination of base course and surface course placed on a subgrade across the roadbed.

Payment/Performance/Retainage Bonds - The approved form of security, executed by the Design-Builder and Surety, guaranteeing completion of duties under the Contract and Amendments, Supplemental Agreements, Change Orders, or Plan Changes thereto, and payment of all legal debts, including liens and monies due the LA DOTD, pertaining to the Contract.

Performance Specification - A specification that establishes Contract requirements in terms of design parameters and performance goals to be met. Performance Specifications also may include parameters for determining performance and corrective action to be taken.

Periodic Payment Schedule - The schedule submitted with the Design-Builder's Proposal (which schedule may be amended by Change Order) that will be the basis for the assessment of periodic payments for each Price Center (PC).

Person - Any individual, firm, corporation, company, Limited Liability Company (LLC), Joint Venture (JV), or partnership.

Plan Change – Any alteration, deviation, addition, or omission as to the preexisting Contract. A Plan Change may also be referred to as an Amendment, Supplemental Agreement, or Change Order.

Plans - The Contract drawings which show location, type, dimensions, and other details of the prescribed Work.

Price Center - A component of the Project for which the Design-Builder provides a Price Center Value (PCV) for all Work included in that component. A PC may be a major contract item or series of interrelated items as identified in the Lump Sum Price Proposal.

Price Center Value - That value allocated by the Design-Builder to a PC as set out in the Lump Sum Price Proposal.

Principal Participant - Any of the following entities:

- A) The Design-Builder;
- B) An individual firm, all general partners, or LLC or JV members of the Design-Builder; and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Design-Builder.

Profile Grade – The trace of a vertical plane intersecting the top surface of the proposed wearing surface or other designed course usually along the longitudinal centerline of the roadbed. Profile Grade means either elevation or gradient of such trace according to the context.

Program Audit - All planned and systematic actions by the LA DOTD and/or its designated Quality Assurance Consultant necessary to provide confidence that the DB QC team is effectively ensuring that all Work complies with the Contract requirements and that all material incorporated in the Work and all elements of the Work will perform satisfactorily for the purpose intended. Actions include, but are not limited to: design audits, checks, and reviews; construction audits, including, specification compliance reviews, document control, and working plan review; review of material Sampling and Testing results at production sites and the Project site; Fabrication audit of manufacturing/processing facilities and equipment; calibration of test equipment, and independent verification of materials if determined to be necessary.

Program Audit activities will be documented. Program Audit also includes issuance and tracking Non-Conformance Reports (NCR), assisting in the evaluation of Change Order requests, and research and evaluation of items as assigned by the Department's Project Manager.

Progress Check Point - A defined step towards the completion of Work within a PC identified in the Schedule of Progress Check Points (PCP). Progress Check Points are defined by the Design-Builder in its Proposal and are approved by the LA DOTD with acceptance of that Design-Builder's Proposal. Any changes to the PCPs after submission of the Design-Builder's Proposal are subject to the Approval of the Department's Project Manager, in his sole discretion.

Project - The improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

Project Number – A number used to identify the Project.

Project Scope - The brief description of the Work to be performed to design and construct the Project as contained in the Contract.

Project Specifications - Those Specifications developed by the Design-Builder to define and control the specific requirements, conditions, means, and methods to be used on the Project. Project Specifications will be based on the Contract requirements and must provide finished products that meet or exceed the quality requirements of the Contract. Project Specifications are subject to the review and Consultation and Written Comment of the Department's Project Manager during Design Reviews.

Qualified Products Lists – Lists maintained by the LA DOTD's Materials and Testing Section for products which do not lend themselves to the preparation of meaningful specifications or for which repetitive full testing is too time consuming or expensive to be practical for routine Project control.

Quality Assurance – The independent and random verification conducted by the Design-Builder of its QC program.

Quality Assurance/Quality Control Manager - the individual employed by the QC Engineering Firm who is responsible for the overall QC program for the Project, including the quality of management, design, and construction.

Quality Control - The total of all activities performed by the QC Engineering Firm, Design-Builder, Designer, subcontractors, producers, or manufacturers to ensure that a product meets Contract requirements. Quality Control includes design reviews and checks; inspection of material handling and construction; calibration and maintenance of sampling and testing equipment; working plan review; document control; production process control; and any inspection, sampling, and testing done for these purposes. Quality Control also includes documentation of QC efforts.

Quality Control Engineering Firm - An independent engineering/testing firm employed by the Design-Builder responsible for administering and managing the construction QC inspection, sampling, and testing and verification. The QC Engineering Firm and any subcontractors or subconsultants thereto must not be owned or controlled by the Design-Builder, any Principal Participant of the Design-Builder, any Affiliate of any Principal Participant, any Construction Subcontractor, the Designer, a firm associated with or subsidiary to the Designer, or any design subcontractor or subconsultant of any tier to the Design-Builder.

Quality Plan - The plan that sets out the Design-Builder's means of complying with its obligations in relation to QC, which plan must be provided and maintained in accordance with the Contract following Consultation and Written Comment thereof by the Department's Project Manager.

Quality Program - The overall quality program and associated activities including the LA DOTD's QA, the Design-Builder's and/or the QC Engineering Firm's QC, the Contract quality requirements, and the Design-Builder's Quality Plan.

Reference Documents - The documents provided with and so designated in the RFP. The Reference Documents, including plans contained therein and/or so designated, are not Contract Documents and were provided to the Proposers for informational purposes and for use in the Proposer's Proposal preparation, at the Proposer's discretion.

Request for Proposals Plans - Plans contained in Part 4 – Request for Proposals Plans.

Right-of-Way – Land, property, or interest therein, acquired for or devoted to transportation purposes.

Road – *See* Highway.

Roadbed - The graded portions of a Highway within top and side slopes, prepared as a foundation for the pavement structure including the shoulders.

Roadside – The area adjoining the outer edge of the Roadway. Extensive areas between Roadways of a divided Highway may also be considered Roadside.

Roadside Development – Those items necessary to the complete Highway which provide for preservation of landscape materials and features; rehabilitation and protection against erosion of areas disturbed by construction through seeding, sodding, mulching, and placing of other ground covers; and suitable planting or other improvements to increase the effectiveness and enhance the appearance of the Highway.

Roadway - The portion of a Highway within the limits of construction.

Safety Plan - The plan that sets out the Design-Builder's means of complying with its obligations in relation to Project safety, which plan must be provided and maintained in accordance with DB Section 107-5 following Consultation and Written Comment by the Department's Project Manager.

Schedule of Progress Check Points - The schedule describing the PCPs and stipulating dates by which PCPs are to be achieved in order to maintain periodic payments in accordance with the Contract.

Secretary – The Secretary for the Louisiana Department of Transportation and Development.

Service Road – *See* Frontage Road.

Section - A subdivision of the Project or a subdivision of a Part of the Contract Documents.

Site Security Plan - The plan that sets out the Design-Builder's means of complying with its obligations in relation to Site security, which plan must be provided and maintained in accordance with the Contract following Consultation and Written Comment thereof by the Department's Project Manager.

Stakeholder - Any party that has a vested interest in the Project or authority to approve or control specific aspects of the Project or elements that will impact the outcome of the Project. This includes, but is not limited to, the LA DOTD, Federal Highway Administration (FHWA), local city and Parish governments, permitting agencies, and utility companies and the associated staff members of these entities.

Standard Plans – Louisiana Department of Transportation and Development drawings approved for repetitive use, showing the details to be used where appropriate.

Standard Specifications – The Louisiana Specifications for Roads and Bridges 2006 Edition. The Standard Specifications are a Reference Document for the purposes of this Project.

State - The State of Louisiana, acting through its authorized representative.

Street – *See* Highway.

Structures - Bridges, culverts, catch basins, junction boxes, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other similar features encountered in the Work.

Subcontractor – An individual, partnership, corporation, or any other legal entity or any acceptable combination thereof, or JV or LLC, to which the Design-Builder sublets part of the Work. Any individual, partnership, corporation, or any other legal entity will not be considered to be a Subcontractor if it is a subsidiary which is wholly-owned or majority-owned by the Design-Builder or the Principal Participants of the Design-Builder, or an Affiliate of the Design-Builder, or affiliated or otherwise controlled by the Design-Builder or Principal Participants of the Design-Builder such that a true and independent Subcontractor-Design-Builder relationship reached by bidding or arms-length negotiation does not result therefrom.

Subgrade – The surface upon which the pavement structure, including shoulders, are constructed.

Subgrade Layer – The surface layer of the subgrade which requires treatment with lime, Portland cement, or Portland-pozzolan cement. The Subgrade Layer may be constructed with stone, crushed slag, recycled Portland cement concrete, shell, sand-shell, or asphaltic concrete.

Substructure - That part of the structure below the bearings of simple and continuous spans, skewbacks, or arches and tops of footings of rigid frames, including, backwalls, wingwalls, and wing protection railings.

Superstructure – The entire Structure except Substructure.

Supplemental Agreement – A written agreement between the Design-Builder and the LA DOTD covering work not otherwise provided for, or revisions in or amendments to terms of the Contract, or Plan Changes, or conditions specifically prescribed in the Specifications as requiring Supplemental Agreements. Such Supplemental Agreement becomes part of the Contract when approved and properly executed.

Surety - The corporation, partnership, or individual, other than the Design-Builder, executing bonds furnished by the Design-Builder and obligating itself thereunder.

Surface Course – The top course of the pavement structure.

Through Traffic – That traffic which has neither its origin nor destination within the limits of the Project.

Traffic/Travel Lane – The portion of Traveled Way for movement of a single lane of vehicles.

Traveled Way - The portion of Roadway for movement of vehicles, exclusive of shoulders and auxiliary lanes.

Unit – A quantity adopted as a standard for measurement of Work.

Utility Relocation Plans - The Design Plans for relocation of a utility impacted by the Project, to be prepared by the Design-Builder or the utility owner, as designated in any applicable utility agreements.

Verification Sampling and Testing - Sampling and testing performed to validate the quality of the product. The LA DOTD, or a firm retained by the LA DOTD, will perform Verification Sampling and Testing.

Work – The labor, Materials, services, Equipment, and incidentals necessary for successful completion of the Project and the carrying out of all obligations imposed by the Contract prior to Final Acceptance and excluding any warranty or guaranty work included under the Contract.

Working Drawings - Those Plans prepared by the Design-Builder to supplement Design Plans provided by the Design-Builder to specify additional details and procedures for construction of the Project, including the following:

- A) Framework plans;
- B) Cofferdam plans;
- C) Construction details;
- D) Erection plans;
- E) Fabrication plans;
- F) Field design change plans;
- G) Stress sheets;
- H) Shop drawings;
- I) Lift plans;
- J) Bending diagrams for reinforcing steel;
- K) Falsework plans;
- L) Cross-sections; and
- M) Similar data required for the successful completion of the Work.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 102

REQUIREMENTS AND CONDITIONS



DB SECTION 102

REQUIREMENTS AND CONDITIONS

DB 102-1 NO MISUNDERSTANDING

The Design-Builder agrees that it has examined the Contract Documents and the Site of the Work and has fully informed itself from its personal examination of the same regarding the quantities, character, location, and other conditions affecting the Work to be performed including the existence of poles, wires, pipes, ducts, conduits, and other facilities and structures of municipal and other public service corporations on, over, or under the Site.

The Design-Builder agrees that its proposed Lump Sum Contract Price includes all costs arising from existing conditions shown or specified in the Contract Documents and/or readily observable from a Site inspection prior to the Proposal due date and/or generally recognized as inherent in the nature of the Work.

The Louisiana Department of Transportation and Development (LA DOTD) in no way warrants or guarantees that the information made available by the LA DOTD or found in the Contract Documents covers all conditions at the Site or that said information and Contract Documents should act as a substitute for personal investigation, interpretation, and judgment by the Design-Builder.

The intent of the Contract Documents is to include all items/aspects of the Work that are necessary for the proper initiation, execution, and completion of the Work. A requirement occurring in any component of the Contract Documents is as binding as though occurring in all.

The components of the Contract Documents are intended to be complementary and to describe and provide for a complete Project. The following components of the Contract Documents complement one another in the following order of precedence: the Design-Build (DB) Agreement, this DB Section 100, the Design Requirements and Performance Specifications, the Engineering Data, the Request for Proposals (RFP) Plans, and the Design-Builder's Proposal. However, where the Design-Builder's Proposal presents Work or products of a higher quality than that shown elsewhere in the Contract Documents, and the LA DOTD has accepted the proposed change to the Work and products to that of the higher quality, the Design-Builder's Proposal will take precedence for that specific higher quality Work and products, as applicable.

Dimensions given on the Plans or which can be calculated will govern over scale dimensions.

When it appears that there is an apparent error or omission in the Contract or there is an apparent conflict or contradiction between any of the various documents mentioned above, or between the documents and the actual Work Site, the Design-Builder has a duty to immediately notify the Department's Project Manager of the discrepancy. The Department's Project Manager will resolve the discrepancy in writing before the Design-Builder proceeds further. The Department's Project Manager may require the Design-Builder to modify Plans and other documents to correct the error or omission.

Failure of the Design-Builder to notify the Department's Project Manager of an apparent discrepancy may be deemed a waiver of the Design-Builder's right to claim any adjustment in the Lump Sum Contract Price for Extra Work. In addition, the Design-Builder may be fully liable for damages suffered by the LA DOTD resulting from this failure to timely notify the Department's Project Manager of a discrepancy.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____[Insert the name of the parish]____ PARISH
STATE PROJECT NO. _____[Insert the state project number]_____
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

APPENDIX 103A PAYMENT, PERFORMANCE, AND RETAINAGE BONDS FORM



STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 103

PARTNERING, BONDS, AND

NOTICE TO PROCEED



DB SECTION 103

PARTNERING, BONDS, AND NOTICE TO PROCEED

DB 103-1 PARTNERING

It is the Louisiana Department of Transportation and Development's (LA DOTD) policy to use the principles of partnering to guide the management of this Contract within the parameters covered by the laws, regulations, and other policies that govern work in the public sector.

These partnering principles are intended to promote quality through continuous improvement at all stages of design and construction. The goal of the LA DOTD is to complete this Project in the most efficient, timely, safe, and cost effective manner to the mutual benefit of the Design-Builder and the LA DOTD, meaning a quality Project delivered on time, within budget, and without significant disputes.

None of the actions identified as part of, or taken in the course of, partnering will be construed to alter, modify, delete, or waive any of the provisions or requirements of the Contract Documents or any applicable laws or regulations.

The LA DOTD and the Design-Builder will manage the Contract in a cooperative manner utilizing the following principles of Project partnering:

- A) Establish communications with all involved parties early in the partnering process;
- B) Establish a relationship of shared trust, equity, and commitment;
- C) Develop strategies for identifying mutual goals;
- D) Develop strategies for timely communications and decision-making;
- E) Establish a process for timely response to changes or variations in field conditions;
- F) Solve potential problems at the lowest level before they negatively impact the Project;
- G) Encourage the use of products, technology, and processes that provide a demonstrated level of improved quality; and
- H) Develop a plan for periodic joint evaluation based on mutually agreed goals.

This Contract is to be implemented in an equitable fashion that recognizes the problems that are inherent in design and construction, addresses the different-than-expected field conditions, resolves disputes in an open communications manner, and makes Contract adjustments in a timely and fair manner consistent with the terms of the Contract. This Contract is intended to fairly allocate risk, resulting in a balanced contractual approach to risk-sharing.

The Design-Builder shall be responsible for creating and implementing, with input and comment from the LA DOTD, a partnering program for use during this Project. The costs of such partnering program will be borne by the Design-Builder. The LA DOTD and Design-Builder will consider the incorporation of partnering into the coordination and cooperation required with third parties such as Subcontractors, suppliers, utility owners, railroads, and other Stakeholders.

DB 103-2 PAYMENT, PERFORMANCE, AND RETAINAGE BONDS

At the time of execution of the Contract, the Design-Builder shall furnish the following bonds on the form provided by the LA DOTD (*see* Appendix 103A – Payment, Performance, and Retainage Bonds Form):

- A) A Payment Bond in a sum equal to 100% of the Lump Sum Contract Price (\$____ **[Insert the total contract amount]**_____);
- B) A Performance Bond in a sum equal to 100% of the Lump Sum Contract Price (\$____ **[Insert the total contract amount]**_____); and
- C) A Retainage Bond in a sum equal to five percent of the Lump Sum Contract Price, unless an election is made to have the LA DOTD withhold five percent of the Lump Sum Contract Price (\$____ **[Insert an amount equal to five percent of the total contract amount]**_____).

The bonds must be written by a Surety or insurance company that is in good standing and currently licensed to write surety bonds in the State of Louisiana by the Louisiana Department of Insurance and conform to the requirements of Louisiana Revised Statutes Section 48:255(D).

All signatures on the Payment, Performance, and Retainage Bonds Form must be original signatures, in ink, and are not to be mechanical reproductions or facsimiles.

DB 103-3 NOTICE TO PROCEED

The LA DOTD will issue the Design-Builder Notice to Proceed (NTP) on or about ____ **[Insert the date that NTP is anticipated]**_____.

APPENDIX 103A

PAYMENT, PERFORMANCE, AND RETAINAGE BONDS FORM

Be it known that _____ as Principal and _____ as Surety(ies), authorized to do business in Louisiana, hereby bind themselves, in solido, to the Louisiana Department of Transportation and Development (LA DOTD), and other potential claimants, for all obligations incurred by the Principal under its Contract for the construction of State Project No. [Insert the state project number] and Federal Aid Project No. [Insert the federal-aid project number, if a federal project only] , in 100% of the full Lump Sum Contract Price (\$ _____) for the Payment Bond, in 100% of the full Lump Sum Contract Price (\$ _____) for the Performance Bond, and in five percent of the Lump Sum Contract Price (\$ _____) for the Retainage Bond. The obligations of the Principal and Surety under these Payment, Performance, and Retainage Bonds must continue in full force and effect until all Materials, Equipment, and labor have been provided, and all requirements contained in the Contract have been completed in a timely, thorough, and workmanlike manner. The parties acknowledge that these Bonds are given under the provisions and limitations contained in Louisiana Revised Statutes 48:250, et seq.

By this instrument(s), the Principal and Surety(ies) specifically bind themselves and their heirs, successors, and assigns, in solido, under the following Bonds:

PAYMENT BOND. To the Louisiana Department of Transportation and Development and all "Claimants," as defined in Louisiana Revised Statutes 48:256.5, in the full sum of \$ _____ (100% of the Lump Sum Contract Price), in order to secure the full and timely claims under the [Insert the name of the project] Design-Build (DB) Project (Project). The parties agree this Bond is statutory in nature and governed by Louisiana Revised Statutes 48:256.3. Claims pursuant to Louisiana Revised Statutes 48:256.5 must be made to the Undersecretary, LA DOTD, Headquarters Administration Building, Room 302G, 1201 Capitol Access Road, Baton Rouge, LA 70802.

PERFORMANCE BOND. To the Louisiana Department of Transportation and Development in the full sum of \$ _____ (100% of the Lump Sum Contract Price), in order to secure the full and faithful performance and timely completion of the Project according to the Contract, inclusive of overpayments to the Design-Builder and stipulated damages as assessed.

RETAINAGE BOND. To the Louisiana Department of Transportation and Development in the full sum of \$ _____ (five percent of the Lump Sum Contract Price) in lieu of the sums required to be withheld from progress payments under the provisions of Louisiana Revised Statutes 48:256.1, inclusive of overpayments to the Design-Builder and stipulated damages as assessed.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 104

SCOPE OF WORK



DB SECTION 104

SCOPE OF WORK

DB 104-1 WORK REQUIRED

Under the Contract, the Design-Builder shall do all Work enumerated in Appendix A to Part 1 – Design-Build (DB) Agreement and all other Contract Documents, and shall protect all properties, utilities, and existing Highway facilities within or adjacent to the Right-of-Way (ROW) and shall repair or replace any such properties, utilities, and facilities damaged or destroyed by it or any employee through the construction operations, both within and adjacent to the ROW.

Where the Work of the Design-Builder or its Subcontractors overlaps or dovetails with that of other Louisiana Department of Transportation and Development (LA DOTD) contractors, Materials must be delivered and operations conducted in coordination with work of other LA DOTD contractors so as to carry on the Work continuously in an efficient and workmanlike manner, in the sole determination of the LA DOTD.

Delays or oversights on the part of the Design-Builder or its Subcontractors in getting any or all of their Work done in the proper way, in the sole determination of the LA DOTD, thereby requiring the modifying, removing, and replacing of Work already in place, must not be the basis for a claim of extra compensation. Such Work will be performed at the cost and expense of the Design-Builder.

The Design-Builder shall provide preventive and corrective maintenance of the Work until Final Acceptance. However, the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract will continue after Final Acceptance.

DB 104-2 INTENT OF CONTRACT

The intent of the Contract is to provide for performance and completion of the Work described. The Design-Builder shall furnish all professional services, labor, Materials, Equipment, tools, transportation, and supplies required to complete the Work in accordance with the terms of the Contract.

When an item in the Contract requires the Design-Builder to make a choice between more than one Material, standard, procedure, or the like, the Design-Builder shall indicate the choice to the Department's Project Manager in writing.

When the Contract, including the Design-Builder's Proposal (located at Part 6 – Design-Builder's Proposal) and/or the Design-Builder's plans or specifications, reference or require the use of "manufacturer's recommendations or specifications," the Design-Builder shall provide the Department's Project Manager with a current copy of these recommendations or specifications.

DB 104-3 ALTERATION OF THE CONTRACT

The LA DOTD reserves the right to order Work not provided for in the Contract whenever such Work is found essential or desirable to satisfactory completion of the Contract within its intended scope. Such

Work must be performed as directed. Payment for such Work will be made as provided in DB Section 109.

The LA DOTD reserves the right to order changes in details, including, changes in Materials, processes, and sequences, whenever such changes are in the best interests of the public or are necessary or desirable to satisfactory completion of the Work. Such changes in details must be performed as directed and payment will be made as provided in DB Section 109-8.

Alterations to the Contract as provided for by this DB Section 104-3 will neither invalidate the Contract nor release the Surety, and the Design-Builder agrees to accept the Work as altered as if it had been part of the original Contract. The Design-Builder shall notify the Surety of any alterations to the Contract.

DB 104-4 MAINTENANCE OF TRAFFIC

Reasonable provisions for maintaining local public traffic through the length of the Project and the life of the Contract must be made by the Design-Builder during the term of this Contract and in accordance with Part 3 – Design Criteria and Performance Specifications, Appendix A – Performance Specifications, Traffic Control Plan Performance Specification.

When specified, the Design-Builder may also be required to provide for through traffic over the entire Project or designated portion thereof at no direct pay.

The Design-Builder shall keep the portion of the Project being used by public traffic, whether through or local traffic, in such condition that traffic (including mail delivery) will be adequately and safely accommodated. The Design-Builder shall furnish, erect, and maintain barricades, warning signs, and delineators and shall provide flaggers and pilot cars in accordance with the Contract and the Manual of Uniform Traffic Control Devices (MUTCD). The Design-Builder shall also provide and maintain in a safe condition all temporary approaches or crossings or intersections with Roads, Streets, businesses, parking lots, residences, garages, and farms.

When the Department's Project Manager directs additional measures for the benefit of the traveling public, payment to the Design-Builder will be made as provided in DB Section 109-8. The Department's Project Manager will be the judge of Work to be classed as additional measures.

DB 104-5 FINAL CLEANING UP

Before Final Acceptance, the ROW, borrow, and local Material sources and areas occupied by the Design-Builder in connection with the Work must be cleaned of rubbish, excess Materials, temporary Structures and facilities, haul Roads, and Equipment. All parts of the Work, including property adjacent to the ROW, which have been damaged or rendered unsightly during the Work must be left in satisfactory condition and when required the ROW must be mowed in accordance with LA DOTD maintenance standards.

DB 104-6 GUARANTEES

Pursuant to Louisiana Revised Statutes Title 48 Section 251(C), the Design-Builder guarantees, by signing the Contract, mechanical and electrical equipment, apparatus, materials, and workmanship provided under the Contract for a period of three years after Final Acceptance.

Instruction sheets that are required to be furnished by the manufacturer for Materials, equipment, apparatus, supplies, and operation must be delivered by the Design-Builder to the Department's Project Manager prior to Final Acceptance of the Project, with the following written warranties and guarantees:

- A) The manufacturer's standard warranty for each piece of mechanical and electrical Equipment or apparatus furnished under the Contract;
- B) The Design-Builder's guarantee that, during the guarantee period, necessary repair or replacement of the warranted Equipment or apparatus will be made by the Design-Builder; and
- C) The Design-Builder's guarantee for satisfactory operation of the mechanical and electrical systems furnished and constructed under the Contract for the guarantee period.

This DB Section 104-6 does not apply if a more stringent and/or detailed warranty or guaranty is required elsewhere in the Contract Documents.

DB 104-7 DIFFERING SITE CONDITIONS AND SUSPENSIONS OF WORK

DB 104-7.1 Differing Site Conditions

During the progress of the Work, if subsurface or latent physical conditions are encountered at the Site differing materially from those indicated by the LA DOTD for specific locations where the LA DOTD's investigations were performed and to the degree of accuracy indicated in the Contract - or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized, as determined solely by the LA DOTD, as inherent in the Work provided for in the Contract - are encountered at the Site, the party discovering such conditions must promptly notify the other party to the Contract in writing of the specific differing conditions. Such notice must occur within ten Calendar Days of the discovery and before the differing conditions are disturbed, or as soon as practicable thereafter, and before the affected Work continues.

One instance of a Differing Site Condition exists when the information indicated in the geotechnical borings and/or tests provided by the LA DOTD are inaccurate at the specific location(s) of those borings or tests to the extent that correct information would have resulted in accurate assumptions. The LA DOTD represents that, to the best of its knowledge, the information represented by the borings and tests taken by the LA DOTD are accurate at the location of the borings and tests. Any extrapolation of such information to other locations by the Design-Builder is at the Design-Builder's risk. Furthermore, the Design-Builder shall determine what additional geotechnical information is required to support its design and is responsible for obtaining such information and for the accuracy of such information.

Upon written notification, the Department's Project Manager will, within a reasonable time, as determined solely by the LA DOTD, investigate the Site's conditions. If the Department's Project Manager determines that the conditions materially differ from that which is identified in the Contract and cause an increase or decrease in the cost or time required for the performance of any Work under the Contract, an adjustment that excludes anticipated profit but includes cost of delays will be made, and the Contract will be modified in writing, in accordance with DB Sections 109-8 or 109-9. The Department's Project Manager will notify the Design-Builder of the determination and whether or not an adjustment of the Contract is warranted.

If the Design-Builder fails to provide the written notification in a timely fashion (as defined above), as determined solely by the LA DOTD, and the LA DOTD's costs are increased as a result, the damage that

could have been mitigated by timely notice will be calculated and the Contract adjustment will be reduced accordingly.

Additional compensation via Change Order will be made for time related costs, if any, pursuant to DB Section 109-8. For any increased costs of the Work resulting from the Differing Site Condition, payment will be made pursuant to DB Section 109-8.

DB 104-7.2 Suspensions of Work Ordered by the Department's Project Manager

The Department's Project Manager may stop by written order any Work or any part of the Work under the Contract if the methods or conditions are such that unsatisfactory Work might result (including progressing construction in the absence of Design Plans, Project specifications, and/or Working Plans that have not been reviewed and released for construction as per DB Section 111-12.5); if improper Material or procedures are being used; if the Design-Builder fails to comply with any Contract requirement or with any provision of the Design-Builder's Project specifications, the Design-Builder's Proposal, the Design-Builder's Plans, or any state or federal law or regulation; if the conditions of the Project are considered to be sufficiently deficient as to seriously affect the safety of the public or the persons employed for the construction of the Project; or if major non-conformance with the Maintenance of Traffic Plan is causing serious disruptions to traffic operations. The Design-Builder shall not be entitled to any additional monetary compensation for such a Work stoppage.

If the performance of all or any portion of the Work is suspended or delayed by the Department's Project Manager in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the DB industry) and the Design-Builder believes that additional compensation and/or Contract Time is due as a result of such suspension or delay, the Design-Builder shall submit to the Department's Project Manager in writing a request for adjustment within seven Calendar Days of receipt of the notice to resume Work.

Upon receipt, the Department's Project Manager will evaluate the Design-Builder's request. If the Department's Project Manager agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of, and not the fault of, the Design-Builder or its suppliers or Subcontractors at any approved tier, and not caused by weather, the Department's Project Manager will make a cost and/or time adjustment (excluding profit) and modify the Contract in writing accordingly. The Design-Builder will be notified of the Department's Project Manager's determination whether or not an adjustment of the Contract is warranted.

No Contract adjustment will be allowed unless the Design-Builder has submitted the request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this DB Section 104-7.2 to the extent that performance would have been suspended or delayed by any other cause or for which an adjustment is provided for or excluded under any other term or condition of this Contract.

Additional compensation via Change Orders must be made for time related costs, if any, pursuant to DB Section 109-8.1. For any increased costs of the Work resulting from a suspension of Work, payment must be made pursuant to DB Section 109-8.1, but the Equipment compensation shall be governed and controlled by the provisions of DB Section 109-8.1.2(D).

**DB 104-8 CHANGES IN BASIC PROJECT CONFIGURATION; UTILITY
RELOCATIONS; ENVIRONMENTAL MITIGATION**

DB 104-8.1 General

Changes under this DB Section 104-8 will be governed by the notice, record keeping, and other requirements of DB Sections 104 and 109. Adjustment in Contract Time will be included in the Change Order to reflect changes in the Critical Path for the Project.

The Design-Builder or the LA DOTD must make written notification to the other party of the existence of the circumstances identified under this DB Section 104-8 if that party wishes to adjust the Lump Sum Contract Price or the Contract Time. Such notice must be given within ten Calendar Days of the time at which the party had, or should have had, knowledge of an event, matter, or occurrence of the circumstances identified under this DB Section 104-8. Work which is substantially completed prior to the issuance of notice may not be considered for Contract adjustment.

Timely issuance of notice will be a necessary requirement for consideration of Contract adjustment as provided in this Section 104-8.

DB 104-8.2 Changes in Basic Project Configuration

The LA DOTD acknowledges and agrees that the Design-Builder's Proposal was based on certain basic information presented by the LA DOTD regarding the nature of the Project to be constructed. This basic information is considered the Basic Project Configuration. Except as authorized by a Change Order, the Design-Builder shall not make any material change in Basic Project Configuration. Non-material LA DOTD-directed changes will be covered by a Change Order whether they are within the parameters of the Basic Project Configuration or not. Louisiana Department of Transportation and Development-directed changes within the Basic Project Configuration specified in this DB Section 104-8.2 may be ordered without any change in the Lump Sum Contract Price or extension of the Contract Time, provided the change is ordered prior to completion of the Definitive Design Review for the affected Design Unit(s).

DB 104-8.2.1 Standard for Determining Materiality of Change in Basic Project Configuration

See Part 1 – Design-Build Agreement, Appendix A – Project Scope, Section 5.1.

DB 104-8.2.2 Necessary Basic Project Configuration Change

Notwithstanding the fact that this Contract generally obligates the Design-Builder to undertake all Work necessary to complete the Project without changes in the Lump Sum Contract Price, this DB Section 104-8.2.2 provides for a change in the Lump Sum Contract Price to be made in conjunction with Necessary Basic Project Configuration Changes. A Necessary Basic Project Configuration Change is a material change in the Basic Project Configuration which is necessary to correct an error, omission, or defect in the Basic Project Configuration Plans as shown or described in the Contract (with the understanding that a change will be deemed “necessary” only if the error, omission, or defect creates a problem which cannot reasonably be corrected without a material change in the Basic Project Configuration).

If any Necessary Basic Project Configuration Change increases or decreases the cost of performing the Work, then the LA DOTD will issue a Change Order to adjust the Lump Sum Contract Price accordingly. If a Necessary Basic Project Configuration Change changes the time required for performance of the Work, the time adjustment will be covered by a Change Order. Furthermore, if the Design-Builder commences any construction Work affected by the change prior to delivery of appropriate notice of the

change to the LA DOTD, the Change Order must allow the LA DOTD a credit for the cost of any unnecessary Work performed and/or must exclude any additional costs associated with redoing the Work already performed. The Change Order must also account for any offsets from Change Orders previously issued.

In the event that the LA DOTD approves a Necessary Basic Project Configuration Change that reduces the Design-Builder's costs, the Change Order must note the amount of cost decrease available for future offsets.

DB 104-8.2.3 Inaccuracies in Preliminary Design

The Design-Builder shall be responsible for any cost increases and/or delays which affect the duration of a Critical Path operation resulting from changes in requirements and obligations of the Design-Builder relating to the Project due to inaccuracies in the preliminary design which do not necessitate a material change in the Basic Project Configuration. In such event, no change in the Work will be deemed to have occurred and no Change Order will be issued for any such cost increases and/or delays. Accordingly, any non-material changes in the Basic Project Configuration (other than non-material LA DOTD-directed changes following the Definitive Design Review) will be the responsibility of the Design-Builder.

DB 104-8.2.4 Applicability of Change Orders

In general, the Design-Builder may implement non-material changes in the Basic Project Configuration without a Change Order, unless the change involves a circumstance for which a Change Order is specifically required hereunder. The Design-Builder acknowledges and agrees that constraints set forth in the environmental approvals and other Contract Documents, as well as the site conditions and the existing ROW limits, will impact the Design-Builder's ability to make non-material changes in the Basic Project Configuration.

DB 104-8.3 Changes Applicable to Utility Relocations

The following provisions govern entitlement to Change Orders with respect to relocation of utilities.

DB 104-8.3.1 Change in Design

Inasmuch as the Design-Builder is both furnishing the design of and constructing the Project, the Design-Builder may have significant opportunities to reduce the costs of certain portions of the Work, which may increase the costs of certain other portions of the Work. In considering such opportunities, the Design-Builder shall at all times consider the impact of design and design changes on relocations of utilities and related facilities with the overall goal of minimizing the necessity for relocations of such utilities and related facilities to the extent practicable. Accordingly, if, as a result of a change made by the Design-Builder to the LA DOTD's preliminary design, either the costs of any relocation of a utility are reduced (including by avoiding relocation of a utility shown as requiring relocation in the Contract Documents) or new relocations are required or relocation costs are otherwise increased, then the following will apply to any resulting cost increases or decreases affecting the Design-Builder and/or the LA DOTD:

- A) The Design-Builder shall not be entitled to a Change Order for any such additional costs which it incurs, including both additional relocation costs and the costs of any additional Work on other aspects of the Project undertaken in order to facilitate the avoidance or reduction of relocation costs;
- B) The Design-Builder shall reimburse the LA DOTD for any such additional expenses which the LA DOTD incurs; and

- C) The Design-Builder shall not be obligated to provide a credit to the LA DOTD on account of reductions in the cost of the Work due to any such avoided or reduced relocation.

DB 104-8.3.2 Additional Restrictions on Utility-Related Change Orders

- A) Avoidance of Relocations

Whenever the Design-Builder claims entitlement to a Change Order under this DB Section 104-8.3, the Design-Builder shall bear the burden of proving that the utility relocation could not reasonably have been avoided and of proving the amount of any costs and/or delays claimed by the Design-Builder.

- B) Incremental Costs Only

In cases where the Design-Builder is entitled to a Change Order under this DB Section 104-8.3, the Change Order will allow a price increase only for the incremental costs arising from the circumstances giving rise to such Change Order.

- C) Coordination Costs

In no event will the Design-Builder be awarded any increase in the Lump Sum Contract Price for any increased costs of coordinating with the affected utility owner on account of any utility relocation for which a Change Order is merited under this DB Section 104-8.3.

- D) Timing of Change Orders

In general, the parties anticipate that Change Orders for utility relocations will be executed as the changes occur. However, the LA DOTD and Design-Builder may agree to consolidate certain changes into a single Change Order. The Design-Builder's mark-ups under DB Section 109-8.1.2(A) will be deemed to include compensation for all costs associated with any time differential between performance of the relocation Work and the date of issuance of the Change Order.

- E) No Change Orders for Utility Service Lines or Temporary Relocations of Utilities

The Design-Builder shall not be entitled to a Change Order for increased costs of the Work resulting from, or for any extension of time for, delays associated with the following:

- 1) Any relocation of any utility service lines; and/or
- 2) Any temporary relocations of utilities implemented for the convenience of the Design-Builder's own construction operations.

DB 104-8.4 Changes in Environmental Mitigation Requirements

Changes in environmental mitigation requirements may occur as the result of changes in governmental rules, as the result of changes in the Work directed by the LA DOTD, or as the result of design decisions made by the Design-Builder or its construction methodologies. The LA DOTD will issue a Change Order for changes in the scope of environmental mitigation requirements to be performed by the Design-Builder to the extent that they are directly attributable to changes in governmental rules or changes in the Work directed by the LA DOTD (including any assignment of mitigation requirements to the Design-Builder that were originally contemplated to be performed by the LA DOTD or others). The Design-Builder shall

bear full responsibility for performance of any mitigation measures required as the result of its design decisions or construction methodologies. Furthermore, the Design-Builder shall be entitled to compensation only for the incremental costs associated with compliance with the new requirements and shall not be entitled to additional compensation for Work relating to such compliance that was included in its original scope, including any commitments made in Design-Builder's Proposal (*see* Part 6 – Design-Builder's Proposal).

DB 104-9 RETENTION OF RECORDS

The Design-Builder shall retain all records for five years from Final Acceptance under the Contract. Required records include all accounts, papers, maps, plans, drawings, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Design-Builder in connection with the Contract. Legible copies, including microfilm copies, are acceptable, provided they are so arranged, identified, and indexed that any individual document, or component of the records, can be located with reasonable facility.

The Design-Builder shall maintain records of all required payrolls and of the details that comprise the total Lump Sum Contract Price. These records must be available at any time within five years from Final Acceptance of the Project at the request of the LA DOTD for review and audit, if it is so deemed necessary by the Secretary.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 105

CONTROL OF THE WORK



DB SECTION 105

CONTROL OF THE WORK

DB 105-1 DEPARTMENT'S PROJECT ORGANIZATION AND AUTHORITY OF DEPARTMENT'S PROJECT MANAGER

As designee of the Secretary, the Department's Project Manager has immediate charge of the Project. The Department's Project Manager is responsible for the administration and satisfactory completion of the Project. The Department's Project Manager will be delegated authority commensurate with that responsibility, including the authority to reject defective Material and construction and disapprove and reject design documents that do not comply with Contract requirements.

The Design-Builder is required to submit all issues related to the Project through the Department's Project Manager. The Department's Project Manager will decide all questions that may arise, including, but not limited to, the following topics:

- A) Acceptability of design documents;
- B) The quality and acceptability of Material furnished;
- C) Work performed;
- D) The rate of progress of the Work;
- E) Interpretation of the Contract;
- F) Acceptable performance of the Contract requirements; and
- G) Administration of monthly progress payments.

The decision of the Department's Project Manager of the aforementioned will be in writing and will be delivered to the Design-Builder's Project Manager as quickly as possible.

In addition to the authority to administer the Contract, modify the Contract by Change Order, and oversee and terminate the Contract as expressly provided in other Sections of the Contract, the Department's Project Manager will have the authority to suspend the Work, wholly or in part, or withhold progress payments due to the following:

- 1) Conditions such that unsatisfactory Work might result, regardless of responsibility;
- 2) Improper Material or procedures being used;
- 3) Unsafe conditions for the workers or the general public as a result of the failure of the Design-Builder to correct those conditions;
- 4) The Design-Builder's failure to carry out provisions of the Contract;
- 5) The Design-Builder's failure to carry out directions of the Department's Project Manager;
- 6) The Design-Builder's failure to comply with state or federal law or regulation;
- 7) The Design-Builder's non-conformance with the Maintenance of Traffic provisions of the Contract, causing serious disruptions to traffic operations; or
- 8) The Department's Project Manager's determination that suspension is necessary

because of unsuitable weather.

The Design-Builder or the Department's Project Manager may suspend Work if conditions exist that are potentially injurious to the Project, including Work being performed in the absence of the Design-Builder's plans and specifications that have been accepted by Department's Project Manager and/or Work being performed in the absence of the Design-Builder's qualified Inspectors and/or sampling and testing personnel. No additional compensation will be paid to the Design-Builder because of such suspension. The Design-Builder shall not suspend Work without written authority from the Department's Project Manager. *See* DB Section 104-7.2 for more information on the Department's Project Manager's authority to suspend Work.

The Department's Project Manager may also suspend the Work wholly or in part for other conditions or reasons beyond the control of the Design-Builder or not connected with the construction of the Project when deemed necessary in the public interest. Additional Work caused by such suspensions will be paid for by the Department pursuant to DB Section 104-7.2.

Any adjustment of Contract Time for suspension of Work will be made as provided in DB Section 108-6.

DB 105-2 CONFORMITY WITH THE CONTRACT DOCUMENTS

All Work performed and all Material furnished must conform to the requirements of the Contract Documents.

When the Department's Project Manager finds the Materials furnished, Work performed, or the finished product not within reasonably close conformity with the Contract Documents, but that reasonably acceptable Work has been produced, the Department's Project Manager will determine to what extent the Work will be accepted and remain in place. If accepted, the Department's Project Manager will document the basis of determination by a Supplemental Agreement or Change Order which will provide for an appropriate adjustment in the Lump Sum Contract Price for such Work or Material as he deems necessary to conform to his determination based on engineering judgment.

In the event the Department's Project Manager finds the Materials, the Work performed, or finished product have resulted in an inferior or unsatisfactory product, the Work or Materials must be removed and replaced or otherwise corrected by and at the expense of the Design-Builder.

DB 105-3 COOPERATION WITH FEDERAL HIGHWAY ADMINISTRATION

If this Project is a federal-aid DB project, the Design-Builder acknowledges and agrees that Federal Highway Administration (FHWA) will have certain approval rights with respect to the Project (including rights to approve the Project design), as well as the right to provide certain oversight and technical services with respect to the Project. The Design-Builder shall cooperate with FHWA in the reasonable exercise of FHWA's duties and responsibilities in connection with the Project.

DB 105-4 COOPERATION WITH UTILITIES

The Design-Builder shall consider the potential impact of utilities on the construction during design. The Indicative Plans, if any, provided in Appendix B – Indicative Plans of Part 4 – Request for Proposals (RFP) Plans identify some utilities in the Project corridor (primarily along the intersecting highways).

The Design-Builder may choose to adjust the design and construction as needed to avoid any utility conflicts and/or the need for relocation of any utilities. However, the Design-Builder will be responsible for resolving the relocation of any utility conflicts in accordance with LA DOTD policies and procedures so that there is no loss of service during the Contract period. The Design-Builder shall adjust the design and construction as needed to avoid any utility conflicts and/or the need for relocation of any utilities.

It is agreed that the Design-Builder has considered in its Proposal all permanent and temporary utility appurtenances in their present or proposed relocated positions and that no additional compensation will be allowed for delays, inconvenience, or damage sustained due to interference from the said utility appurtenances or the operation of moving them. Further information is provided in the Performance Specifications (*see* Part 3 – Design Criteria and Performance Specifications, Appendix A – Performance Specifications, Utility Performance Specification).

When the Design-Builder's Work involves excavating or underground demolition activity, the Design-Builder is required to reach Louisiana One Call prior to starting any Work, by calling (225) 275-3700 or toll-free (800) 272-3020 or by facsimile (225) 272-1967 in order to comply with the Louisiana Underground Utilities and Facilities Damage Prevention Law.

**DB 105-5 COOPERATION BETWEEN THE DESIGN-BUILDER AND OTHER
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
CONTRACTORS**

The LA DOTD reserves the right to contract for and perform additional work on or near the Site covered by this Contract.

When separate contracts are let within, adjoining, or adjacent to the limits of this Project, the Design-Builder and each other contractor must conduct its work not to hinder the progress of work by other contractors and must cooperate with each other as directed.

The Design-Builder shall arrange the Work and shall place and dispose of Materials not to interfere with the operation of other LA DOTD contractors within, adjoining, or adjacent to the limits of the Project. The Design-Builder shall acceptably join the Work with that of other LA DOTD contractors and shall perform the Work in proper sequence to that of the others and without causing disruption or delay to the schedule of Project completion.

The Design-Builder shall assume all liability, financial or otherwise, in connection with the Contract and shall hold the LA DOTD harmless and indemnify the LA DOTD from all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Design-Builder or caused to other LA DOTD contractors due to the presence and operations of other contractors working within, adjoining, or adjacent to the limits of the Project.

DB 105-6 LOAD RESTRICTIONS

The Design-Builder, Subcontractors, or suppliers must observe legal load restrictions when hauling Equipment or Materials on public Roads beyond Project limits. A special permit does not decrease the Design-Builder's liability for damage.

Except for specified Equipment, the Design-Builder shall obtain the Department's Project Manager's written permission to exceed legal load limits within the Project limits. Operating Equipment or hauling

loads that may damage Structures, Roadway, utilities, and or any construction is prohibited unless protective measures are taken by the Design-Builder. *See* also Part 3 – Design Criteria and Performance Specifications, Appendix A – Performance Specifications, Utility Performance Specification.

DB 105-7 MAINTENANCE DURING CONSTRUCTION

The Design-Builder shall satisfactorily maintain the entire area within the ROW limits of the Project, from the effective date of the Notice to Proceed (NTP) until the date of Final Acceptance. Adjacent and parallel Roadways within the Project limits not affected by construction activities or diversion of traffic will not be the maintenance responsibility of the Design-Builder. This maintenance responsibility includes, but is not necessarily limited to, maintaining drainage (sediment from construction must be removed so as not to block drainage outside of the ROW), periodic mowing of roadside vegetation, and removing of debris to the satisfaction of the Department’s Project Manager, as well as such striping, patching, and shoulder maintenance which will provide safe and convenient conditions at all times for the public. The Design-Builder shall continuously and effectively satisfy its maintenance responsibilities with such Equipment and forces as may be necessary to maintain a safe and satisfactory condition for the duration of the Project. Further information is provided in Part 3 – Design Requirements and Performance Specifications, Appendix A – Performance Specifications, Maintenance during Construction Performance Specification.

DB 105-8 FAILURE TO MAINTAIN ROADWAY OR STRUCTURE

If the Design-Builder fails to comply with DB Section 105-7, the Department’s Project Manager will immediately notify the Design-Builder in writing of such noncompliance. If the Design-Builder fails to remedy the condition within 24 hours after receipt of the written notice, the Department’s Project Manager may immediately remedy the condition, and the cost thereof will be deducted from payments for the Work.

When the condition requires more immediate remedy due to hazard to life, health, and property, the Department’s Project Manager may immediately remedy the condition and the costs thereof will be deducted from payments for the Work.

DB 105-9 DESIGN-BUILDER’S RESPONSIBILITY FOR WORK

The Design-Builder is responsible for carrying out the provisions of the Contract at all times, regardless of whether an authorized LA DOTD designated representative is present or not. Any Work or item that is, at any time, found to be not in compliance with the Contract will remain the responsibility of the Design-Builder and will be subject to such corrective measures that are approved in writing by the Design-Builder’s Designer and accepted in writing by the Department’s Project Manager.

DB 105-10 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT CONSULTATION AND WRITTEN COMMENT, APPROVALS, AND NON-CONFORMANCE REPORTS

Except for items specifically designated for “Approval” or “approval” in the Contract Documents, the LA DOTD’s Consultation and Written Comment regarding reviews, observations, and/or inspections regarding design documents, Working Drawings, other required submittals, and construction means and

methods must be considered and addressed by the Design-Builder. While the Design-Builder is not required to revise its Work in response to such comments, the Design-Builder must provide a timely written response to the Department's Project Manager regarding its disposition of the LA DOTD's comments, as well as a mutually acceptable solution to any issues raised by the LA DOTD's Consultation and Written Comment. Any issues raised during Consultation and Written Comment by the LA DOTD, if not properly addressed by the Design-Builder, could affect the LA DOTD's Final Acceptance of the Project.

Deficiencies, non-compliance, errors, and/or omissions will be documented by the LA DOTD in written Non-Conformance Reports (NCRs). The Design-Builder shall respond to and address issues covered by NCRs and shall bring the Work into compliance with Contract requirements, at the sole determination of the LA DOTD.

Approvals will only be given by the LA DOTD for those submittals or Work specifically identified in the Contract Documents as for "Approval" or "approval."

Consultation and Written Comments or Approval by the LA DOTD of design documents, Working Plans, other required submittals, activities/actions, construction means and methods, and/or the Design-Builder's construction detail does not relieve the Design-Builder of the full responsibility for providing adequate Quality Control (QC) measures and does not relieve the Design-Builder of providing proper and sufficient Material, Equipment, and labor to complete the Work in accordance with the Contract and the Design-Builder's plans and specifications.

DB 105-11 MEETINGS

The Design-Builder shall participate in meetings as indicated in this Section 105-11. The party leading the meeting must record minutes of all meetings and distribute them within five Working Days of the meeting. Meeting minutes must clearly identify the following:

- A) Action items and issues;
- B) The party responsible for the action item;
- C) The status of issues; and
- D) Due dates for identified action items.

Action items and issues must be retained on the minutes until the required action is completed and/or the issue is resolved.

DB 105-11.1 Pre-Work Conference

The Design-Builder's Project Manager will consult with the Department's Project Manager and arrange and lead a pre-work conference within five Calendar Days after NTP.

The Design-Builder shall be represented by all appointed key personnel. See DB Section 108-3 regarding the Design-Builder's key personnel.

The meeting will take place at a location determined by the Design-Builder's Project Manager in the Project vicinity, in the sole determination of the Department's Project Manager.

The agenda of the meeting must include the following items:

- A) Planned activity for the first 60 Calendar Days after Notice to Proceed;
- B) Submission of the list of intended Subcontractors;
- C) Submission of the Plans required under the Contract; and
- D) Submission of the Price Center (PC) forms for all PCs above PC5.

The Department's Project Manager or the Design-Builder may add other items to this agenda.

DB 105-11.2 Proposal Concepts Evaluation Meetings

The Department's Project Manager may consult with the Design-Builder and arrange and lead a Proposal concept evaluation meeting within 30 Calendar Days of NTP to discuss the concepts and ideas contained in other Proposals that may be incorporated into the Contract.

If requested by the Department's Project Manager, the Design-Builder shall prepare an estimate of effects (time and cost) to incorporate concepts included in other Proposals into the Contract.

Attendance at the meetings and the preparation of the estimate of effects must be at no increase in the Lump Sum Contract Price to the LA DOTD.

DB 105-11.3 Design Mobilization Meeting

The Design-Builder's Project Manager will consult with the Department's Project Manager and will arrange and lead a design mobilization meeting at the Designer-Builder's Project office prior to the Design-Builder's initiating design Work.

The agenda must be developed in consultation between the Department's Project Manager and the Design-Builder and prepared by the Design-Builder and must include the following:

- A) The organization for design;
- B) A review of qualifications of design Quality Control staff;
- C) A design workshop agenda (*see* DB Section 111-16);
- D) The location of design personnel;
- E) The design schedule and time allocations for Design Reviews; and
- F) Design Quality Control.

DB 105-11.4 Site Mobilization Meeting

The Design-Builder's Project Manager will consult with the Department's Project Manager and arrange and lead a meeting at the Design-Builder's Project office prior to the Design-Builder's occupying any part of the site. The Design-Builder's key personnel who will be responsible for activities on the agenda must attend the meeting. *See* DB Section 108-3 for more information on the Design-Builder's key personnel.

The agenda must be developed in consultation between the Department's Project Manager and the Design-Builder and prepared by the Design-Builder and must include, but not be limited to, the following items:

- A) The use of premises by the Louisiana Department of Transportation and Development and the Design-Builder;

- B) Louisiana Department of Transportation and Development requirements;
- C) Temporary utilities and facilities;
- D) Security and “housekeeping”;
- E) A Right-of-Way and construction survey;
- F) A schedule for establishing Work areas, temporary facilities, and facilities and Equipment for LA DOTD staff;
- G) Temporary works; and
- H) Plans for early construction, if any.

DB 105-11.5 Progress Meetings

Progress meetings must be held at least weekly throughout the progress of the Project. The Design-Builder shall prepare the agenda in consultation with the Department’s Project Manager and distribute copies together with draft minutes of the previous meeting to all planned participants at least five Calendar Days prior to the meeting. The Design-Builder shall lead the meetings.

The Design-Builder’s key personnel must attend the progress meetings. *See* DB Section 108-3 for more information on the Design-Builder’s key personnel.

A typical agenda must include the following items:

- A) A confirmation of minutes of the previous meeting and matters arising at the previous meeting;
- B) A review of Work progress;
- C) Design problems and decisions;
- D) Field observations, problems, and decisions;
- E) Identification of issues affecting planned progress;
- F) Planned activities (design and construction) for the coming two week period;
- G) Maintenance of quality and Work standards;
- H) Safety;
- I) Environmental issues;
- J) Schedule updates (monthly);
- K) Maintenance of Traffic; and
- L) The status of Change Orders, if any.

DB 105-11.6 Special Meetings

The Department’s Project Manager may require special meetings at any time and that all or specified Design-Builder key personnel must attend. *See* DB Section 108-3 for more information on Design-Builder’s key personnel.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 106

CONTROL OF MATERIALS



DB SECTION 106

CONTROL OF MATERIAL

DB 106-1 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS

All Material used in the Work must meet the quality requirements described in the Contract, unless the same are altered by the Design-Builder's Proposal (*see* Part 6 – Design-Builder's Proposal). The Design-Builder shall, within 30 Calendar Days of Notice to Proceed (NTP), document, in writing, in the Quality Control (QC) documentation file, with a copy to the LA DOTD's designated representative, the sources of supply, types of all items, and kinds of Material that will be used in the Work. The documented sources of supply must be updated as the Design-Builder updates its sources of supply, and a copy of the updated documentation must be provided to the LA DOTD's designated representative.

All costs of exploring and developing sources must be borne by the Design-Builder. When the Design-Builder elects to develop new, noncommercial Material sources, the requirements for environmental acceptability apply, and the Design-Builder shall conduct, document in the QC documentation file, and submit to the LA DOTD's designated representative, all environmental resource studies and cultural resource studies. If the Design-Builder purchases Material, the requirements for environmental acceptability will not apply. However, if the Design-Builder negotiates with an owner of a commercial source to establish a Material source within the boundaries of an existing commercial source, and if the Design-Builder obtains the Material from the source with the Design-Builder's employees, then the environmental acceptability requirements identified for a noncommercial source apply. In addition, the LA DOTD may determine that certain commercial sources or specific areas within commercial sources known to have sensitive environmental, social, or cultural concerns may not, as a matter of public interest, be approved for use. This information, if available to the LA DOTD, will be stated in the Contract. If this information is not available until after the Proposal due date and the LA DOTD does not approve a commercial source or use of a specific area within a commercial source that was used by the Design-Builder to prepare its Proposal then the requirements of DB Section 104 apply. If the Design-Builder purchases Material from a Material source established for another project by another contractor working under contract to the LA DOTD, and if the Material source must be expanded beyond the area where environmental and cultural resource approvals have previously been obtained, then the requirements for environmental acceptability apply to the additional area.

The Design-Builder shall document in the QC documentation file that all sources meet Contract requirements regarding the following:

- A) Location;
- B) All lease agreements, purchase orders, or pit agreements made between parties involved with the pit owner or Supplier and the Design-Builder;
- C) Environmental acceptability. Environmental acceptability includes completing the environmental and cultural resource requirements of DB Section 107-12 and 107-26. The LA DOTD's designated representative will notify the Design-Builder when the requirements under DB Section 107-12 and/or 107-26 have been met. It may take up to 30 Calendar Days from the date copies of documentation are delivered to the LA DOTD's designated representative to obtain such notice. The requirements of DB Section 104-8.4 apply if the time needed to obtain regulatory approval exceeds statutory

- requirements;
- D) Plans for restoration after use of acceptable standards of contouring and revegetation; and
 - E) Laboratory testing.

DB 106-2 SAMPLES AND TESTS

All Material and products proposed to be used in construction must be inspected, sampled, and tested by the Design-Builder, as described in DB Section 112 and Appendices 112A and 112B and as indicated elsewhere in the Contract Documents. Whenever the Contract provides for “certification” or “approved list” as a basis of Final Acceptance, the LA DOTD reserves the right to conduct Quality Assurance (QA) sampling and/or testing of Material in any shipment prior to incorporation in the Work.

Test specimens must be removed from sampled items, prepared for testing, and shipped to the Design-Builder’s laboratory in accordance with the Design-Builder’s Quality Plan. The cost of all samples, and any other expenses incurred in making Material or products ready for inspection, sampling, and/or testing must be included in the Lump Sum Contract Price. Where testing methods are not described in the Contract, details of test methods may be obtained from the LA DOTD.

The expense of all Design-Builder performed reviews, inspections, sampling, and testing must be borne by the Design-Builder.

The expense of all LA DOTD QA reviews, inspection, sampling, and testing, including the shipment of samples by the most economical means, will be paid for by the LA DOTD unless specifically excluded elsewhere in the Contract Documents.

Material and products designated in the Design-Builder’s Quality Plan to require QC inspection, sampling, and/or testing at the site of manufacture, production, and/or fabrication will be subject to qualification of the plant and manufacturer or fabricator prior to the required QC inspection, sampling, and/or testing during manufacture, production, and/or fabrication. The Design-Builder shall be responsible for activities, including inspection and documentation, necessary for qualification. The Design-Builder shall allow sufficient time and notification to the LA DOTD in advance of beginning the Work in any mill, plant, shop, or other manufacturing location to allow time for scheduling the Design-Builder's QC and LA DOTD's QA activities of qualification inspection and subsequent inspection, sampling, and/or testing during the Work.

Material and products manufactured, produced, and/or fabricated outside of Louisiana must be made available within Louisiana in specifically defined lot quantities for the Design-Builder's QC and LA DOTD's QA, as required; inspection; sampling; and testing subsequent to manufacture, production, and/or fabrication. Such presentation within Louisiana will only be for Material and products whose conformance with the requirements of the Contract Documents may be determined, in the judgment of the Design-Builder, with concurrence of the LA DOTD’s designated representative, by visual inspection and tests of specimens.

Such Material or products must be inspected not less than 30 Calendar Days prior to their intended shipment to the Project. All communications with the Design-Builder and the LA DOTD, written or verbal, must be in English. The instructions for the use of all Material and products, as well as all identifying information required by the Contract (i.e., labels, tags, and certifications) must be in English. Mechanical property measurements, dimensions, and all other numerical data must be in English units of

feet, pounds, and seconds. All references to costs, charges, and prices must be in United States (US) dollars. No Material will be used until the Design-Builder has provided documentation to the QC documentation file that the Material meets Contract requirements and the LA DOTD's designated representative has conducted QA activities and such Material will be used only so long as the quality continues to meet Contract requirements. The LA DOTD's designated representative's initial QA findings regarding Material will in no way preclude further examination and testing of that Material at any time the LA DOTD's designated representative suspects that the Material is no longer properly represented by the initial sample. Quality Assurance activities by the LA DOTD's designated representative at any time regarding any Materials will not bar its future rejection if it is subsequently found to be defective in quality or uniformity.

The Design-Builder shall furnish the names of companies from which it purchases Material which is inspected at manufacturing plants with the item number, the contract number, and the destination for each shipment of Material so ordered. If any part of the Contract is sublet, the Subcontractor must also conform to the foregoing requirements.

Plant inspection methods and procedures for QC sampling, inspecting, and reporting must conform to that established by the LA DOTD in DB Section 112 and its Appendices 112A and 112B.

DB 106-3 CERTIFICATES

Certificates include Certificates of Analysis, Certificates of Compliance, and Certificates of Delivery. These certificates must be submitted to the QC file prior to use of Materials for which the certificates are required. The certificates must be signed by the Materials manufacturer, the manufacturer of assembled Materials, or the Materials supplier.

Materials used on the basis of these certificates may be sampled and tested at any time. The fact that Material is used on the basis of a certificate will not relieve the Design-Builder of the responsibility for incorporating Materials in the Work which conforms to the Contract requirements.

Distribution of certificates and requirements for further sampling and testing of certified materials must be as outlined in DB Section 112.

The LA DOTD reserves the right to refuse to permit the use of Materials on the basis of a certificate, or lack thereof.

DB 106-4 SUPPLIER PLANT INSPECTION

Under QC, the Design-Builder is responsible for inspection of Material at the source, which is included in the Design-Builder's Quality Plan. As part of the LA DOTD's QA responsibilities, the LA DOTD's designated representative will likewise undertake QA activities at the source. Quality Assurance activities that are undertaken by the LA DOTD at the source will meet the following conditions:

- A) The LA DOTD's designated representative must have the cooperation and assistance of the Design-Builder's QA/QC Manager and the producer with which the Design-Builder has contracted for Material;
- B) The LA DOTD's designated representative must have full entry at all reasonable times to such parts of the plant as may concern the manufacture or production of the Material

being furnished;

- C) When required by the LA DOTD's designated representative, the Design-Builder shall arrange for such facilities as are necessary to adequately inspect the production or fabrication of the Material; and
- D) Adequate safety measures must be provided and maintained.

As part of its QA responsibilities, the LA DOTD reserves the right to retest any Material before or during incorporation into the Work which had been tested and accepted by the Design-Builder at the source of supply, after the same has been delivered, and to provide Consultation and Written Comments and/or Non-Conformance Reports (NCR) on any Material that, when retested, does not meet the requirements of this Contract.

DB 106-5 FIELD LABORATORY

The Design-Builder shall furnish field laboratories and field offices in accordance with the Design-Builder's Quality Plan as approved by the LA DOTD.

DB 106-6 MATERIAL STORAGE AND PLANT SITE

Materials must be stored to assure preservation of their quality and fitness for the Work. Stored Materials, even though inspected prior to storage, may again be inspected prior to their use in the Work. Stored Materials must be located to facilitate their prompt inspection. Portions of the Right-of-Way (ROW) may be used for storage and for placing the Design-Builder's plant and Equipment. Additional space required must be provided at the Design-Builder's expense.

DB 106-7 HANDLING MATERIALS

Materials must be handled to preserve their quality and fitness for the Work. Materials must be transported from the storage site to the Work in tight vehicles constructed to prevent loss or segregation of Materials after loading.

DB 106-8 REJECTION

Material, which has either been rejected on the results of Design-Builder tests or as the result of an LA DOTD's QA, will not be re-sampled or retested unless otherwise agreed to by the LA DOTD. Rejected Material must be removed immediately from the site of the Work by the Design-Builder at its expense unless otherwise agreed to by the LA DOTD's designated representative. No rejected Material, the defects of which have been subsequently corrected, will be used until agreement to do so in writing by the LA DOTD has been received by the Design-Builder.

**DB 106-9 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
FURNISHED MATERIAL**

The Design-Builder shall furnish all Materials required to complete the Work, except those specified to be furnished by the LA DOTD.

Material furnished by the LA DOTD will be delivered or made available to the Design-Builder at the points specified.

The cost of handling and placing Materials after they are delivered to the Design-Builder will be considered as included in the Lump Sum Contract Price for the item in connection with which they are used.

The Design-Builder will be held responsible for Material delivered. Deductions will be made from payments for the Work to make good on any shortages and deficiencies, for any damage which occurs after such delivery, and for any demurrage charges.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. _____ **[Insert the state project number]** _____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

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DB SECTION 107

LEGAL RELATIONS AND

RESPONSIBILITY TO THE PUBLIC



DB SECTION 107

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

DB 107-1 LAWS TO BE OBSERVED

The Design-Builder shall keep informed of and comply with all federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority which affect those employed on the Work or which affect the conduct of the Work. The Design-Builder shall indemnify the state and its representatives against any claim or liability arising from violation of any such law, bylaw, ordinance, code, regulation, order, or decree, whether by the Design-Builder or the Design-Builder's employees, Subcontractors of any tier, or employees of Subcontractors of any tier.

Soil and soil moving Equipment operating in regulated areas will be subject to plant quarantine regulations. These regulations provide for cleaning soil from Equipment before it is moved from regulated areas to prevent spread of harmful agricultural pests from areas quarantined by the state or United States Department of Agriculture (USDA). Complete information may be obtained from the appropriate district office of the USDA Plant Protection Division.

When the Louisiana Department of Transportation and Development (LA DOTD) is the contracting agency, any litigation arising under or related to the Contract or the award thereof must be instituted in the 19th Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana.

DB 107-2 PERMITS AND LICENSES, TAXES, AND INSURANCE

DB 107-2.1 Permits and Licenses

The Design-Builder shall procure temporary permits and licenses for the Work; pay charges, fees, and taxes; and give notices necessary to due and lawful prosecution of the work.

DB 107-2.2 Insurance

The Design-Builder shall maintain, at a minimum, the following insurance coverages:

- A) Professional liability coverage with combined single limits of \$3 million per claim and \$6 million aggregate during the period starting on the date of Notice to Proceed (NTP) and ending on the Final Acceptance date. The policy must have a retroactive date no later than the date on which the Request for Proposals (RFP) was issued and must have a five year extended reporting period with respect to events which occurred but were not reported during the term of the policy. The policy must protect against any negligent act, error, or omission arising out of the professional services that includes coverage for acts by others for whom the Design-Builder is legally responsible. The policy must apply to the activities of all design, engineering, and construction management professionals assigned to the Project. The LA DOTD and the State of Louisiana must not be named insureds under the policy, but the policy must include an endorsement to provide them and their respective officers, directors, agents, and employees with vicarious liability coverage;

Louisiana Department of Transportation and Development

- B) Workers' compensation insurance in compliance with state law, with the exception that the Design-Builder's employer liability is to be at least \$1 million when Work is to be over water and involves maritime exposures. For the coverage provided in this DB Section 107-2.2 the Design-Builder's insurer will have no right of recovery or subrogation against the State of Louisiana or the LA DOTD;
- C) Commercial General Liability (CGL) insurance with a combined single limit per occurrence for bodily injury and property damage. The aggregate loss limit must be on a per project basis. This insurance must include coverage for bodily injury fire legal liability, premises-operation; broad form contractual liability; products and completed operation; use of contractors and subcontractors; personal injury; broad form property damage; and explosion, collapse, and underground (XCU) coverage. The required limits must be not less than \$2 million per occurrence, with annual aggregates of \$4 million. The policy must include products and completed operations extended coverage for a minimum of five years following Final Acceptance. If the Design-Builder's CGL insurance or other form with a general aggregate limit and products and completed operations aggregate limit is used, then the annual aggregate limits must apply separately to the Project, or the Design-Builder may obtain separate insurance to provide the required limit which must not be subject to depletion because of claims arising out of any other project or activity of the Design-Builder. Any such excess insurance must be at least as broad as the Design-Builder's primary insurance. The Design-Builder shall be the named insured and the LA DOTD, the State of Louisiana, and their respective officers, directors, agents, and employees must be additional insureds with respect to liability arising out of the acts or omissions of the Design-Builder, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible, whether occurring on or off the Site;
- D) Umbrella excess coverage for its excess coverage for CGL, with a required combined single limit amount of insurance of \$10 million. This limit of liability must apply "collectively" and not "separately" for the Design-Builder and Subcontractors on the Project;
- E) A separate Owner's Protective Liability (OPL) policy must be supplied by the Design-Builder naming the LA DOTD and the State of Louisiana as named insureds. The required combined single OPL limit amount must be \$10 million;
- F) Environmental liability insurance during the period starting on the date of issuance of the NTP to design the improvements and ending on the date of Final Acceptance, with a five year extended reporting period with respect to events which occurred but were not reported during the term of the policy. The policy must cover professional errors and omissions related to environmental remediation Work performed by, and environmental losses resulting from, the Design-Builder or its Subcontractors and any Persons for whom the Design-Builder is legally or contractually responsible. The required combined single environmental liability limit amount must be \$2 million. The Design-Builder shall be the named insured and the LA DOTD, the State of Louisiana, and their respective officers, directors, agents, and employees must be additional insureds with respect to liability arising out of the acts or omissions of the Design-Builder, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible, whether occurring on or off the Site;
- G) Business automobile liability insurance with a combined single limit per occurrence for bodily injury and property damage. This insurance must include bodily injury and

property damage coverage arising from the ownership, maintenance, or use of all owned/leased automobiles, hired automobiles, and non-owned automobiles used in the performance of the of the Work, including loading and unloading. The required combined single limit amount of insurance must be \$1 million. The Design-Builder shall be the named insured and the LA DOTD, the State of Louisiana, and their respective officers, directors, agents, and employees must be additional insureds with respect to liability arising out of the acts or omissions of the Design-Builder, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible, whether occurring on or off of the Site; and

- H) If this Project includes work within a railway ROW, Railroad Protective Liability Insurance must be purchased on behalf of the railway by the Design-Builder. The standards for Railroad Protective Liability Insurance must be in accordance with provisions of the Federal Aid Policy Guide (FAPG) Part 646 as amended. The limits of liability must be as follows: Combined Single Limit for Bodily Injury Liability, Property Damage Liability, and Physical Damage to Property: \$2 million per occurrence with an aggregate of \$6 million for the term of the policy. The Design-Builder shall furnish to the railway the Railroad Protective Liability Insurance Policy and certificates evidencing the CGL coverage required above. The Railroad Protective Liability Insurance Policy and insurance certificates must be approved by the railway before any Work may be started on the railway's property by the Design-Builder or its Subcontractors. In addition, the Design-Builder shall furnish evidence of commitment by the insurance company to notify the railway and the Department's Project Manager in writing of any material change, expiration, or cancellation of the policy not less than 30 Calendar Days before such change, expiration, or cancellation is effective. The insurance specified must be kept in force until Final Acceptance of the Contract.

The following must be included as provisions in each policy:

- 1) The insurance company(ies) issuing the policy(ies) must have no recourse against the State of Louisiana and the LA DOTD for payment of any premiums or for assessments under any form of the policy; and
- 2) Any and all deductibles and self-insured retentions in the above described insurance policy(ies) must be assumed by and be at the sole risk of the Design-Builder.

Insurance is to be placed with insurance companies authorized in the State of Louisiana with an A. M. Best's rating of A-: VI or higher. This rating requirement may be waived for Workers' Compensation coverage only.

Should any policies be canceled, the Design-Builder shall immediately notify the Louisiana Department of Transportation and Development.

Upon failure of the Design-Builder to furnish, deliver, and maintain such insurance as required or provide proof of insurance on a yearly basis or as requested by the LA DOTD, this Contract, at the election of the LA DOTD, may be immediately declared suspended, discontinued, or terminated or payment on Price Center (PC) 1 may be suspended until the Design-Builder provides evidence of compliance. Failure of the Design-Builder to maintain any required insurance will not relieve the Design-Builder from any liability under the Contract, nor will the insurance requirements be construed to conflict with the obligations of the Design-Builder concerning indemnification under this DB Section 107-2.2.

The Design-Builder is responsible for requiring and verifying that all Subcontractors working on the Project maintain appropriate types and levels of insurance coverage.

DB 107-2.2.1 Verification of Coverage

A) Policies

Concurrently with the Design-Builder's execution hereof, the Design-Builder shall deliver to the LA DOTD the following items:

- 1) A certificate of insurance with respect to each policy required to be provided by the Design-Builder under this DB Section 107-2.2; and
- 2) Copies of all endorsements to the policies that set forth the required additional insureds and other amendments to the policy forms.

The LA DOTD will have no duty to pay or perform under this Contract until such certificate(s) and endorsements, in compliance with all requirements of this DB Section 107-2.2, have been provided. Upon the LA DOTD's request, certified, true, and exact copies of each of the insurance policies (including renewal policies) required under this DB Section 107-2.2 must be provided to the LA DOTD.

B) Renewal Policies

The Design-Builder shall promptly deliver to the LA DOTD a certificate of insurance and copies of all endorsements with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified herein. Such certificate must be delivered not less than 45 Calendar Days prior to the expiration date of any policy and must bear a notation evidencing payment of the premium therefor. If requested by the LA DOTD from time to time, certified duplicate copies of the renewal policy must also be provided.

DB 107-2.2.2 Endorsements and Waivers

All insurance policies required to be provided by the Design-Builder hereunder must contain or be endorsed to comply with the following provisions, provided that, for the Workers' Compensation policy, only the following clauses (D) and (F) are applicable:

- A) For claims covered by the insurance specified herein, said insurance coverage must be primary insurance with respect to the insureds, additional insureds, and their respective members, directors, officers, employees, agents, and consultants and must specify that coverage continues notwithstanding the fact that the Design-Builder has left the Site. Any insurance or self-insurance beyond that specified in this Contract that is maintained by an insured or additional insured must be in excess of such insurance and will not contribute with it;
- B) Any failure on the part of a named insured to comply with reporting provisions or other conditions of the policies, any breach of warranty, any action or inaction of a named insured or others, any foreclosure relating to the Project, or any change in ownership of all or any portion of the Project must not affect coverage provided to the other insureds or additional insureds (and their respective members, directors, officers, employees, agents, and consultants);

- C) The insurance must apply separately to each insured and additional insured against whom a claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability;
- D) Each policy must be endorsed to state that coverage will not be suspended, voided, canceled, modified, or reduced in coverage or in limits except after 30 Calendar Days' prior written notice by certified mail, return receipt requested, has been given to the LA DOTD. Such endorsement must not include any limitation of liability of the insurer for failure to provide such notice;
- E) All endorsements adding additional insureds to required policies must be on a form providing additional insureds with coverage for "completed operations";
- F) Each policy must provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of professional liability policies);
- G) The CGL insurance policy must be endorsed to state that coverage for Subcontractor employees will not be excluded; and
- H) The automobile liability insurance policy must be endorsed to include Motor Carrier Act Endorsement-Hazardous materials clean up (MCS-90).

DB 107-2.2.3 Waivers of Subrogation

The LA DOTD and Design-Builder waive all rights against each other and their respective members, directors, officers, employees, agents, and consultants for any claims, but only to the extent covered by insurance obtained pursuant to this DB Section 107-2.2, except such rights as they may have to the proceeds of such insurance and provided further that the Design-Builder shall not be entitled to additional compensation or time extension under this Contract to the extent compensated by any insurance specified herein. The Design-Builder shall require all Subcontractors to provide similar waivers in writing each in favor of all other parties enumerated above. Each policy, including Workers' Compensation, must include a waiver of any right of subrogation against the additional insureds (and their respective members, directors, officers, employees, agents, and consultants).

DB 107-2.2.4 Commercial Unavailability of Required Coverages

If, through no fault of the Design-Builder, any of the coverages required in this DB Section 107-2.2 (or any of the required terms of such coverages, including policy limits) become unavailable or are available only with commercially unreasonable premiums, the LA DOTD will work with the Design-Builder to find commercially reasonable alternatives to the required coverages that are acceptable to the LA DOTD. The Design-Builder shall not be entitled to any increase in the Lump Sum Contract Price for increased costs resulting from the unavailability of coverage and the requirement to provide acceptable alternatives. The LA DOTD will be entitled to a reduction in the Lump Sum Contract Price if it agrees to accept alternative policies providing less than equivalent coverage, based on other evidence of insurance premiums as of the Proposal due date. The LA DOTD's right to a reduction in the Lump Sum Contract Price as set forth in the preceding sentence will be without regard to the insurance costs expended by the Design-Builder for the less than equivalent coverage or on other insurance required under this DB Section 107-2.2.

DB 107-2.2.5 Prosecution of Claims

Unless otherwise directed by the LA DOTD in writing, the Design-Builder shall be responsible for reporting and processing all potential claims by the LA DOTD or Design-Builder against the insurance required to be provided under this DB Section 107-2.2. The Design-Builder agrees to report timely to the insurer(s) any and all matters which may give rise to an insurance claim and to promptly and diligently pursue any and all insurance claims on behalf of the LA DOTD, whether for defense or indemnity or both. The LA DOTD agrees to promptly notify the Design-Builder of the LA DOTD's incidents, potential claims, and matters which may give rise to an insurance claim by the LA DOTD, to tender its defense or the claim to the Design-Builder, and to cooperate with the Design-Builder as necessary for the Design-Builder to fulfill its duties hereunder.

DB 107-2.2.6 Louisiana Department of Transportation and Development's Right to Remedy Breach by the Design-Builder

If the Design-Builder or any Subcontractor fails to provide insurance as required herein, the LA DOTD will have the right, but not the obligation, to purchase such insurance or to suspend the Design-Builder's right to proceed until proper evidence of insurance is provided. Any amounts paid by the LA DOTD will, at the LA DOTD's sole option, be deducted from amounts payable to the Design-Builder or reimbursed by the Design-Builder upon demand, with interest thereon from the date of payment by the LA DOTD to the reimbursement date, at the maximum rate allowable under applicable law. Nothing herein will preclude the LA DOTD from exercising its rights and remedies under DB Section 108-8 as a result of the failure of the Design-Builder or any Subcontractor to satisfy the obligations of this DB Section 107-2.2.

DB 107-2.2.7 Disclaimer

The Design-Builder and each Subcontractor has the responsibility to make sure that their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage which they deem advisable, whether or not specified herein.

DB 107-3 PATENTED DEVICES, MATERIALS, AND PROCESSES

If the Design-Builder uses any design, device, Material, or process covered by patent or copyright, the Design-Builder shall be responsible for such use. The Design-Builder and Surety must indemnify the state and any affected third party or political subdivision from claims for infringement due to the use of any such patented design, device, Material, or process or any trademark or copyright and must indemnify the state for any costs, expenses, and damages due to any infringement during prosecution or after completion of the Work.

If the Design-Builder submits proposed plans, specifications, manufacturer's data, or any other information or documents to the LA DOTD for any purpose which may be protected by copyright or trade secret protection, the Design-Builder shall first obtain permission or license from the licensor or any other party having a proprietary interest in such documents or information and shall hold harmless, indemnify, and defend the LA DOTD at the Design-Builder's sole cost from any damages, expenses, or actions arising out of or related to use by the LA DOTD of information or documents supplied by the Design-Builder to the LA DOTD.

DB 107-4 RESTORATION OF SURFACES OPENED BY PERMIT

The right to construct or reconstruct any utility services in the Highway or to grant permits for same, at any time, is reserved by the LA DOTD for proper authorities of the municipality in which the Work is done and the Design-Builder shall not be entitled to damages either for digging up of the Highway or delays occasioned thereby.

When an individual, corporation, or any other legal entity is authorized through an executed permit from the LA DOTD, the Design-Builder shall allow parties bearing such permits to make openings in the Highway. The Design-Builder shall, when ordered, make all necessary repairs due to such openings. Payment for such work will be made as Extra Work or as provided in this Contract and will be subject to the same conditions as original Work performed.

DB 107-5 SANITARY CODE AND SAFETY PLAN

The Design-Builder shall not require any worker to Work under conditions which are unsanitary, hazardous, or dangerous to health or safety. The Design-Builder shall maintain the Work in a sanitary, safe, and non-hazardous condition.

The Design-Builder shall provide and maintain in a neat, sanitary condition, restrooms and other such accommodations for use of employees and LA DOTD personnel. Such facilities must comply with requirements of the state and local Boards of Health or other bodies or tribunals having jurisdiction.

DB 107-5.1 Design-Builder's Safety Obligations

The Design-Builder shall perform all actions necessary for safety and be solely and completely responsible for conditions on the site, including safety of all persons and property on the site during the Contract. This requirement applies continuously for the duration of the Contract and will not be limited to normal business hours or other time constraints or be reduced or diminished in any way because the Design-Builder is not given sole possession of the site. The Design-Builder is fully responsible for the safety of workers engaged upon the Project and all other persons working at or visiting the site and the protection of the public in the vicinity.

DB 107-5.2 Design-Builder's Safety Plan

The Design-Builder shall submit a written Project-specific Safety Plan which documents the Design-Builder's safety policy and which identifies and addresses specific health and safety concerns to be encountered on the Project to the LA DOTD for review and Approval. Before the Work begins, and periodically throughout the Project, the Design-Builder's Project supervision staff must meet with the Department's Project Manager to review and discuss the status of safety issues on the Project. An appropriate notice must be posted at the job site that the Project's Safety Plan is available for examination by any worker employed on the Project.

The Design-Builder shall implement, review, and update the Safety Plan and introduce a program for assuring that the Safety Plan is followed at all times. The Design-Builder shall coordinate with all authorities and relevant entities as necessary to ensure compliance with the Safety Plan.

The Department's Project Manager or designated representative will monitor and audit the Design-Builder's safety performance.

The Design-Builder's Safety Plan must provide for the following:

- A) Planning, management, and design to avoid hazards;
- B) Detection of potential hazards;
- C) Timely correction of hazards;
- D) Dedication to the protection of the public and the workers;
- E) Active participation of all persons involved with the Contract;
- F) Dedicated safety staff;
- G) Liaison with the Louisiana Department of Transportation and Development's safety monitoring staff; and
- H) Safety training and safety meetings.

The Design-Builder shall ensure that all its employees and those of the Subcontractors of any tier (including labor-only) are under an obligation at all times to fully conform to the provisions of the Safety Plan. In the event that the Design-Builder's employees or its Subcontractors fail to conform to the provisions of the Safety Plan, the Design-Builder shall take appropriate disciplinary measures. Such measures will include suspension, removal of offending employees from the site, and dismissal. The obligations and requirements of this DB Section 107-5.2 must be included in the terms and conditions of employment of all employees of the Design-Builder and all Subcontractors of any tier, including labor-only Subcontractors.

DB 107-5.3 Content of the Safety Plan

The Safety Plan must be comprehensive and include all required actions, activities, rules, and mitigation relative to the safety of the Work. It must include the following items:

- A) A policy statement indicating the Design-Builder's commitment to safety, goals stated as maximum lost hours, and no loss of life goals;
- B) Identification of LA DOTD and Design-Builder safety officers, including responsibility definitions, an organization chart, reporting procedures, safety inspection procedures, and audit programs;
- C) References to all applicable governmental rules;
- D) An education and training plan for required training for all workers, including a separate program and Hazardous Materials communications plan for workers involved with hazardous and contaminated substances remediation, required toolbox meetings, and required posting of information;
- E) Procedures to address Project health and safety concerns, including housekeeping, Material handling and storage, personal protective equipment, wall and floor openings, scaffolds, ladders, welding, flame cutting, electrical Equipment, lock-out or tag-out, motor vehicles, heavy Equipment, small tools, concrete forms, steel erection, cranes and hoisting, Work platforms, fire prevention and protection, sanitation, confined space entry, blasting and explosives, and other items;
- F) Industrial hygiene, including respiratory protection, noise, Hazardous Materials, and lists of hazardous chemicals present;

- G) Fire protection and prevention;
- H) Emergency and rescue procedures, including detailed procedures for all types of emergencies, such as, medical, fire, chemical spill, property damage, bomb threat, severe weather, flooding, explosion, and earthquakes;
- I) Incident investigation, reporting, and record keeping;
- J) Policy for substance abuse;
- K) Security provisions;
- L) Safety requirements and procedures for surveyors and engineering personnel conducting site investigations and verification sampling and testing; and
- M) Procedures for compelling worker compliance with health and safety requirements.

The Safety Plan must contain a list of the detailed safety procedures to be followed. Safety procedures must be prepared separately for individual activities and these detailed procedures must be appendices to the Safety Plan.

Certain of these items may be submitted in the format of the Design-Builder's health and safety program, with the Project's Safety Plan limited to Project-specific issues.

The Design-Builder shall be responsible for ensuring that each Subcontractor employed on the Project complies with this requirement. The Design-Builder shall provide to the LA DOTD a Project Safety Plan covering all Work to be done by a specific Subcontractor prior to that Subcontractor starting Work. As an alternative, the Design-Builder may provide a certification that all activities performed by, and workers employed by, Subcontractors will be subject to the Design-Builder's Project Safety Plan. Submission of the required Project Safety Plan by the Design-Builder and its acceptance by the LA DOTD will not be construed to imply approval of any particular method or sequence for addressing health and safety concerns or to relieve the Design-Builder from the responsibility to adequately protect the health and safety of all workers involved in the Project as well as any members of the public who are affected by the Project.

DB 107-5.4 Submittal of the Safety Plan

Prior to the start of any field Work or construction, the Design-Builder shall submit its Safety Plan to the Department's Project Manager for written Approval. Upon receipt of Approval, the Design-Builder shall issue the complete Safety Plan, which will be based on the Design-Builder's Safety Plan along with the incorporated comments of the Department's Project Manager and any other required updating. The Safety Plan will be a controlled document to be issued by the Design-Builder to, at least, the following persons:

- A) The Department's Project Manager;
- B) The Louisiana Department of Transportation and Development's designated representative(s);
- C) The Louisiana Department of Transportation and Development's safety monitoring coordinator;
- D) The Design-Builder's Project Manager;
- E) The Design-Builder's safety manager; and

- F) Subcontractors of any tier, including labor-only Subcontractors.

Other controlled copies will be distributed as determined by the Design-Builder and the Department's Project Manager. Uncontrolled copies will be issued as considered necessary by the Design-Builder.

The Design-Builder shall maintain a traceable record of the issuance of the controlled copies including numbering and acknowledgement of receipt. Revisions of the Safety Plan must be issued to all recipients of the controlled copies and managed in the same way as the controlled copies.

DB 107-5.5 Revisions to the Safety Plan and Procedures

The Department's Project Manager may require a revision to the Safety Plan or any safety procedure in order to ensure compliance with the Contract. The Design-Builder shall, following discussion with the Department's Project Manager, issue such revision within 30 Calendar Days of receipt of the instruction. A revision must include additions, omissions, or revisions, as applicable.

The Design-Builder shall review the Safety Plan and any safety procedure in order to revise it in accordance with activities and experiences on the site. Such revision, from time to time, will enhance the standards of safety being implemented on the site. At the very least, procedures must be reviewed and new procedures issued whenever the character or extent of any activity is changed or a new activity of a different nature is introduced which necessitates such revision.

In addition to such revision, the Design-Builder shall make a formal review of the Safety Plan once every 12 months on or near the anniversary of NTP. Such formal review must consider all matters pertaining to safety planning and implementation, including, accident reports, inspections, audits, suggestions from meetings, and other sources, such as, the Department's Project Manager and hazard analysis reviews. Within seven Calendar Days of finishing this review, the Design-Builder shall issue a review report to the Department's Project Manager, giving the conclusions of the review and identifying the revisions to be made to the Safety Plan.

Within 30 Calendar Days of the issue of the review report, the Design-Builder shall issue a revised Safety Plan for review and written Approval by the Department's Project Manager.

DB 107-5.6 The Design-Builder's Safety Organization

The Design-Builder shall designate a member of its board of directors, if it is a corporation or a Joint Venture (JV), or a principal of its organization who will be responsible and directly accountable to the LA DOTD in all matters concerning safety. The Design-Builder shall also require the Design-Builder's Project Manager to be responsible and directly accountable to this designated safety board member or principal in all matters concerning construction safety.

The Design-Builder shall appoint, within 30 Calendar Days of NTP, a safety manager whose Project duties will be solely connected with the safety aspects of the Project and who will report directly to the designated safety board member or principal. Such an appointment will be subject to written acceptance by the Department's Project Manager. The safety manager must be suitably qualified and experienced. The safety manager will implement, maintain, and monitor compliance with the Safety Plan and all safety procedures, and be based full-time at the site.

The Design-Builder shall provide and maintain an organizational structure that will ensure the effective control of the Project's safety assurance tasks by the Design-Builder's safety staff. Such staff must be

engaged solely in safety assurance. Responsibilities and task subdivision must be clearly identified in the Safety Plan, and must show direct lines of communication and reporting between the Design-Builder's safety manager and the designated safety board member or principal and between the Design-Builder's safety manager and the Design-Builder's Project Manager.

The Design-Builder shall not remove the appointed safety manager without the prior written consent of the Department's Project Manager. The Design-Builder shall nominate any replacement at the same time consent is sought.

If the safety manager is removed, a suitably qualified and immediately available replacement must be proposed to the Department's Project Manager for Approval within 14 Calendar Days of receipt of the notice requiring the removal.

The Design-Builder shall provide adequate numbers of supporting staff for the safety manager, in the sole determination of the LA DOTD, including a deputy to act in his/her absence.

The Design-Builder shall not commence any Work on the site until the safety manager has been appointed and accepted by the Department's Project Manager and has commenced duties on the site.

The Design-Builder shall ensure that all Subcontractors of any tier whatsoever, including labor-only Subcontractors, will provide adequate safety staff, as solely determined by the LA DOTD.

Each Subcontractor of every tier, including labor-only Subcontractors, must have a safety supervisor who has appropriate experience and training, as determined by the LA DOTD. Each Subcontractor safety supervisor must be responsible for implementing and maintaining its respective safety plan. Subcontractor safety supervisors must devote a substantial amount of their time to such duties. All Subcontractor safety plans must at all times conform to the Design-Builder's Safety Plan.

Breaches of the Design-Builder's Safety Plan or other conduct prejudicial to safety may be cause for the Department's Project Manager to require the removal of any employee, including the Design-Builder's Project Manager or safety manager, from the site.

The Design-Builder shall give authority to the safety manager and safety staff to issue stop orders that instruct employees of the Design-Builder and its Subcontractors of any tier, including labor-only Subcontractors, to cease operations and take urgent and appropriate action to make the site safe and prevent unsafe working practices or other infringements of the Safety Plan or breach of any governmental rules.

The Design-Builder shall require its safety manager to verify by inspection that the requirements of this DB Section 107-5 and the Design-Builder's Safety Plan and safety procedures are being strictly complied with. In the event of any non-compliance, the safety manager will forthwith issue an instruction to stop Work until the non-compliance is rectified. If the Design-Builder considers the non-compliance to be of a minor nature implementation may be delayed 24 hours, with the LA DOTD's consent. If the Department's Project Manager states that such delay is acceptable, the Design-Builder may suspend implementing the instruction for 24 hours and resume working. During the 24-hour period, the Design-Builder must rectify the non-compliance.

No Work will be performed on site unless the Design-Builder's safety manager or designated deputy is on site. Work must not be performed at the site unless the specified safety supervisors are on the site.

The Design-Builder shall make provisions for local emergency service to respond to any emergencies or problems at the Project site and shall provide adequate emergency medical care to personnel working on the site. The Design-Builder shall also have personnel trained in First Aid and CPR at the Project site at all times that Work is on-going.

DB 107-5.7 Safety Considerations in Design

The Design-Builder shall identify and analyze the hazards and risks associated with the Work, including during construction and its ultimate use, and shall design the Work so as to eliminate, mitigate, or control such hazards.

DB 107-6 SITE SECURITY

DB 107-6.1 Requirements

The Design-Builder shall be responsible for the security of the site and the Work, including the facilities provided by the Design-Builder for the LA DOTD, from the date the Project is released to the Design-Builder until Final Acceptance. This includes the protection of offices, workshops, Equipment, Material, and the Work from damage by vandalism, flood, storm, fire, and theft.

The site must be adequately protected at all times to prevent unauthorized access onto the site, particularly to areas of high safety risk. This protection must include security fencing at areas of high safety risk to the public as well as areas with high risk of vandalism and other areas where necessary for the Design-Builder to fulfill obligations under the Contract. All necessary access for the public through the site must be adequately protected.

The Design-Builder shall provide adequate lighting and guarding at main security areas, such as, offices, facilities for the LA DOTD provided by the Design-Builder, Work areas, and storage yards.

The Design-Builder shall establish and maintain a system and people to control and guide visitors to and around the site.

DB 107-6.2 Site Security Plan

The Design-Builder shall prepare and submit to the Department's Project Manager, for written Approval, a Site Security Plan within 60 Calendar Days of NTP, describing the Design-Builder's procedures for securing the site. The Site Security Plan must include the security requirements described in DB Section 107-6.1. If the Department's Project Manager objects to the Site Security Plan, it must be amended so as to resolve all objections. The Design-Builder shall review and update the Site Security Plan on a regular basis, and provide copies of any changes to the Department's Project Manager.

DB 107-6.3 Reports

The Design-Builder shall submit a security report, reporting any security-related incident, with the monthly progress report.

DB 107-7 PUBLIC CONVENIENCE AND SAFETY

The Design-Builder shall conduct the Work to assure the least possible obstruction to traffic. The Project site and haul routes must be kept reasonably free from dust and in such condition that the public can travel in safety.

When the Highway under construction is to be kept open for traffic, the subgrade and surfacing will be kept reasonably free from dust and in such condition that the public can travel in safety. Safety and convenience of the general public and the residents along the Work, and protection of persons and property, must be a primary responsibility of the Design-Builder.

When the Design-Builder works at night, adequate artificial lighting, signs, flaggers, or other traffic controls must be provided to protect workers, the Work, and the traveling public. If the Department's Project Manager finds that the night work is so hazardous as to preclude the beginning or require the discontinuing of such Work, the Design-Builder shall immediately cease all such operations.

DB 107-8 NAVIGABLE WATERS AND WETLANDS

All Work in, over, or adjacent to navigable waters or wetlands must be conducted in accordance with rules and regulations of the United States (US) Army Corps of Engineers and US Coast Guard.

Navigable clearances on waterways must not be infringed upon, and existing navigable depths must not be impaired except as allowed by permits issued by the responsible agency.

The LA DOTD will obtain a permit from the US Coast Guard and US Army Corps of Engineers relative to approval of construction plans for bridges, causeways, embankments, dredging, and spoil disposal for Work in navigable waters or wetlands. The Design-Builder will be furnished a copy of the permit and must comply with all provisions and conditions of the permit. When required by permit, upon completion and before Final Acceptance of the Project, the Design-Builder shall furnish the Department's Project Manager 8 by 10 inch color photographs of any Bridges from abutment to abutment, two photographs looking upstream and two looking downstream. The prints must be glossy finish, mounted on linen. These photographs will be furnished at no direct pay.

The Design-Builder shall prepare reproducible drawings complying with the standards of the US Coast Guard and the US Army Corps of Engineers showing falsework construction, test piles or other temporary pile driving operations, erection sequence, temporary navigational lighting, location of Equipment and barges in the navigable limits, and other drawings required by the permit agencies. Drawing sizes must be 8 by 10 1/2 inches with a one inch border on the top or short side. The drawings must be submitted to the Department's Project Manager for transmittal to the appropriate agency. Construction of falsework, test pile operations and erection, or operation of construction Equipment within the navigable limits must not commence until drawings are approved.

The Design-Builder shall display lights on Equipment operating, berthed, or moored in navigable streams, and provide temporary navigational lighting on temporary and permanent construction in the navigable limits as required by the US Coast Guard.

Should the Design-Builder sink, lose, or throw overboard any Material, machinery, or Equipment which may be dangerous to navigation, the Material, machinery, or Equipment must be immediately removed or

recovered. The Design-Builder shall give immediate notice of such obstruction to proper authorities and, if required, shall mark or buoy such obstruction until it is removed.

The Design-Builder shall not deposit excavated material into the water way or wetland without a permit from the appropriate agency.

All operations in connection with the Work must be in accordance with permits, rules, and regulations of the US Army Corps of Engineers and the US Coast Guard. Deviations therefrom will be only by special permission or special permit which will be the responsibility of the Design-Builder. Failure of the Design-Builder to become familiar with the terms, conditions, and provisions of the permits, rules, and regulations applicable to the Work will not relieve the Design-Builder of responsibility under this Contract.

The Design-Builder shall conduct operations to cause minimum interference with marine operations. If such interference is necessary, the Design-Builder shall notify the Department's Project Manager, in writing, sufficiently in advance so that the LA DOTD may obtain approval from the US Coast Guard at least three weeks prior to said interference.

Copies of Louisiana Department of Transportation and Development-obtained permits are available from the Department's Project Manager.

Copies of any special permits obtained by the Design-Builder must be submitted immediately to the Department's Project Manager.

DB 107-9 BARRICADES AND WARNING SIGNS

The Design-Builder shall provide, erect, and maintain necessary barricades, suitable lights, danger signals, signs, and other traffic control devices, including flaggers, and shall take all necessary precautions for protection of the Work and safety of the public. Highways closed to traffic must be protected by effective barricades. Suitable warning signs must be provided to direct traffic.

The Design-Builder shall erect and maintain warning signs in advance of any place on the Project where operations may interfere with traffic and at intermediate points where new Work crosses or coincides with an existing Road.

Barricades, warning signs, lights, temporary signals, and other protective devices must conform to the details shown on the plans and the Manual of Uniform Traffic Control Devices (MUTCD).

DB 107-10 USE OF EXPLOSIVES

Explosives must not be used without written approval. When explosives are used, the Design-Builder shall not endanger life or property. The use of explosives must be in compliance with all laws and ordinances. The Design-Builder shall be responsible for all damage resulting from the use of explosives.

Explosives must be securely stored, in compliance with all laws and ordinances. Such storage places must be clearly marked. When no local laws or ordinances apply, satisfactory storage must be provided no closer than 1,000 feet (304.8 meters) from any Road, building, or place of human occupancy.

The Design-Builder shall notify, in writing, each utility company, railroad, and affected property owner having facilities in proximity to the site of Work of the intention to use explosives. Such notices must be given sufficiently in advance to enable them to protect their property from damage.

DB 107-11 PRESERVATION OF PUBLIC AND PRIVATE PROPERTY

The Design-Builder shall be responsible for preservation of public and private property and shall protect from disturbance and damage all land monuments, property line markers, or horizontal and vertical control monuments, such as, those established by the US Coast and Geodetic Survey, National Geodetic Survey, Louisiana Geodetic Survey, LA DOTD, US Army Corps of Engineers, or US Geological Survey.

Before removing and/or resetting any survey monuments, the Design-Builder shall give sufficient written advance notice to the Department's Project Manager for coordination with the appropriate agency. The Design-Builder shall not disturb or move any such monument without written approval. The Design-Builder shall give immediate written notice to the Department's Project Manager of damage to survey monuments. The Department's Project Manager will designate the location and manner in which monuments are to be reset in accordance with current LA DOTD procedures.

The Design-Builder shall be responsible for damage to property during the Work due to any negligent act, omission, or misconduct in executing the Work, or due to defective Work or Materials. This responsibility will not end until Final Acceptance. However, Final Acceptance does not relieve the Design-Builder's obligations regarding damage to property pursuant to any guaranty or warranty under the terms of the Contract.

When damage is done to public or private property by the Design-Builder due to any negligent act, omission, or misconduct in execution of the Work, or in consequence of non-execution thereof by the Design-Builder, such property must be restored at the Design-Builder's expense to a condition similar or equal to that existing before such damage was done by repairing, rebuilding, or otherwise acceptably restoring as directed or making good such damage in an acceptable manner.

DB 107-12 ENVIRONMENTAL PROTECTION

The Design-Builder shall comply with federal, state, and local laws and regulations controlling pollution of the environment, including, air, water, and noise. The Design-Builder shall take precautions to prevent pollution of waters and wetlands with fuels, oils, asphalts, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

Construction operations in rivers, streams, lakes, tidal waters, reservoirs, canals, and other impoundments will be restricted to areas where it is necessary to perform filling or excavation to accomplish the Work and areas which must be entered to construct temporary or permanent Structures. As soon as conditions permit, streams and impoundments must be cleared of obstructions placed therein or caused by construction operations.

Frequent fording of streams with construction Equipment will not be permitted.

No residue from dust collectors or washers will be dumped into a stream.

Attention is further directed to the federal, state, and local air pollution control programs and their rules and regulations regarding air pollution, especially open burning, fugitive dust, and asphaltic concrete plant restrictions.

The Design-Builder shall maintain and operate Equipment to minimize noise and vibration. Engines must be equipped with properly functioning mufflers. The Design-Builder shall assure the activities near noise and vibration sensitive areas, such as, churches, hospitals, and schools, are not unduly disruptive.

DB 107-13 SOIL EROSION

The Design-Builder shall schedule and conduct its Work to minimize soil erosion and to minimize silting and muddying of streams, rivers, irrigation systems, impoundments (lakes and reservoirs), and lands adjacent to or affected by the Work. Construction of drainage facilities and performance of other Work which will contribute to the control of erosion and sedimentation must be carried out in conjunction with earthwork operations or as soon thereafter as practicable. The area of bare soil exposed at any one time by construction operations must be kept to a minimum. Prior to the start of the applicable construction, the Design-Builder shall submit to the Department's Project Manager for acceptance schedules for accomplishment of temporary and permanent erosion control Work as are applicable for clearing and grubbing, grading, Bridges, and other Structures at watercourses, construction, and paving. In addition, the Design-Builder shall also submit for acceptance at the same time its proposed method of erosion control on haul roads and borrow pits and its plan for disposal of surplus excavated Material. No Work will be started until the erosion control schedules and methods of operation have been accepted by the Department's Project Manager. If conditions change during construction, the Design-Builder may be required to submit a revised schedule for acceptance as directed by the Department's Project Manager. Whenever the Design-Builder's operations, carried out in accordance with the accepted erosion control schedule, result in a situation where appropriate temporary erosion control measures are not shown on the Design Plans the Design-Builder shall conduct the Work in accordance with Section 204 of the LA DOTD Standard Specifications. In carrying out the control measures under this Section 107-13, the Design-Builder shall be guided by, but not limited to, the following controls:

- A) When borrow Material is obtained from other than commercially operated sources, erosion of the borrow site must be so controlled both during and after completion of the Work that erosion will be minimized and minimal sediment will enter waterways, impoundments, or adjacent properties. Waste or spoil areas and construction roads must be located, constructed, and maintained in a manner that will minimize sediment entering waterways and impoundments. The Design-Builder shall submit grading plans for all borrow pits or areas or spoil or waste areas to the Department's Project Manager for acceptance prior to the start of Work on, or the use of, such areas. The grading plans must indicate the sequence of operations, temporary slopes, and other factors which may have an influence on erosion control;
- B) When Work areas or gravel pits are located in or adjacent to live waterways and impoundments, such areas must be separated from the rest of the waterway or impoundment by a dike or other barrier to minimize sediment entering a flowing waterway or impoundment. Care must be taken during the construction and removal of such barriers to minimize the muddying of a waterway or impoundment; and
- C) Water from aggregate washing or other operations containing sediment must be treated by filtration, settling basin, or other means sufficient to reduce the turbidity so as not to cause a substantial visible contrast to natural conditions.

No payment will be made for any labor, Material, or Equipment needed for soil erosion abatement as described above.

When it becomes necessary, the Department's Project Manager will inform the Design-Builder of unsatisfactory construction procedures and operations insofar as erosion control is concerned. If the unsatisfactory construction procedures and operations are not corrected promptly, the Department's Project Manager may suspend the performance of any or all of other construction until the unsatisfactory condition has been corrected, with all costs of such action(s) to be borne by the Design-Builder.

DB 107-14 AIR NAVIGATION

The Design-Builder shall obtain a permit (or a determination of no hazard to air navigation) from the Federal Aviation Administration (FAA) for all permanent Structures and temporary Structures (such as, equipment, falsework, or construction cranes).

The Design-Builder shall complete a separate FAA Notice of Proposed Construction or Alteration for both the permanent Structure and any temporary Structures. The Design-Builder shall receive any appropriate approvals or clearances from the FAA pursuant to the Notice of Proposed Construction or Alteration prior to commencing with any construction on the Project in accordance with the notice. The FAA Notice of Proposed Construction or Alteration may be applied for electronically at the FAA's Web site, <http://oeaaa.faa.gov>, and using the E-filing area.

The Notice of Proposed Construction or Alteration must be submitted for review and approval to the FAA, with a copy to the Department's Project Manager. Construction and operations in connection with the Work for protection of aerial navigation must be in accordance with the approved permit or Notice of Proposed Construction or Alteration and applicable federal regulations. Failure of the Design-Builder to be familiar with applicable rules and regulations of the FAA will not relieve the Design-Builder of responsibility under this Contract.

DB 107-15 DAMAGE CLAIMS

The Design-Builder shall indemnify the LA DOTD and its officers and employees from all suits, actions, or claims brought because of injuries or damage sustained by any person or property due to operations of the Design-Builder or its Subcontractors, vendors, or suppliers; due to negligence in safeguarding the Work; due to use of unacceptable Materials in constructing the Work; due to any negligent act, omission, or misconduct of the Design-Builder or its Subcontractors, vendors, or suppliers; or because of claims or amounts recovered from infringements of patent, trademark, or copyright by the Design-Builder or its Subcontractors, vendors, or suppliers or from claims or amounts arising or recovered under the Workers' Compensation Act or other law, ordinance, order, or decree. Any money due the Design-Builder as considered necessary by the LA DOTD for such purpose may be retained for use of the state or, in case no money is due, the Surety bond may be held until such suits, actions, or claims for injuries or damages have been settled and suitable evidence to that effect furnished to the LA DOTD, except that money due the Design-Builder will not be withheld when the Design-Builder produces satisfactory evidence that adequate Workers' Compensation, Public Liability, and Property Damage Insurance are in effect.

DB 107-16 OPENING SECTIONS TO TRAFFIC

Opening of sections of the Work to traffic prior to completion of the entire Contract may be desirable from a traffic service standpoint, or may be necessary due to conditions inherent in the Work or by changes in the Design-Builder's Work schedule, or may be required due to conditions or events unforeseen at the time of the Contract. Such openings must be made when directed and will not constitute acceptance of the Work nor a part thereof or a waiver of any provisions of the Contract.

The Contract will specify, insofar as possible, which sections will be opened prior to completion of the Contract. On any section opened by order of the Department's Project Manager, when not specified, the Design-Builder shall not assume any expense entailed in maintaining the Road for traffic. Such expense will be borne by the LA DOTD or compensated in accordance with DB Section 109-8. On portions of the Project which are ordered to be opened for traffic, in the case of unforeseen necessity not the fault of the Design-Builder, compensation for additional expense to the Design-Builder and allowance of additional time for completion of other Work on the opened portions of the Project will be as set forth in a Change Order mutually agreed on by the Department's Project Manager and the Design-Builder.

When the Design-Builder's progress is undesirably slow in completing shoulders, drainage Structures, or other features of the Work, the Department's Project Manager may notify the Design-Builder in writing and establish therein a reasonable period of time in which the Work is to be completed. If the Design-Builder fails to make a reasonable effort toward completion in this time period, the Department's Project Manager may order all or a Section of the Project opened to traffic. On such Sections ordered to be opened, the Design-Builder shall conduct the remainder of construction operations to cause the least obstruction to traffic and shall not receive any added compensation due to the added cost of the Work by reason of opening such Section to traffic.

On any Section opened to traffic under the foregoing conditions, whether specified in the Contract or opened by necessity of the Design-Builder's operations or unforeseen necessity, any damage to the Highway not attributable to traffic which occurs on such Section (except slides) will be repaired by the Design-Builder at no direct pay. Removal of slides must be done by the Design-Builder on a basis agreed to prior to removal of such slide.

DB 107-17 HAZARDOUS MATERIAL REPORTING AND CLEAN-UP OF SPILLS

The Design-Builder shall be responsible for reporting and cleaning up spills associated with construction of the Project, and shall report and respond to spills of Hazardous Materials such as gasoline, diesel fuel, motor oils, solvents, chemicals, toxic and corrosive substances, and other Material that are a threat to public health or the environment. The Design-Builder shall be responsible for reporting past spills encountered during construction and current spills not associated with construction. Reports must be made immediately to the Department's Project Manager if on state ROW or to the property owner if outside of state ROW. Unreported spills identified after construction and associated with construction of the Project will be cleaned up by the Design-Builder. Failure to report or respond to a spill will result in the Design-Builder bearing the full cost of remediation of clean-up of such unreported spills.

The LA DOTD will be responsible for any delay costs and expenses due to it or the Design-Builder making a new discovery of Hazardous Materials that are not identified in the Contract Documents. The Design-Builder is responsible for all costs and expenses, including delay costs and expenses, for all Hazardous Material spills that are identified in the Contract Documents or that are caused by the Design-Builder or any of its Subcontractors or the Design-Builder's or Subcontractor's employees or agents.

DB 107-18 DESIGN-BUILDER'S RESPONSIBILITY FOR THE WORK

Until Final Acceptance, the Design-Builder shall have the charge and care of the Work and shall take every precaution against damage to any part thereof by action of the elements, vandalism, or theft or from other cause, whether arising from execution or non execution of the Work. The Design-Builder shall rebuild, repair, restore, or pay for damages, including theft and vandalism, to the Work before Final Acceptance and shall bear the expense thereof, except for guard rail and permanent impact attenuators must be repaired as soon as possible after damage. If the Department's Project Manager determines that the Design-Builder's operation did not contribute to the damages, the LA DOTD will reimburse the Design-Builder for such repairs by force account in accordance with DB Section 109-8.1.2.

In case of suspension of Work, the Design-Builder shall be responsible for the Project. The Design-Builder shall take such precautions as necessary to prevent damage to the Project, maintain traffic, provide for normal drainage, and erect any necessary temporary Structures, signs, or other facilities at no direct pay. During such period of suspension, the Design-Builder shall acceptably maintain all living Material in newly established plantings, seedings, and soddings furnished under the Contract and shall take adequate precautions to protect new tree growth and other important vegetative growth against damage. Should suspension of the Work not be attributed to any actions of the Design-Builder, the Design-Builder shall be reimbursed for additional Work in accordance with DB Section 109-8.

DB 107-19 UTILITY PROPERTY AND SERVICES

The Design-Builder's operations adjacent to properties of railway and utility companies or adjacent to other property, damage to which might result in considerable expense, loss, or inconvenience, must not commence until after all arrangements necessary for the protection thereof have been made.

In the event of interruption of utility services due to accidental breakage or being exposed or unsupported, the Design-Builder shall promptly notify the proper authority and shall cooperate with such authority in restoration of service. If utility service is interrupted, continuous cooperation will be required until service is restored. No Work will be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

DB 107-20 ACQUISITION AND CONVEYANCE OF REAL PROPERTY

The LA DOTD has identified property to be used for the Project, the boundaries of which are depicted in the Contract Documents.

Any additional ROW required due to design changes originated by the Design-Builder and deemed necessary by the LA DOTD will be acquired by the LA DOTD. Additional ROW acquisitions may cause Project delays. The LA DOTD will only be responsible for time and cost impacts associated with acquisition of additional ROW in the case of a Necessary Basic Project Configuration Change (*see* DB Section 104-8.2.2). If additional ROW is required for the Design-Builder's convenience or if additional ROW is needed for a reason other than a Necessary Basic Project Configuration Change, the LA DOTD will conduct the acquisition of the ROW, but the Design-Builder will be responsible for all costs and delays associated with the additional ROW and its acquisition.

The Design-Builder shall cooperate with the LA DOTD in the completion of Project design and identification of final ROW requirements and construction impacts. It is expected that the Design-Builder

will identify any additional ROW needs no later than the Definitive Design Review for any affected Project component.

The Design-Builder shall coordinate with the LA DOTD regarding any design features that may impact properties, even though no property acquisition is contemplated. The intent is to avoid damages to properties not previously identified and addressed.

DB 107-20.1 Coordination

The Design-Builder shall not enter onto parcels until the Louisiana Department of Transportation and Development has obtained the legal right to do so.

DB 107-20.2 Change in Project Design

If the Design-Builder identifies additional parcels to be acquired and/or modifications to the ROW limits (fee takings, easements, or other property rights), the Design-Builder shall prepare and submit to the LA DOTD new or revised surveys, legal descriptions, ROW maps, and justification of the need for additional ROW. The LA DOTD will review the request, determine whether the proposed acquisition is appropriate and necessary, and notify the Design-Builder regarding the minimum time required to complete the acquisition. If the Design-Builder and LA DOTD agree to the additional acquisition, the Design-Builder shall prepare any additional documents necessary for the LA DOTD to proceed with the acquisition.

If the LA DOTD determines that the acquisition is appropriate and required for the Project, the LA DOTD will acquire the ROW in accordance with LA DOTD procedures and The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, subject to the conditions specified in this DB Section 107-20.2 regarding allocation of time and cost responsibilities.

DB 107-20.3 Temporary Construction Easements

The Design-Builder shall be responsible to identify, prepare, and submit to the LA DOTD new or revised surveys, legal descriptions, ROW maps, and justification of the need for the acquisition of all temporary construction easements not previously obtained by the LA DOTD at no change in Contract Time or Lump Sum Contract Price. The LA DOTD will acquire the temporary construction easements on behalf of the Design-Builder.

DB 107-21 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out the provisions of this Contract or in exercising any authority granted to them by the Contract, there will be no liability upon the Secretary, Chief Engineer, Department's Project Manager, or their authorized representatives, either personally or as officials of the state, it being understood that in such matters they act solely as representatives of the state.

DB 107-22 NO WAIVER OF LEGAL RIGHTS

Upon completion of the Work, the LA DOTD will make final inspection and then notify the Design-Builder of Final Acceptance within 30 Calendar Days. Such Final Acceptance will not prevent the LA DOTD from correcting any measurement, estimate, or certificate made before or after completion of the Work, nor will the LA DOTD be prevented from recovering from the Design-Builder, its Surety, or both

such overpayment as it may sustain by failure of the Design-Builder to fulfill obligations under the Contract. A waiver by the LA DOTD of any breach of any part of the Contract will not be a waiver of any other breach.

The Design-Builder, without prejudice to the terms of the Contract, shall be liable to the LA DOTD for latent defects, fraud, or such mistakes as may amount to fraud, or as regards the LA DOTD's rights under any warranty or guaranty.

DB 107-23 THIRD PARTY LIABILITY

It is agreed between the parties executing the Contract that it is not intended by any provisions of the Contract to create the public nor any member thereof as a third-party beneficiary hereunder, nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the Contract.

DB 107-24 ANTI-TRUST VIOLATIONS

By execution of the Contract, the Design-Builder conveys to the LA DOTD all rights, title, and interest in and to all causes of action it may acquire under federal and state anti-trust laws relating to the goods or services purchased by the LA DOTD pursuant to the Contract.

DB 107-25 THE DESIGN-BUILDER'S RESPONSIBILITY FOR THE TRAVELING PUBLIC

The Design-Builder shall conduct Work within the construction zone so that there will be minimal hazard to anyone transiting the Work Site on the open lanes of travel. To keep hazards to a minimum, the Design-Builder shall, as far as practical, keep Equipment, Material, and workers from intruding into the travel lanes; remove any hazardous construction debris deposited on those lanes on a continuous and regular basis; inspect and repair the travel lanes; and remove obstacles deposited by the public as they transit the Work site.

Notification that a hazard to the public exists may be received through the Design-Builder's inspections, from the LA DOTD's employees, or the public. In any case, corrective action must be taken to remedy the hazard within a reasonable time after notification is received. The Design-Builder shall have a contact number answerable on a 24 hour basis so that action can be initiated quickly when hazards are identified.

All claims from the public for losses that are alleged to have occurred within the construction zone will be handled by the Design-Builder, even though a Subcontractor may have introduced the hazard that caused the damage. The Design-Builder shall designate, before the Work commences, the individuals who will be responsible for response to third party claims. The individuals will provide claimants with a written outline of the Design-Builder's claims procedure, along with a written copy of the Design-Builder's name, address, and telephone number and the name and title of the Design-Builder's individual assigned to damage claim response. The Design-Builder shall maintain a status report of all claims filed and the status of such claims. This report must contain, at a minimum, the name, address, and telephone number of the claimant; the nature of the claim; pertinent findings regarding the claim; and a statement regarding the resolution of the claim. This report must be available to the Department's Project Manager upon request.

The Design-Builder shall establish a local contact number for the purpose of filing claims and post that telephone number conspicuously so that claimants can contact the right person quickly. In addition, the Design-Builder's name, address, and telephone number must be posted at each approach to the construction zone. All construction vehicles (whether Design-Builder, Subcontractor, or privately owned) working at the construction zone must have clean and unobstructed license plates and be marked legibly with the appropriate company name.

DB 107-26 ARCHEOLOGICAL AND HISTORICAL FINDINGS

If the Design-Builder encounters cultural artifacts or archaeological or historical sites, operations must be discontinued. The Department's Project Manager will contact the proper authorities in order that an appropriate assessment may be made to determine the disposition thereof and necessary actions relative to the site. When directed, the Design-Builder shall excavate the site to preserve the artifacts encountered. Such excavation will be paid for as Extra Work, including an appropriate adjustment in Contract Time. Borrow and muck disposal areas furnished by the Design-Builder will be subject to such assessment prior to use.

DB 107-27 RAILWAY PROVISIONS

All Work to be performed by the Design-Builder in construction on railway ROW shall be in accordance with the provisions of this DB Section 107-27.

The Design-Builder shall indemnify the railway and its officers and employees from all suits, actions, or claims brought because of injuries or damages sustained by any person or property due to operations of the Design-Builder; due to negligence in safeguarding the Work; due to use of unacceptable Materials in constructing the Work; due to any negligent act, omission, or misconduct of the Design-Builder; or due to claims or amounts recovered from infringements of patent, trademark, or copyright.

Upon completion of the work, the Design-Builder shall, within ten Calendar Days, remove from within the limits of the railway's ROW all machinery, Equipment, surplus Materials, falsework, rubbish, or temporary buildings of the Design-Builder, and restore the railway's premises substantially to their former condition satisfactory to the railway's representative. Should the Design-Builder fail to make such removal and restoration within ten Calendar Days, the railway shall have the right to make such removal or restoration. The expense incurred will be chargeable to the Project on the railway's force account statement and the LA DOTD will reimburse the railway for such work. The amount will be deducted from payments due the Design-Builder.

All costs incurred under this DB Section 107-27 and any other provisions of the Contract Documents must be included in the Lump Sum Contract Price.

Prior to Final Acceptance of the Project, the Design-Builder shall secure a Certificate of Release from the railroad company and furnish same to the LA DOTD stating that the Design-Builder has satisfactorily restored the railway's premises and has completed payments for all railway services performed for the Design-Builder's account, and that the railway waives all claims for damages due to the Design-Builder's operations within railway ROW under the Contract. If the Design-Builder is unable to secure a Certificate of Release from the railway, the Design-Builder shall submit an executed Contractor's Affidavit to the Department's Project Manager.

DB 107-28 DISPUTES RESOLUTION

DB 107-28.1 Scope of the Procedure

The following dispute resolution procedure covers all disputes between the LA DOTD and the Design-Builder arising from this Contract. This procedure is non-binding. Compliance with this procedure is a condition precedent to any litigation in East Baton Rouge Parish and Louisiana. All communications, testimony, and documents prepared for use in this procedure by either party from the time of filing the claim until the conclusion of the procedure shall be deemed to be settlement negotiations and not admissible in any subsequent litigation. The result of the dispute resolution process shall not be admissible in any subsequent litigation, except to enforce the terms of settlement.

DB 107-28.2 Continuation of Performance

At all times during the pendency of a dispute under this procedure, the Design-Builder shall continue Work pursuant to the terms of this Contract and the LA DOTD shall continue to pay the Design-Builder. After resolution, the Design-Builder shall pay any amounts due after conclusion of the dispute resolution procedure.

DB 107-28.3 Informal Mediation by the Louisiana Department of Transportation and Development Chief Engineer

If a dispute arises between the LA DOTD and Design-Builder regarding this Contract, the party seeking to invoke this dispute resolution procedure shall submit an outline statement of its position regarding the dispute to the LA DOTD's Chief Engineer and the other party. Within 15 Working Days after the submission of the dispute to the LA DOTD's Chief Engineer, the parties shall meet with the LA DOTD's Chief Engineer to attempt to resolve the dispute through the informal mediation process. If within 20 Working Days after the submission to the LA DOTD's Chief Engineer the parties cannot resolve the dispute, the dispute shall be submitted to the process established in DB Section 107-28.4 and the dispute shall be resolved in accordance with that process.

[On a project-by-project bases, determine whether a Dispute Resolution Board or a formal mediation will be the dispute process utilized. Then, include the appropriate DB Section 107-28.4 for the dispute process chosen. Always include DB Section 107-28.5.]

DB 107-28.4 Dispute Resolution Board

A) Members and Term of Service

A Dispute Resolution Board shall be established to hear disputes between the LA DOTD and the Design-Builder. The Dispute Resolution Board shall be established within 90 Calendar Days of the effective date of this Contract by the appointment by the Design-Builder and LA DOTD of their respective designated members. The Dispute Resolution Board shall consist of one member selected by the LA DOTD, one member selected by the Design-Builder, and a third member selected by the first two members. The third member shall be the Chairperson of the Dispute Resolution Board. The qualifications for the members of the Dispute Resolution Board are as follows:

- 1) All Dispute Resolution Board members shall have substantial experience in highway or bridge design and construction. The experience may be technical,

administrative, or legal. The goal is to have a Dispute Resolution Board with the technical and administrative skills and experience that will promote confidence in its decisions; and

- 2) The Chairperson of the Dispute Resolution Board shall not be employed currently and shall not have been employed within the last three years with the LA DOTD, the Design-Builder, or any member of the Design-Builder's team.

If the two members selected by the LA DOTD and the Design-Builder cannot agree on a third member within 30 Calendar Days of their selection, then both members shall withdraw from the Dispute Resolution Board and new members shall be appointed.

The Dispute Resolution Board shall serve for the duration of performance under this Contract. Each party may elect to replace its board member at any time with a showing of reasonable justification. The Chairperson of the Dispute Resolution Board may be replaced at any time with the consent of both parties. If any Dispute Resolution Board member resigns or is replaced, the new member shall be selected in the same manner in which the original appointment had been made.

B) Hearing Procedure

The party seeking to invoke this dispute resolution procedure shall forward to each member of the Dispute Resolution Board a copy of its claim and all of its supporting documents and shall provide three copies of these materials to the other party. Appropriate notification of Professional Liability Insurance providers will be made at this time. The responding party shall provide its response and all supporting documentation within 20 Working Days of the receipt of the claim. The claimant shall then reply within five Working Days to the response.

The Dispute Resolution Board shall set a hearing on the matter within 30 Calendar Days of the claimant's reply to the response. The Dispute Resolution Board Chairperson shall direct all meetings and hearings. Presentation of evidence shall be in a manner as directed or permitted by the Dispute Resolution Board in its discretion. The Dispute Resolution Board shall not be bound by judicial rules of evidence. Documents and testimony shall be presented in the order, manner, and degree of detail that the Dispute Resolution Board deems most efficient and probative. Each party shall be allowed to make a brief initial presentation and to rebut any factual assertion by the other party; however, the Dispute Resolution Board shall determine when enough evidence has been presented and it may limit the presentation of any documentation or testimony that it deems not relevant or redundant. At the Dispute Resolution Board's option, testimony may be required to be given under oath and the oath shall be administered by the Chairperson.

Either party may have legal counsel and insurer representation present at the hearing. Legal counsel may not examine or cross-examine witnesses, object to questions or statements during meetings, or make legal motions or arguments during meetings or hearings.

The Dispute Resolution Board shall have full authority to establish guidelines and procedures for the investigation of a claim. The entire process is intended to be flexible and the Dispute Resolution Board is encouraged to adapt the process to individual circumstances presented by particular disputes.

After the conclusion of the hearing, the Dispute Resolution Board shall issue its written decision within 30 Calendar Days. The written decision shall set forth the reasons for the Dispute Resolution Board's decision.

C) Confidentiality

The LA DOTD and Design-Builder recognize that Dispute Resolution Board proceedings are settlement negotiations, and that all offers, promises, conduct, and statements, whether written or verbal, made in the course of the proceedings, are inadmissible in any arbitration or court proceeding, to the extent allowed by Louisiana state law. The LA DOTD and Design-Builder agree to not subpoena or otherwise require the Dispute Resolution Board members to testify or produce records, notes, or work product in any future proceedings, and no recording or stenographic record will be made of the Dispute Resolution Board session. Evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the Dispute Resolution Board session. In the event the parties do reach a settlement agreement, the terms of that settlement will be admissible in any court or arbitration proceeding required to enforce it, unless the parties agree otherwise. Information disclosed to the Dispute Resolution Board members in a private caucus shall remain confidential unless the party authorizes disclosure.

D) Costs

Dispute Resolution Board members shall be paid a reasonable hourly rate for their services subject to civil service regulations, if applicable. Each party shall negotiate the fee arrangements with the member it selects, however, the other party must agree on the rate. Both parties shall agree on the fee arrangement for the Chairperson.

Dispute Resolution Board members shall be reimbursed for out-of-pocket expenses including, but not limited to, travel, copying, telephone, clerical services, and mailings. The Dispute Resolution Board members shall be allowed a reasonable per diem for meals and actual lodging costs provided they stay in hotels. Dispute Resolution Board members must provide documentation for all expenses.

The parties shall share all Dispute Resolution Board members' fees and expenses equally.

DB 107-28.4 Formal Mediation

The LA DOTD and Design-Builder agree that if the informal mediation process described in DB Section 107-28.3 fails, then the parties will submit to at least four hours of formal mediation, as described below, conducted by United States Arbitration & Mediation (USA&M) or its affiliated offices.

A) Mediator

The mediator will be a USA&M mediator located in an office to be agreed upon by the LA DOTD and the Design-Builder. The LA DOTD and Design-Builder recognize that at the formal mediation and at every other point in the proceedings, neither USA&M nor the mediator will be acting as a legal advisor representative for any or all parties.

B) Formal Mediation Procedure

The formal mediation will involve the LA DOTD and Design-Builder meeting with a mediator in an attempt to reach a voluntary settlement for any dispute that rises to the level of formal mediation. Formal mediation involves no court procedures or rules of evidence, and the mediator will not render a binding decision or force an agreement on the LA DOTD and Design-Builder. The LA DOTD and Design-Builder shall consult with legal counsel before signing documents which result from the formal mediation.

C) Confidentiality

The LA DOTD and Design-Builder recognize that formal mediation proceedings are settlement negotiations, and that all offers, promises, conduct, and statements, whether written or verbal, made in the course of the proceedings, are inadmissible in any arbitration or court proceeding, to the extent allowed by Louisiana state law. The LA DOTD and Design-Builder agree to not subpoena or otherwise require the mediator or USA&M employees to testify or produce records, notes, or work product in any future proceedings, and no recording or stenographic record will be made of the formal mediation session. Evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the formal mediation session. In the event the parties do reach a settlement agreement, the terms of that settlement will be admissible in any court or arbitration proceeding required to enforce it, unless the parties agree otherwise. Information disclosed to the mediator in a private caucus shall remain confidential unless the party authorizes disclosure.

D) Costs

The LA DOTD and Design-Builder will share equally in the costs of the formal mediation.

DB 107-28.5 Judicial Authority

The process contained in this DB Section 107-28 must be exhausted prior to an appeal to any judicial authority.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 108

PROSECUTION AND PROGRESS



DB SECTION 108

PROSECUTION AND PROGRESS

DB 108-1 SUBCONTRACTING OR ASSIGNING THE CONTRACT

At the pre-work conference, the Design-Builder shall submit a list of intended Subcontractors and Material suppliers for Approval. In addition, the Design-Builder shall update the list of Subcontractors and Material suppliers as the Work progresses so that the LA DOTD will have, at all times, a current and accurate list of Subcontractors along with the Work that they perform and Material suppliers along with the Material that they supply. The required forms for the submission of Subcontractor information will be supplied by the LA DOTD.

All subcontracts must be in writing and must contain all applicable provisions of the Contract Documents and all federal and state laws and regulations. All Subcontractors performing Work on the Project must be appropriately licensed with the Louisiana State Licensing Board for Contractors and/or the Louisiana Professional Engineering and Land Surveying Board (LAPELS), as appropriate.

The Design-Builder shall allow the LA DOTD access to all subcontracts at all tiers and records regarding the subcontracts and shall provide copies of said subcontracts to the LA DOTD within ten Working Days of the LA DOTD's request for a subcontract. No Subcontractor will Work on this Project while on the LA DOTD's disqualified contractors' list.

The intent of this DB Section 108-1 will not be circumvented by the Design-Builder by placing a Subcontractor's employees directly on the Design-Builder's payroll. If a person or group of people generally operated as an independent contractor, the LA DOTD will treat them as independent contractors for purposes of this DB Section 108-1.

The Design-Builder's and its Surety's liability under this Contract and the bonds will not be waived or in any way diminished by subcontracting or other assignment of interest under the Contract.

DB 108-2 START AND PROGRESS OF WORK

DB 108-2.1 Baseline Progress Schedule

The Design-Builder shall prepare and submit to the Department's Project Manager for Approval a Baseline Progress Schedule as per Appendix 108B – Baseline Progress Schedule. The Baseline Progress Schedule must show the order in which the Design-Builder proposes to carry on the Work, the date on which it will start the major items of Work (including, but not limited to, excavation, drainage, paving, structures, mobilization, soil erosion, and sediment control) and the critical features (including, procurement of Materials, plant, and Equipment) and the contemplated dates for completing the same. The schedule must be in a suitable scale to indicate graphically the total percentage of Work scheduled to be completed at any time. The LA DOTD requires that the Baseline Progress Schedule, at a minimum, include the following items:

- A) Major work items and activities to be performed;
- B) Seasonal weather limitations;

Louisiana Department of Transportation and Development

- C) A time and money curve; and
- D) Phase duration or Progress Check Point events, if applicable.

The Baseline Progress Schedule and all subsequent monthly updates must be certified by the Design-Builder's Quality Control (QC) Manager and signed and sealed by a Louisiana-licensed Professional Engineer. The certification must state the following:

“The Baseline Progress Schedule hereby submitted correctly represents the Design-Builder's planned and actual progress as of the date of the schedule and contains none of the following:

- 1) Excessive leads or lags;
- 2) Assigned constraints, except those specified in the Contract Documents;
- 3) Multiple calendars; or
- 4) Retained logic.”

The purpose of this scheduling requirement is to ensure adequate planning and execution of the Work and to evaluate the progress of the Work. Approval by the LA DOTD regarding the Baseline Progress Schedule will not be construed to imply approval of any particular method or sequence of construction or to relieve the Design-Builder of providing sufficient Material, Equipment, and labor to guarantee completion of the Project in accordance with the Contract Documents. The updated Baseline Progress Schedule may be utilized to facilitate the LA DOTD's Quality Assurance (QA) activities. Approval regarding the Baseline Progress Schedule will not be construed to modify or amend the Contract or the date of completion therein.

At the end of each payment estimate period, or at such additional intervals as directed by the Department's Project Manager, the Design-Builder shall do the following:

- a) Adjust the schedule to reflect any changes in the Contract Work, Contract Time, or both;
- b) Enter on the time-price curve the cumulative total percentage of Work actually in place; and
- c) Submit three copies of the adjusted schedule to the Department's Project Manager for Approval.

If, in the opinion of the Department's Project Manager, the specified Work falls behind the Baseline Progress Schedule, the Design-Builder shall take such actions as are necessary to improve its progress. If the Design-Builder is behind schedule any month, it must indicate what measures it will take in the next 30 Calendar Days to put the Work back on schedule so as to meet the Contract's completion date. The Design-Builder shall not be entitled to any additional compensation unless provided for in other provisions of the Contract on account of the requirement to put the Work back on schedule. In preparing the revised Baseline Progress Schedule, the Design-Builder shall consider increasing its Work force, construction plant and Equipment, or number of Work shifts. If the Department's Project Manager does not Approve the proposed Baseline Progress Schedule revision, he will require the Design-Builder to submit a new revision.

The Baseline Progress Schedule and updates must be submitted by the Design-Builder as a part of the weekly progress meetings and will be reviewed by the LA DOTD for Approval at least monthly.

The Design-Builder shall employ and supply a sufficient force of workers, Materials, and Equipment and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the Baseline Progress Schedule to prevent Work stoppage and ensure completion of the Project within the Contract Time. Any additional or unanticipated costs or expense required to maintain the schedule will be solely the Design-Builder's obligation and must not be charged to the LA DOTD unless provided for in other provisions of the Contract.

The Design-Builder shall also furnish weekly Work schedules indicating the number of personnel, kind of Equipment, and location and nature of the Work to be performed.

DB 108-2.2 Failure to Submit Baseline Progress Schedule or Update

If the Design-Builder fails to submit a Baseline Progress Schedule or any revision or update when required, the Department's Project Manager will suspend payment for Price Center 1 (PC1) per DB Section 109-4.2.

DB 108-2.3 Monthly Progress Reports

The Design-Builder shall submit a monthly progress report with each payment request, consisting of the following:

- A) A progress narrative;
- B) Quality certifications;
- C) A safety report, using Form SAF (DB Section 107-5 and Appendix 108A);
- D) A security report (DB Section 107-6.3);
- E) A monthly Baseline Progress Schedule update for Approval by the Department's Project Manager (DB Section 108-2.1 and Appendix 108B);
- F) A Change Order status report;
- G) A monthly subcontract report;
- H) Quantity calculations (DB Sections 109-2.6 and 109-5.2);
- I) An updated Contract Submittals List (CSL);
- J) A summary of hazardous and contaminated substance activities;
- K) Project photographs; and
- L) A statement of Materials and labor used.

DB 108-2.3.1 Progress Narrative

The Design-Builder shall prepare and submit a monthly progress narrative. The progress narrative must summarize the following information:

- A) Activity and progress for the Contract, including design and construction and identification of the start and completion dates of Work on any Price Centers (PC);
- B) Achievement of any Progress Check Points;
- C) Quality Control efforts, including results of any Design Reviews and/or quality audits;

- D) Problems/issues that arose during the period and remaining problems/issues to be resolved;
- E) Resolution of problems/issues raised in previous progress reports or resolved during the period;
- F) Critical schedule issues and proposed resolutions, proposal of actions planned to correct any negative float or other schedule slippage, and explanation of potential delays and/or problems and their estimated impact on performance and the completion of the Work; and
- G) Issues which may need the Department's Project Manager's attention or action for the next month, including Design Reviews.

DB 108-2.3.2 Quality Certifications

The Design-Builder shall submit monthly a certificate signed by the Design QC Manager and the Construction QC Manager certifying the following for the previous month:

- A) That all Work, including that of the Designer and all other designers, Subcontractors at all tiers, suppliers, and fabricators has been checked and/or inspected by the Design-Builder's QC staff and that all Work, except as specifically noted in the certification, conforms to the requirements of the Contract; and
- B) That the Design-Builder's Quality Plan and all measures and procedures provided therein are functioning properly and are being followed, except as specifically noted in the certification.

DB 108-2.3.3 Change Order Status Report

The Design-Builder shall provide a report of outstanding Change Order requests containing the following:

- A) The Design-Builder's and Louisiana Department of Transportation and Development's Change Order identification numbers and/or coding;
- B) The issue title;
- C) A brief description of the change;
- D) Any outstanding issues to be resolved;
- E) The estimated cost and time implications; and
- F) The projected resolution date.

DB 108-2.3.4 Subcontract Report

As part of the monthly progress report, the Design-Builder shall submit a subcontract report providing the LA DOTD with an updated list of Subcontractors (design and construction, at all tiers, including labor only). The location where the Subcontractors worked must be shown.

The Design-Builder shall also report the results of all procurements completed in the previous month, including those procured competitively and by other means. The Design-Builder shall indicate the type of Work or product procured and size of the procurement (in dollars), the names of firms competing for the subcontract, and the name of the successful Subcontractor.

The report must indicate the total number of Subcontractors and the total dollar value of all subcontracts awarded to date.

The report must indicate, for each subcontract, the following:

- A) The original subcontract amount;
- B) The value of any modifications to date; and
- C) Payments made to date.

DB 108-2.3.5 Contract Submittals List

Within 30 Calendar Days of Notice to Proceed (NTP), the Design-Builder shall prepare and submit to the Department's Project Manager a Contract Submittals List (CSL) covering all submittals required during the first six months of the Contract. Thereafter, the Design-Builder shall submit monthly updates to the CSL with the Monthly Progress Report (DB Section 108-2.3(I)). The updated CSL must show the record of submittals made to date and show the submittals due over the next three month period.

DB 108-3 KEY PERSONNEL

The Design-Builder's key personnel are as follows:

- A) Principal-in-Charge;
- B) Project Manager;
- C) Design Manager;
- D) Construction Manager; and
- E) All positions listed in Appendix 108C – Key Personnel Qualifications and Requirements. The Design-Builder shall provide personnel that meet the minimum requirements specified in Appendix 108C – Key Personnel Qualifications and Requirements, for the positions listed therein.

The Design-Builder's Project Manager must be the Design-Builder's representative and single point of contact.

The Department's Project Manager may designate other positions as key personnel, however, the key personnel specifically identified in this DB Section 108-3 and in Appendix 108C – Key Personnel Qualifications and Requirements must continue for the duration of the Project, unless specifically agreed to by the Department's Project Manager.

Key personnel must be located in the Project vicinity for the duration of the Contract, unless specifically agreed to by the Department's Project Manager. What constitutes the "Project vicinity" will be in the sole determination of the Department's Project Manager.

DB 108-3.1 Directory

Within 15 Working Days after NTP, the Design-Builder shall submit to the Department's Project Manager a directory and organizational chart showing all of its key personnel. The directory must be updated throughout the Contract as changes occur. The directory must include the names, titles, areas of

responsibility, office address and location, office telephone and facsimile numbers, E-mail address, and cellular and/or pager numbers of key personnel and the Design-Builder's construction superintendents. The Design-Builder shall provide information sufficient for the LA DOTD to contact any of the key personnel on a 24 hour basis for the duration of the Contract.

The Department's Project Manager will provide a directory of the LA DOTD's Project staff to the Design-Builder.

DB 108-3.2 Temporary Absence of Key Personnel

If any of the key personnel plans to be absent from the site for more than 48 hours, the Design-Builder shall inform the Department's Project Manager in writing seven Calendar Days in advance of an "acting" to represent the absent key personnel.

DB 108-3.3 Changes in Key Personnel

The Design-Builder shall assign the key personnel identified in the Design-Builder's Proposal to this Project. The Design-Builder shall submit the names and qualifications of proposed replacement key personnel to the Department's Project Manager 30 Calendar Days in advance of any replacement of any key personnel. The Department's Project Manager will have the authority to either reject or approve any proposed replacement key personnel in his sole discretion.

The Design-Builder shall change key personnel only upon receipt of a written consent from the Department's Project Manager. The Department's Project Manager may require written justification from the Design-Builder explaining the replacement of any key personnel.

DB 108-4 LIMITATION OF OPERATIONS

The Design-Builder shall conduct the Work in such manner and sequence to assure the least interference with traffic. The Design-Builder shall have due regard to the location of detours, lane closure restrictions and provisions for handling traffic. The Design-Builder shall not begin new Work to the prejudice of Work already started. The Department's Project Manager may require the Design-Builder to finish a section on which Work is in progress before starting on additional sections if the finishing of such Section is essential to public convenience and safety.

DB 108-5 LABOR, METHODS, AND EQUIPMENT

The Design-Builder shall employ sufficient labor and Equipment to prosecute the Work to completion in accordance with the Contract.

Workers must have sufficient skill and experience to properly perform the Work.

Any representative of the Design-Builder who, in the sole opinion of the Department's Project Manager, does not perform in a skillful manner or is disorderly must be, upon request of the Department's Project Manager, immediately removed by the Design-Builder. A person removed must not return to the Work. If the Design-Builder fails to remove such a person or fails to furnish suitable and sufficient personnel to properly prosecute the Work, the Department's Project Manager has the authority to suspend any or all of the Work by written notice without incurring any cost to the LA DOTD.

Equipment proposed for use in the Work must be of sufficient size and in such mechanical condition as to meet requirements of the Work and produce a satisfactory quality of Work. No damage to the Roadway, adjacent property, or other Highways will result from the use of Equipment.

When methods and Equipment are not specified, the Design-Builder may use any methods or Equipment that will accomplish the Work in conformity with the Contract.

The Design-Builder may request permission to use a method or type of Equipment other than specified in the Contract. The request must be in writing and must include a description of the methods and Equipment proposed and the reasons for requesting the change. If Approval is given, it will be on the condition that the Design-Builder will be responsible for producing Work in conformity with Contract requirements. If, after trial use of the substituted methods or Equipment, the Department's Project Manager determines that the Work produced does not meet Contract requirements, the Design-Builder shall discontinue use of the substituted method or Equipment and shall complete the Work with the specified methods and Equipment. The Design-Builder shall remove the deficient Work and replace it with Work of specified quality or take other corrective action as directed. No change will be made in payment or in contract time as a result of authorizing a change in methods or Equipment. The Department's Project Manager's right to determine that the Work produced does not meet Contract requirements may be given at any time and will not be prejudiced by the fact that the Design-Builder has conducted any measure of Work using the substituted methods or Equipment.

DB 108-6 EXTENSION OF TIME

If a Project has been under partial or full suspension, upon lifting of the suspension, the Department's Project Manager will furnish the Design-Builder a statement showing the number of Calendar Days charged during the partial or full suspension period and will identify the Calendar Days remaining in the Contract. The Design-Builder will be allowed one week after receipt of the statement in which to file a written protest identifying in what respect the statement is incorrect, otherwise the statement will be deemed to have been accepted by the Design-Builder as correct. Only by mutual written agreement will the Final Acceptance deadline be extended or amended except when the LA DOTD orders Extra Work.

If the Design-Builder finds it impossible for reasons beyond its control to complete the Work within the Contract Time as specified or as extended in accordance with the provisions of this DB Section 108-6, the Design-Builder may, at any time prior to the expiration of the Contract Time as extended, make a written request to the Department's Project Manager for an extension of time setting forth therein the reasons which the Design-Builder believes will justify the granting of the request. The Design-Builder's plea that insufficient time was specified is not a valid reason for an extension of time. If the Department's Project Manager finds that the Work was delayed because of conditions beyond the control and without the fault of the Design-Builder or its Subcontractors or suppliers, at the sole discretion of the Department's Project Manager, the Department's Project Manager may extend the Contract Time in such amount as the conditions justify.

An extension will be granted for the time required to restore the Work to its original state where damage to the Work occurred from causes beyond the control of the Design-Builder or its Subcontractors or suppliers. The extended Contract Time will then be in full force and effect the same as though it were the original Contract Time.

If the Department's Project Manager determines that the Extra Work does not impact the Critical Path of the Project, the additional time will be addressed in accordance with this DB Section 108-6. In all cases

where Extra Work necessitates the extension of time, the extension must be negotiated and addressed in the Change Order for the Extra Work.

DB 108-7 OPEN TO TRAFFIC

Whenever all of the Project is in suitable condition for travel, it may be designated as "Open to Traffic" prior to completion of the Work, and shall be opened to traffic upon the approval of the Department's Project Manager. Prior to being designated "Open to Traffic," at a minimum the Project's surfacing material and shoulders, guardrails, signs, and other appurtenances must be completed. Designation of the Project as "Open to Traffic" shall not constitute Final Acceptance of the Project or any part of it, or a waiver of any of the provisions of the Contract.

Whenever the Project is designated as "Open to Traffic," the Design-Builder shall conduct the remainder of Work under the Contract so as to cause the least obstruction to traffic and in a timely manner. Provision for the safety of traffic shall be made as required under the Contract.

DB 108-8 FAILURE TO COMPLETE ON TIME

Time is of the essence for this Contract.

For each Calendar Day that the Work remains uncompleted after the Final Acceptance date, as set forth in Article 4.0 of the Contract Documents, Part 1 - Design-Build Agreement, the sum specified in this Section 108-8 will be deducted from payments for the Work, not as penalty but as stipulated damages. The Design-Builder will automatically be subject to stipulated damages by the Final Acceptance date on the Project and the Design-Builder hereby waives any requirement of written notice of default for failure to attain Final Acceptance of Project by the Final Acceptance date. The amount of stipulated damages will be deducted from payments for the Work under the Contract. The Design-Builder and the Surety will be liable for stipulated damages in excess of amounts due the Design-Builder under the Contract. Any stipulated damages may be collected by the LA DOTD under the retainage or performance bond held by the Surety for this Project or through any other remedy available to the LA DOTD by law. Failure on the part of the LA DOTD to deduct stipulated damages from payment for the Work under the Contract will not be a waiver of the rights of the LA DOTD to collect stipulated damages.

DB 108-8.1 Design-Builder's Stipulated Damages

Stipulated damages for failure to open to traffic and the failure to achieve Final Acceptance will not be assessed simultaneously.

Unless the entire Project is open to traffic, the charge of \$ **[Fill in an appropriate amount of stipulated damages, based on the estimated cost incurred by the LA DOTD due to the Design-Builder's late performance, including, but not limited to, road-user fee or alternatively cost of full-time employees required to oversee late Work and the cost affect of a late Project on any adjacent or related projects, among other items]** will be made for each Calendar Day that the Work remains uncompleted after the Final Acceptance date.

When the entire Project is open to traffic, the charge of \$ **[Fill in an appropriate amount of stipulated damages, based on the estimated cost incurred by the LA DOTD due to the Design-Builder's late performance, including, but not limited to, road-user fee or alternatively cost of full-**

time employees required to oversee late Work and the cost affect of a late Project on any adjacent or related projects, among other items] will be made for each Calendar Day that the Work remains uncompleted after the Final Acceptance date.

DB 108-8.2 Department's Stipulated Damages

[Determine whether stipulated damages will be assessed against the Department on this Project. If not, delete this Section.]

For each Calendar Day that the LA DOTD fails to deliver appropriate the United State (US) Army Corps of Engineers (COE) permit beyond 45 Calendar Days from NTP, the Design-Builder may make a claim for sum specified in this Section 108-8, which may be paid by the LA DOTD not as a penalty but as stipulated damages.

Based on the amount of the original Contract, the charge of \$5000 will be made for each Calendar Day after the date identified by the LA DOTD, above, as the date by which the US Army COE permit will be obtained, as relevant. The amount of the stipulated damages for failure of the LA DOTD to obtain the US Army COE permit as specified in this DB Section 108-8 will serve as full satisfaction for any damages claimed by the Design-Builder for such failure on the part of the LA DOTD, and will not be subject to additional claims or damages by the Design-Builder for any delays related to such failure by the LA DOTD.

DB 108-9 DEFAULT AND TERMINATION OF CONTRACT

The Design-Builder will be in default if any of the following occur:

- A) Failure to complete the Project by the Final Acceptance date;
- B) The Design-Builder becomes insolvent or a petition is filed in the Bankruptcy Courts of the US under Chapters 7 or 13 of the Bankruptcy Code naming the Design-Builder as debtor or conversion of a proceeding or petition from Chapter 11 to Chapter 7 or 13 of the Bankruptcy Code or seeks a forced respite under the laws of this state or similar debtor protection by courts of other states;
- C) Allowance of any final judgment to stand unsatisfied for a period of 14 Calendar Days;
- D) Assignment or arrangement for performance by others of all or part of the performance of the Contract, other than by subcontracting pursuant to DB Section 108-1, without written approval and consent in advance of the LA DOTD and the Surety in the case of an assignment of the entire Contract, and an assignment of Contract proceeds for the benefit of one or more creditors other than pursuant to a security interest in accordance with Louisiana Revised Statutes 10:9-101, et seq., without prior written approval and consent of the LA DOTD. Any such purported assignment will not be honored without evidence of compliance with this DB Section 108-8(D);
- E) Discontinuation of the prosecution of the Work;
- F) Failure to perform with sufficient workers, Equipment, or Materials to assure prompt completion of the Work;
- G) Performance of the Work unsuitably or neglect or refusal to remove Materials or replace

- or repair rejected Work;
- H) Failure to resume discontinued Work within ten Calendar Days after notice to do so;
- I) Failure to perform the Work in an acceptable manner, violation of any provision in the Contract, or failure to follow any federal, state, or local laws pertaining to performance;
- J) Failure to follow federal, state, or local laws, rules, and regulations concerning construction safety and health standards or permits or conditions upon the site of the Work which are unsanitary, hazardous, or dangerous to the health or safety of the Design-Builder's workmen or the public; or
- K) Fraud.

The LA DOTD will give written notice to the Design-Builder, with a copy to the Design-Builder's Surety, of the LA DOTD's determination that the Design-Builder is in default for any cause specified in this DB Section 108-8. The LA DOTD may give notice to the Design-Builder of its intent to put the Design-Builder in default under this DB Section 108-8 and specify a period of time in which the Design-Builder shall cure the deficiency or a notice of default will be issued. Upon notice of default, the LA DOTD will have authority, without violating the Contract, to take prosecution of the Work out of the hands of the Design-Builder.

Within 30 Calendar Days of receipt of a notification of the Design-Builder's default, the Surety must present to the LA DOTD either a plan to assume performance of the Contract and procure completion of the Project or provide the LA DOTD in writing with a reasonable response for the Design-Builder's default. If no plan is presented by the Surety within 30 Calendar Days, or at any time if immediate action must be taken to protect the public interest or the safety of the public or workers, the LA DOTD will take prosecution of the Work out of the hands of the Design-Builder or Surety and may appropriate or use the Materials and/or Equipment on the Project or may enter into an agreement for completion of the Contract or use other methods as required for completion of the Contract in an acceptable manner. The Surety will then be responsible for payment to the LA DOTD of the cost of completion of the Project and stipulated damages assessed by the public entity up to the total amount of the bond. If the Surety has not timely completed the Project and a court of competent jurisdiction has determined that the Surety has in bad faith refused to take over the Project, the Surety will be responsible for the payment of any stipulated damages for any delay in completion of the Project as specified in the original Contract and any reasonable attorney's fees and court costs incurred by the LA DOTD in collection of payments required by this DB Section 108-8.

Nothing herein will be construed to require or obligate the LA DOTD to suspend Contract Time or to release the obligation of the Design-Builder and Surety for stipulated damages in accordance with DB Section 108-8.

The costs incurred by the LA DOTD due to the Design-Builder's default, including attorney's fees, or for completing the Work under Contract, will be deducted from any monies due or which may become due the Design-Builder. When this expense exceeds the sum which would have been payable under the Contract, the Design-Builder and Surety will be liable and will pay the LA DOTD the amount of such excess.

DB 108-10 TERMINATION OF DESIGN-BUILDER'S RESPONSIBILITY

The Contract will be considered complete when all Work has been satisfactorily completed, the final inspection made, and the Work accepted by the LA DOTD. The Design-Builder will then be released from further obligation except as set forth in the Design-Builder's Payment/Performance/Retainage Bond and DB Section 107.

Final Acceptance does not relieve the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract. Upon expiration of any warranty or guaranty period, the LA DOTD will release any security tendered and issue a letter of release to the Design-Builder.

DB 108-11 TERMINATION OF CONTRACT

The LA DOTD may, by written notice, terminate the Contract or any portion thereof when, for reasons beyond either the LA DOTD's or Design-Builder's control, the Design-Builder is prevented from proceeding or completing the Work as originally contracted or when termination would be in the public interest. Such reasons for termination may include, but will not be limited to, executive orders of the President of the US relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation, and restraining orders or injunctions obtained by third party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Design-Builder.

When a Contract, or a portion thereof, is terminated before completion of the Work, payment will be made for the Work completed. No claim for loss of anticipated profits will be considered.

Reimbursement for organization of the Work, other overhead expenses (when not otherwise included in the Contract), and moving Equipment and Materials to and from the Project will be considered.

Acceptable Materials obtained or ordered by the Design-Builder for the Work that are not incorporated in the Work will, at the option of the Design-Builder, be purchased by the LA DOTD at actual cost as shown by receipted bills and actual cost records at such points of delivery as designated.

Termination of a Contract or a portion thereof will not relieve the Design-Builder of responsibility for the completed Work nor will it relieve the Surety of obligation for any just claim arising from the Work performed.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

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APPENDIX 108A FORMS



DESIGN-BUILD SECTION 108

APPENDIX 108A

FORMS

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Form SAF – Monthly Safety Report (Format)

Progress Narrative Format

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

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APPENDIX 108A

FORMS



DESIGN-BUILD SECTION 108

APPENDIX 108A

FORMS

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Form SAF – Monthly Safety Report (Format)

Progress Narrative Format

FORM SAF

Monthly Safety Report Format

Design-Builder: _____

Period Covered (Month and Year): _____

Name of Design-Builder's Safety Manager: _____

Item	Contract Total This Period	Contract Cumulative Total
Number of Man-Hours Worked (construction)		
Number of Lost Workday Cases (entire shift lost)		
Number of Restricted Workday Cases (partial shift lost or reassigned to "light" duty)		
Number of Cases Requiring Medical Attention		
Number of Fatalities		
Number of On-Site Safety Meetings		
Number of On-Site Equipment Accidents		
Number of Vehicle Accidents, including off-site accidents by vehicles working on the Contract		
Number of New Workers on the Site During Period		
Number of New Worker Safety Orientations		
Number of Supervisor/Foreman Safety Sessions		
Number of Site Safety Inspections		

1. Describe circumstances surrounding each lost workday and each fatality case.

2. Describe actions taken and/or planned to prevent reoccurrence.

Signed for the Design-Builder:

(Signature)

Design-Builder's Project Manager

(Printed or typed name) Board Director

(Date)

(Date)

PROGRESS NARRATIVE FORMAT

Design-Builder: _____

Progress Report Number: _____ **Period Covered:** _____
 (Enter inclusive dates)

1. Summary of design activity and progress:

2. Summary of construction activity and progress:

3. Price Centers started and/or completed during period:

Price Center Code	Price Center Title	Started This Period (Enter date)	Completed This Period (Enter date)

4. Progress Check Points achieved this period:

Price Center Code	Progress Check Point Number	Description	Planned or Specified Date of Completion	Actual Date of Completion

Louisiana Department of Transportation and Development

5. Summary of Quality Control efforts:
 - a) Design (include results of any Design Reviews conducted during period):
 - b) Construction:

6. Summary of problems/issues that arose during the period and remaining issues to be resolved:

7. Summary of resolution of problems/issues raised in previous progress report or resolved during the period:

8. List of accident(s) during period (indicate type, frequency, and severity) and description of corrective actions taken:

9. Summary of critical issues and proposed resolution. Discuss actions planned to correct any negative float. Explain potential delays and/or problems and their estimated impact on performance and the overall completion date:

10. Actions requested and/or required of the Louisiana Department of Transportation and Development, including Design Reviews and visits:

11. Other items:

12. Photographs.

For the Design-Builder: _____
Design-Builder's Project Manager

(Date)

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

[Insert the name of the parish] PARISH
STATE PROJECT NO. [Insert the state project number]
FEDERAL AID PROJECT NO. [IF A FEDERAL PROJECT ONLY]

REQUEST FOR PROPOSALS

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APPENDIX 108B

BASELINE PROGRESS SCHEDULE



APPENDIX 108B
BASELINE PROGRESS SCHEDULE

(Critical Path Method Schedule)

1.0 DESCRIPTION

The schedule submitted in accordance with DB Section 108 shall be prepared using the Critical Path Method (CPM).

1.1 GENERAL

The Project shall be planned and documented using the Baseline Progress Schedule, a conventional CPM schedule in the form of an activity on node diagram based on the principles defined by the 2004 issue of the Construction Planning & Scheduling Manual published by the Associated General Contractors of America (AGC). The schedule shall be used for coordination and monitoring of all Work under the Contract, including, all activities of Subcontractors, design, and construction; shall compare the Work performed to the Contract Time and phasing requirements; and shall assign necessary resources for inspection and administration of the Contract.

Acceptance of the schedule by the Department's Project Manager shall not be construed to imply approval of any particular method or sequence of construction or to relieve the Design-Builder of providing sufficient Materials, Equipment, and labor to guarantee completion of the Project in accordance with the Contract. Acceptance shall not be construed to modify or amend the Contract or the date of completion therein.

Failure by the Design-Builder to include in the Baseline Progress Schedule any element of Work required for the performance of the Contract shall not excuse the Design-Builder from completing all Work required within the completion date(s) specified in the Contract notwithstanding acceptance of the schedule by the Department's Project Manager.

Float contained in the Baseline Progress Schedule is not for the exclusive use and benefit of either the Louisiana Department of Transportation and Development (LA DOTD) or the Design-Builder.

If the Design-Builder fails to comply with the provisions of this Appendix 108B – Baseline Progress Schedule, the Department's Project Manager may suspend payment for Price Center 1 (PC1), as per Part 2 – DB Section 100, DB Section 109.

1.2 SCHEDULE SUBMITTALS

A) Ninety Day Schedule

Within 15 Calendar Days following the Contract Award, the Design-Builder shall submit to the Department's Project Manager, a detailed schedule for the first 90 days of Work and a generalized schedule for the balance of the Work. The detailed portion of this schedule shall meet the requirements of Section 1.2(B). The 90-day schedule must be consistent with the Proposed Baseline Progress Schedule submitted with the Proposal unless otherwise agreed by the LA DOTD.

The 90-day schedule will be reviewed by the Department's Project Manager and revised by the Design-Builder to incorporate the Department's Project Manager's comments and to correct deficiencies. Upon acceptance by the Department's Project Manager, the 90-day schedule shall be used for all Project scheduling activities and updated monthly until the issuance of the accepted Baseline Progress Schedule.

B) Baseline Progress Schedule

Within 45 Calendar Days following the Contract Award, the Design-Builder shall prepare and submit a Baseline Progress Schedule for the entire Project to the Department's Project Manager for review and Approval. The Baseline Progress Schedule must be consistent with the proposed Baseline Progress Schedule submitted with the Proposal unless otherwise agreed by the LA DOTD.

The Design-Builder will incorporate into this schedule all Project activities, activities for the placement of orders and anticipated delivery dates of Materials and Equipment, activities assigned to Subcontractors, activities assigned to the LA DOTD or the Department's Project Manager and other outside agencies (such as, Design Reviews and permit reviews), and all utility Work or work by other contractors within or near the Contract limits.

C) Schedule Updates

See Section 3.3.

2.0 MATERIALS

The Design-Builder shall furnish, maintain, and operate a Primavera P3 or P6 system that can produce a CPM network diagram using the precedence diagramming method and other reports and graphics as described within this Appendix 108B – Baseline Progress Schedule. In addition, the Design-Builder shall provide a microcomputer with Primavera P3 or P6 and necessary peripheral hardware for use by the Department's Project Manager in monitoring the scheduling system meeting this specification.

3.0 SCHEDULE REQUIREMENTS

3.1 GENERAL

The Design-Builder's Baseline Progress Schedule shall meet the following requirements:

A) Baseline Progress Schedule Format

The Design-Builder shall use the precedence diagramming methods. The Work Breakdown Schedule (WBS) of the Baseline Progress Schedule shall be formatted in a manner consistent with the pricing and payment method contained in the Contract.

B) Project Calendars

Holidays and non-Work days shall be established in coordination with the Department's Project Manager.

C) Activities Data

1) Activity Identification Number

Each activity shall have a unique identification number.

2) Activity Description

Each activity shall be clearly described. Use of descriptions referring to percent of a multi-element item (i.e., construct deck 50%) will not be acceptable. Separate activities shall represent different elements of multi-element activities (i.e., construct forms, install rebar, and pour concrete). Multiple activities with the same Work description shall include a location description.

3) Activity Duration

The Design-Builder shall subdivide the Work into individual activities having durations of no longer than 30 Working Days each. Exceptions to this rule will be reviewed by the Department's Project Manager on an activity by activity basis. If multiple shifts and/or overtime are anticipated during the development of activity durations, a list of affected activities and the shift/overtime assumptions shall be provided to the Department's Project Manager. If requested by the Department's Project Manager, the Design-Builder shall furnish production rates or other information needed to justify the reasonableness of activity time durations.

4) Expected seasonal weather conditions, such as precipitation and temperature, shall be included by the Design-Builder in the planning and scheduling of activities.

5) Start and Finish Dates

The earliest start date, earliest finish date, latest start date, and latest finish date shall be shown for each activity.

6) Total float shall be shown for each activity. Total float is the full amount of time by which the start on an activity may be delayed without causing the Project to last longer.

7) The Baseline Progress Schedule shall contain none of the following:

- a) Excessive leads or lags, as determined solely by the Louisiana Department of Transportation and Development;
- b) Assigned constraints, except as specified in the Contract Documents or as specifically allowed by the Department's Project Manager;
- c) Multiple calendars, except as allowed by the Contract Documents; or
- d) Retained logic.

8) Activity Codes

Activities shall be coded to allow for the following summaries:

- a) Responsible party for the accomplishment of each activity (i.e., Design-Builder, Subcontractor, LA DOTD, and utility owner). The name of

each Subcontractor shall be included as soon as they are approved by the LA DOTD. Only one party can be responsible for an activity;

- b) Phase/stage during which activity is planned to be accomplished, including design; and
- c) Area/location (i.e., Bridges, ramps, and mainline station).

9) Activity Constraints

The Design-Builder shall not constrain the start or completion of any activity unless specifically required by the Contract or specifically allowed by the Department's Project Manager.

10) Activity Resources

The required labor and Equipment shall be shown for each activity as follows:

- a) Labor may be shown by trade, however, at a minimum the Department's Project Manager will accept total Person Working Days per activity or crew Working Days per activity. If crew Working Days are used, the crew size shall be indicated in the coding (i.e., a crew designated as PAVE4 equals a four Person paving crew); and
- b) Major Equipment, such as, pile drivers, large cranes, asphalt paving Equipment, and concrete finishing machines shall be shown for each activity.

11) Material Quantities

Material quantities for each activity shall be indicated in the resource fields or the LA DOTD bid item number, whichever the Design-Builder prefers to utilize, when they become available. Material descriptions, such as, concrete, asphalt, guide railing, and signs shall be used. Material quantities will be used to verify the reasonableness of the activity durations and to ensure that all Work required by the Design-Builder is accounted for within the schedule.

12) Price Center Designations

Price Center designations for labor, Material, and Equipment shall be included in the cost account fields for each activity resource.

13) Activity Price

The total price per activity shall be included. The total of the price-loaded schedule shall equal the Lump Sum Contract Price. A labor, Material, and Equipment cost breakdown is not required, but may be provided at the Design-Builder's option.

D) Sequence of Operations

The logic diagram or PERT chart shall show the sequence and interdependence of activities required for complete performance.

E) Review of the Baseline Progress Schedule

The Design-Builder shall submit to the Department's Project Manager three copies of the logic diagram (PERT chart) and three copies of the following activities listings:

1) Activity Number Sort

Activities listed in ascending order of their numbers.

2) Total Float/Early Start Sort

Activities listed in ascending order based on amount of their float with consideration of activity early start dates.

An electronic back-up copy of the computerized Baseline Progress Schedule also shall be provided.

The Department's Project Manager will review the Baseline Progress Schedule and then hold a discussion meeting with the Design-Builder. Within two weeks from this meeting the Design-Builder shall make adjustment to the Baseline Progress Schedule to eliminate conflicts, objections, and ambiguities found by the Department's Project Manager. The Design-Builder shall submit for review three copies of the revised schedule materials as described above.

Upon completion of the final review by the Department's Project Manager, the Design-Builder shall incorporate the final revisions and submit two copies of the schedule, including the computerized Baseline Progress Schedule and three copies of each of the revised logic diagram (PERT chart) and computer printouts. The logic diagram (PERT chart) shall be on 279 mm by 425 mm size sheets and not a continuous diagram. This final submission shall be submitted for approval within one week of the Design-Builder's receipt of the revisions.

3.2 LIST OF SUBMITTALS

Within 60 Calendar Days of NTP, the Design-Builder shall provide a list of submittals required under the Contract (i.e., Design Plans, Project Specifications, shop drawings, required permits, and erection/demolition plans). The list shall show a schedule submission date for each submittal and identify the earliest activity affected by each of these submittals. This list shall be revised and updated monthly with each schedule submission.

3.3 SCHEDULE UPDATING

A) Monthly Progress Reports and Projections

The Design-Builder shall update the schedule monthly along with the monthly progress report. Each update shall show actual dates of activities started and completed; the percent of Work completed to date on each activity started, but not yet completed; and the status of procurement of critical Materials. The updated schedule data shall be submitted to the Department's Project Manager electronically. The Design-Builder also shall provide updated activity number and total float/early start sorts, a 60 Working Day look-ahead bar chart by early start, and a narrative report. The narrative report shall include a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and mandated contract dates, and the

explanation of corrective action taken or proposed. See DB Sections 108-2.1 and 108-2.2.

The Department's Project Manager shall conduct a monthly review of the updated schedule. The review shall occur after receipt of the Design-Builder's updated information and shall serve as a forum to discuss slippages, remedies, revisions, and other relevant issues. The Design-Builder's appropriate design, construction, and scheduling personnel shall attend these working sessions. These reviews may result in the need for submission of revised schedules.

B) Logic Diagram (PERT Chart) Updates

The logic diagram (PERT chart) shall be updated by the Design-Builder every four months.

3.4 CHANGES TO THE ACCEPTED BASELINE PROGRESS SCHEDULES

The Baseline Progress Schedule shall accurately reflect the manner in which the Design-Builder intends to proceed with the Project and shall incorporate the impact of delays and Change Orders when these factors can be accurately determined. All changes made to the schedule (i.e., the addition of activities, changes in logic, or changes in activity durations) shall be submitted in writing and are subject to written acceptance by the Department's Project Manager before inclusion in the Baseline Progress Schedule.

To initiate changes to the approved schedules, the Design-Builder shall meet with the Department's Project Manager and provide the information necessary to prepare a revised (updated) logic diagram (PERT chart) and computer-generated schedule listing.

3.5 COMPLIANCE WITH THE SCHEDULE

The Design-Builder shall employ and supply a sufficient force of workers, Materials, and Equipment and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the approved schedule to prevent Work stoppage and ensure completion of the Project within the Contract Time. Any additional or unanticipated costs or expense required to maintain the schedule, shall be solely the Design-Builder's obligation and shall not be charged to the LA DOTD unless provided for in other provisions of the Contract.

In the event a notice is received of a change to the Contract which is likely to cause or is causing delays, the Design-Builder shall notify the Department's Project Manager in writing within ten Calendar Days, of the effect, if any, of such change, Extra Work, suspension, or other conditions upon the Baseline Progress Schedule and shall state in what respects, if any, the approved Baseline Progress Schedule should be revised with the reasons therefore. The reasons for these revisions must be succinct, comprehensive, and factual to merit consideration.

4.0 PROGRESS CHECK POINTS AND PAYMENT

Specified schedule submittals and schedule updates shall be considered Progress Check Points.

The cost of preparing and updating the CPM schedule and meeting all other requirements of this specification shall be included in PC 1.

Payment will be made under Price Center 1 as per Part 2 – DB Section 100, Section 109.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

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APPENDIX 108C

KEY PERSONNEL QUALIFICATIONS

AND REQUIREMENTS



APPENDIX 108C

KEY PERSONNEL QUALIFICATIONS AND REQUIREMENTS

[The minimum qualifications for each of the Key Personnel should be filled in as appropriate for the specific project. Additionally, the list of Key Personnel should be added to or deleted from as appropriate to accommodate the complexity of a specific project. Minimum qualifications may include such items as, for example, past work experience on past projects of a similar scope, nature, and complexity as the current project; minimum licensure or certification requirements; or minimum educational requirements.]

In the qualifications specified below, the word “must” indicates a required minimum qualification.

A) **Principal-in-Charge:**

B) **Design-Builder's Project Manager:**

C) **Design-Builder's Deputy Project Manager:**

D) **Construction Manager:**

E) **Design Manager:**

F) **Design Liaison:**

G) **Quality Assurance/Quality Control Manager:**

Louisiana Department of Transportation and Development

H) **Design Quality Control Manager:**

I) **Construction Quality Control Manager:**

J) **Safety Manager:**

K) **Lead Geotechnical Engineer:**

L) **Traffic Control Supervisor:**

M) **Roadway Design Engineer:**

N) **Environmental Compliance Manager:**

O) **Bridge Design Engineer:**

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. _____ **[Insert the state project number]** _____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

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DB SECTION 109

LUMP SUM PRICE, PROGRESS, AND PAYMENT



DB SECTION 109

LUMP SUM PRICE, PROGRESS, AND PAYMENT

This Design-Build (DB) Section 109 describes and specifies the lump sum pricing concepts, specifies the means of determining the Work progress, and establishes the procedures for requesting and making payment.

DB 109-1 LUMP SUM PRICING CONCEPT

The Price Center (PC) concept will be used for all pricing. The price for each PC will be reflected as a Price Center Value (PCV) on Form SP. The sum of all of the PCVs will be the Lump Sum Contract Price.

The pricing concepts are summarized as follows:

- A) The Project is divided into Sections (*see* Form PCD and Form SP);
- B) Price Centers are identified and defined for Project-wide activities and construction activities within the Sections;
- C) Price Center Values (lump sum prices or the sum of unit priced items) are assigned to each PC and to designated activities within each PC by the Design-Builder, with the Approval of the Department's Project Manager, in his sole discretion;
- D) A Contract Periodic Payment Schedule (PPS-C) is prepared by distributing the PCVs over the period of performance of the Work within each PC on a cumulative amount earned basis (a time-price curve). The time-price curve for the Project as a whole is determined by summing the cumulative amounts earned for the PC;
- E) Progress Check Points (PCP) designated by the Louisiana Department of Transportation and Development (LA DOTD) and Design-Builder are identified and defined for each of the PCs, with the Approval of the Department's Project Manager;
- F) The date when achievement of the PCPs is planned is identified and shown on a Schedule of PCPs, to be Approved by the Department's Project Manager; and
- G) The sum total of all the Price Centers must equal the Lump Sum Contract Price.

Details of the process are described in this Design-Build Section 109.

DB 109-1.1 Price Centers

DB 109-1.1.1 General Requirements for Defining Sections and Price Centers

Form PCD shows the titles and limits of Sections and PCs as agreed to by the Design-Builder and LA DOTD. The Design-Builder may only adjust the PC titles, contents, and limits subject to the requirements noted below, but must designate Sections and PCs of a similar magnitude and nature to those shown on Form PCD. Any adjustments to the PC titles, contents, and limits are subject to Approval by the Department's Project Manager, in his sole discretion.

The Design-Builder shall divide the Project into PCs each representing one or more groups of inter-related Work forming part of the Project. The Design-Builder shall use the following indicators to create the Sections and PCs:

- A) Use Section “A” for non-construction Price Centers, including the following, as applicable:
 - 1) Price Center 1 for preliminaries and general requirements, including activities shown in Form PC1 and Table 109-2;
 - 2) Price Center 2 for Project-wide engineering and design activities, including activities shown in Form PC2;
 - 3) Price Center 3 for Maintenance of Traffic activities, including those shown on Form PC3;
 - 4) Price Center 4 for Project-wide environmental compliance and mitigation activities shown on Form PC4; and
 - 5) Price Center 5 for Hazardous Materials and contaminated substance remediation activities, including activities shown on Form PC5.

Price Centers 1 through 5 are reserved for Section “A” for the activities described above;

- B) Use Sections “B,” “C,” and so on for construction Sections and construction PCs. Price Center numbering for Sections subsequent to Section “A” must always begin with PC 6. For example, Section “B” will begin with PC 6, as will Sections “C” and beyond. Thus, there will be only one each of PCs 1 through 5 for the Project. However, there may be multiple PCs 6 and above for the Project. For clarity, each PC 6 and above must be identified by Section and PC number (i.e., Price Center B-6 for Section “B,” PC 6, and so on);
- C) Each construction PC must represent a series of Work activities comprising a complete Project component when constructed. *See* Form SP; and
- D) Each Price Center must have two or more Progress Check Points.

For all PCs except PCs 1, 2, 3, 4, and 5 (Forms PC1, PC2, PC3, PC4, and PC5), the Design-Builder shall provide a description identifying the scope of Work for each PC in bulleted or narrative form on Form PCD. The Design-Builder shall include a list of the key components shown on Form SP in each PC description. The Design-Builder shall describe all the Work encompassed within each PC and clearly cross reference items of a similar nature that are included in other PCs.

DB 109-1.1.2 Mobilization

Mobilization must be an activity in PC 1. Mobilization must not exceed six percent of the Lump Sum Contract Price.

DB 109-1.1.3 Material Delivered To The Site

If the Design-Builder plans to request payment for Material delivered to the site, it must show delivery of the Material as an activity of the associated Price Center(s). *See also* DB Section 109-5.3.

DB 109-1.1.4 Specific Rules For Price Centers

The following rules apply for Price Centers.

A) Price Centers 1 through 5

The Design-Builder may add Project-wide activities to Forms PC1 through PC5, but must not delete any of the activities shown on Forms PC1 through PC5.

B) Other Price Centers

- 1) Unless agreed to by the LA DOTD, Price Centers must not contain more than one Critical Path; and
- 2) The Design-Builder may find it beneficial to place significant portions of the Project that will be completed by a separate Subcontractor and/or represent significant differences in crafts and/or trades, such as utility relocations, in separate PCs.

DB 109-1.2 Contract Periodic Payment Schedule

The PPS-C shows the planned amount payable to the Design-Builder for each month of Work carried out in the PCs, subject to conditions stated in the Contract. The PPS-C will be the basis for the amounts of periodic payments. However, accelerated payments may be made in accordance with DB Section 109-5.7.

The Design-Builder shall develop and submit the PPS-C, based on its Proposal Periodic Payment Schedule, to the Department's Project Manager within 45 Working Days of NTP for review and Approval. The Design-Builder shall develop the PPS-C in accordance with this DB Section 109-1.2. The PPS-C, upon written Approval of the Department's Project Manager, as updated by the Design-Builder and Approved by the Department's Project Manager, is incorporated by reference to this Contract.

DB 109-1.2.1 General Requirements for the Contract Periodic Payment Schedule

The Design-Builder shall develop and submit the PPS-C broken down to each Section and PC. The Sections and PCs in the PPS-C must match those shown on Form PCD. The Design-Builder shall make no changes in PCVs except as authorized by Change Orders.

The PPS-C must cover the entire period of the Contract in monthly increments, through Final Acceptance, using months and years on the Gregorian calendar, starting at the date of NTP.

The Design-Builder shall make the cumulative payment percentages shown on the PPS-C compatible with the progress of the Work indicated in its Baseline Progress Schedule.

All Price Centers, regardless of measurement and payment method, must be shown on the Contract Periodic Payment Schedule.

DB 109-1.2.2 Developing the Contract Periodic Payment Schedule

The Design-Builder shall distribute the PCV of each PC over the period of the Contract within the limitations described in this DB Section 109-1.2.2 to indicate the Design-Builder's desired payment schedule.

There will be no advance payment and there will be no separate PC for mobilization. Mobilization costs must be included in PC 1.

The sum of the Price Center Values must equal the Lump Sum Contract Price.

The Design-Builder shall determine the monthly cumulative payment distribution of the PCV over the duration of the Contract for each PC. The resulting curve must be the PPS-C for each PC.

The time-price curve for each PC must be developed in such a manner that the amount planned to be earned for any month preceding the date of a PCP must not be less than ten percent of the PCV.

The Design-Builder shall do the following to determine the Contract Periodic Payment Schedule for the Contract:

- A) For each Price Center list each monthly cumulative payment for each month for that Price Center; and
- B) For each month, sum the planned cumulative payments for the PCs to determine the planned maximum cumulative Contract payment for each month of the Contract.

DB 109-1.2.3 Review of the Contract Periodic Payment Schedule

In addition to the procedure for revision of the PPS-C pursuant to DB Section 109-1.4.4, the Department's Project Manager will carry out a detailed examination and review of the PPS-C, the PCPs, and the dates stipulated for their achievement and an assessment of the extent to which the Work has been carried out up to the date of such review, in the following events:

- A) The Department's Project Manager Approves a revised Baseline Progress Schedule; or
- B) The Department's Project Manager grants an extension of time in accordance with DB Sections 104-7, 104-8 and 108-6; or
- C) The Department's Project Manager orders a suspension of the Work or any part thereof; or
- D) The Department's Project Manager instructs a change under DB Sections 104-7 or 104-8; or
- E) Following the suspension of payment pursuant to DB Section 109-6.1, the relevant PCP has not been achieved within three months of the date stipulated in the Schedule of PCPs; or
- F) There is a significant change in a PCV by reason of a determination of the Department's Project Manager in accordance with the Contract.

DB 109-1.2.4 Cooperation

The Design-Builder shall cooperate with and, to the best of the Design-Builder's ability, assist the Department's Project Manager in making any such detailed examination pursuant to DB Section 109-1.2.3. The Design-Builder shall provide all such information as may be reasonably required in connection therewith at no increase in Lump Sum Contract Price or extension in time. If, as a result of this detailed examination, the Department's Project Manager is of the opinion that, in relation to any PC, the relationship between periodic payments and progress of the Work and the degree of control over periodic payments has not been or will not be maintained, then the Department's Project Manager may give 30

Calendar Days written notice to the Design-Builder to prepare a revised PPS-C and/or a revised Schedule of PCPs that will, in the Department's Project Manager's opinion, restore, so far as reasonably practicable, said relationship and degree of control. On the expiration of the said notice and after considering any representations the Design-Builder may have made in the meantime, the Department's Project Manager will, if still of the opinion that revisions ought to be made, revise the PPS-C and/or the Schedule of PCPs in any manner that the Department's Project Manager sees fit, based on the rate of progress of the Work which the Department's Project Manager anticipates and with the objective of restoring, so far as is reasonably practicable, said relationship and degree of control.

DB 109-1.3 Progress Check Point Descriptions and Schedule of Progress Check Points

The Design-Builder shall establish and describe PCPs that define significant events and/or reflect certain or significant accomplishments towards the completion of Work within each PC that can be readily identified without resorting to measurement of quantities. A PCP is a defined step towards the completion of Work within a PC identified in the Schedule of Progress Check Points. Progress Check Points were defined by the Design-Builder in its Proposal and were approved by the LA DOTD with acceptance of that Design-Builder's Proposal. Any changes to the PCPs after submission of the Design-Builder's Proposal are subject to the Approval of the Department's Project Manager, in his sole discretion. The Design-Builder shall not alter PCPs or the Schedule of PCPs without the Approval of the Department's Project Manager.

For each PC, the Design-Builder shall identify and list the PCPs that are reflective of the Baseline Progress Schedule. For each PCP identified, the Design-Builder shall provide a detailed description of the Work to be accomplished using Form PCP.

The Design-Builder shall show its designated Progress Check Points and LA DOTD-designated Progress Check Points, if any, on Form PCP.

The Design-Builder shall develop a numbering system for PCPs that readily ties each PCP to its specific PC. The Design-Builder shall number PCPs within the same PC sequentially over time.

If the Design-Builder plans to request payment for Material, products, or components delivered to the Site, it must provide for each PC a specific description of the Material, products, or components, including estimated quantities of each. Material, products, or components of a similar type, such as different sizes of Culvert, may be combined in a single PCP for a given PC. The Design-Builder shall list similar Material within separate PCs separately for each PC.

The Design-Builder shall complete the Schedule of PCPs by selecting events which represent the completion of significant activities, including delivery of Material, products, or components to the Site, to be undertaken by the Design-Builder and that are in accordance with the proposed methods and sequence of design and construction.

The Design-Builder shall not describe Progress Check Points in terms of "percent complete."

The Design-Builder shall enter the scheduled month of completion for each PCP in each PC in the column provided. The Design-Builder shall express the months in terms of months after NTP.

Individual Progress Check Points must meet the following requirements:

- A) There must be Progress Check Points at the start and completion of Work in a Price

Center;

- B) If the duration of the Work on a PC exceeds six months, the Design-Builder shall identify and describe additional interim PCPs so that PCPs are not more than three months apart;
 - C) Progress Check Points must signify the completion of elements of the Work that can be readily identified as being completed without resorting to conventional measurement of quantities;
 - D) The Design-Builder shall relate Progress Check Points to activities on the Critical Path, where practicable;
 - E) There must be no further periodic payments for a Price Center after achieving the last PCP in a Price Center;
 - F) For PC1, PCPs for each activity in this DB Section 109-1.3(F)(1) through (5) must be shown in accordance with due dates established by the LA DOTD when such dates are specified in the Contract. Otherwise, the PCP dates must be as designated by the Design-Builder on Form PCP for each of the following:
 - 1) Mobilization must be paid such that 100% of the mobilization costs, not to exceed six percent of the Lump Sum Contract Price, must be paid out by the time that 50% of the Lump Sum Contract Price has been paid on the Project;
 - 2) Submittal (or resubmittal) of and issuance of the Department's Project Manager's written Approval (if specified) for the following items:
 - a) Safety Plan;
 - b) Quality Plan;
 - c) Baseline Progress Schedule; and
 - d) Other plans to be submitted;
 - 3) Provision of the following:
 - a) Facilities and Equipment for the Louisiana Department of Transportation and Development; and
 - b) The Design-Builder's temporary facilities;
 - 4) Removal of temporary and Design-Builder provided facilities and site cleanup, landscaping, and restoration; and
 - 5) Periodic audits and updates of the Quality Plan and Safety Plan.
- For PC 1, PCPs must be at three month intervals covering all activities not covered in this DB Section 109-1.3(F)(1) through (5);
- G) For preconstruction engineering and design (Price Center 2), the following particular rules apply:
 - 1) There must be PCPs at the start of design and at the receipt of the Department's Project Manager's written acknowledgement after the 100% Design Review as per DB Sections 111-9.4 and 111-12.5 for each Design Unit identified by the

- Design-Builder;
- 2) The Design-Builder must include additional intermediate Progress Check Points; and
- 3) The final Progress Check Point must be the submission and Approval of As-Built Plans;
- H) The Design-Builder shall show the month each Progress Check Point is to be completed on Form PCP;
- I) For PCPs relating to payment for Material delivered to the site, the Design-Builder shall indicate the planned month of delivery of the Materials as described on Form PCP;
- J) The Design-Builder shall include any Louisiana Department of Transportation and Development-designated PCPs on Form PCP;
- K) For PC 3, the submittal of the Maintenance of Traffic Plan and its updates must be PCPs. The Design-Builder shall show major traffic shifts and detour changes as PCPs;
- L) For PC 4, environmental compliance and mitigation, the submittal of specified plans must be PCPs. The Design-Builder shall set PCPs for on-going activities at no greater than three month intervals; and
- M) For PC 5, Hazardous Materials remediation, submittal of plan(s) and report(s) and PCPs as may be required if harmful and/or Hazardous Materials are encountered.

DB 109-1.4 Revisions During the Contract

DB 109-1.4.1 Revisions to Price Centers

In the event that revisions to the PCs are required during the Contract, the following procedures must apply:

- A) Where new PCs are required, the Design-Builder shall revise and submit the following to the Department's Project Manager for written Approval:
 - 1) Form SP;
 - 2) Form PCD; and
 - 3) Form PCP.
- B) Where revisions to existing PCs are required, the Design-Builder shall revise and submit the following to the Department's Project Manager for written Approval:
 - 1) The appropriate revised Price Center description on Form PCD;
 - 2) Any change to Form SP; and
 - 3) Revisions to Form PCP to reflect new Progress Check Points or changes in Progress Check Points.

DB 109-1.4.2 Revisions to Schedule of Prices

The Design-Builder shall revise the affected PCVs and Form SP to incorporate any change to the Lump Sum Contract Price. The Design-Builder shall update Forms SP and PCD and Forms PC1, PC2, PC3,

PC4, PC5 and beyond, as appropriate, and submit them to the Department's Project Manager for written Approval.

DB 109-1.4.3 Adjustments to Schedule of Progress Check Points (Form PCP)

In the event that revisions to the Schedule of PCPs (Form PCP) are required during the Contract, which revisions are subject to the Approval of the Department's Project Manager, in his sole discretion, the following procedures must apply:

- A) In the event that a PCP is not achieved, the Department's Project Manager will order the Design-Builder to revise and submit the Baseline Progress Schedule and the Schedule of PCPs (Form PCP) to update the following:
 - 1) The date by which the non-achieved, changed, or added PCP(s) will be achieved; and
 - 2) The schedule for any affected subsequent PCP which may not be achieved by the originally designated date;
- B) The Design-Builder shall revise the Schedule of PCPs (Form PCP), subject to the Approval of the Department's Project Manager, to show changes to affected PCPs;
- C) In the event of a revision of the Baseline Progress Schedule, the Design-Builder shall revise dates of the affected PCPs, subject to the Approval of the Department's Project Manager;
- D) In the event of changes to Work, the Design-Builder shall make such changes, additions, or deletions to only those affected PCPs so identified in the ordered change, subject to the Approval of the Department's Project Manager;
- E) In the event that a PCP is changed as result of a time extension in accordance with DB Sections 104-7.1 and 104-8, the Design-Builder shall change those dates affected by the time extension, subject to the Approval of the Department's Project Manager;
- F) In the event that a PCP is changed as a result of a suspension of Work order in accordance with DB Section 104-7.2, the Design-Builder shall change those dates affected by the suspended Work, subject to the Approval of the Department's Project Manager; and
- G) In the event that the Design-Builder's progress exceeds that shown on the Schedule of PCPs, and payment is made at an accelerated rate in accordance with DB Section 109-5.7, the Design-Builder shall revise the Schedule of PCPs (Form PCP), as necessary, to reflect any planned changes to the Schedule of PCPs, subject to the Approval of the Department's Project Manager.

DB 109-1.4.4 Revisions to the Contract Periodic Payment Schedule

If the Design-Builder's progress is such that PCP(s) are completed prior to the date(s) shown on the Schedule of PCPs (Form PCP) and payment is made at an accelerated rate in accordance with DB Section 109-5.7, the Design-Builder shall adjust the PPS-C for the affected PC(s) and submit the revised PPS-C to the Department's Project Manager for written Approval.

The Design-Builder shall submit any requests to allow any change to its PPS-C for a PC to reflect changes in timing of the Work within a given PC to the Department's Project Manager for Approval. No

change in PCVs will be permitted except to reflect changes in Lump Sum Contract Price made through Change Orders. The Design-Builder shall accompany any such requests to allow any changes to the PPS-C with the following:

- A) Proposed revisions to the Baseline Progress Schedule to reflect the change in schedule; and
- B) Proposed revisions to the PCP descriptions and/or Schedule of PCPs (Form PCP) consistent with the requested change in the PPS-C.

The LA DOTD, in its sole discretion, may Approve the requested change to the PPS-C and/or proposed revisions to the Baseline Progress Schedule, PCP descriptions, and/or Schedule of PCPs (Form PCP), but will be under no obligation to do so.

Documentation of any changes in the Contract Periodic Payment Schedule will be made as a no-cost Change Order.

When revisions are made to the PPS-C in accordance with the Contract, the Department's Project Manager will reduce or extend the period over which periodic payments may be made, if necessary.

DB 109-2 MEASUREMENT/DETERMINING PROGRESS

Unless specified otherwise in the Contract Documents, there will be no measurement of quantities to determine payment due, except for any unit price items.

The Design-Builder shall measure unit price items as specified in DB Sections 109-2.6 and 109-5.2, or per the Project specifications developed by the Design-Builder and accepted by the LA DOTD for items that have unit prices.

For PCs and/or Change Orders paid on a force account basis, the Design-Builder shall substantiate progress with submittal of statements specified in DB Section 109-8.1.2.

For PCs and/or Change Orders paid on a unit price basis, the Design-Builder shall substantiate progress with submittal of invoice documents specified in DB Section 109-5.2.

For all Work paid on a lump sum basis, the achievement of Progress Check Points must be determined as set forth in DB Sections 109-2.1 through 109-2.5.

DB 109-2.1 Price Center 1

Where a PCP requires the submittal of insurance certificates (in addition to the initial submission of the insurance certificates at the time of Contract execution) or similar documents, the PCP is met when the document has been delivered to the Department's Project Manager and content of the document is shown to meet the Contract requirements and the Department's Project Manager notifies the Design-Builder in writing of that determination.

Where a PCP requires the submittal of a specified plan or similar document, the PCP is met when the plan has been submitted to the Department's Project Manager for Approval and/or Consultation and Written Comment, as appropriate, and the Department's Project Manager issues the Approval and/or written comment(s), as appropriate, relative to the plan or document.

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If Design Plans or documents are returned to the Design-Builder without the Department’s Project Manager’s written acknowledgement, the Design-Builder shall not have met the PCP.

Mobilization must be invoiced at the end of the period following submittal of a Baseline Progress Schedule and the PPS-C that the Department’s Project Manager acknowledges in writing meets the Contract requirements.

For continuing activities listed in Table 109-2, the PCPs, which must be at three month intervals, are met when the specified standards and/or requirements, such as those listed in Table 109-2, are met.

TABLE 109-2

PRICE CENTER 1 CONTINUING ACTIVITIES STANDARDS

ACTIVITY	REQUIREMENT/STANDARD
Project Management and Construction Management	<ul style="list-style-type: none"> • Monthly progress reports prepared and submitted in accordance with DB Section 108-2.3; • Key personnel are on site and meet the requirements of DB Section 108-3 and Appendix 108C; • Meetings conducted and attended, and minutes prepared in accordance with, DB Section 105-11; • Baseline Progress Schedule submitted and maintained in accordance with DB Sections 108-2.1 and 108-2.2 and Appendix 108B; • Required notices given to the Department’s Project Manager in timely manner; and • Contract Submittal List submitted and updated in accordance with DB Section 108-2.3.5 and Appendix 108B.
Quality Control of Management and Construction	<ul style="list-style-type: none"> • Quality Plan and updates submitted and received Department’s Project Manager’s written acknowledgement in accordance with DB Section 113-1. • Management and construction activities conducted in accordance with the Quality Plan; • Sampling and testing conducted in accordance with DB Section 112-2.2; and • Documentation prepared and maintained in accordance with DB Section 112.
Security	<ul style="list-style-type: none"> • Site Security Plan and updates submitted and Department’s Project Manager’s written acknowledgement of Site Security Plan received in accordance with DB Section 107-6.2; and • Security facilities maintained and security services provided in accordance with the Site Security Plan.
Facilities and Equipment provided for Louisiana Department of Transportation and Development	<ul style="list-style-type: none"> • Facilities and Equipment provided, maintained, and cleaned, and utilities provided and paid for.

ACTIVITY	REQUIREMENT/STANDARD
Safety	<ul style="list-style-type: none"> • Safety Plan and updates submitted and received Department's Project Manager's written acknowledgement in accordance with DB Section 107-5; and • Construction Work conducted in accordance with DB Section 107 and the Safety Plan, including submittal of required reports.
Communications	<ul style="list-style-type: none"> • Courier service provided.
Design-Builder's Temporary Facilities and Site Maintenance	<ul style="list-style-type: none"> • Site and facilities maintained in accordance with DB Sections 107 and 105-7.
Insurance	<ul style="list-style-type: none"> • Specified levels of insurance maintained in accordance with DB Section 107.
Public Information	<ul style="list-style-type: none"> • Public Information activities provided, as requested by the LA DOTD.
Warranty or Guarantee	<ul style="list-style-type: none"> • Cost of the warranty or guarantee, as required by the Contract.

DB 109-2.2 Price Centers Associated with Engineering and Design

The PCPs are met when the requirements for preconstruction engineering; design and design management; and design QC, including Design Reviews, have been achieved for the applicable Design Unit including the specified reports, the documentation and QC records, the certifications of the Designer and the Design QC Manager, and the Department's Project Manager's written acknowledgement. In the case of design studies and/or reports, the PCP is met when the Department's Project Manager issues a written acknowledgement regarding the study or report.

Progress will be determined on a cumulative percent complete basis consistent with the percent complete shown on Form DUS (*see* DB Section 111-3) as agreed between the Design-Builder and the Department's Project Manager.

DB 109-2.3 Price Centers 3 through 4

The PCPs are met when specified plans, reports, and/or updates are submitted and the Department's Project Manager issues a written acknowledgement that they meet Contract requirements.

Progress Check Points for Maintenance of Traffic are met when Maintenance of Traffic measures meeting Contract requirements are implemented and when planned traffic switches are made.

DB 109-2.4 Price Center 5, Hazardous Materials Remediation

There will typically be no PCPs for PC 5, Hazardous Materials Remediation, except for any specified investigations, reports, and plans.

DB 109-2.5 Price Centers Associated with Construction

Whether the PCP is identified by the Design-Builder in its Schedule of PCPs (Form PCP) as requiring the completion of an entire PC or partial completion of Work associated with a PC, the PCP is met only when all components within the PCP are constructed in accordance with Contract requirements.

The Design-Builder must comply with the Quality Control requirements before the Progress Check Point is met.

The Progress Check Point will not be considered met until temporary erosion control measures are in place.

Progress Check Points will not be considered met until applicable environmental requirements have been met.

DB 109-2.6 Unit Priced Work

In computing amounts in estimates or Work done under unit prices, all estimates, including the final, will be made for actual quantities of Work performed and Material placed in accordance with the requirements contained in the Design-Builder's Project specifications, Design Plans, and standard sheets (except as provided under DB Section 109-6.3) as determined as per DB Section 109-5.2, and the resulting quantities involved in the Contract must be accepted as final, conclusive, and binding upon the Design-Builder.

DB 109-3 CHANGES TO LUMP SUM CONTRACT PRICE

The Lump Sum Contract Price must be increased or decreased only by a Change Order issued in accordance with DB Sections 104-7, 104-8, and/or 109-8, and 109-9.

The Design-Builder shall revise the PCVs in accordance with the terms of a Change Order and submit the revisions to the Department's Project Manager for written Approval.

The Department's Project Manager may decide the applicable PC for the purpose of any revision in accordance with this DB Section 109-3 if and insofar as the same is not identified in the pricing documents, and shall notify the Design-Builder in writing upon making any such decision.

Notwithstanding this DB Section 109-3, the Department's Project Manager may decide not to include a sum payable to the Design-Builder pursuant to the Contract in a PCV, in which case the Department's Project Manager will notify the Design-Builder of the decision and the Design-Builder may apply for payment of the sum in accordance with DB Section 109-5.

DB 109-4 CONTRACT PAYMENTS

Payments to the Design-Builder for Work satisfactorily performed will be made monthly.

DB 109-4.1 Scope of Payment

The Design-Builder shall receive and accept compensation provided for in the Contract as full payment for furnishing all Material and for performing all Work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution thereof.

DB 109-4.2 Payment Concept

Payment will be calculated using the PPS-C except for Work performed under other specified means, such as unit prices and/or force account (*see* DB Sections 109-5.2 and 109-8.1.2).

The Design-Builder will be paid monthly based on the percentages and amounts shown on the PPS-C for each PC developed in the manner described in DB Section 109-1.2.2 except as provided in DB Section 109-6.1.

If Work defined for a PCP in a PC is not completed by the date shown on the Schedule of PCPs (Form PCP), payment will be suspended at the previous month's level for the affected PC(s). Payments will be resumed in the affected PC upon meeting of the designated PCP.

Payment will be based on the PPS-C. No payment will be made until the PPS-C is Approved by the Department's Project Manager and incorporated by reference into the Contract.

Requirements relating to requests for payment for the Work are set forth in DB Section 109-5.

Except for PCs paid on a force account or unit price basis, the PPS-C sets out the maximum accumulative percentage of each PCV (or part thereof) in relation to each month for which the Design-Builder may apply for payment in accordance with this DB Section 109-4.2, subject to the achievement of relevant PCPs. Payment for PCs paid on a force account or unit price basis must be determined per DB Section 109-8.1.2 and DB Section 109-5.2, respectively.

DB 109-4.3 Progress Payments

No payment will be made for Work until its completion in accordance with the Contract.

DB 109-4.4 No Payment on Design-Builder's Non-Compliance

No payment will be completed so long as any lawful or proper direction to the Design-Builder by the Department's Project Manager or his/her designee concerning the Work or Material has not been complied with. *See* also DB Section 109-6.1.

DB 109-4.5 Claims

In accordance with Louisiana Revised Statutes 48:256.5(D), the LA DOTD will withhold from progress payments and the final payment 125% of any amounts claimed after receipt by the Undersecretary of the LA DOTD of a sworn statement of amount due from the Design-Builder, to the extent of payments due and owed the Design-Builder after receipt of said claim.

DB 109-5 REQUESTS FOR PERIODIC PAYMENT

The Design-Builder shall submit all requests for periodic payment to the Department's Project Manager with the monthly progress report (*see* DB Section 108-2.3) signed by the Design-Builder's Project Manager, except that the request for final payment must be signed by the Design-Builder's Principal-in-Charge. The Design-Builder shall submit the request by the fifth day of each month (if a holiday, the next Working Day) or other mutually agreed date.

The Design-Builder's Project Manager, QA/QC Manager, and Design Manager must execute the certifications on Form RPP.

Mobilization will be paid per DB Section 109-2.1.

The Design-Builder shall submit the Request for Periodic Payment using the format illustrated in Form RPP (*see* Appendix 109A). The Design-Builder shall complete the Request for Periodic Payment in accordance with the instructions shown on Form RPP. The maximum cumulative payments at any point in time must not exceed the sum of planned cumulative payment for each PC as shown on the PPS-C, except when the Design-Builder meets PCPs in advance of the dates shown on the Schedule of PCPs (Form PCP). In such case, the Design-Builder shall adjust the maximum payment to incorporate the cumulative payment shown on the PPS-C for PCP(s) achieved in advance of the date(s) shown on the Schedule of PCPs (Form PCP). *See also* DB Section 109-5.7.

The Design-Builder shall complete and submit, as part of its Request for Periodic Payment, the certificate of achievement of PCPs on Form RPP, listing the PCPs the Design-Builder considers to have been achieved in the previous month. The Design-Builder's Project Manager and the Design-Builder's QA/QC Manager must sign the draft certificate of achievement of PCPs. The Request for Periodic Payment will have no effect until countersigned by the Department's Project Manager pursuant to DB Section 109-6.

DB 109-5.1 Payment Requests with the Monthly Progress Report

Each application for periodic payment must contain the following:

- A) The amount claimed to be payable using Form RPP, setting out the percentage and amount of each PCV claimed according to the PPS-C, including amounts due under force account PCs and/or Change Orders;
- B) Any other amount claimed to be payable or deducted pursuant to a determination of the Department's Project Manager, identifying the relevant determination; and
- C) A PCP certificate included on Form RPP indicating the PCPs the Design-Builder considers to have been achieved during the preceding month and certifying compliance with Contract requirements. The certification must be signed by the Design-Builder's Project Manager, QA/QC Manager, and Design Manager.

The Design-Builder shall make payment application for any Work where PCPs have been met in advance of the time or date shown on the Schedule of PCPs (Form PCP), subject to meeting all preceding PCPs in the applicable PC, in accordance with DB Section 109-5.7.

DB 109-5.2 Unit Price Work

For any unit price Work, the Design-Builder shall submit a summary table of quantities with the Request for Periodic Payment indicating location, item number and description, quantity, unit price, and total amount due for the period covered by the Request for Periodic Payment. The Design-Builder will attach copies of quantity measurement notes or field book entries stamped and signed by a Louisiana-licensed Professional Engineer or surveyor assigned to the Design-Builder's construction QC organization. The Design-Builder's Project Manager and the Construction QC Manager must sign and date the summary table.

The Design-Builder shall measure quantities for any unit price Work as per DB Section 109-2.6.

DB 109-5.3 Payment for Stockpiled or Stored Material

DB 109-5.3.1 General

Payment for stockpiled or stored Material will be considered only for Materials anticipated to be stored for periods in excess of 90 Calendar Days. When approved, advance payments may be made for fabricated or natural Materials that are to be incorporated in the Project when stockpiled Materials are stored on the Project or in a dedicated stockpile at an approved site outside the limits of the Project within the State of Louisiana. Payments will be limited to durable Materials described herein and will represent a significant portion of the project cost. Perishable articles and small warehouse items are not included. These Materials must meet the requirements of the Contract. Payment for stockpiled or stored Materials will not constitute acceptance. The Design-Builder shall protect the Material from damage while in storage.

Payment for Materials stored outside the State of Louisiana will be considered, subject to approval of the Department's Project Manager. This will generally be limited to adjacent states, except in cases where it will be in the best interest of the LA DOTD to pay for these Materials.

Payment may be made for the invoice price for the Materials, which must not exceed 85% of the PC which includes the Materials. For fabricated Materials purchased from commercial sources and delivered to approved storage, partial payment may be the invoice price plus freight and taxes. The Design-Builder shall allocate costs for Materials as part of the activities with which the Material is associated.

Partial payment for stockpiled materials must be requested by the Design-Builder in writing and the following documents must be furnished:

- A) A copy of the invoices from the supplier or manufacturer verifying the cost and quantity of the Material; and
- B) If storage is on private property, a copy of the lease or agreement granting the LA DOTD right of entry to property.

Within 30 Calendar Days after payment by the LA DOTD, the Design-Builder shall submit a certified copy of invoices from the suppliers for each item for which payment has been made. All such invoices submitted must state the amount received by the supplier as payment in full for the Materials. If this certification of payment is not presented within the 30 Calendar Day period, the advanced payment will be deducted from future periodic payments.

Title and ownership of Materials for which advancements have been made by the LA DOTD must not vest in the LA DOTD until such Materials are incorporated in the Work and the Work accepted by the LA DOTD. The making of advancements by the LA DOTD will not release the Design-Builder from the responsibility for any portion thereof.

DB 109-5.3.2 Fabricated or Manufactured Materials

Fabricated or manufactured Materials may include, but are not limited to, the following:

- A) Structural steel;
- B) Fabricated structural steel items;
- C) Steel piling;

- D) Reinforcing steel;
- E) Electrical Equipment;
- F) Mechanical Equipment;
- G) Precast concrete items;
- H) Structural timber;
- I) Timber piling;
- J) Fencing and guard rail Materials;
- K) Fabricated sign structures; and
- L) Sign panels.

DB 109-5.3.3 Other Material

These Materials will normally be large quantities of natural or manufactured aggregate. The Design-Builder's request for payment of stockpiled natural Material must give a detailed description of the Material, its intended use, and location of the site.

DB 109-5.4 Equipment Used to Construct the Project

The LA DOTD will not pay for direct costs of Equipment used to construct the Project. The Design-Builder shall allocate costs for Equipment, whether new, used, or rented, as part of the activities with which the Equipment is associated.

DB 109-5.5 Bond Premiums

The amount payable to the Design-Builder for bond premiums must be a dollar-for-dollar pass through of the Design-Builder's costs (not to exceed the amount shown on Form PC1 for such premiums).

DB 109-5.6 Permits

The amount payable to the Design-Builder for permits must be a dollar-for-dollar pass-through of the Design-Builder's costs (not to exceed amount shown on Form PC1 for permits). The Design-Builder shall provide backup documentation supporting each cost in this category to the LA DOTD prior to any payment.

DB 109-5.7 Accelerated Payment

The Design-Builder will be entitled to payment at a rate in excess of that shown on the PPS-C if a PCP is completed prior to the date shown on the Schedule of PCPs (Form PCP), provided all PCPs preceding the aforementioned PCP on the Schedule of PCPs (Form PCP) for that PC have also been completed. Periodic payment will be based on the percentages shown on the PPS-C for the date when the completed PCP was planned to be met.

See also DB Sections 109-1.4.3 and 109-1.4.4 for resulting adjustments to the Schedule of PCPs (Form PCP) and PPS-C.

DB 109-6 REVIEW AND PROCESSING OF REQUESTS FOR PERIODIC PAYMENT

Upon receipt of a Request for Periodic Payment, the Department's Project Manager will proceed in accordance with this DB Section 109-6. At the same time, the Department's Project Manager will countersign the certificate of PCPs achieved (Form RPP) for PCPs met.

Any adjustments by the Department's Project Manager to a Request for Periodic Payment will be reasonable and in accordance with the Contract Documents.

Upon resolution of any problems with any draft certificate of PCPs that resulted in an adjustment in the amount of a prior Request for Periodic Payment, or upon satisfaction of any conditions that were the basis for such an adjustment, the Design-Builder may include the amount of the adjustment in the next Request for Periodic Payment.

DB 109-6.1 Payment Limitations and Partial Suspension of Payments

There will be no advance payments or payments for mobilization except as specified in DB Section 109-1.1.2 and 109-1.3(F)(1).

The LA DOTD will not pay for construction Work, including Work being paid on a force account basis, unless the following conditions are met:

- A) The Design-Builder's Design Plans and Project specifications that have been released for construction as per DB Section 111-12.5 are on site for the Work being constructed;
- B) The Design-Builder's Design Plans and Project specifications have been checked and reviewed in accordance with DB Section 111-12 and design documentation maintained in accordance with DB Section 111-18;
- C) Construction Work has been inspected and sampling and testing conducted in accordance with DB Section 112-2;
- D) Items covered by Non-Conformance Reports (NCR) issued by the LA DOTD, the Design QC Manager, or Construction QC Manager are corrected and/or resolved to the satisfaction of the LA DOTD; and
- E) Construction documentation is completed and records and reports submitted and/or retained in accordance with DB Section 112-9.

If the Design-Builder does not meet the PCP by the date indicated on the Schedule of PCPs (Form PCP), all payment on that PC in which the PCP appears will be suspended at the level of the previous month's payment until the date the PCP is met, at which time the payment will be brought up to the appropriate level through the next Request for Periodic Payment.

As a condition precedent to consideration by the Department's Project Manager of any periodic payment for Work described in PC 1 for the preceding month, the monthly progress report completed in accordance with DB Section 108-2.3 must accompany each such application.

As a condition precedent to consideration by the Department's Project Manager of any periodic payment for Work described in PC 1 for the preceding month, all certified payrolls of the Design-Builder and all Construction Subcontractors must be up to date and submitted to the LA DOTD.

The LA DOTD may suspend payment for PC 1, 3, and/or 4 Work for any period if the Design-Builder's performance of PC 1, 3, and/or 4 continuing activities during the period resulted in any of the following:

- 1) Serious disruptions to necessary Maintenance of Traffic and access through the site;
- 2) Serious disruptions to the LA DOTD's access to the site or use of facilities provided for the LA DOTD's use;
- 3) Unacceptable safety performance as evidenced by the Design-Builder's accident record;
- 4) Non-compliance with environmental requirements that leads to citations, fines, and/or other penalties by environmental authorities;
- 5) Serious disruptions to procedures and documentation required by the Quality Plan and/or specified in the Contract;
- 6) Continued reports of blocked vehicular and/or pedestrian access to properties; or
- 7) Continued report of failure to comply with the requirements of Part 3 – Design Requirements and Performance Specifications, Traffic Control Plan Performance Specification.

The Department's Project Manager may determine that the three month PCPs for PC 1, 3, and/or 4 continuing activities have not been met and may suspend payment for PC 1, 3, and/or 4 Work at the end of the three month period covered by the PCP if there is a continuing history of non-compliance and failure to correct deficiencies noted in the Department's Project Manager's monthly assessment of the Design-Builder's performance for PC 1, 3, and/or 4 continuing activities listed in DB Sections 109-2.

No payment will be made under PCs or Change Orders being paid on a force account basis for design or construction Work necessitated to correct deficiencies noted on an NCR. The Design-Builder shall clearly delineate in its records and on the force account report (*see* DB Section 109-8.1.3) personnel and Equipment used on any corrective force account Work on such deficiencies.

If the Design-Builder fails to actively prosecute Work within a PC, the Department's Project Manager may suspend payment in that PC at the previous month's level or, as agreed between the Design-Builder and the Department's Project Manager, adjust the payment to a level commensurate with actual progress made.

DB 109-6.2 Certification for Periodic Payment

Within seven Calendar Days of receipt of a request in accordance with DB Section 109-5, the Department's Project Manager will issue to the LA DOTD, with a copy to the Design-Builder, a periodic payment certificate showing the amount of any periodic payment the Department's Project Manager considers payable by the LA DOTD to the Design-Builder. Such periodic payment certificate must be the sum of the following:

- A) The amounts shown to be due by reference to the Contract Periodic Payment Schedule; and
- B) The amounts determined by the Department's Project Manager to be due in respect of the following:
 - 1) Additional cost incurred and payable in accordance with the Contract;

- 2) Work executed pursuant to a force account Change Order; and
- 3) Any other amount or allowance to which the Design-Builder is entitled under the Contract, unless account has been or will be taken of such amount or allowance by way of a revision of a PCV under DB Section 109-1.4.2;

less:

- a) Any retention monies as provided for in DB Section 109-7;
- b) Any amounts certified for payment on certificates previously issued; and
- c) Any amounts recoverable from the Design-Builder in accordance with the Contract, including any amount withheld for PC 1 because the Design-Builder failed to provide the monthly progress report in the form and detail required in the Contract or failed to provide a revised Baseline Progress Schedule that the Department's Project Manager has Approved.

At the same time, the Department's Project Manager will countersign Form RPP to be based on the draft submitted by the Design-Builder pursuant to DB Section 109-5, amended as necessary, certifying the PCPs the Department's Project Manager considers the Design-Builder to have met. The Department's Project Manager will have power to omit from any such certificate the value of any Work with which the Department's Project Manager may, for the time being, be dissatisfied. The Department's Project Manager may by any certificate delete, correct, or modify any sum or statement of fact previously certified by him or her.

DB 109-6.3 Cap on Periodic Payment

If there is a need, periodic payments may be limited by a cumulative cap set forth on the PPS-C. If a cap on payment is in place on the Project, at no time will the Design-Builder's cumulative total progress payments exceed the cumulative total expenditure shown on the PPS-C except for the Design-Builder's accelerated performance as defined and provided in DB Section 109-5.7. The initial PPS-C set forth in DB Section 109-1.2 hereto is subject to revision from time to time as appropriate to account for any changes in the Lump Sum Contract Price as evidenced by Change Orders.

DB 109-6.4 Payment by the Louisiana Department of Transportation and Development

Within 30 Calendar Days after receipt by the LA DOTD of an acceptable request for periodic payment (such acceptability as determined by the LA DOTD), the LA DOTD will pay the Design-Builder the amount of the request approved for payment by the Department's Project Manager, less any applicable retention and less any amounts that the LA DOTD is otherwise entitled to withhold. If a cap on payment is in place on the Project, in no event will the LA DOTD have any obligation to pay the Design-Builder any amount which would result in payment for any activity in excess of the value of the activity shown on the PPS-C, except as provided in DB Section 109-5.7.

DB 109-6.5 Adjustment for Cost of Materials or Fuels

There will be no cost adjustment for any Materials or fuels under this Contract.

DB 109-7 RETAINAGE

If an election has been made to have retainage withheld from periodic payments due the Design-Builder, the LA DOTD will deduct from the periodic payment an amount equal to five percent of the requested periodic payment.

DB 109-8 EXTRA WORK, FORCE ACCOUNT WORK, AND RECORD KEEPING

DB 109-8.1 New Work

DB 109-8.1.1 Agreed Prices

Agreed prices for new Work or Material may be incorporated in the Change Order as the Department's Project Manager may deem them to be just and fair and beneficial to the state. These prices must be supported by a complete price analysis in the Change Order, or if approved by the Department's Project Manager, by reference to the weighted average bid or proposal prices for similar types and quantity of Work from other recent contracts. The price analysis will be based on an estimated breakdown of charges listed in DB Section 109-8.1.2 unless some other basis is approved by the Secretary. Agreed prices may be lump sum or unit price Work.

DB 109-8.1.2 Force Account Charges

Where there are no applicable unit prices for Extra Work ordered and agreed prices cannot be readily established or substantiated, the Design-Builder shall be paid on a force account basis. When force account is the method of payment, the Design-Builder will be paid the direct cost of the Work as determined and documented in DB Section 109-8.1.2(A) through (F). Jobsite and home office overhead indirect expenses, and profit for all parties will be considered fully compensated by a 15% mark-up on allowable direct cost items described in DB Section 109-8.1.2(A) through (D), and the mark-up on direct cost for any Subcontractors and the Design-Builder described in DB Section 109-8.1.2(E):

A) Labor

For labor and working foremen in direct charge of operations, the Design-Builder shall receive the wage rates agreed on in writing before beginning Work for each hour that said labor and foremen are engaged in such Work. Jobsite and home office supervisory personnel must not be included as direct labor.

The Design-Builder shall receive the actual costs paid to, or on behalf of, workers for subsistence and travel allowances, health and welfare benefits, pension fund benefits, or other benefits when such amounts are required by collective bargaining agreement or other employment contract applicable to the classes of labor employed on the Work, but limited to a maximum daily rate for subsistence and travel allowances. This maximum must be agreed upon prior to the Design-Builder incurring such charges.

B) Bond, Insurance, and Tax

For property damage, liability, and Workers' Compensation insurance premiums; unemployment insurance contributions; social security taxes; and additional bond costs on force account Work, the Design-Builder shall receive the actual cost thereof. The

Design-Builder shall furnish satisfactory evidence of the rates paid for such additional bond, insurance, and tax.

C) **Materials**

For Materials used, the Design-Builder shall receive the actual cost of such Materials delivered to the Work including transportation charges and sales tax, if applicable.

D) **Equipment**

For machinery or special Equipment, the Design-Builder shall receive the rental rates agreed on in writing before such Work is begun. For Equipment rented from independent outside sources, the Design-Builder shall be reimbursed the reasonable actual cost as shown on paid rental invoices. For company-owned Equipment, the Design-Builder shall be reimbursed its internal cost recovery Equipment charge rate. The LA DOTD's Engineering Directives and Standards Manual, EDSM III.1.1.27, entitled Equipment Rental Rates, provides additional guidance concerning allowable Equipment rental rates and their application. If the Design-Builder chooses to use a rental rate guide book instead of its internal cost recovery rates to establish rental rates for company-owned Equipment, adjustments to the allowable type of Equipment and hours per day must be made as described in the EDSM III.1.1.27. In addition, no 15% mark-up on Equipment direct cost for jobsite and home office overhead expenses and profit will be allowed if the Design-Builder chooses to use rental rate guide book prices instead of its internal cost recovery rates.

E) **Subcontracting**

When the Work is to be performed by a Subcontractor, the Design-Builder will be paid the actual and reasonable cost of such subcontracted Work computed as outlined above, plus an additional allowance of ten percent of the first \$50,000.00 and five percent of all costs over \$50,000.00. Reimbursement for bond costs will be in accordance with DB Section 109-8.1.2(B).

F) **Non-Allowable Costs**

No additional Design-Builder cost reimbursement will be made for general superintendence, small tools or craft-specific tool allowances, or other direct or indirect costs not specifically included in DB Section 109-8.1.2(A) through (E).

DB 109-8.1.3 Statements

No payment will be made for force account Work until the Design-Builder has furnished the Department's Project Manager with duplicate itemized statements of the cost of such Work detailed as follows:

- A) Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foreman;
- B) Designations, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and Equipment;
- C) Quantities of Materials, prices, and extensions;
- D) Transportation of Materials; and

- E) Cost of property damage, liability, and workers' compensation insurance premiums, unemployment insurance contributions, and social security tax.

The Design-Builder's Project Manager and the Department's Project Manager will compare records of the cost of Work done as ordered on a force account basis. Such comparison must be made daily. Statements must be accompanied by invoices for Materials used and transportation charges. If Materials used on force account Work are not purchased for such Work, but are taken from the Design-Builder's stock, in lieu of invoices, the Design-Builder shall furnish an itemized list of such Materials showing that the quantity claimed was actually used and that the price and transportation costs claimed represent the actual cost to the Design-Builder. Invoices must be accompanied by the Design-Builder's notarized statement that payment in full has been made for the Materials.

DB 109-9 ELIMINATED ITEMS

Should any Work contained in the Contract be found unnecessary, the Department's Project Manager may, upon written order to the Design-Builder, eliminate such Work from the Contract. Such action will not invalidate the Contract.

When Work is eliminated, the Design-Builder will be reimbursed for activities done toward completion of the Work to be eliminated. No allowance, except as provided herein, will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits claimed by the Design-Builder resulting directly from such elimination.

The Change Order authorizing reimbursements will show how the reimbursements were derived. Except when otherwise authorized by the Department's Project Manager, such derivation will show breakdowns of costs as detailed in DB Section 109-8.1.2.

DB 109-10 FINAL ACCEPTANCE

Upon receipt of written notice from the Design-Builder of the projected completion date of all of the requirements for the Project, the Department's Project Manager will inspect or review all portions of the Project to verify that all Work, including surveys, As-Built Plans, and Design Acceptance, have been satisfactorily completed. Prior to receiving notification for Final Acceptance for the entire Project, the Design-Builder must complete any specified training for LA DOTD personnel.

The Design-Builder shall prepare and submit As-Built Plans of the following types in electronic format and one reproducible hard copy set:

- A) Plan and profile sheets;
- B) Signing and striping;
- C) Pavement typical sections;
- D) All Bridge Plans;
- E) Retaining Structure Plans;
- F) Utility relocation Plans;
- G) Drainage Structure Plans;

Louisiana Department of Transportation and Development

- H) Cross sections in areas with retaining structures and/or cuts and/or fills in excess of ten feet high; and
- I) Plans of consolidated access points.

Upon verification that all items have been completed, the final inspection by the Department's Project Manager will be scheduled and conducted within 14 Calendar Days. If the inspection discloses Work, in whole or in part, as being unsatisfactory, the Department's Project Manager will give the Design-Builder the necessary written instructions within the time limit set by the Department's Project Manager. Upon correction of the Work, the Department's Project Manager will make an additional inspection and notify the Design-Builder accordingly as soon as reasonably possible thereafter.

If there are no outstanding items to be completed or corrected before Final Acceptance of the Project, the Design-Builder shall, following inspection:

- A) Submit to the Department's Project Manager special guarantees, warranties, maintenance agreements, final certifications, and similar documents required under the Contract;
- B) Deliver tools, spare parts, instructions, and similar items required to operate and maintain the Work; and
- C) Make changeover of locks to all Equipment and facilities and deliver keys and/or combinations to the Department's Project Manager.

When in the opinion of the Department's Project Manager the Design-Builder has fully performed the Work under this Contract, the Department's Project Manager will recommend to the appropriate LA DOTD officials the Final Acceptance of the Work so completed. If the appropriate LA DOTD officials accept the recommendation of the Department's Project Manager, he will thereupon by letter notify the Design-Builder of such Final Acceptance, and copies of such Final Acceptance will be sent to other interested parties.

Upon Final Acceptance of the Work, the LA DOTD will execute a certificate that the Work provided for in the Contract has been completed and accepted under the terms of the Contract. The Certificate of Acceptance will be recorded in the office of the Recorder of Mortgages of any parish in which the Work has been done.

Final Acceptance will be final and conclusive except for defects not readily ascertainable by the LA DOTD; actual or constructive fraud; gross mistakes amounting to fraud; or other errors which the Design-Builder knew or should have known about as well as the LA DOTD's rights under any warranty or guarantee. Final Acceptance may be revoked by the LA DOTD at any time prior to the issuance of the final payment upon the LA DOTD's discovery of such defects, mistakes, fraud, or errors in the Work.

Damage, theft, or vandalism to the items by the public after Final Acceptance will be repaired or replaced by the LA DOTD or by the Design-Builder. When the damage to an item is such that only partial repair or replacement is required and the Work is to be done by the Design-Builder, payment will be made as provided in DB Section 109-8.1. Items damaged due to negligence of the Design-Builder will be repaired or replaced at no cost to the state.

Final Acceptance does not relieve the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract.

DB 109-11 FINAL PAYMENT

The entire balance due to the Design-Builder, including any amounts withheld as retainage, will be paid; however, before the final payment, the Design-Builder shall submit to the LA DOTD a certificate from the Recorder of Mortgages of the parish in which the Work has been done to the effect that there are no claims or liens recorded against the Contract, in accordance with La. C. C. P. 5059 and Louisiana Revised Statutes 1:55. The date of the certificate must not be prior to the expiration of 45 Calendar Days, but must be prior to the expiration of 90 Calendar Days, after the Certificate of Acceptance was recorded in the Recorder of Mortgage's Office.

Prior to final payment, all releases or waivers on buildings, wells, utilities, and railroads must be furnished as well as any maintenance bonds, certificates from the Health Department, tracings, brochures, or other items required by the Contract.

Final payment will not release the Design-Builder or Sureties from liability for any fraud in construction; in obtaining periodic payments; in payment for Materials, labor, or other supplies or services for the Work; or for any claims for damages, loss, or injury sustained by any person through the fault, negligence or conduct of the Design-Builder or any employees, agents, Subcontractors, suppliers, or representatives.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

APPENDIX 109A FORMS



APPENDIX 109A

FORMS

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Form RPP	Request for Periodic Payment and Periodic Certification Summary Sheet

FORM 109-06

**CERTIFICATION OF TITLE
TO MATERIALS STORED, OR TO BE STORED,
FOR INCORPORATION INTO LOUISIANA DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT PROJECT**

WHEREAS, _____ hereafter referred to as the "Design-Builder," is engaged in the performance of the Contract with the Louisiana Department of Transportation and Development, hereafter referred to as the "LA DOTD," and

WHEREAS, in accord with the Design Plans and Project specifications, the Design-Builder has purchased certain Materials for incorporation into the Contract Work from _____, hereafter referred to as the "Vendor," and

WHEREAS, these Materials referred to are as follows:

and,

WHEREAS, to comply with the provisions of the Contract Documents regarding payment of stockpiled Materials requiring certification of the Design-Builder's absolute legal title to the Materials described above and warrant of title to the same Materials to the LA DOTD, the Design-Builder, and the Vendor have entered into the following agreement.

NOW, THEREFORE, and in consideration of the forgoing premises, the Design-Builder and the Vendor agree, with the intention of being bound hereby, as follows:

1. The Vendor has executed this document for the purpose of acknowledging that: the Vendor has made an outright sale and transfer of title for the above Materials to the Design-Builder free of all restrictions, filings, or liens; the Vendor is the lawful owner of the above Materials and has the right make such transfer of title; and the Vendor will not in the future make any claims whatsoever to such title.
2. The Design-Builder certifies and represents that it is the lawful holder of the absolute legal title to the above Materials and has full legal right, power, and authority to sell and transfer such title without restrictions, filings, or liens of any kind on the part of the Vendor and/or any Subcontractor.
3. The Design-Builder, Vendor, and/or any Subcontractor and their successors and assigns, will and do by these presents warrant title to the above described Materials to the LA DOTD.

Louisiana Department of Transportation and Development

4. In the event that the Vendor has sold the above described Materials to a Subcontractor of the Design-Builder, this Certification of Title is hereby amended at all applicable points to reflect this fact. By the execution of this certification, any such Subcontractor is acknowledging that: such Subcontractor has made an outright sale and transfer of title for the above Materials to the Design-Builder free of all restrictions, filings, or liens; such Subcontractor is the lawful owner of the above Materials and has the right to make such transfer of title; and such Subcontractor will not in the future make any claims whatsoever to such title.

IN WITNESS WHEREOF, the parties hereto have caused this Certification of Title to be executed this day of _____, 20__.

ATTEST: DESIGN-BUILDER

By _____

Title _____

ATTEST: SUBCONTRACTOR

By _____

Title _____

ATTEST: VENDOR

By _____

Title _____

Louisiana Department of Transportation and Development

**FORM RPP
Request for Periodic Payment and Periodic Certifications
Summary Sheet**

(1) Payment Request No. _____	(4) Date Request Received By Dept's Proj. Mgr. _____
(2) Period of: _____	(5) Contract Price _____
(3) Date Request Submitted: _____	

(6) Price Center Code	(7) Price Center Value	(8) Cumulative Amount Earned at End of Last Period	(9) Planned Cumulative Payment per PPS-C	(10) Not Used	(11) Actual Cumulative Amount Earned End of This Period
Section A Total					
Section B Total					
Section C Total					
Section D Total					
Section E Total					
Section F Total					
(12) Total Amount Earned to Date					
(14) Total Amount Earned as of Last Period					
(15) Amount Earned This Period					
(16) Less Retention (5%)					
(17) Net Due This Period					

Progress and Quality Certification:

We hereby certify that all Work performed meets Contract requirements, that the indicated Progress Check Points have been met and that the cumulative amount earned at end of the period covered by this request and certificate are correct to the best of our knowledge.

For the Design-Builder:

Signed: _____
 Printed or Typed Name: _____
 Date: _____

Design-Builder's Project Manager or Deputy QA/QC Manager

Designer's Certification:

I hereby certify that responsible design staff have examined the site and the Work under construction and have, based on their professional judgment, determined that the site conditions appear to be consistent with those represented by the design documents and that the Work is progressing in accordance with the Design Plans and Project specifications.

Signed: _____
 Printed or Typed name: _____
 Date: _____

Design Manager

Department Endorsement:

I hereby confirm the achievement of the cumulative amount earned to date indicated herein and concur with this request and certificate except as noted below or attached.

For Department: _____ (Signature) _____ (Date)
 _____ (Date)
 Project Engineer

Louisiana Department of Transportation and Development

FORM RPP

Request for Periodic Payment and Periodic Completion Certification
Section A

(1) Payment Request No.

(2) Period of:

(3) Date Request Submitted:

(6) Price Center Code	(7) Price Center Value	(8) Cumulative Amount Earned at End of Last Period	(9) Planned Cumulative Payment per PPS-C	(10) All Scheduled PCPs Met Yes or No	(11) Actual Cumulative Amount Earned End of This Period
PC1, Preliminary & General Requirements					
PC2, Engineering & Design					
PC3, Maintenance & Protection of Traffic					
PC4, Environmental Monitoring & Mitigation					
PC5, Hazardous & Contaminated Materials Remediation					
(12) Total					0

Project Check Points Met this Period Section A (enter PCP Code)(13)

FORM RPP

Instructions

A. All amounts shall be in US\$.

B. Request for Periodic Payment Sheet

1. Enter Payment Request Number (numbered sequentially starting with "1")
2. Enter month and year covered by this payment request
3. Enter date this payment request was submitted to Department's Project Manager
4. Enter date received by Department's Project Manager
5. Enter Lump Sum Contract Price
6. Enter Price Center Code from PPS-C for each Price Center in the Section
7. Enter Price Center Value from PPS-C for each Price Center
8. Enter Amount Earned at End of Previous Period
9. Enter Planned Cumulative Amount Earned from PPS-C for each Price Center. Enter "N/A" for any Price Center being paid on a unit price or force account basis
10. If "Yes" in Column (10), enter amount shown in Column (9); if "No" in Column (10), enter amount shown in Column (8)
11. Total the amounts shown in (11) and enter in (12)
12. Enter total of Column (11)
13. Enter the PCP code of each PCP achieved (met) during the period
14. Enter total of Column (8)
15. Subtract (14) from (12)
16. Multiply (15) by 0.05
17. Subtract (16) from (15)

C. Periodic Certifications

The Design-Builder's Project Manager, QA/QC Manager, and Design Manager shall sign and date the Certifications.

D. Department's Endorsement

The Department's Project Manager will sign and date the LA DOTD endorsement for the Periodic Completion Certificate

E. See DB Section 109 for documentation required for Unit Priced and Force Account Work.

F. Add additional worksheets for additional Project sections as required.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. _____ **[Insert the state project number]** _____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 111

DESIGN MANAGEMENT AND

DESIGN QUALITY CONTROL



DB SECTION 111

DESIGN MANAGEMENT AND DESIGN QUALITY CONTROL

DB 111-1 GENERAL DESIGN-BUILDER RESPONSIBILITIES

The Work must be performed in accordance with the details as shown on the Design Plans, Project specifications, and Working Plans prepared by the Design-Builder, subject to the Louisiana Department of Transportation and Development's (LA DOTD) Consultation and Written Comment and/or Approval and Federal Highway Administration's (FHWA) approval, as appropriate.

It is the Design-Builder's sole responsibility to provide Design Plans, Project specifications, and Working Plans of such a nature to develop a finished product in accordance with the Contract requirements. The Design-Builder shall verify pertinent dimensions in the field prior to the review of Design Plans, Project specifications, and Working Plans. Review of the Design-Builder's Design Plans, Project specifications, and/or Working Plans by the LA DOTD or FHWA does not relieve the Design-Builder of the responsibility for the satisfactory completion of the Work.

Design Plans, Project specifications, and Working Plans are subject to the LA DOTD's Consultation and Written Comments as per DB Section 111-12 before beginning construction Work covered by the Plans and the design intent must not be thereafter amended or altered without the prior approval of the Design-Builder's Designer and subsequent Consultation and Written Comment by the LA DOTD.

The Lump Sum Contract Price includes the cost of furnishing all Design Plans and Working Plans.

The Design-Builder shall perform the following:

- A) Manage the design and design Quality Control;
- B) Coordinate with and obtain necessary approvals from authorities having jurisdiction for temporary road diversions and detours, shutdowns, temporary diversions, utility relocations, temporary sidewalk closures, and pedestrian detours; and
- C) Ensure that the Designer properly checks the designs of the Project and that the Design Quality Control (QC) Manager certifies QC procedures in accordance with the Contract.

The procedures for the checking of design of permanent components also apply to design of major temporary components and construction sequences that affect the permanent components of the Project.

Please refer to Part 2 – Design-Build Section 101, Section 101-3, for the definitions of QC and Quality Assurance (QA).

DB 111-2 DESIGN-BUILDER'S DESIGN ORGANIZATION AND OBLIGATIONS

DB 111-2.1 Designer

The Design-Builder shall appoint a suitably qualified and experienced Designer, which may be a consultant or an in-house design team, to undertake the design of the permanent components and the major temporary components of the Project. The Design-Builder shall require the Designer to be located in the Project office and maintain all necessary representation throughout the duration of the Contract to

ensure the Designer can meet all its obligations under the Contract and to ensure that the design intent is met by construction.

DB 111-2.2 Location of Design-Builder's Designer

The Designer may perform production design Work in the Project vicinity or elsewhere. However, the key design personnel must be in the Project vicinity for the duration of the design. What constitutes the "Project vicinity" will be determined in the sole discretion of the Department's Project Manager.

DB 111-2.3 Completeness of Design

The Designer must determine the following:

- A) Effects of all loading requirements;
- B) Dimensions of all elements;
- C) Structural redundancies, where they exist;
- D) Sub-soil interaction to support the loads from above;
- E) Effects of seismicity;
- F) Effects of fatigue;
- G) Durability and maintainability requirements, including a maintenance manual;
- H) Details of required Quality Control procedures, monitoring, and controls; and
- I) Effects of hydrology, design flows, and scour depths.

Working Drawings will be reviewed by the LA DOTD for conformance to Contract requirements. However, design will be considered complete upon the LA DOTD's Design Approval following submittal and review of the As-Built Plans.

DB 111-2.4 Design Manager

The Design-Builder shall designate and assign a Design Manager to manage all Work performed by the Design-Builder's Designer. The Design Manager must be in the Project vicinity as required for the design Work and must be in the Project vicinity as required thereafter to manage design support during construction, design changes, and completion of As-Built Plans. What constitutes the "Project vicinity" will be determined in the sole discretion of the Department's Project Manager.

The Design Manager and/or staff working under the direct supervision of the Design Manager must conduct an assessment and evaluation of design such that the Design Manager can certify to the Design-Builder and to the LA DOTD that the design satisfies the Contract requirements, including the following requirements:

- A) Accuracy;
- B) Adequacy;
- C) Conformance to standards of practice;
- D) Compliance with codes, standards, and permits;
- E) Cost effectiveness;
- F) Quality; and

- G) Fitness for purpose and/or function as specified and/or implied in the Contract.

The Design Manager must include such written certification for all Work being subjected to a Design Review as per DB Section 111-12.

The Design Manager's activities must include, at a minimum, assessment and evaluation of the following:

- 1) Design reports;
- 2) Design Reviews;
- 3) Review of shop drawings;
- 4) Evaluation and mitigation of Non-Conformance Reports;
- 5) Analytical approach;
- 6) Drawing details for conformity to Contract requirements;
- 7) Project specifications for conformity to Contract requirements;
- 8) Design Plans and Working Drawings;
- 9) Major temporary components' effect on permanent components;
- 10) Field design changes;
- 11) Design approvals for Materials and procedures; and
- 12) As-Built Plans for conformity with final design and Contract requirements.

DB 111-2.5 Responsible Engineer

The Designer must designate and assign a Responsible Engineer for each Design-Builder-designated Design Unit. The Responsible Engineer(s) must sign and seal design reports, Design Plans, Working Drawings, and Project specifications for the assigned Design Unit(s). Responsible Engineers must be Louisiana-licensed Professional Engineers.

Responsible Engineers must be in the Project vicinity as necessary to coordinate the Work on assigned Design Units. The Responsible Engineer must be physically located in the Project vicinity for, and must attend all Design Reviews for, assigned Design Unit(s). What constitutes the "Project vicinity" will be determined in the sole discretion of the Department's Project Manager.

DB 111-2.6 Design Quality Control Manager

The Design-Builder shall assign a Design QC Manager, which is one of the Design-Builder's key personnel. The Design-Builder's Design QC Manager must report to the Design-Builder's QA/QC Manager and must be a person who is independent from the production of the design.

The Design-Builder's Design QC Manager must be responsible for the QC of all Work conducted by the Designer. The Design-Builder's Design QC Manager must be in the Project vicinity as required throughout the design process and must be physically present in the Project vicinity to manage design QC related to design support during construction, design changes, and completion of As-Built Plans. What constitutes the "Project vicinity" will be determined in the sole discretion of the Department's Project Manager.

The Design-Builder's Design QC Manager must assess and evaluate the Design-Builder's design QC activities in order to be able to certify to the Design-Builder and to the LA DOTD that the design QC activities comply with the Contract requirements, including the Design-Builder's Quality Plan.

The Design-Builder shall ensure that its Design QC Manager carries out all duties expressed and implied in the Contract.

The Design-Builder's Design Quality Control Manager must have QC responsibilities related to the following:

- A) Design of permanent and major temporary components;
- B) Changes in design of permanent components; and
- C) As-Built Plans.

The Design-Builder's Design Quality Control Manager must also perform the following activities:

- 1) Identify and report non-conformities/non-compliance;
- 2) Track, monitor, and report on status of outstanding design-related Non-Conformance Reports;
- 3) Supply monthly reports (*see* DB Section 111-18.3.1); and
- 4) Submit specified certificates (permanent components and major temporary components).

These responsibilities are further specified in DB Section 111-12.

DB 111-2.7 Check by the Designer

The requirement that the Design-Builder engage and use a Design QC Manager does not relieve the Designer from carrying out all the checks and reviews that a professional and prudent designer would normally carry out on the type of Work that is actually being designed.

DB 111-3 DESIGN UNITS

The Design-Builder shall package all design and drawings for the Work into separate Design Units. Each Design Unit must comprise similar and coherent significant parts of the Project that can be checked and reviewed as a self contained package with due consideration for accommodating interfaces with other Project components.

Within 30 Calendar Days of Notice to Proceed (NTP), the Design-Builder shall provide a written report updating and identifying each Design Unit. The written report must include the following:

- A) Design Unit descriptions, including the scope of design Work within each Design Unit, limits, and interface points;
- B) Planned review stages and dates, including specific information to be reviewed, planned review dates (measured from the NTP date), and percent complete represented by each review. *See* Appendix 111A - Forms, Form DUS;
- C) The identity of the Responsible Engineer; and
- D) Locations where design Work will be performed.

The Design-Builder shall submit any revisions to the information provided in response to this DB Section 111-3 in writing to the LA DOTD concurrent with the monthly progress report.

DB 111-4 RELATIONSHIP OF EARLY CONSTRUCTION STARTS TO DESIGN DEVELOPMENT AND REVIEW

It is the intent of the LA DOTD to allow construction to begin on a Design Unit prior to completion of final design. Construction on any Design Unit may begin at any time after the applicable readiness for construction Design Review. Construction may progress in increments determined by the Design-Builder, at the Design-Builder's risk, provided each increment of construction is covered by plans and specifications that have been reviewed and meet the requirements for readiness for construction noted in DB Section 111-12.5.

DB 111-5 SCHEDULE FOR DESIGN CHECKS, REVIEWS, AND SUBMISSION OF CHECKED DESIGN

The Design-Builder, through its Design QC Manager, is responsible for scheduling and conducting Design Reviews to meet design and/or construction needs of the Baseline Progress Schedule. It is recognized and anticipated that the Design Review process and frequency, duration, and intensity of Design Reviews may vary with the complexity of the individual Design Units and the associated construction activities. The duration of Design Reviews must be discussed and mutually agreed between the LA DOTD and Design-Builder during the Design Workshop (*see* DB Section 111-16) and verified and modified, as needed, by mutual agreement during the course of the Project. The Design-Builder shall give written notice of scheduled Design-Reviews to the Department's Project Manager at least one week prior to any review.

The Design-Builder shall include the agreed Design Review schedule for all Design Units (including their components and elements) as part of the Baseline Progress Schedule. The Design Review schedule must be reviewed monthly until design Work is complete. The Design-Builder shall not schedule more than two concurrent Design Reviews without the LA DOTD's written concurrence.

Except for As-Built Plans, "submissions" must be in the form of sufficient copies to accommodate participants in the Design Review(s) of Design Plans and Project specifications and supporting data and reports assembled for review in the Designer's office. For final Design Reviews, "submissions" must be in the form of two hard copies and one electronic copy of Design Plans and Project specifications and supporting data.

The Design-Builder shall make specified submissions of checked designs in accordance with DB Section 111-12. Submissions must be completed for each Design Unit, but may be combined for multiple Design Units at any one time upon the LA DOTD's written concurrence. The Design-Builder shall submit each Design Unit for Consultation and Written Comment (*see* DB Section 105-10) in accordance with the Baseline Progress Schedule.

For each Design Unit designated by the Design-Builder, the Design-Builder shall include design checks and Design Reviews as indicated in Table 111-12 and such additional reviews as may arise as indicated in DB Section 111-12.4.4. The Design-Builder shall allow the time for the LA DOTD's participation and input to any Design Review conducted by the Design-Builder's Design QC Manager as agreed as per this DB Section 111-5. The Design-Builder shall incorporate this schedule into the Design-Builder's Baseline Progress Schedule and report progress and updates in the monthly updates. The Design-Builder shall

keep the LA DOTD up-to-date on exact timing of reviews and readiness for construction Design Reviews through the weekly progress meetings.

DB 111-6 REVISIONS TO DESIGN

The Design-Builder shall deal with any changes to design initiated by the Design-Builder and already checked by the Designer and certified by the Design QC Manager as an entirely new design. The Design-Builder shall not be entitled to any increase in the Lump Sum Contract Price or extension of time pursuant to DB Section 108-6 in such circumstances.

DB 111-7 DESIGN REVIEW PLAN

The Design-Builder shall prepare and submit a written Design Review Plan within 30 Calendar Days of NTP for Consultation and Written Comment by the LA DOTD. The Design Review Plan must describe the level of design that the Designer will accomplish for each of the planned stages of design development and provide a description and/or checklist for each Design Unit clearly identifying the design product that will be reviewed. The Design Review Plan must include proposed review times for each Design Review, including the review times for the LA DOTD and Project Stakeholders.

DB 111-8 STAGES OF DESIGN DEVELOPMENT

The Design-Builder shall make a single comprehensive design check and Design Review for each Design Unit at the stages of design development specified herein.

The following are the six stages of design development:

- A) Definitive Design;
- B) Readiness for construction;
- C) Interim design;
- D) Final design;
- E) Working Drawings; and
- F) As-Built Plans.

The intent of each stage of design development and Design Review is the following:

- 1) Verify that the design complies with the Contract requirements;
- 2) Allow components of Design Units to be released for construction; and/or
- 3) In the case of reviews of Working Drawings, to allow construction to continue.

Design Reviews or design checks must be completed as specified in DB Section 111-12 for each Design Unit (and for each component or element within a Design Unit) at each stage of design development.

The Design-Builder shall time the Design Review and submissions (where specified) to be consistent with the Baseline Progress Schedule.

DB 111-9 DESIGN REVIEWS

The Design-Builder shall invite the LA DOTD and FHWA to participate in Definitive, readiness for construction, interim, and final Design Reviews. The LA DOTD may invite other Project Stakeholders to participate. The Design-Builder shall resolve the LA DOTD's and FHWA's comments to the satisfaction of the LA DOTD prior to the Design Review process being considered complete. Any FHWA or other Stakeholder comments will be forwarded to the Design-Builder by the LA DOTD and must be addressed and/or resolved by the Design-Builder.

DB 111-9.1 Definitive Design Review

The Design Review of Definitive Design must be the first Design Review after Award and is intended to verify that the design concepts proposed by the Design-Builder meet Contract requirements. The Definitive Design Review may also serve as a readiness for construction review (DB Section 111-9.2 and DB Section 111-12.5). The Definitive Design Review must verify the following:

- A) The design concepts governing future design development are defined consistently with Contract requirements;
- B) The final Basic Project Configuration;
- C) The design concepts are substantiated and justified by adequate Site investigation and analysis;
- D) Final Right-of-Way requirements;
- E) The specific standards applicable to the proposed concepts are identified and appropriate;
- F) The proposed design concepts are constructible;
- G) The availability of required Materials/Equipment; and
- H) The design meets Project quality requirements and required design QC procedures have been followed.

If the Definitive Design is amended subsequent to the Definitive Design Review, the Design-Builder shall re-check and re-certify the design at an additional Definitive Design Review. The Design-Builder shall not be entitled to an increase in the Lump Sum Contract Price or a time extension for the re-check and re-certification except when the amended design results from a change order requested by the LA DOTD.

See also DB Section 111-13 regarding design deviations and exceptions.

DB 111-9.2 Readiness for Construction Review

The Design-Builder and the LA DOTD will use the Design Review(s) of readiness for construction design to verify that the concepts and parameters established and represented by Definitive Design are being followed and that Contract requirements continue to be met. The Design-Builder shall specifically highlight, check, and bring to the attention of the LA DOTD any changes to information presented at Definitive Design. The Design-Builder shall present the information for readiness for construction review to the LA DOTD for Consultation and Written Comment by the LA DOTD.

The Design-Builder shall not construct any permanent components or major temporary components until the design checks, Design Reviews, and Design QC Manager's certifications have been completed for the relevant Design Unit and the LA DOTD's provided Consultation and Written Comment (*see* DB Section 105-10) and Stakeholder comments (if any) of the readiness for construction design have been resolved to

the satisfaction of the LA DOTD. The Design-Builder shall not commence any construction until any design-related NCRs have been addressed and resolved to the satisfaction of the LA DOTD.

If the readiness for construction design includes design information for Work that can be released for continuation of construction, the results of the readiness for construction Design Review, upon satisfaction of the LA DOTD's Consultation and Written Comment, may be used to satisfy a portion of the requirements of DB Section 111-12.5.

DB 111-9.3 Interim Design Reviews

If the Design-Builder does not initiate construction on a designated Design Unit prior to 100% completion of the design, thereby accomplishing a readiness for construction Design Review, the Design-Builder shall plan and conduct at least one interim Design Review between the Definitive Design Review and completion of design for that Design Unit. The Design-Builder shall schedule such interim reviews at a time when design is at the 60% to 80% stage of completion.

The Design-Builder and the LA DOTD will use the interim Design Review(s) to verify that the concepts and parameters established and represented by Definitive Design are being followed and that Contract requirements continue to be met. The Design-Builder shall specifically highlight, check, and bring to the attention of the LA DOTD any changes to information presented at Definitive Design. The Design-Builder shall submit the interim design for Consultation and Written Comment by the LA DOTD. The Design-Builder shall not move to the final Design Review until it has resolved the LA DOTD's Consultation and Written Comment on the interim design to the satisfaction of the LA DOTD.

DB 111-9.4 Final Design Review

The Design-Builder shall schedule and conduct a final design review when the Design Plans and Project specifications for a Design Unit are 100% complete. The Design-Builder shall specifically highlight, check, and bring to the attention of the LA DOTD any changes to information presented at previous Design Reviews. The Design-Builder shall submit final design for Consultation and Written Comment by the LA DOTD and Stakeholder comment. The Design-Builder shall not move to construction until it has resolved the LA DOTD's Consultation and Written Comment and Stakeholder comments (if any) on the final design to the satisfaction of the LA DOTD.

The final Design Review, upon satisfaction of the LA DOTD's Consultation and Written Comment, may be used to satisfy a portion of the requirements of DB Section 111-12.5.

DB 111-10 WORKING PLANS

Working Plans comprise the development and production of Working Drawings. The Design-Builder shall check, review, and certify Working Drawings in accordance with DB Section 111-12.1 through 111-12.3 and DB Section 111-14 prior to their being issued for construction.

The Design-Builder shall invite the LA DOTD and FHWA to participate in the review of Working Plans. The LA DOTD may invite other Stakeholders to participate in reviews of Working Plans.

Working Plans includes, but is not limited to, the following:

- A) Working Drawings;
- B) Material and product data from Manufacturers; and

- C) Calculations.

DB 111-11 AS-BUILT DESIGN

The Design-Builder shall submit the As-Built Plans for each Design Unit in accordance with DB Sections 109-10 and 111-12.

See DB Section 111-12.4.2 for additional requirements relating to As-Built Plans and information.

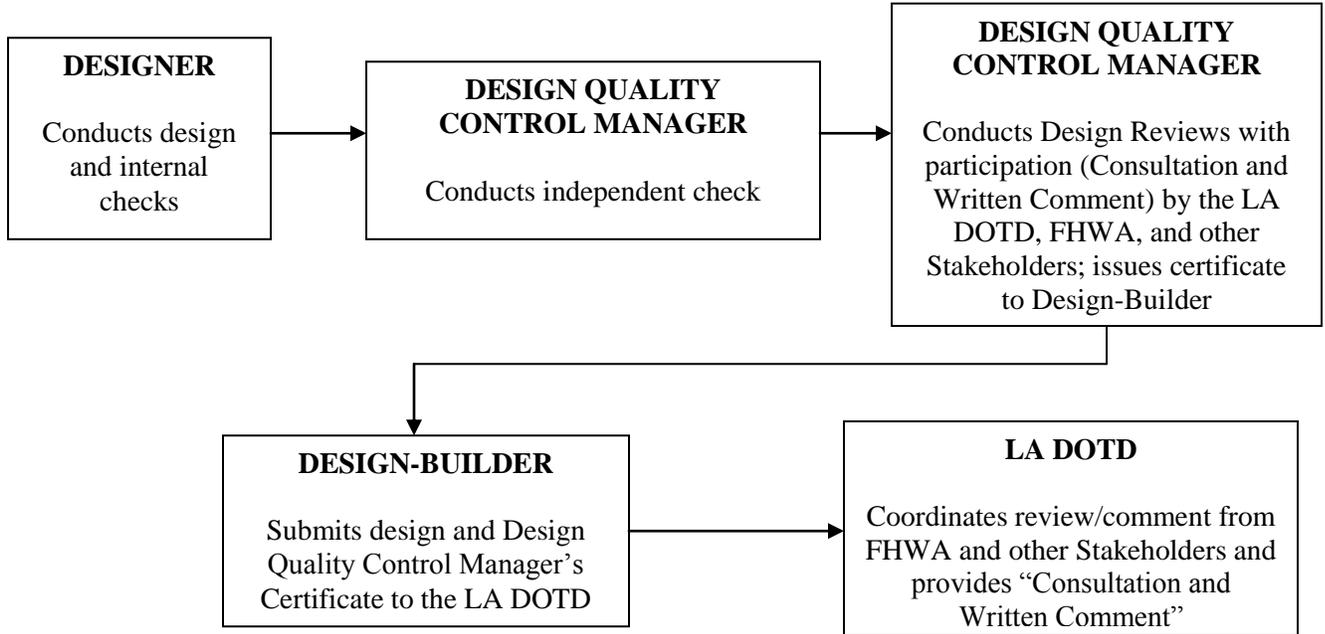
DB 111-12 DESIGN CHECKS, CERTIFICATIONS, AND REVIEWS

The Designer's organization must check all design documents (drawings, plans, specifications, calculations, and reports) produced by the Design-Builder's organization. The Design-Builder's Design QC Manager must certify that these documents have been checked as per Contract requirements and the Design-Builder's Quality Plan. The Design-Builder's Design QC Manager's written certification must provide the certification specified in DB Section 111-12.5(B).

The Design-Builder and the LA DOTD will follow the process shown in Figure 111-12A for Design Reviews conducted by the Design-Builder's Design QC Manager (applies to all Design Reviews except As-Built Plan Design Reviews).

FIGURE 111-12A

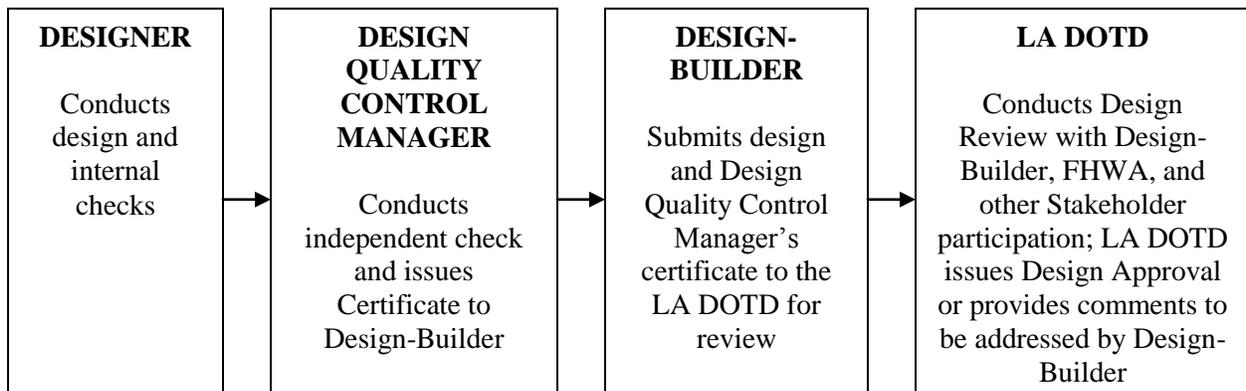
**DESIGN REVIEW FLOW CHART
(DESIGN-BUILDER'S DESIGN QUALITY CONTROL MANAGER
CONDUCTS DESIGN REVIEW)**



The Design-Builder and the LA DOTD will follow the process shown in Figure 111-12B for As-Built Plan Design Reviews.

FIGURE 111-12B

**AS-BUILT PLAN DESIGN REVIEW FLOW CHART
(LA DOTD CONDUCTS DESIGN REVIEWS)**



The Design-Builder shall conduct and complete the design checks, certifications, and reviews for each Design Unit by the entity specified in Table 111-12. The LA DOTD will provide Consultation and Written Comment and Stakeholder comments (if any) of the design prior to the Design-Builder releasing designs for construction, which comments must be resolved to the satisfaction of the LA DOTD. The LA DOTD may also issue design NCRs which must be addressed and resolved to the satisfaction of the LA DOTD prior to releasing the design(s) for construction.

The Design-Builder shall conduct its Design Review or submit its design for review in accordance with Table 111-12, supported by a written certification issued by the Design-Builder’s Design QC Manager, at the stages of design development shown in Table 111-12 for each Design Unit in accordance with the Design Review schedule in the Baseline Progress Schedule.

**TABLE 111-12
DESIGN CHECKS, CERTIFICATIONS, AND REVIEWS
FOR PERMANENT AND TEMPORARY COMPONENTS**

STAGE OF DESIGN DEVELOPMENT	DESIGN CHECK AND CERTIFICATION TO DESIGN-BUILDER	DESIGN REVIEW
Definitive design	Designer and Design Quality Control Manager	Design Quality Control Manager
Interim design	Designer and Design Quality Control Manager	Design Quality Control Manager
Readiness for construction design	Designer and Design Quality Control Manager	Design Quality Control Manager
Final design	Designer and Design Quality Control Manager	Design Quality Control Manager
Working Plans and related documents	Designer and Design Quality Control Manager	Design Quality Control Manager
As-Built Plans	Designer and Design Quality Control Manager	LA DOTD
Major temporary components	Designer and Design Quality Control Manager	Design Quality Control Manager
Temporary components	Designer and Design Quality Control Manager	Not applicable

DB 111-12.1 Design-Builder’s Independent Checks

The Design-Builder shall carry out independent checks of permanent components, major temporary components, and effects of temporary components on the permanent components by senior engineers not involved in the production of the design being reviewed who have equal or greater qualifications and experience as the Responsible Engineer for the design being checked.

Independent design checks must comprise design assessment and analytical checks as specified in DB Sections 111-12.2 and 111-12.3.

DB 111-12.2 Design Assessment

Design assessment must be the review of general compliance with the requirements of the Contract, taking into consideration the proposed method of construction, and must cover the following areas:

- A) Loads;
- B) Codes and standards;
- C) Methods of analysis;
- D) Computer software and its validation;
- E) Interface requirements;
- F) Maintenance requirements;
- G) Materials and Material properties;
- H) Durability requirements;
- I) Fatigue performance;
- J) Hydrology; and
- K) Design flows.

DB 111-12.3 Analytical Check

The independent design check must include an independent analytical check using separate calculations (and without reference to the Designer's calculations) to establish the structural adequacy and integrity of critical structural members. This analytical check must include, but is not limited to, the following:

- A) The structural geometry and modeling;
- B) Material properties;
- C) Member properties;
- D) Loading intensities; and
- E) Structural boundary conditions.

DB 111-12.4 Design Reviews

The Design-Builder's time and cost impacts of revisions arising from LA DOTD's and Stakeholders' participation in Design Reviews and/or caused by Design-Builder's non-compliance with Contract requirements, including the LA DOTD's and Stakeholders' time for reviewing revisions, must be borne by the Design-Builder.

DB 111-12.4.1 Design Reviews Conducted by the Design-Builder's Design Quality Control Manager

The Design-Builder shall notify and invite the LA DOTD and FHWA to participate in all Design Reviews conducted by the Design-Builder's Design QC Manager. The LA DOTD may also invite other Project Stakeholders and affected utility owners to participate. The LA DOTD will provide Consultation and Written Comment (based on the LA DOTD and Stakeholder participation) regarding these Design Reviews.

For Design Reviews conducted by the Design-Builder's Design QC Manager (*see* Table 111-12), the Design-Builder's Design QC Manager must provide a Design Review report for each Design Unit at the conclusion of each Design Review. The Design Review reports will identify any actions arising from the review. The Design Review report must note items requiring corrective action on the design NCR, Form NCR-D (Appendix 111A - Forms). The Design-Builder's Design QC Manager must send the design NCR to the Designer and a copy to the LA DOTD.

The Design-Builder shall conduct Design Reviews in the offices of the Designer and/or Design-Builder in the Project vicinity. What constitutes the "Project vicinity" will be determined by the Department's Project Manager, in his sole discretion.

The Responsible Engineer and any specialists with significant input to the design or review must be present. The Design-Builder shall provide to the LA DOTD all drawings, copies of calculations, reports, or other items pertinent to the Design Review.

DB 111-12.4.2 As-Built Review

As-Built Plans and Project specifications must incorporate complete information that defines the Work as constructed to meet the Contract requirements.

The Design-Builder shall submit As-Built Plans complete for each Design Unit to the LA DOTD for review and Design Approval in accordance with DB Section 111-11. The LA DOTD review will be one of the processes to verify if the Project has been designed and constructed in accordance with Contract requirements and to see if As-Built Plans comply with Contract requirements.

The Design-Builder shall make all corrections noted in the review of As-Built Plans and resubmit the corrected As-Built Plans to the LA DOTD for review and Design Approval.

Design Approval by the LA DOTD will not occur until the As-Built Plans are submitted, reviewed, and corrected to the satisfaction of the LA DOTD.

DB 111-12.4.3 Design Review of Major Temporary Components

The Design-Builder's Design QC Manager must conduct a Design Review of major temporary components that represent complex structures and that potentially can affect the safety, quality, and durability of the permanent components. The review must include the effect of the major temporary components on the permanent components.

DB 111-12.4.4 Additional Reviews

The LA DOTD (with FHWA and other Stakeholder participation) may conduct additional "over-the-shoulder" reviews as considered necessary, in the sole determination of the LA DOTD, to ensure a continued and uniform consistency in the quality and effective incorporation of revisions to designs. The Design-Builder may also conduct reviews necessary to facilitate early release of designs for construction.

DB 111-12.5 Readiness for Construction

The Design-Builder may start construction of any element of the permanent components only after all the following items have occurred:

- A) The Designer has conducted its design QC checks throughout the design process in compliance with the Quality Plan and certifies in writing that the design is complete to

- the appropriate level or stage of review, checked, and ready to be released for construction;
- B) The Design-Builder's Design QC Manager has signed the title sheet for the drawings, certifying to the following (the title sheet can be formatted to include the items of certification):
- 1) Design checks have been completed;
 - 2) Work conforms to Contract requirements;
 - 3) Any deviations or design exceptions have been approved in writing by the LA DOTD (DB Section 111-13);
 - 4) Design Quality Control activities are following the Design-Builder's Quality Plan; and
 - 5) All outstanding issues or comments from Design Reviews have been resolved to the satisfaction of the LA DOTD;
- C) The Responsible Engineer has signed all drawings prepared under his/her direction. For those drawings and documents included in the submittal that are prepared by a Manufacturer or Supplier or other Persons not under the Responsible Engineer's direct supervision, the Responsible Engineer will affix a stamp that indicates the design shown on the sheet or document conforms to the overall design and Contract requirements;
- D) The Design Manager has signed the title sheet to the drawings certifying to the items contained in DB 111-2.4(A) through (G). (The title sheet can be formatted to include the items of certification);
- E) The Design-Builder has verified the following:
- 1) Working Plans, Project specifications, and related documents for the portion of the Project to be constructed are complete and checked in accordance with this DB Section 111-12;
 - 2) The design and drawings for Maintenance of Traffic (MOT) and temporary erosion control and environmental measures applicable to the Work are complete; and
 - 3) Adequate stakes, lines, and/or monuments necessary to control the Work have been established on the Site; and
- F) The LA DOTD will provide Consultation and Written Comment regarding the design and applicable MOT, temporary erosion control measures, and environmental requirements.

The LA DOTD's Consultation and Written Comment will not constitute Approval or Design Acceptance of the design or subsequent construction. All Consultation and Written Comment and Stakeholder comments (if any) must be resolved by the Design-Builder to the satisfaction of the LA DOTD.

Any design NCRs issued by the Design-Builder's Design QC Manager or the LA DOTD must be addressed and resolved by the Design-Builder to the satisfaction of the LA DOTD prior to any design being released for construction.

The Design-Builder may proceed with construction on the Project at the Design-Builder's risk to the extent Work is covered by relevant design documents that have been processed as shown in Figure 111-12A. Prior to construction proceeding further, the Design-Builder shall complete the next stage of design and Design Review and/or submission.

DB 111-12.6 Comment Resolution

The LA DOTD's and Stakeholders' comments from Design Reviews will be recorded on Form DR (Appendix 111A) and transmitted to the Design-Builder. The Design-Builder shall record its proposed disposition and response to each comment and meet with the LA DOTD to resolve outstanding comments and dispositions to the LA DOTD's satisfaction. Final disposition and resolution will be documented on Form DR.

If the Design Review reveals non-conformance with Contract requirements, the LA DOTD will prepare Form NCR-D (Appendix 111A) and submit it to the Design-Builder for action. The Design-Builder shall complete Form NCR-D when the non-conformance is corrected and return Form NCR-D to the LA DOTD.

All Design Reviews must include a comment and NCR resolution process where unresolved comments and NCRs are discussed and a written action plan and schedule for resolution of unresolved comments and NCRs is developed. The Design-Builder's Design QC Manager will lead the process.

DB 111-13 DESIGN EXCEPTIONS

All deviations (design exceptions) from the Contract requirements are subject to FHWA approval. The LA DOTD will coordinate review of any design exceptions with FHWA. All deviations from the Contract requirements must be submitted to the LA DOTD for review and Approval. All requests for deviations and exceptions must be submitted with a justification report detailing the reasons to retain a non-standard or substandard feature or for providing an improvement that does not bring the feature up to standard. Requests for design deviations and exceptions must be submitted not later than the Definitive Design Review and Approved by the LA DOTD in writing before the affected Design Units will be released for construction (DB Section 111-12.5). If the LA DOTD does not Approve a design exception, it is the Design-Builder's sole responsibility to provide design in accordance with this Contract. The LA DOTD will not consider providing the Design-Builder additional time or compensation under this Contract due to the rejection of a design exception request.

DB 111-14 DESIGN CHANGES BEFORE CONSTRUCTION

Design changes may occur prior to construction or may occur after final design and may be initiated by the Design-Builder, through its Designer, or the LA DOTD.

For all design changes requiring calculations, the Designer and the Design-Builder's Design QC Manager must conduct a documented check of all calculations. All design changes requiring alteration of design documents released for construction must undergo all review procedures included for original design documents in the Design-Builder's Quality Plan and DB Section 111-12.

DB 111-15 DESIGN SUPPORT DURING CONSTRUCTION

The Designer and Design-Builder's Design QC Manager must verify during construction that the conditions actually encountered are consistent with the design and related Design Plans, Working Plans, and Project Specifications. The Designer must prepare necessary adjustments in the Design Plans, Working Plans, and Project Specifications and the Design-Builder shall obtain required LA DOTD Consultation and Written Comment. The Design-Builder shall be responsible for obtaining Stakeholder

permits or approvals. The Designer and Design-Builder's Design QC Manager must check any such changes in accordance with the Design-Builder's Quality Plan. The Design-Builder's Design QC Manager must certify the change in writing as meeting the Contract requirements. The Design-Builder shall incorporate the adjustments in the As-Built Plans. The Design-Builder shall retain copies of its Design QC Manager's written certifications and submit the certifications to the LA DOTD.

DB 111-16 DESIGN WORKSHOP

Within 45 Working Days of NTP, the Design-Builder shall arrange a design workshop to familiarize the Designer's personnel and the LA DOTD's and FHWA's (and other Stakeholders', if invited by the LA DOTD) review personnel with the design concepts, issues, status, and review procedures. The agenda must include developing agreements regarding time allowed for design reviews (*see* DB Section 111-5). The LA DOTD and Design-Builder will jointly develop the agenda of the workshop and how it will be organized (i.e., by Design Unit and engineering discipline). The intent of the workshop is to make the subsequent Design Reviews more effective and efficient for all parties.

All agreements, schedules, and understandings reached during the design workshop must be documented in writing and signed off by the Design-Builder's and Department's Project Managers.

DB 111-17 QUANTITY ESTIMATES

To facilitate determining sampling and testing requirements, the Design-Builder shall provide quantity estimates for the Work on its Plans. The quantity estimates must be in units that facilitate sampling and testing (i.e., the units must be consistent with the units used to determine frequency of sampling and testing). For example, if "X" numbers of compaction tests are specified to be taken for every "Y" cubic yards of embankment, the quantity estimate would need to be in cubic yards of embankment.

See also DB Section 111-19.4.

DB 111-18 DESIGN DOCUMENTATION

DB 111-18.1 Progress Tracking

The Design-Builder shall include engineering and design progress and changes in its Baseline Progress Schedule (including Work on any design change) in the monthly updates.

DB 111-18.2 Design Quality Records

The Design-Builder's Design QC Manager must prepare and submit monitoring reports to the LA DOTD of all design issues and review comments resulting from the scheduled and additional checks and reviews, including "over-the-shoulder" reviews.

The Design-Builder shall also maintain an auditable record of all of its Quality Plan procedures. An independent auditor must be able to determine by reviewing documentation if all procedures included in the Design-Builder's Quality Plan have been followed.

The Design-Builder shall submit reports of checks and reviews within seven Calendar Days of the completion of the review.

The Design-Builder shall develop, implement, and maintain a log of design NCRs and/or notices indicating dates issued, reasons, status, or resolution and date of resolution.

The Design-Builder shall prepare and maintain daily records of design activities on forms acceptable to the LA DOTD.

DB 111-18.3 The Design-Builder's Design Quality Control Manager Reports

DB 111-18.3.1 Monthly Report to the Louisiana Department of Transportation and Development

The Design-Builder's Design QC Manager must submit a monthly report directly to the LA DOTD by the third Working Day of the following month that includes the following:

- A) A summary of reviews conducted;
- B) Identification of nonconforming Work and current status and/or disposition (based on design non-conformance log, DB Section 111-18.2); and
- C) A listing of submission(s) from the Design-Builder and status.

DB 111-18.3.2 Final Design Report

Upon completion of the final design for each Design Unit, including all its components and elements, the Design-Builder's Design QC Manager must notify the Design-Builder, with a copy to the LA DOTD, of any outstanding monitoring report issues or unresolved review comments.

DB 111-19 DESIGN PLANS, WORKING PLANS, AND PROJECT SPECIFICATIONS

The Lump Sum Contract Price will include the cost of furnishing all Design Plans, Project Specifications, Working Plans, and As-Built Plans.

The Contract Documents establish the minimum standards of quality and define requirements that the design and construction must satisfy.

During the design process, the Design-Builder shall develop Project Specifications and Design Plans based on the Contract Documents that are applicable to the specific Materials, products, Equipment, procedures, and methods that the Design-Builder intends to use.

During the Design Reviews, the Design Plans and Project Specifications will be evaluated by the LA DOTD to determine if they meet the Contract requirements.

DB 111-19.1 Plans

The Work must be performed in accordance with the details as shown on the Design Plans prepared by the Designer and those Working Plans prepared by the Design-Builder. The Design-Builder shall provide Working Plans of such a nature as to develop a finished product in accordance with Design Plans, Project Specifications, and Contract requirements. The Design-Builder shall verify pertinent dimensions in the field prior to conducting a Working Plan review. Participation in the review of the Design-Builder's Design Plans and/or Working Plans by the LA DOTD and FHWA (or other Stakeholders, if invited by the LA DOTD) will not relieve the Design-Builder of the responsibility for the satisfactory completion of the Work.

Working Plans must be reviewed and approved in writing by the Designer before beginning the construction Work and will not thereafter be amended or altered without prior written approval of the Designer and the LA DOTD's Consultation and Written Comment. Prior to moving forward with any construction, the LA DOTD's Consultation and Written Comment and Stakeholder comments (if any) must be resolved to the satisfaction of the LA DOTD.

All readiness for construction design, final design, and As-Built Plans must be signed and stamped/sealed by the appropriate Responsible Engineer and must include on the title sheet for the plans certification signatures of the Design Manager and the Design-Builder's Design QC Manager (the title sheet can be formatted to cite the appropriate certification requirements of DB 111-2.4 and 111-12.5).

DB 111-19.2 Design and As-Built Plans Format and Organization

The Design-Builder shall organize and format Design and As-Built Plans in a logical and orderly fashion, and in accordance with generally accepted practices in the State of Louisiana. The As-Built Plans must be submitted in hard copy for signature by the Chief Engineer as per Louisiana Revised Statutes Section 36:508 and 48:92.

DB 111-19.3 CADD Standards

CADD formatting for Design and As-Built Plans must be consistent and logical for all plans created by the Design-Builder and must comply with the most recent version of the LA DOTD's "Electronic Standards for Plans" found at http://www.dotd.la.gov/highways/project_devel/design/electronic_standards_disclaimer.asp. The Design-Builder shall install updates to appropriate software as instructed by the Department's Project Manager.

As-Built Plans must be delivered on CD-ROM or DVD media, and labeled with media-compatible indelible ink on separate lines as follows:

State Project No. 454-02-0071
Federal Aid Project No. ARR-3209(505)

As-Built Plan Submittal
Electronic Deliverables
[Design-Builder's name]

The Department's Project Manager may require delivery of the As-Built Plans by other methods, including, but not limited to, upload to the LA DOTD's ProjectWise repository.

DB 111-19.4 Project Specifications

The Design-Builder shall prepare Project Specifications based on Contract requirements. The Design-Builder may perform the following activities:

- A) Use the Louisiana Department of Transportation and Development's Standard Specifications for Roads and Bridges 2006 Edition, supplemented as needed by the Design-Builder; and/or
- B) Prepare new specifications to cover the Work.

Project Specifications, including the LA DOTD's Standard Specifications for Roads and Bridges 2006 Edition, if used, will be reviewed by the Design-Builder and the LA DOTD during Design Reviews to

verify that the Project Specifications provide a level of quality that meets or exceeds the Contract requirements and are suitable and appropriate to control the Work. The Design-Builder shall be responsible for demonstrating that the Project Specifications meet or exceed the standard of quality established by the LA DOTD's Standard Specifications for Roads and Bridges 2006 Edition. Any deviation that results in a lesser standard of quality will require LA DOTD Approval and may require the execution of a Change Order. The LA DOTD will determine, at its sole discretion, if the Project Specifications meet the Contract requirements.

Project Specifications must define the type and frequency of QC sampling and testing to be conducted for the Work covered by a Project Specification. The Design-Builder shall use DB Section 112 to determine the type and frequency of QC sampling and testing.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the project]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

APPENDIX 111A FORMS



APPENDIX 111A
FORMS
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FORM DUS
DESIGN UNIT SCHEDULE

Design Unit Designation/Code	Design Unit Description	Planned Review Stages ¹	Information/Components to be Reviewed	Planned Review Dates (Month After NTP)	Percent Complete Represented by Review
		Definitive			
		Final			100%
		Definitive			
		Final			100%
		Definitive			
		Final			100%

¹ Provide information as necessary to reflect additional interim and/or readiness for construction reviews planned between Definitive Design and Final Design Reviews.

FORM NCR-D

DESIGN NON-CONFORMANCE REPORT

From: _____ Date: _____
(Name and initials of Design QC Manager or Department's Project Manager or Designee)

To: _____
(Names of Design-Builder and Responsible Engineer)

Project name/Number: _____ **[Insert the name of the project and the state project number]** _____

Design Unit ID: _____

Copy: **Department's Project Manager**

Transmittal/File No. _____ Applicable Contract Requirement: _____
(Part and Section Number)

The design Work on the referenced Design Unit is not in conformance with the noted Contract requirement for the reasons stated below (Attach additional sheets as necessary):

RESOLUTION: _____ Date: _____

From: _____
(Names and initials of Design-Builder's Project Manager and Responsible Engineer)

To: Department's Design Compliance Engineer and Project Manager

The above noted design non-conformance has been corrected and/or resolved as indicated below (attach additional sheets as necessary):

Acknowledgement of Receipt: _____ Date: _____
(Name and initials of Department's Project Manager or Designee)

Send copy of completed, acknowledged form to the Design-Builder's and Department's Project Managers' files.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

____ **[Insert the name of the parish]** ____ PARISH
STATE PROJECT NO. ____ **[Insert the state project number]** ____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

DB SECTION 112 CONSTRUCTION QUALITY CONTROL



DB SECTION 112

CONSTRUCTION QUALITY CONTROL

DB 112-1 GENERAL

As per Design-Build (DB) Section 113, and prior to the commencement of any design or construction activities, the Design-Builder shall develop and implement a quality program for all phases of the Project, including design, construction, maintenance, and environmental compliance. The Design-Builder, through its Design-Builder Quality Plan, shall have the primary responsibility for the quality of the Work, including all Work and products of Subcontractors, fabricators, Suppliers, and vendors both on-site and off-site. The Louisiana Department of Transportation and Development (LA DOTD), in its role of Quality Assurance (QA), reserves the right to and will conduct verification oversight inspections, audits, sampling and testing, and Independent Assurance (IA).

The quality program must ensure that procurement, shipping, handling, fabrication, installation, cleaning, Inspection, construction, testing, storage, examination, repair, maintenance, and required modifications of all Materials, Equipment, and elements of the Work will comply with the requirements of the Contract Documents and that all Materials incorporated in the Work and all Equipment and all elements of the Work will perform satisfactorily for the purpose intended.

DB 112-1.1 Definitions

See Design-Build Section 101-3 for definitions, including definitions of Quality Control and Quality Assurance.

DB 112-1.2 Construction Quality Control Inspection

All construction processes, procedures, and workmanship must be inspected by the Design-Builder's Construction Quality Control (QC) Inspectors. The Construction QC inspections must include the observations, measurements, and documentation specified in Appendix 112A – Construction QC Inspection to this DB Section 112 and the Design-Builder's Quality Plan. Inspection observations, measurements, results, non-conformances, and corrective actions must be documented on the forms in Appendix 112B - Forms to this DB Section 112 or on the Design-Builder's forms acceptable to the LA DOTD. Inspection observation and documentation must include a description of construction activity and location. *See also* DB Section 112-10.

DB 112-2 INSPECTION AND TESTING OF MATERIALS

DB 112-2.1 General

All Materials are subject to Inspection, sampling, and testing at any time before Final Acceptance of the Work.

References in the Contract to a Louisiana test method or test designation of the American Association of State Highway and Transportation Officials (AASHTO), the American Society for Testing and Materials

(ASTM), or any other recognized national organization means the latest revision of that test method or specification for the Work in effect on the Proposal due date.

Materials will be sampled and tested by the construction QC testers and samplers. Copies of all test results will be furnished to the Design-Builder's Project Manager, the QA/QC Manager, the Department's Project Manager, and other LA DOTD designated representatives. When a test is done for the Design-Builder as process control assuring that its process and Materials source is producing an acceptable product, test results are not furnished to the above stated individuals but are Design-Builder internal documents. These process control tests usually occur when an operation is begun and when changes occur in the source of Materials or method of production.

The LA DOTD's designated representative may observe any sampling testing performed by the QC testers and samplers. If the LA DOTD's designated representative observes a deviation from the specified sampling or testing procedures, the LA DOTD's designated representative will verbally describe the observed deviation to the Design-Builder's Construction QC Manager, followed by a written Non-Conformance Report (NCR) covering the deviation to the Design-Builder's Construction QC Manager and Project Manager within 24 hours. *See also* DB Section 109-4.4.

DB 112-2.2 Construction Quality Control Testing and Sampling

The Design-Builder's construction QC testers and samplers must perform sampling and testing for process control and for acceptance of Materials to be used on the Project. Construction QC testers and samplers must be certified, including, among other prudent and necessary certifications, LA DOTD certifications, for the level appropriate for the Work being sampled/tested. The Design-Builder shall maintain a list of construction QC testers and samplers that indicates what test certifications each person currently holds. Testers and samplers will be allowed 90 Working Days from execution of the Contract to obtain the certifications.

The construction QC testers and samplers will test and sample only those Materials for which they are certified to sample and test. Reports of each test must be recorded on the form prescribed for that test. All tests that do not pass specified requirements will be added to a log of failed tests. This log of failed tests will be used to assure that the Work is reconciled by a passing test.

The minimum frequency of QC sampling and testing must be consistent with the Design-Builder's Quality Plan as approved by the Department's Project Manager and the individual Project Specifications accepted by the Department's Project Manager.

The Design-Builder shall utilize an electronic Microsoft Access database to document and track Material and field test results. Entry of Material and field test results into the electronic Access database must be completed in a timely manner by the Design-Builder. The format of the electronic Access database and generation of exception flags or reports must be determined to be acceptable by the LA DOTD. The minimum information the electronic system must be that required in order for the LA DOTD to populate the SiteManager Materials Management™ system.

The Design-Builder shall be solely responsible for the accuracy of the data and the data entry, as well as the security of the data and the electronic Access database. The acceptability of the accuracy of the data and data entry and the security of the data and electronic Access database will be in the sole discretion of the LA DOTD. The Design-Builder shall provide the LA DOTD "real time read-only" access to the electronic Access database.

If, in the creation of the electronic Access database, the Design-Builder uses any software, process, or information covered by patent or copyright, the Design-Builder shall be responsible for such use. The Design-Builder and its surety shall indemnify the State of Louisiana, the LA DOTD, and any affected third-party or political subdivision of the state from any claims for infringement due to the use of any such patented software, process, or information or any trademark or copyright and shall indemnify the State of Louisiana and the LA DOTD for any costs, expenses, and damages due to any infringement during prosecution or after completion of the Work. If the Design-Builder utilizes any software, process, or information protected by trade secret or copyright protection, the Design-Builder shall first obtain permission or license from the licensor or any other party having a proprietary interest in such software, process, or information and shall hold harmless, indemnify, and defend the LA DOTD at the Design-Builder's sole cost from any damages, expenses, or actions arising out of the use of or related to the use by the LA DOTD of information or documents supplied by the Design-Builder to the LA DOTD.

The electronic Access database will be solely owned by the LA DOTD and any benefits created as a result of the electronic Access database will accrue solely to the LA DOTD. Any use by the Design-Builder, other than use specifically related to this Contract, requires a license from the LA DOTD, which may be granted in the LA DOTD's sole discretion.

DB 112-3 QUALITY ASSURANCE INSPECTION

Quality Assurance (QA) Inspection will be performed by the LA DOTD's designated representative assigned to the Project.

The LA DOTD's designated representative will periodically audit sampling and testing results. The review, audit, and subsequent feedback to the Design-Builder's Construction QC Manager are intended to assess the adequacy of the construction QC.

The Design-Builder's Project Manager will provide information to the LA DOTD's designated representative regarding verification that Progress Check Points (PCP) are met as per the Design-Builder's Schedule of PCPs and quantities of any unit price Work items. A monthly audit of PCPs and quantities of any unit price Work items will be performed and any required correction will be made to the subsequent progress payment. The LA DOTD's designated representative's review and audit will assure that the PCP achievement and correct quantities are shown. Documents for payment of Change Orders must also contain sufficient information to satisfy an audit. Documents for the closure of each Change Order will be reviewed and included in the final payment. Additionally, in accordance with DB Sections 105 and 109, the Department's Project Manager will have the authority to suspend the Work if at any time he determines that the Design-Builder is not in conformance with Contract requirements.

See Design-Build Section 109 regarding payment processing.

Verification Sampling and Testing will be performed by the LA DOTD or its designated representative assigned to this Project.

DB 112-4 INDEPENDENT REFEREE LABORATORY

The LA DOTD will retain the services of an independent AASHTO accredited laboratory on an "on-call" basis to act as a "referee" laboratory for resolution of disputes regarding sampling and testing results

reported by the LA DOTD's verification samplers and testers and the Design-Builder's construction QC testers and samplers. The "referee" laboratory may be the LA DOTD's materials laboratory. The services of the "referee" laboratory may be requested by the LA DOTD or by the Design-Builder. The sampling and testing results determined by the "referee" laboratory will be final and binding on both parties and not subject to disputes resolution under DB Section 107-28. The party whose sampling and testing results are not confirmed and/or supported by the "referee" laboratory (i.e., the unsuccessful party) will be responsible for payment for the "referee" services. If the LA DOTD is the unsuccessful party, it will make payment directly to the "referee" laboratory. If the Design-Builder is the unsuccessful party, the cost of the "referee" laboratory services will be deducted from payment(s) otherwise due and the LA DOTD will make payment to the "referee" laboratory on behalf of the Design-Builder.

The "referee" laboratory will not be associated with the Project in any capacity or be affiliated with any party to the Contract or with any Principal Participant and/or the Design-Builder. The "referee" laboratory will not be a department, agency, or office of any Stakeholder.

DB 112-5 COMPETENCE

If a concern arises as to the competence of any certified individual, this concern must be documented in writing to the Design-Builder's Project Manager and the Department's Project Manager. The concern will be investigated as deemed necessary by the Department's Project Manager. If this investigation substantiates the concern, corrective action, or decertification will be implemented in accordance with procedures established by the LA DOTD. *See also* DB Section 108.

DB 112-6 DESIGN-BUILDER QUALITY CONTROL

The Design-Builder shall provide process control measures adequate to produce a constructed product of acceptable quality that conforms to the Contract Documents. The Design-Builder shall perform process control sampling, testing, and Inspection during all phases of the Work at a rate sufficient to assure that the Work conforms to the Contract requirements.

The Design-Builder shall provide personnel and Equipment capable of providing a product that conforms to specified requirements and shall provide personnel and Equipment capable of verifying and documenting this conformance. Continual production of non-conforming Work will not be allowed.

DB 112-7 DESIGN-BUILDER'S CONSTRUCTION QUALITY CONTROL ORGANIZATION

The Design-Builder's Quality Plan must provide the information regarding the construction Quality Control organization.

DB 112-7.1 Independent Construction Quality Control Firm (Quality Control Engineering Firm)

The Design-Builder shall retain the services of an independent engineering consultant organization (the QC Engineering Firm) to oversee, manage, certify, and perform construction QC activities as specified in this DB Section 112, other Contract Documents, and the Design-Builder's Quality Plan. The QC Engineering Firm (and any firm acting as a subconsultant to the QC Engineering Firm) must not be

owned by or be an Affiliate of the Design-Builder (*see* DB Section 101), any Principal Participant (*see* DB Section 101) or Construction Subcontractor. The QC Engineering Firm will be responsible for management and scheduling all QC Inspection and QC sampling and testing of all items of construction Work for this Contract. Subject to the limitations stated above, the Designer may serve as the QC Engineering Firm.

The Design-Builder's Construction QC Manager, Construction QC Inspectors and construction QC testers and samplers and their support staff must be employees of the QC Engineering Firm or employees of firm(s) acting as subconsultants to the QC Engineering Firm. The QC Engineering Firm must work directly for the Design-Builder's QA/QC Manager and must not report to the Design-Builder's Project Manager.

DB 112-7.2 Construction Quality Control Manager

The Design-Builder shall assign an on-site Construction QC Manager. This individual will be considered one of the Project's key personnel.

The Design-Builder's Construction QC Manager will be responsible for overall management and supervision of the Design-Builder's construction QC programs. The Design-Builder's Construction QC Manager must be a Louisiana-licensed Professional Engineer. The Design-Builder's Construction QC Manager must report directly to the Design-Builder's QA/QC Manager.

The Design-Builder's Construction QC Manager, or his/her designees, must be delegated the authority to make needed improvements to the quality of Work, including the suspension of the Work if required.

The Design-Builder's Construction QC Manager must be responsible for coordinating the schedules of the Design-Builder's construction QC Inspectors and construction QC testers and samplers with the Design-Builder's construction activities so as not to delay the Design-Builder's operations due to Construction QC Inspection, sampling, and testing activities.

DB 112-7.3 Staffing Levels

The actual size of the field/Site staff will reflect the complexity, needs, shifts, and composition of QC activities consistent with Work in progress.

The Design-Builder's Quality Plan (*see* DB Section 113) must identify administrative and clerical support for the maintenance and management of records and documents pertinent to QC activities.

The QC staffing schedule must be updated as necessary throughout the Contract duration to reflect accurate forecasting of QC staffing requirements.

DB 112-7.4 Laboratories

Laboratory QC testing must be conducted by testing laboratories retained by the QC Engineering Firm under subcontracts that comply with the requirements for LA DOTD certification for applicable tests. Laboratories must be accredited by the AASHTO Material Reference Laboratory (AMRL), the Concrete Cement Reference Laboratory (CCRL), the National Precast Concrete Association (NPCA) for precasters, or the Prestressed Concrete Institute (PCI), as appropriate, for the Work to be constructed. Louisiana Department of Transportation and Development certification must be obtained for all AASHTO and

ASTM test methods to be performed by the testing laboratory. Certification must also be obtained for AASHTO and ASTM test methods that are modified or referenced by Louisiana test methods.

Satellites (field laboratories) of these laboratories may be used where appropriate for the tests being conducted. The Equipment in the satellite laboratories must be certified at the start of Work and annually thereafter. Certification must be by an independent party.

The laboratory must have written policies and procedures to assure portable and satellite laboratories performing testing activities on the Project are capable of providing testing services in compliance with applicable test methods. The policy and procedures must address Inspection and calibration of testing Equipment as well as a correlation testing program between the accredited laboratory and portable or satellite facilities.

The LA DOTD reserves the right to check testing Equipment for compliance with specified standards and to check testing procedures and techniques.

The LA DOTD also reserves the right to access the testing facilities of the testing laboratories with no additional cost to the LA DOTD to witness the testing and verify compliance of the testing procedures, testing techniques, and test results.

The LA DOTD's rights to check Equipment, procedures, and techniques and to access testing facilities will also apply to Project Stakeholders when the Design-Builder is performing Work on their facilities.

DB 112-8 DESIGN-BUILDER SCHEDULING AND NOTICE TO THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

The Design-Builder shall notify the LA DOTD in writing by Friday noon of each week of planned construction activities, including fabrication, for the following two weeks to allow the LA DOTD to schedule its resources. The Design-Builder shall deliver this information at the weekly progress meeting where related discussion will occur. For activities (such as fabrication) occurring out of the immediate Project area (beyond 100 miles of the Project), the Design-Builder shall give the LA DOTD at least 21 Calendar Days of notice of planned Work.

DB 112-9 DOCUMENTATION

The Design-Builder shall collect and preserve each of the following types of data in a computer-generated form concurrently during Design-Builder's performance of the Work, all of which must be in a format acceptable to the LA DOTD:

- A) Daily Inspection Reports;
- B) As-Built Plans;
- C) Secure databases, such as, spreadsheets, standard database software, and computation books;
- D) Materials acceptance records;
- E) Photographs; and
- F) Field change sheets.

Daily manpower and Equipment reports for the Design-Builder and each Subcontractor for construction-related activities must be prepared and maintained by the Design-Builder, using the forms in Appendix 112B – Forms to this DB Section 112 or other forms with a format acceptable to the Department’s Project Manager.

A daily log for construction-related activities must be maintained by the Design-Builder’s Project Manager or his/her designee(s), using a form acceptable to the Department’s Project Manager, in which all significant occurrences on the Project must be recorded daily in a narrative form, including, unusual weather, asserted occurrences, events and conditions causing or threatening to cause any significant delay or disruption or interference with the progress of any of the Work, significant injuries to person or property, and a listing of each activity depicted on the current monthly plan update which is being actively prosecuted. Also, traffic accidents in the Project area will be noted as well as lane closures in effect at the time of the accident.

For utility-related Work such data must be maintained separately for each utility facility.

For harmful/Hazardous Material remediation Work, such data must be maintained separately for each site.

Records must document all QC operations, Inspections, activities, and tests performed, including the Work of Subcontractors. The Design-Builder may use the forms provided by the LA DOTD or its own forms providing equivalent information. Such records must include any delays encountered and Work noted that does not conform to the requirements of the Contract and design together with the corrective actions taken regarding such Work.

The Design-Builder shall complete and submit appropriate documentation at the following times and frequencies:

A) Monthly:

See Design-Build Section 108;

B) Weekly:

The Design-Builder shall maintain and submit records that include factual evidence that required activities or tests have been performed, including the following:

- 1) Type, number, and results of QC and control activities, including, reviews, Inspections, tests, audits, monitoring of Work performance, and Materials analysis;
- 2) Closely-related data, such as, qualifications of personnel, procedures, and Equipment used;
- 3) The identity of the Design-Builder’s QC Inspector or data recorder, the type of test or observation employed, the results, and the acceptability of the Work, and action taken in connection with any deficiencies noted;
- 4) Nature of non-conforming Work and causes for rejection;
- 5) Proposed corrective action;
- 6) Corrective actions taken; and
- 7) Results of corrective actions.

DB 112-10 MATERIAL CERTIFICATIONS

WHEN THE DESIGN-BUILDER PURCHASES MATERIALS FROM PROVIDERS/SUPPLIERS SHOWN ON THE LA DOTD'S APPROVED MATERIALS OR SOURCE LIST, THE DESIGN-BUILDER SHALL OBTAIN AND RETAIN A MATERIALS CERTIFICATION (CERTIFICATE OF DELIVERY, CERTIFICATE OF ANALYSIS, OR CERTIFICATE OF COMPLIANCE, AS REQUIRED) FROM THE PROVIDER/SUPPLIER COVERING THE MATERIAL AND/OR THE SOURCE.

Documentary evidence that Material and Equipment conform to the procurement requirements must be available at the job Site no less than 24 hours prior to installation or use of such Material and Equipment. This documentary evidence must be retained at the job Site and must be sufficient to identify the specific requirements, such as, Contract Documents, codes, standards, or specifications, met by the purchased Material and Equipment. Additionally, a copy of all documentary evidence that Material and Equipment conform to the procurement requirements must be provided to the LA DOTD, or its designated representative, at the same time the Design-Builder receives such documentary evidence. The effectiveness of the QC by the Design-Builder's own forces and Subcontractors must be assessed by the Design-Builder and the Quality Control Engineering Firm at intervals consistent with the importance, complexity, and quantity of the product or services.

The Louisiana Department of Transportation and Development reserves the right to inspect and review these documents at any time.

At the completion of the Project, the Design-Builder shall submit with the final invoice a certificate of compliance signed by the Design-Builder's Project Manager and Construction QC Manager indicating that all materials incorporated in the Project conform to the Contract requirements.

DB 112-11 FINAL ACCEPTANCE

The Louisiana Department of Transportation and Development has the responsibility and authority for Final Acceptance of all Work.

The Design-Builder shall complete all Work and provide all documents, certifications, and other information in accordance with the Contract Documents. Final Acceptance will be based on QC testing verified by verification testing and the final Inspection. Any deviations from the sampling and testing methods and frequencies indicated the Design-Builder's Quality Plan_or the Design-Builder's Project Specifications will require LA DOTD's Approval prior to the start of construction on any affected Work. If there is a discrepancy between the Design-Builder's Project Specifications and the Department-approved Quality Plan, the more stringent requirements will apply unless otherwise agreed in writing by the LA DOTD.

Final Acceptance will be based on certificates of compliance and/or Manufacturer's test results where specified in the Design-Builder's Project Specifications or the Design-Builder's Quality Plan.

Deficient Materials and products must be brought into compliance with Contract requirements or replaced. The method of reconciliation will be noted in the log of failed tests.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

APPENDIX 112A

CONSTRUCTION QUALITY CONTROL

INSPECTION



APPENDIX 112A

CONSTRUCTION QUALITY CONTROL INSPECTION

ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
All	<ul style="list-style-type: none"> • Location and type of work • Personnel and Equipment • Weather and Site conditions • Checks for compliance with Design Plans and Project Specifications • Extent of Work • Problems encountered 	DOTD Form 03-40-3093, Project Diary
Signs and Barricades	<ul style="list-style-type: none"> • Location, stationing, and distance from edge of road • Visibility, height above road, condition of signs • Daily to ensure condition • Night inspections initial and periodic for reflectivity 	
Clearing and Grubbing	<ul style="list-style-type: none"> • Clearing and grubbing limits • Disposal • Protection of surroundings from damage • Removal of large roots and stumps • Blading the site to ensure drainage • Temporary erosion control <ul style="list-style-type: none"> ~ Mulch ~ Seeding ~ Slope drains ~ Silt fencing ~ Hay bales 	
Removals	<ul style="list-style-type: none"> • Ensure that only designated structures, facilities, or obstructions are removed or relocated • Obtain certificates of release • Proper notifications given for removal of Underground Storage Tanks (UST) and other hazardous materials • Disposal of materials 	DOTD Form 03-42-0671, Certificate of Release 202 Sample Form

Louisiana Department of Transportation and Development

ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
Utility Relocation	<ul style="list-style-type: none"> • Located clear of construction • Backfills adequately compacted 	
Culverts and Storm Drains	<ul style="list-style-type: none"> • Adequate structure • Backfill material, bedding material, and fabrics sampled and approved • Damage in transit • Certificate of Delivery • Excavation • Laying pipe • Bedding and backfill • Joints closed and wrapped • Compaction and compactive effort 	DOTD Form 03-22-0750, Density and Moisture Content Worksheet Certificate of Delivery – Culverts 701 Sample Form
Earthwork	<ul style="list-style-type: none"> • Area preparation • Soils sampled and approved • Lift thickness • Compaction and compactive effort • Slope and grade 	DOTD Form 03-22-0750, Density and Moisture Content Worksheet 203 Sample Form
Trench, Culvert, and Structural Excavation	<ul style="list-style-type: none"> • Safety • Support and protective system • Disposal of excavated material 	
Geotextile	<ul style="list-style-type: none"> • Brand name and type • Protection of material • Material acceptance 	

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ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
Cement Stabilized Base and Sub-base Course	<ul style="list-style-type: none"> • Subgrade approved • Select soils sampled and approved • Cement approved • Pulverization and moisture content • Compaction and compactive effort • Spread rate • Shaping and finishing • Time limitations • Curing 	DOTD Form 03-22-0750, Density and Moisture Content Worksheet Certificate of Delivery – Cement 301 Sample Form
Lime Treatment	<ul style="list-style-type: none"> • Area preparation • Lime approved • Equipment used • Compaction and compactive effort • Spread rate • Shaping and finishing • Curing 	DOTD Form 03-22-0750, Density and Moisture Content Worksheet Certificate of Delivery – Lime 304 Sample Form
Stone Base	<ul style="list-style-type: none"> • Area preparation • Material sampled and approved • Compaction and compactive effort • Curing membrane 	DOTD Form 03-22-0750, Density and Moisture Content Worksheet 301 Sample Form

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ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
Asphaltic Concrete	<ul style="list-style-type: none"> • Surface prepared • Materials sampled and approved • Plant and Equipment calibrated and approved • Temporary traffic tape • Signing and flagging • Certified technicians • Weather conditions • Mix design submitted and approved • Plant operation • Temperature of mix • Spreading and finishing • Compaction/pavement density • Joints • Surface tolerances 	<p>DOTD Form 03-22-3080, Asphaltic Concrete Pavement Report</p> <p>501 Sample Form</p> <p>Certificate of Delivery – Asphaltic Materials</p> <p>Asphaltic Concrete Plant Report</p>
Portland Cement Concrete Paving	<ul style="list-style-type: none"> • Surface prepared • Materials sampled and approved • Plant and Equipment calibrated and approved • Forms • Dowels and load transfer devices • Mix design submitted and approved • Placing and spreading concrete • Finishing and texturing • Joints • Surface tolerance • Slump and air • Curing • Removing forms (fixed form paving) • Protection of pavement • Sealing joints 	<p>DOTD Form 03-22-4028, Batch Certification</p> <p>DOTD Form 03-22-4035, Portland Cement Concrete Pavement Report</p>
Aggregate Surface Course	<ul style="list-style-type: none"> • Surface prepared • Materials sampled and approved • Equipment approved • Compaction and compactive effort 	<p>401 Sample Form</p>

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ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
Incidental Concrete Work – Sidewalks and Drives	<ul style="list-style-type: none"> • Surface prepared • Forms • Mix design submitted and approved • Depth • Cylinders • Curing 	706 Sample Form
Driven Piles	<ul style="list-style-type: none"> • Type, size, and length of pile • Test piles driven and loaded • Pile lengths approved • Installation plan and equipment approved • Location of piles • Storing, handling, and damage to piles before and during driving • Adequate bearing capacity achieved 	804-01 Sample Form
Drilled Shafts	<ul style="list-style-type: none"> • Installation plan • Safety • Excavation methods • Casings – temporary and/or permanent • Slurry • Location, size, and alignment • Reinforcing steel • Concrete placement and finishing • Verification of integrity of shafts 	

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ACTIVITY	INSPECTION REQUIREMENT	DOCUMENTATION FORMS(S)
Structural Concrete	<ul style="list-style-type: none"> • Forms, re-steel, and equipment • Weather • Ambient temperature • Slump and air tests • Placement and vibrating • Cylinders • Surface finish • Curing 	805-01 Sample Form
Reinforcing Steel	<ul style="list-style-type: none"> • Storage and handling • Sampled and approved • Placement and fastening • Splices 	805-01 and 805-03 Sample Forms
Prestressed Concrete Units	<ul style="list-style-type: none"> • Fabrication <ul style="list-style-type: none"> ~ Equipment approval ~ Concrete mix design ~ Concrete placement and vibration ~ Approved forms ~ Curing ~ Tensioning ~ Storage and transportation • When receiving units <ul style="list-style-type: none"> ~ Inspector's stamp of approval ~ Certificate of delivery ~ Damage during shipment ~ Dimensional tolerance and camber ~ Visual defects • Erection • Repair of defects 	

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Structural Steel	<ul style="list-style-type: none"> • Fabrication <ul style="list-style-type: none"> ~ Shop drawings ~ Mill test reports ~ Storage of materials and fabricated items ~ Shop assembly ~ Certified test reports for bolts and nuts ~ Coating • Field Erection <ul style="list-style-type: none"> ~ Sequence ~ Falsework ~ Site storage and handling ~ Connections 	
Bridge Bearings	<ul style="list-style-type: none"> • Materials • Fabrication • Protective coatings • Bearing surface preparation • Anchor bolts • Pad installation 	
Bridge Joint Systems	<ul style="list-style-type: none"> • Materials • Fabrication • Cleaning • Assembly • Installation <ul style="list-style-type: none"> ~ Preparation ~ Handling and storage 	
Structural Steel Paint System	<ul style="list-style-type: none"> • Materials <ul style="list-style-type: none"> ~ Abrasive ~ Paint ~ Paint Inspection Equipment • Cleaning • Paint application methods • Shop painting • Field painting 	

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<p>Superstructure Slabs and Approach Slabs</p>	<ul style="list-style-type: none"> • Forming <ul style="list-style-type: none"> ~ Forms ~ Support systems ~ Haunch depths ~ Joints ~ Drainage • Placing and fastening reinforcing steel • Concrete operations <ul style="list-style-type: none"> ~ Prior to placing ~ Placing sequence ~ Adequacy of personnel and equipment ~ Concrete supply ~ Curing materials ~ Admixtures <ul style="list-style-type: none"> ○ Weather and temperature ○ Placing ○ Finishing ○ Curing 	<p>805-03 and 806-01 Sample Forms</p>
<p>Permanent Erosion Control</p>	<ul style="list-style-type: none"> • Final dressing of area • Area determinations • Spread rate for seed and fertilizer • Watering 	<p>714-01 thru 720-01 Sample Forms</p>
<p>Maintenance and Protection of Traffic</p>	<ul style="list-style-type: none"> • Materials • Surface condition • Intersecting traffic • Dust control and spillages • Flaggers • Delineation and guiding devices • Construction signs, temporary barriers, barricades, and lighting • Pavement markings • Pavement drop-off protection 	
<p>Signs</p>	<ul style="list-style-type: none"> • Materials • Fabrication • Sign face construction • Work sequence 	

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	<ul style="list-style-type: none"> • Location • Erection • Transporting, handling, and storage • Foundations • Sign posts • Breakaway bases 	
Traffic Signals	<ul style="list-style-type: none"> • Materials • Underground facilities • Schedule • Excavation • Pole excavation and concrete foundations • Poles • Grounding • Conduit and direct burial cable • Pull boxes • Signal control cable and shielded communications cable • Cable splices • Span wire assemblies • Messenger assemblies • Buy assemblies • Signal heads • Wiring color code • Concrete base for controller assembly • Power meter base • Overhead traffic signs 	
Pavement Markings	<ul style="list-style-type: none"> • Atmospheric conditions • General requirements • Materials • Surface cleaning and preparation • Equipment • Application of markings 	

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. ____ **[Insert the state project number]** ____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS CONTRACT DOCUMENTS

APPENDIX 112B FORMS



**APPENDIX 112B
FORMS**

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Form NCR-C – Construction Non-Conformance Report

FORM NCR-C

CONSTRUCTION NON-CONFORMANCE REPORT

From: _____ Date: _____
(Name and initials of Construction QC Manager or Department's Project Manager or Designee)

To: _____
(Names of Design-Builder)

_____**[Insert the name of the project]**____ Design-Build Project
State Project No. _____**[Insert the state project number]**____ and Federal Aid Project No. _____**[Insert the federal-aid project number, for federal projects only]**____

Transmittal/File No. _____

Price Center Code: _____ Applicable Contract Requirement: _____
(Part and Section Number)

The Work on the referenced Price Center is not in conformance with the noted Contract requirement for the reasons stated below (Attach additional sheets as necessary):

RESOLUTION: _____ Date: _____

From: _____
(Names and Design-Builder's Project Manager and Construction Quality Control Manager)

To: _____
(Name of Department's Project Manager)

The above noted construction non-conformance has been corrected and/or resolved as indicated below (attach additional sheets as necessary):

Acknowledgement of Receipt: _____ Date: _____
(Name and initials of Department's Project Manager or Designee)

Comments by Department's Project Manager, if any: [See attached sheets(s)]

Send copy of completed, acknowledged form to the Design-Builder's and Department's Project Manager's files.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 113

DESIGN-BUILDER'S QUALITY PLAN



DB SECTION 113

DESIGN-BUILDER'S QUALITY PLAN

DB 113-1 GENERAL REQUIREMENTS

Prior to commencement of any design or construction activities, the Design-Builder shall submit a Quality Plan, updated as necessary, to the Louisiana Department of Transportation and Development (LA DOTD) for Approval.

The Quality Plan must address the topics contained in this DB Section 113 in the order listed therein and must meet the specified requirements of this DB Section 113.

The Quality Plan must set up a “quality system team” which will be distinct and separate from the design and construction production organization. The quality system team shall report directly to the Design-Builder’s management through the Design-Builder’s Quality Control (QC) Manager. The Quality Plan shall describe the quality system to be implemented at all levels of the Design-Builder’s organization, to include Subcontractors (design and construction) at all levels, including labor only.

Please refer to Part 2 – Design-Build Section 101, Section 101-3, for the definitions of QC and Quality Assurance (QA).

DB 113-1.1 Quality Plan Submittal

The Design-Builder shall submit its Quality Plan within 30 Calendar Days of Notice to Proceed.

DB 113-1.2 Quality Plan Reviews and Updates

The Design-Builder shall conduct management reviews of its quality system as specified in this DB Section 113.

As Work progresses, the Design-Builder shall update the Quality Plan to reflect current conditions. The Design-Builder and/or the Department’s Project Manager may identify the need for revisions to the Quality Plan. The Design-Builder shall submit any revisions or updates to the Quality Plan to the Department’s Project Manager for approval within 30 calendar days of the identification of the need for a revision.

In addition, the Design-Builder shall submit its Quality Plan for review by the Department’s Project Manager annually within 12 months of Notice to Proceed (NTP) or receipt of the last Approval from the Department’s Project Manager even if no revisions have occurred during that 12-month period. The Design-Builder shall submit a conformed copy of the updated Quality Plan with revisions highlighted.

DB 113-1.3 Environmental Mitigation

In developing its Quality Plan, the Design-Builder shall establish appropriate controls in its management, design, construction/installation, and documentation procedures to ensure that environmental mitigation requirements are met and documented.

DB 113-1.4 Organizational Requirements

The Design-Builder shall designate a QA/QC Manager who shall be classified as one of the Key Personnel and be responsible for overseeing the overall quality program and the preparation, implementation, and update of the Quality Plan for the Design-Builder, including management, design, and construction. The Design-Builder's QA/QC Manager shall not report to the Design-Builder's Project Manager, but shall be directly responsible to and report to the Joint Venture (JV) board, senior management, or similar level of the Design-Builder's organization not directly responsible for design or construction.

The Design-Builder's QA/QC Manager shall be present and available for consultation with the LA DOTD's Project Manager and other LA DOTD staff on an on-call basis throughout the duration of the Project. The Design-Builder's QA/QC Manager shall attend the weekly progress meetings at a minimum and such other meetings as the Department's Project Manager may request, including individual meetings between the Design-Builder's QA/QC Manager and LA DOTD staff.

The Design-Builder's QA/QC Manager shall be the primary point of contact to the LA DOTD for all issues relating to the Design-Builder's Quality Plan (preparation, review, implementation, and updates).

The Design-Builder's Design QC Manager and Construction QC Manager and their respective staffs shall report directly to the Design-Builder's QA/QC Manager.

See DB Section 112 for responsibilities and qualification requirements of construction QC staff. See DB Section 111 for responsibilities and qualification requirements of design QC staff.

DB 113-1.5 Abbreviations

C/A	Corrective Action
HSPPD	Handling/Storage/Packaging/Preservation/Delivery
P/A	Preventive Action

DB 113-2 QUALITY SYSTEM REQUIREMENTS

DB 113-2.1 Management Responsibility

DB 113-2.1.1 Quality Policy

The Design-Builder's executive management shall define and document its policy for quality, including objectives for quality and its commitment to quality. (In the context of this DB Section 113, "executive management" shall mean those persons to whom the Design-Builder's Project Manager reports and who have overall responsibility for the Design-Builder's performance.) The quality policy shall be relevant to the Design-Builder's organizational goals and the expectations and needs of the LA DOTD. The Design-Builder shall ensure that this policy is understood, implemented, and maintained at all levels of the organization.

The Design-Builder shall have a published statement of its commitment to quality and the organization's quality objectives signed by its responsible executive(s). It shall explain the commitment in terms of the services provided to the LA DOTD and the responsibilities assumed by the Design-Builder to discharge its contracted accountabilities, relative to the LA DOTD's overall responsibility to Stakeholders and the

public-at-large for assuring quality in the constructed facility. The statement shall be made known to and understood by all staff and be included in the Quality Plan.

Executive management's commitment to quality could be demonstrated by the quality policy being signed by the responsible executive(s) and management's direct involvement in verifying the implementation and understanding of the quality policy.

All employees shall be made aware of the Design-Builder's quality policy. The indoctrination on quality policy may be formal and can be accomplished by various means depending on the size of the Project, the structure of the Design-Builder's management staff, and the number of employees.

DB 113-2.1.2 Organization

A) Responsibility and Authority

Executive management shall have the responsibility to plan and determine the overall direction of the Design-Builder and its relationship to the quality efforts. Executive management shall ensure the quality policy is documented and understood by all employees and management shall further ensure the implementation of the quality policy by everyone in the organization.

The quality system shall be an integral part of the overall management system and as such shall be supported and implemented from the top down. On a Design-Build (DB) project, most employees are involved in managing, performing, or verifying work that affects quality. It shall not be the sole domain of the design checkers, QC inspectors, or QC personnel. All workers, including design and construction production personnel (including those of Subcontractors), shall be aware of the quality system requirements that govern their respective Work.

A description of the organizational arrangements (such as a chart) shall be available and maintained. All key roles and persons and lines of communication and authority between the Design-Builder and the LA DOTD and their representative(s) and with other organizations involved shall be identified.

The responsibility, authority, and interrelation of personnel who manage, perform, and verify work affecting quality shall be defined and documented, particularly for personnel who need the organizational freedom and authority to do any of the following:

- 1) Initiate action to prevent the occurrence of any nonconformities relating to the product, process, and quality system;
- 2) Identify and record any problems relating to the product, process, and quality system;
- 3) Initiate, recommend, or provide solutions through designated channels. It shall be everyone's responsibility to report any and all quality and safety problems;
- 4) Verify the implementation of solutions. Verifying the implementation of the solutions to quality problems shall be performed in a timely manner. The verification shall also investigate if the solution to the identified problem created another quality problem; and
- 5) Control further processing, delivery, or installation of nonconforming product

until the deficiency or unsatisfactory condition has been corrected. Controls shall be established, including stopping work, if necessary, once a significant quality problem is identified until the cause of the problem can be identified and the required corrective action can be implemented.

B) Resources

The Design-Builder shall identify resource requirements and provide adequate resources, including the assignment of trained personnel for management, performance of Work, verification activities, and internal quality audits.

The Design-Builder shall have a system for assuring that projects are adequately staffed and that resources are provided adequate training to perform such activities as design reviews (DB Section 113-2.4), verification activities, receiving, in-process and final inspections (DB Section 113-2.10), and internal quality audits (DB Section 113-2.17).

The Quality Plan shall identify the source of staffing (management, professional, technical, and labor) and shall deal with the integration of resources into the specific Contract requirements.

Other resources shall also be addressed, such as, computers, craft tools, equipment, and facilities.

C) Design-Builder's Quality Assurance/Quality Control Manager

The Design-Builder's executive management shall appoint a Quality Assurance/Quality Control (QA/QC) Manager who, irrespective of other responsibilities, shall have a defined authority for the following activities:

- 1) Ensuring that a quality system is established, implemented, and maintained; and
- 2) Reporting on the performance of the quality system to the Design-Builder's management for review and as a basis for improvement of the quality system.

The Design-Builder's QA/QC Manager shall have direct access to executive management to report on the performance of the quality system and shall not work under the Design-Builder's Project Manager or anyone else responsible for design or construction production.

DB 113-2.1.3 Management Review

The Design-Builder's executive management shall review the quality system at defined intervals sufficient to ensure its continuing suitability and effectiveness in satisfying the requirements of this standard and the Design-Builder's stated quality policy and objectives (*see* DB Section 113-2.1.1). Management reviews shall be held at least at three-month intervals.

Records of such reviews shall be maintained (*see* DB Section 113-2.16). Minutes shall be taken of the review meetings and these minutes shall be maintained as quality records. Copies of minutes shall be provided to the Department's Project Manager on request.

DB 113-2.2 Quality System

DB 113-2.2.1 General

The Design-Builder shall establish, document, and maintain a quality system as a means of ensuring that product conforms to specified requirements. The Design-Builder shall prepare a Quality Plan covering the requirements of this DB Section 113. The Quality Plan shall include or make reference to the quality system procedures and outline the structure of the documentation used in the quality system.

The Quality Plan shall cover temporary and permanent components; the Design-Builder; all Principal Participants; and all Subcontractors, suppliers, and vendors (design, construction, and materials) at all tiers.

The Quality Plan shall either contain or reference the procedures and documentation structure outline critical to quality.

The Quality Plan shall also establish or reference the procedures that make up the quality system. Should the Quality Plan only reference the procedures, it shall also detail the levels of the documented system, its contents, and the interrelationship of the document types.

There shall be a "road map" within the Quality Plan that is lined up to the applicable element that describes the quality system. This roadmap may be a cross-reference, narrative, chart, index, or some similar method.

The Quality Plan shall detail the role of the Design-Builder, each Principal Participant, the Designer, the Design-Builder's Design and Construction QC Managers, and other team members having a significant quality role.

The Quality Plan shall define policies, goals, and objectives of the organization and organizational interfaces.

DB 113-2.2.2 Quality-System Procedures

- A) The Design-Builder shall prepare documented procedures consistent with the requirements of this DB Section 113 and the Design-Builder's stated quality policy.
- B) The Design-Builder shall document standard Work methods in procedures (*see* DB Section 113-2.2.2) and enforce the implementation of these "Best Practices." However, it is inevitable that situations will arise which require a departure from the norm. These conditions shall be anticipated in the procedures and shall allow for control of these activities.
- C) The Quality Plan shall define the liaison and interface between the quality organization and the design and construction arms of the Design-Builder.
- D) The quality procedures shall, as a primary objective, be written with the intent of gaining employee understanding of the system.
- E) It is the Design-Builder's responsibility to describe to the LA DOTD the rationale for the procedures selected and, if the procedures do not address every provision of this DB Section 113, to explain why the standard is not applicable in a particular situation. The following common pitfalls should be avoided:

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- 1) Too much emphasis placed on creating multiple tiered documents when a simple Quality Plan will suffice;
 - 2) Procedures which are too restrictive;
 - 3) Procedures which are inconsistent;
 - 4) Inordinate emphasis on documentation requirements; and
 - 5) Over commitment to procedures which provide little or no information to assist employees.
- F) The following list of procedures (1 through 22) shall serve as the starting point for defining the Design-Builder's quality management system.
- 1) A procedure for preparation, control, and distribution of Project Quality Plan;
 - 2) Scope;
 - 3) Key personnel;
 - 4) Organizational/technical interfaces;
 - 5) Design input requirements;
 - 6) Design output requirements (deliverables);
 - 7) Design reviews;
 - 8) Louisiana Department of Transportation and Development participation;
 - 9) Levels of responsibility and authority for the following personnel:
 - a) On-site staff;
 - b) Other local office staff;
 - c) Executive management; and
 - d) The Design-Builder's Quality Assurance/Quality Control Manager;
 - 10) A procedure to control, verify, and validate the design;
 - 11) A procedure to control, verify, and validate that construction is performed in accordance with the Contract requirements; the Design-Builder's Project Specifications; and the Design-Builder's plans, including design assumptions and intent;
 - 12) A procedure for document issue, approval, and revision;
 - 13) A procedure for verification, storage, and maintenance of LA DOTD-supplied Materials or Equipment;
 - 14) A procedure for the identification of (and, where required by Contract, the traceability of) deliverable items, such as, Design Plans, Project Specifications, Working Plans, and As-Built Plans;
 - 15) A procedure for verification and control of computer programs used in design;
 - 16) Procedures for inspecting, testing, and calibrating Equipment;

- 17) Procedures for handling nonconformances;
- 18) Procedures for corrective/preventive actions;
- 19) Procedures for handling, storing, packaging, and delivering Contract deliverables;
- 20) Training processes;
- 21) Procedures for internal quality audits; and
- 22) A procedure for management review.
 - a) The Design-Builder shall identify its standard procedures applicable to the Project. The Design-Builder shall develop Project-specific procedures for all elements of the Project that are important to quality for the Project, but are not addressed adequately by its standard procedures. Both types of procedures shall be included in the Project's Quality Plan.
 - b) The Design-Builder shall effectively implement the quality system and its documented procedures. Implementation shall be demonstrated by internal quality audit reports, trending of nonconformances, records of root cause analysis, records of corrective and preventive actions, and/or records of how the LA DOTD's complaints were handled.
 - c) For the purposes of this DB Section 113, the range and detail of the procedures that form part of the quality system depend on the complexity of the Work, the methods used, and the skills and training needed by personnel involved in carrying out the activity. The procedures shall accurately reflect the Work that is to be accomplished and shall benefit the organization/Project.
 - d) Documented procedures may make reference to specifications that define how an activity is performed. Procedures shall describe the process steps of "what" needs to be done and Work instructions shall prescribe "how" it is to be done.

DB 113-2.2.3 Quality Planning

A specific Project Quality Plan is required. There shall be evidence of quality planning that ensures specific Contract/Project requirements have been identified and incorporated into the documented quality system. The LA DOTD's requirements represent the minimum requirements. The Design-Builder shall develop a fully comprehensive plan.

The Design-Builder shall define and document how the requirements for quality will be met. Quality planning shall be consistent with all other requirements of a Design-Builder's quality system and shall be documented in a format to suit the Design-Builder's methods of operation. The Design-Builder shall give consideration to the following activities, as appropriate, in meeting the specified requirements for the Project:

- A) Preparing the Quality Plan;
- B) If the Design-Builder already has a quality management system, blending the unique

Project requirements into the quality system by completing the following for this Project:

- 1) Stating the Project objectives to be obtained;
 - 2) Identifying responsibilities, authorities, and interfaces (both internal and external);
 - 3) Identifying specific procedures, methods, and instructions to be used (standard and Project specific);
 - 4) Identifying inspections, tests, audits, and surveillances to be used;
 - 5) Controlling modifications and change; and
 - 6) Incorporating Project requirements into the standard documents;
- C) Identifying and acquiring any controls, processes, Equipment (including inspection and test Equipment), fixtures, resources, and skills that may be needed to achieve the required quality;
- D) Ensuring the compatibility of the design, production process, installation, service, inspection and test procedures, and applicable documentation. The Design-Builder shall have significant interface obligations and shall describe in its Quality Plan how these obligations shall be met;
- E) Updating, as necessary, QC, inspection, and testing techniques, including the development of new instrumentation;
- F) Identifying suitable verification at appropriate stages;
- G) Clarifying standards of acceptability for all features and requirements, including those which contain a subjective element; and
- H) Identifying and preparing quality records. Quality records are comprised of such documents as audit inspection reports, approved designs, Specifications, Plans, calculations, purchase orders, Design Review records, vendor evaluation reports, cumulative progress reports, and audit reports.

DB 113-2.3 Change Order and Amendment Review

DB 113-2.3.1 General

The Design-Builder shall establish and maintain documented procedures for Change Order and Amendment review and for the coordination of these activities.

The methodology of the review shall be adequately defined and documented in procedure(s). The objective is to ensure that all Contract commitments are reviewed and agreed prior to issue or "execution."

This DB Section 113-2.3 applies to the Contract between the Design-Builder and the LA DOTD.

DB 113-2.3.2 Review

The change review is a process which should begin with the request for change and continues during the Change Order or Amendment preparation. The review process could be "graded" (i.e., different for

Change Orders versus Contract Amendments) and could also be different based on the dollar value and legal framework (i.e., specific to the perceived risk of not doing so).

Change review shall take place for each request for Change Order or Contract Amendment.

Before submission of a proposal or the acceptance of a Change Order or Contract Amendment, the proposal shall be reviewed by the Design-Builder to ensure the following:

- A) The requirements are adequately defined and documented. Where no written statement of requirement is available for an order received by verbal means, the Design-Builder shall ensure that the order requirements are agreed before their acceptance. The identification and documentation of the LA DOTD's requirements is required;
- B) The standard also acknowledges that a written statement of requirements may not always be received from the LA DOTD. Where verbal orders are received from an authorized representative of the LA DOTD, the Design-Builder shall ensure requirements are defined, reviewed, and confirmed in writing. In any case, the Design-Builder shall be responsible to ensure the change requirements are understood and have been agreed to by both parties before acceptance;
- C) Any differences between the Contract or accepted order requirements and those in the proposal are resolved. Differences between a proposal and the requested change shall be reconciled and reviewed for impact and action, clearly and mutually agreed; and
- D) The Design-Builder has the capability to meet the Contract or accepted order requirements. The Design-Builder shall have the capability to fulfill the Project Contract requirements before acceptance of the change order or Amendment. This capability can reside in-house, with Subcontractors, or with subconsultants.

DB 113-2.3.3 Amendment to a Contract

The Design-Builder shall identify how an amendment to a Contract is made and correctly transferred to the functions concerned within the Design-Builder's organization.

The Contract review procedure shall include processing all Amendments to the Contract. Amendments and change order requests should be subject to an appropriate level of review as the initial Contract. The review shall include impact on Work already performed, schedule, and costs.

DB 113-2.3.4 Records

Change order and Amendment reviews correspondence, meeting minutes, signed documents, and records of negotiation shall be maintained as Project records. Records of negotiations shall also be attached to a Change Order.

Channels for communication and interfaces with the LA DOTD's organization in these Contract matters shall be established and maintained.

DB 113-2.4 Design Control

DB 113-2.4.1 General

The Design-Builder shall establish and maintain documented procedures to control and verify the design of the product in order to ensure that the specified requirements are met.

Design control must be applied to computer programs, spreadsheets, design tables, and other products that provide analytical results which are used to develop or check designs.

The Quality Plan shall detail the roles of the following Design-Builder personnel:

- A) Designer;
- B) Design Manager;
- C) Design Quality Control Manager; and
- D) Responsible Engineer(s).

DB 113-2.4.2 Design and Development Planning

The Design-Builder shall prepare plans for each design and development activity. The plans shall describe or reference these activities and define responsibility for their implementation. The design and development activities shall be assigned to qualified personnel equipped with adequate resources. The plans shall be updated as the design evolves.

The Project design control procedures shall define the technical interfaces among the different groups which provide input to the design process or receive output. The necessary information shall be documented, transmitted, and regularly reviewed. If not defined in these procedures, a separate description shall be required.

DB 113-2.4.3 Design Input

Design-input requirements relating to the product, including applicable statutory and regulatory requirements, shall be identified, documented, and reviewed by the Design-Builder for adequacy. Incomplete, ambiguous, or conflicting requirements shall be resolved with those responsible for imposing these requirements.

The essence of this sub-element is that the Design-Builder determines what information is needed and the available sources for information, reviews all pertinent available data, assures itself that there is sufficient information to carry out its assignment, and resolves with the LA DOTD and other appropriate authorities any actual or apparent conflicts or inconsistencies in the information so gathered. The information, sources, and decisions shall be documented and treated as a quality record (DB Section 113-2.16).

DB 113-2.4.4 Design Output

The Design-Builder shall document design output and express output in terms that can be verified against design-input requirements and validated (*see* DB Section 113-2.4.7).

Design outputs are usually captured in documents such as Plans, reports, and Specifications. The control of these outputs is an integral part of the Design-Builder's document control process.

Output documentation shall be reviewed for compliance with design requirements.

Design output shall comply with the following:

- A) Meet the design-input requirements;
- B) Contain or make reference to acceptance criteria; and
- C) Identify those characteristics of the design that are crucial to the safe and proper functioning of the product (e.g., requirements for operating, storing, handling, maintaining, and disposing).

Design-output documents shall be reviewed before release.

DB 113-2.4.5 Design Review

At appropriate stages of design, documented reviews of the design results shall be planned and conducted. Participants at each Design Review shall include representatives of all functions concerned with the design stage being reviewed, as well as other specialist personnel as required. Records of such reviews shall be maintained (*see* DB Section 113-2.16).

This element reinforces the principle of qualified staff to perform verification functions. The purpose here is to ensure an unbiased look at the Work output being produced, to verify with a "fresh set of eyes" that the LA DOTD's contractual requirements and needs are being met fully. Reviews shall include consideration of the Project's usability, reliability, maintainability, availability, and operability along with safety, cost, and aesthetics. In reviews it is prudent to address environmental impacts, community impacts, and similar concerns. Note that Design Reviews shall be recorded and retained as quality records. Any computer software used to perform alternative calculations or verify clearances through use of scale models or CADD techniques shall be validated before use for the application made and the validation documented in accordance with DB Section 113-2.16.

In addition to conducting Design Reviews, design verification may include the following activities:

- A) Performing alternative calculations;
- B) Comparing the new design with a similar proven design, if available;
- C) Undertaking tests and demonstrations; and
- D) Reviewing the design-stage documents before release.

DB 113-2.4.6 Design Verification

Design verification is the process of ensuring specified requirements have been met.

At each stage of design development the Design-Builder shall verify that the design stage output meets the design stage input requirements. The design verification measures shall be recorded (*see* DB Section 113-2.16).

The Design-Builder shall establish and the Quality Plan shall include procedures for verifying and documenting that the design output meets the design input requirements. Verification shall include independent checks, tests, and/or reviews.

Verification shall be performed under the direction of the Design-Builder's Design Quality Control Manager.

Designs provided by subconsultants shall be independently verified and documented under the direction of the Design-Builder's Design QC Manager prior to their acceptance and incorporation into the Work of others.

DB 113-2.4.7 Design Validation

The Design-Builder shall perform design validation to ensure that the Project conforms to defined user needs and/or requirements.

Design validation is the process of ensuring "requirements for a specific intended use are fulfilled." In other words, design validation is conformity with the user's needs rather than only specified requirements. In most cases, the Design-Builder cannot determine if the LA DOTD's "needs" have been fulfilled until the Project is complete and operational.

Design validation seeks to ensure that the final product conforms to the LA DOTD's needs. Design validation follows successful design verification. Validation may only be applicable for electronic, electrical, and/or mechanical components of a Project. Validation is normally performed under defined operating conditions. Validation is normally performed on the final product, but may be necessary in earlier stages prior to Project completion.

Multiple validations may be performed if there are different intended uses.

DB 113-2.4.8 Design Changes

After a design is complete and the Work is ready to be executed, is being executed, or is complete all subsequent design changes and modifications shall be identified, documented, reviewed, and approved by authorized personnel before their implementation.

The Design-Builder shall establish and include in the Quality Plan procedures how design changes are initiated, reviewed, approved, implemented, and recorded in order to maintain configuration control. Changes may originate at the request of the LA DOTD, internal and external design organizations, and site or field personnel.

The persons authorized to approve design changes shall be identified in the procedures. The mechanism for changes in the design can be detailed as part of the procedure for the original Work or addressed in a specific design change procedure(s). It is important that any proposed changes should be reviewed and approved by the Responsible Engineer that produced the original Work. The degree and nature of control on design changes shall be at least equivalent to that under which the original Work was accomplished. Changes shall be responsive to the design input and shall be verified and approved. An administrative system shall be in place to ensure that approved changes are documented and provided to holders of the original material in a timely manner. Also, there shall be a documented process that ensures that superseded information is removed from use when the updated document or record is received.

A master list of currently effective documents shall be maintained to reflect design changes approved. A listing of the design changes shall be communicated to the construction site on a timely basis consistent with the progress of construction activities. Under no circumstances shall Work be performed without current knowledge of the approved design changes to be incorporated into the Work product.

DB 113-2.5 Document and Data Control

DB 113-2.5.1 General

The Design-Builder shall establish and maintain documented procedures to control all documents and data that relate to the requirements of this DB Section 113-2.5 including, to the extent applicable, documents of external origin such as standards and the LA DOTD's plans.

The Design-Builder shall be responsible for the establishment and implementation of documented procedures for ensuring all documents essential to the quality of the delivered product or service are properly controlled. This shall include, but is not limited to, contracts, Plans, Specifications, master drawing lists or equivalent documents, critical procedures and Work instructions, quality system manuals, Project quality plans, and data (e.g., computer data bases and computer files).

Procedures should recognize that there is a finite life to electronic storage media. Consideration should be made for those "documents" which only exist in the electronic media.

DB 113-2.5.2 Document and Data Approval and Issue

The Design-Builder shall be responsible to see that the documents and data are reviewed and approved for adequacy by authorized personnel prior to issue. A master list or equivalent document control procedure identifying the current revision status of documents shall be established and be readily available to preclude the use of invalid and/or obsolete documents.

The Design-Builder shall be responsible for establishing, documenting, maintaining, and implementing a procedure which clearly defines the process for document review, resolution of comments, and approval authority.

Quality management system documentation shall also be controlled to ensure its proper authorization and distribution.

No construction Work activities shall be accomplished using unreleased, unauthorized, or outdated design documents.

This control shall ensure the following:

- A) The pertinent issues of appropriate documents are available at all locations where operations essential to the effective functioning of the quality system are performed; and
- B) Invalid and/or obsolete documents are promptly removed from all points of issue or use or otherwise assured against unintended use in the following ways:
 - 1) Superseded, revised, and voided documents shall be removed from all Work areas and the employees whose Work is governed by those documents shall be informed of the changes to ensure compliance to the new or revised requirements;
 - 2) A master document list or equivalent shall be maintained to identify the status and current revision of all controlled documents. The master list or equivalent shall be controlled and be available to all holders of controlled documents; and
 - 3) Any obsolete documents retained for legal and/or knowledge-preservation

purposes are suitably identified. Superseded, revised, and voided documents can be maintained for legal and/or historic information. However, the documented procedure must describe the method of identifying and storing these documents in a manner that ensures they are not inadvertently used by an unknowing individual. There shall also be a record retention plan for the Design-Builder.

DB 113-2.5.3 Document and Data Changes

The Design-Builder shall identify and include in the Quality Plan the process for the initiation, review, and approval of all document changes prior to issuance of those changes.

Changes to documents and data shall be reviewed and approved by the same functions/organizations that performed the original review and approval unless specifically designated otherwise. If this is not possible then the designated approval authority shall have adequate background and experience upon which to base the decision. The designated functions/organizations shall have access to pertinent background information upon which to base their review and approval.

Where practical, the nature of the change shall be identified in the document or the appropriate attachments.

DB 113-2.6 Procurement and Purchasing

DB 113-2.6.1 General

The Design-Builder shall establish and maintain documented procedures to ensure that purchased services and products conform to specified requirements.

The Design-Builder shall be responsible for establishing, documenting, and maintaining procedures for the evaluation and selection of suppliers, vendors, and subcontractors. The procedures shall detail the requirements for all important activities, such as, preparation of purchase orders; contracts for services; bid lists; and vendor quality requirements, including, pre-award audits, in-process inspections, and product acceptance.

DB 113-2.6.2 Evaluation of Subcontractors, Suppliers, and Vendors

The Design-Builder shall perform the following functions:

- A) Evaluate and select Subcontractors on the basis of their ability to meet subcontract requirements, including the quality system and any specific QC requirements;
- B) Control the evaluation and selection of suppliers, vendors, and Subcontractors. Procedures, rather than just a statement of policy in the Quality Plan, shall be used;
- C) Describe the evaluation and selection process for suppliers, vendors, and Subcontractors of all tiers and describe the priority of quality in the evaluation and selection criteria in the Quality Plan;
- D) Define the type and extent of control exercised by the Design-Builder over Subcontractors. This shall be dependent upon the type of services or products; the impact of subcontracted Work on the quality of final product; and, where applicable, on the quality audit reports and/or quality records of the previously demonstrated capability and performance of Subcontractors; and

- E) Establish and maintain quality records of acceptable Subcontractors (*see* DB Section 113-2.16). Records shall be maintained to document the selection, control exercised over, performance, delivery, and quality of all Subcontractors.

The methods the Design-Builder elects to use to control the delivery of the subcontracted service or product may include, but are not limited to the following:

- 1) Design Reviews;
- 2) Shop inspections;
- 3) Receiving inspections;
- 4) Witnessed inspection hold points;
- 5) Issuance of a certificate of compliance or analysis;
- 6) Testing and approval of a prototype or sample;
- 7) Provision and approval of a Quality Plan prior to contract award; and
- 8) Quality system audits.

The procedures shall detail how Subcontractors (including consultants) will be reported to the LA DOTD (DB Section 108-2.3.4).

DB 113-2.6.3 Procurement and Purchasing Data

Procurement and purchasing documents shall contain data clearly describing the service or product ordered, including where applicable:

- A) The type, class, grade, or other precise identification;
- B) The title or other positive identification and applicable issues of Specifications; Plans; process requirements; inspection instructions; and other relevant technical data, including, requirements for approval or qualification of product, procedures, process Equipment, and personnel; and
- C) The title, number, and issue of the quality system standard to be applied.

The Design-Builder shall review and approve procurement/purchasing documents for adequacy of the specified requirements prior to release.

The documented procedure shall identify how and by whom procurement and purchasing documents are reviewed, how comments are resolved, and who in the organization has the authorization for final approval of the document.

DB 113-2.6.4 Verification of Purchased Service or Product

- A) Design-Builder Verification at Subcontractor's Premises

Where the Design-Builder proposes to verify a purchased product or service at the Subcontractor's premises, the Design-Builder shall specify verification arrangements and the method of product release in the procurement/purchasing documents.

The procurement/purchasing document shall include any requirement for the organization performing verification at its Subcontractor's facilities. The method of verification and release of the product or service shall be specified in advance. This may also mean the purchase order or Specifications carry specific instructions on how the process verification will be performed to assure the final product will meet all of the procurement/purchasing requirements.

B) The Louisiana Department of Transportation and Development Verification of Subcontracted Product or Service

Where specified in the Contract, the Design-Builder or the LA DOTD's representative shall be afforded the right to verify at the Subcontractor's premises and the Design-Builder's premises that subcontracted product or service conforms to specified requirements. Such verification shall not be used by the Design-Builder as evidence of effective control of quality by the Subcontractor.

When specified in the Contract Documents, the LA DOTD shall have the right of access to the Design-Builder and/or Subcontractor facility to inspect, audit, or otherwise verify the specified procurement/purchasing requirements are being fulfilled. The right of access may be extended to authorized personnel and contracted third parties. The Design-Builder is obligated to perform verification actions regardless of what the LA DOTD does. The LA DOTD's verification may not be substituted for the Design-Builder's actions.

Verification by the LA DOTD shall not absolve the Design-Builder of the responsibility to provide acceptable product or service nor shall it preclude subsequent rejection by the LA DOTD.

The Subcontractors shall be responsible for fulfilling all of the specified procurement requirements regardless if the LA DOTD, Design-Builder, or agent thereof performed any tests or inspections. The Design-Builder shall provide the LA DOTD an acceptable product or service regardless of the extent of the LA DOTD's verification. Even if the LA DOTD has performed verification actions at the Design-Builder's facilities, the product may still be rejected if it is not acceptable.

DB 113-2.7 Control of Louisiana Department of Transportation and Development-Supplied Items

The Design-Builder shall establish and maintain documented procedures for the control of verification, storage, and maintenance of any LA DOTD-supplied items provided for incorporation into the supplies or for related activities. Any such item that is lost, damaged, or is otherwise unsuitable for use shall be recorded and reported to the LA DOTD (*see* DB Section 113-2.16).

One of the most significant products provided to the Design-Builder by the LA DOTD is design information in the form of Plans and Specifications as well as proprietary information, and these items shall be protected with the same vigilance as any hardware items supplied. Any apparent deficiency or ambiguity shall be identified to the LA DOTD for its necessary action.

The technical characterizations of the site, such as, the boring log or soil report data supplied by the LA DOTD for consideration in designing the structural system for the product are examples of the LA DOTD-supplied products for the structural consultant.

When such items are encountered documented procedures shall exist which detail the receipt/acceptance, storage, and maintenance (preservation) of these items.

When items are considered inadequate for the task required documented procedures shall detail the process used to report such deficiencies to the LA DOTD.

DB 113-2.8 Product Identification and Traceability

Where appropriate, the Design-Builder shall establish and maintain documented procedures for identifying the product by suitable means from receipt and during all stages of production, delivery, and installation.

This means that the Design-Builder shall establish and maintain documented procedures whereby items of Work for which records are to be kept shall be identifiable. Examples of this on a construction site include the numbering of concrete pours in a structure or the establishment of a grid matrix for identifying columns.

The Design-Builder shall include the document title, the unique number, the LA DOTD's name, the Design-Builder's name, the preparer's name, and the date and revision number on all Project deliverables.

The filing and retrieval of operating manuals, certificates of compliance and/or analysis, heat numbers, inspection status, and nonconforming product shall be traceable to the items. Records shall be kept that identify the installed location of the Equipment.

Where and to the extent that traceability is a specified requirement, the Design-Builder shall establish and maintain documented procedures for unique identification of individual product or batches. This identification shall be recorded (*see* DB Section 113-2.5).

The intent of this DB Section 113-2.8 is to ensure the Design-Builder can effectively identify the root cause of a problem and implement effective corrective and preventive actions to resolve and prevent future occurrences of the problem.

DB 113-2.9 Process Control

The Design-Builder shall plan and control the Work and, when necessary, prepare a documented process plan defining how Work is to be carried out. Documentation may be in the form of a narrative, flow chart, or control points.

The Design-Builder shall identify and plan the production, installation, and servicing processes which directly affect quality and shall ensure that these processes are carried out under controlled conditions. Controlled conditions shall include the following:

- A) Documentation of procedures defining the manner of production, installation, and servicing where the absence of such procedures could adversely affect quality. This requirement deals with the planning and control of all Work processes other than design control processes that are critical to the adequacy of the delivered Project;

- B) Establishment and documentation of the method(s) for scheduling, monitoring, and reporting on the status of each significant aspect of the design or other Project tasks. The methods shall be consistent with the size and complexity of the effort. Such schedules shall identify required inputs from others and submittals to the LA DOTD and to relevant government authorities;
- C) An assessment by the Design-Builder of this requirement. The key phrase of this requirement is "where the absence of such procedures could adversely affect quality";
- D) Use of suitable production, installation, and servicing Equipment and a suitable working environment;
- E) Compliance with reference standards/codes, quality plans, and/or documented procedures. Referenced standards shall be available to the people at the location where the Work is to be performed to ensure compliance to the specified requirements;
- F) Monitoring and control of suitable process parameters and product characteristics;
- G) The approval of processes and Equipment, as appropriate. Procedures shall identify who has the responsibility, authority, and expertise for the approval of various processes to ensure their adequacy;
- H) Criteria for workmanship which shall be stipulated in the clearest practical manner (e.g., written standards, representative samples, or illustrations); and
- I) Suitable maintenance of Equipment to ensure continuing process capability.

DB 113-2.10 Inspection and Testing

DB 113-2.10.1 General

The Design-Builder shall establish and maintain documented procedures for inspection and testing activities in order to verify that the specified requirements for the Project are met. The required inspection and testing and the records to be established shall be detailed in the Quality Plan or documented procedures.

This section shall address inspection/testing methodology, methods of control, documentation, acceptance, and distribution of results.

Written procedures are required. In general, QC inspections shall be performed to written criteria with specified levels of acceptability based on clearly defined accept/reject criteria. Reports shall be signed and dated by QC inspection personnel and results clearly indicated.

The Design-Builder shall establish, document, and maintain procedures for inspection and testing activities.

Quality Control inspection and testing shall be performed in accordance with written procedures developed by the Design-Builder or the proper issue of test procedures issued by industry, government, and/or code bodies available to test personnel.

Verification of compliance with Specifications and/or requirements by means of inspection and testing is required at the following times:

- A) On receipt of Materials;

- B) At intermediate stages; and
- C) When Work is completed.

The criteria for compliance are defined in the Contract, as are appropriate sampling and testing requirements.

Checkpoints and hold points (Work that must be inspected and approved by the assigned QC inspector before Work can proceed) shall be clearly established and identified on the Project execution schedule or other suitable means. Quality Control inspection procedures, logistics, and reporting of results shall be clearly defined, developed, and implemented.

DB 113-2.10.2 Incoming Product Inspection and Testing

The Design-Builder shall ensure that incoming product is not used or processed (except in the circumstances described in DB Section 113-2.10.3) until it has been inspected or otherwise verified as conforming to specified requirements. Verification of the specified requirements shall be in accordance with the Quality Plan and/or documented procedures.

The Quality Plan shall include incoming product inspection that shall include, but not be limited to, the following:

- A) Documentation review;
- B) Physical inspection of Materials and/or Equipment;
- C) Identification of items as per the purchase order and shipping list, tag number, or marking;
- D) Verification of quantity and size;
- E) Dimensional checks, when applicable;
- F) Verification of protective coatings, if applicable; and
- G) Examination of item(s) for condition and shipping damage.

The Design-Builder shall maintain an adequate checking and approving procedure to ensure that all its Work, including, the monitoring, testing, and approving of such Work at the head office and on-site, meets the LA DOTD's requirements and the Contract.

In determining the amount and nature of receiving inspection, the Design-Builder shall consider the amount of control exercised at the Subcontractor's premises and the recorded evidence of conformance provided.

DB 113-2.10.3 In-Process Inspection and Testing

The Design-Builder shall provide the following functions:

- A) Inspect and test the product as required by the Quality Plan and/or documented procedures; and
- B) Hold product until the required inspection and tests have been completed or necessary reports have been received and verified.

DB 113-2.10.4 Final Inspection and Testing

The Design-Builder shall jointly conduct all final inspection and testing with the LA DOTD in accordance with the Contract requirements and the Quality Plan and/or documented procedures to complete the evidence of conformance of the finished Project to the specified requirements.

The Design-Builder shall have documented procedures to ensure that the final observation and testing where applicable have been completed.

Records of final inspection and tests are required to verify compliance to specified requirements has been achieved (*see* DB Section 113-2.16).

The Quality Plan and/or documented procedures for final inspection and testing shall require that all specified inspections and tests, including those specified either on receipt of product or in-process, have been carried out and that the results meet specified requirements.

DB 113-2.10.5 Inspection and Test Records

The Design-Builder shall establish and maintain records which provide evidence that the product has been inspected and/or tested. These records shall show clearly whether the product has passed or failed the inspections and/or tests according to defined acceptance criteria. Where the product fails to pass any inspection and/or test, the procedures for control of nonconforming product shall apply (*see* DB Section 113-2.13).

Inspection and test records for inspections and tests performed by the Design-Builder, the LA DOTD, and/or a third party shall show whether the product has passed or failed according to defined acceptance criteria. Product that fails inspection becomes nonconforming product. Also, the records shall identify the inspection authority responsible.

DB 113-2.11 Control of Inspection, Measuring, and Test Equipment

DB 113-2.11.1 General

The Design-Builder shall establish and maintain documented procedures consistent with the LA DOTD Material Sampling Manual and Testing Procedures Manual (Volumes 1 and 2) to control, calibrate, and maintain inspection, measuring, and test Equipment (including test software) used by the Design-Builder to demonstrate the conformance of product to the specified requirements. Inspection, measuring, and test Equipment shall be used in a manner which ensures that the measurement uncertainty is known and is consistent with the required measurement capability.

Where test software or comparative references, such as test hardware, are used as suitable forms of inspection they shall be checked to prove that they are capable of verifying the acceptability of product prior to release for use during production, installation, or servicing and shall be rechecked at prescribed intervals. The Design-Builder shall establish the extent and frequency of such checks and shall maintain records as evidence of control (*see* DB Section 113-2.16).

Where the availability of technical data pertaining to the measuring Equipment is a specified requirement such data shall be made available when required by the LA DOTD for verification that the measuring Equipment is functionally adequate.

Effective test procedures shall contain comprehensive listings of required Equipment, tools, and apparatus to successfully and conclusively perform the test. Matters of "repeatability" and "reproduceability" shall also be addressed, together with precision of measured results and calibration thresholds of measuring devices.

Comprehensive operations, maintenance, setup, and dimensional arrangements for the measuring, testing devices, and Equipment shall also be included in order to allow for their practical layout and installation at the measuring location. The Design-Builder shall establish, document, and maintain procedures for the control of inspection, measuring, and test equipment. It shall be the Design-Builder's responsibility through its QA/QC Manager to assess the Subcontractor (*see* DB Section 113-2.6.2) to ensure the required procedures exist and are implemented.

The Design-Builder shall be responsible for ensuring applicable requirements of this DB Section 113 are addressed.

This DB Section 113-2.11 applies to inspection or testing and surveying Equipment. The Quality Plan shall address the following:

- A) Definition of the responsibility and authority for the inspection, measuring, and test Equipment;
- B) Procedures for selecting measurements, determining accuracy and precision required, and obtaining Equipment which meets those requirements;
- C) Disposition of nonconforming Equipment;
- D) Procedures for identification, maintenance, and storage of measuring Equipment;
- E) Record keeping;
- F) Calibration frequency;
- G) Calibration status including indicators;
- H) Disposition of items checked with Equipment found to be out of calibration; and
- I) Traceability of primary and secondary calibration standards.

DB 113-2.11.2 Control Procedure

The Design-Builder shall provide the following function:

- A) Determine the measurements to be made and the accuracy required, and select the appropriate inspection, measuring, and test Equipment that is capable of the necessary accuracy and precision;
- B) Identify all inspection, measuring, and test Equipment that can affect product quality and calibrate and adjust them at prescribed intervals or prior to use against certified Equipment having a known valid relationship to internationally or nationally recognized standards. Where no such standards exist, the Design-Builder shall document the basis used for calibration;
- C) Develop a master calibration listing indicating the inspection and test Equipment that is used. The log shall include at a minimum the identification number, item description, and required frequency of calibration and accuracy requirements. It is not intended that calibration is required for non precision tools and instruments, such as, measuring tapes,

- concrete slump cones, rulers, and weld radius gauges;
- D) Define the process employed for the calibration of inspection, measuring, and test Equipment, including, details of equipment type, unique identification, location, frequency of checks, check method, acceptance criteria, and the action to be taken when results are unsatisfactory;
 - E) Identify inspection, measuring, and test Equipment with a suitable indicator or approved identification record to show the calibration status;
 - F) Maintain calibration records for inspection, measuring, and test Equipment (*see* DB Section 113-2.16);
 - G) Assess and document the validity of previous inspection and test results when inspection, measuring, or test Equipment is found to be out of calibration;
 - H) Ensure that the environmental conditions are suitable for the calibrations, inspections, measurements, and tests being carried out;
 - I) Ensure that the handling, preservation, and storage of inspection, measuring, and test Equipment is such that the accuracy and fitness for use are maintained; and
 - J) Safeguard inspection, measuring, and test facilities, including both test hardware and test software, from adjustments which would invalidate the calibration setting.

DB 113-2.12 Inspection and Test Status

The inspection and test status of product shall be identified by suitable means which indicate the conformance or nonconformance of product with regard to the inspection and test performed. The identification of inspection and test status shall be maintained as defined in the Quality Plan and/or documented procedures throughout production, installation, and servicing of the product to ensure that only product that has passed the required inspections and tests is dispatched, used, or installed.

The Design-Builder shall establish, document, implement, and maintain an effective system for identifying and implementing the inspection and test status of Project products and services. The system shall utilize a method to identify conforming, nonconforming, indeterminate, downgraded, scrap, and rejected Material.

Lack of nonconformance identification shall not be an indication of acceptance.

DB 113-2.13 Control of Nonconforming Product

DB 113-2.13.1 General

The Design-Builder shall establish and maintain documented procedures to ensure that product that does not conform to specified requirements is prevented from unintended use or installation. This control shall provide for identification, documentation, evaluation, segregation (when practical), and disposition of nonconforming product and for notification to the functions concerned.

There shall be documented procedures to assess nonconformance in the Design-Builder's Work and in the work provided by other contractors, including the LA DOTD. The procedures shall safeguard against use of inaccurate or otherwise inappropriate information or data.

The procedures shall identify the individual(s) responsible for verifying the nonconformance, documenting it, processing the documentation in accordance with the procedures, and determining the effective corrective action/preventive action (*see* DB Section 113-2.14) to resolve the nonconformance.

Procedures shall also cover nonconformances which arise during construction. The procedures shall address the situation where it is discovered that Work does not conform to the requirements after the Work item has previously been subjected to the established checking and approval process. The procedures shall also address Work that is discovered or suspected to contain errors or omissions after delivery to the LA DOTD.

Work shall be immediately brought under control to limit the impact it could have on associated Work where it may have been used as input. Procedures shall include methods to inform those to whom the nonconforming Material had been provided as valid information and to retrieve and isolate from use known copies of the Material until a determination can be made about how to proceed. Nonconformances might be manifested as incorrect plans, errors in calculation (numerical or procedural), survey data that might be based on an incorrect benchmark or route, or even a correct design based on superseded Specifications.

DB 113-2.13.2 Review and Disposition of Nonconforming Product

The Design-Builder shall define the responsibility for review and authority for the disposition of nonconforming product.

A nonconformance shall be defined as any condition in Equipment, Materials, or processes which does not comply with required Plans, Specifications, codes, standards, documentation, records, procedures, or Contract requirements which cause the acceptability of Equipment, Materials, or processes to be unacceptable or indeterminate.

Nonconforming product shall be reviewed in accordance with documented procedures. The review may result in the following:

- A) Rework to meet the specified requirements;
- B) Acceptance with or without repair by consent of the Louisiana Department of Transportation and Development;
- C) Regard for alternative applications; or
- D) Rejection or scrapping.

The procedures shall also address the disposition of nonconforming items and the steps necessary to verify that the nonconformances have been adequately addressed and that the item then be characterized as conforming.

Where required by the Contract, the proposed use or repair of product which does not conform to specified requirements shall be reported for consent by the LA DOTD. The description of the nonconformity that has been accepted and repairs shall be recorded to denote the actual condition (*see* DB Section 113-2.16).

The Design-Builder shall keep and maintain records of nonconforming findings (*see* DB Section 113-2.16). Also, each nonconformance record shall contain all deliberations, retesting, resolution activities, findings, and decisions.

Repaired and/or reworked product shall be re-inspected in accordance with the Quality Plan and/or documented procedures.

Repair shall require the involvement of the LA DOTD, the Designer, and/or an authorized third party to review the condition and determine that although it does not meet the specified requirements, the overall impact is such that the resulting condition is acceptable.

DB 113-2.14 Corrective and Preventive Action

DB 113-2.14.1 General

The Design-Builder shall establish and maintain documented procedures for implementing corrective and preventive action.

This DB Section 113-2.14 encompasses two aspects of dealing with nonconformities. The first is implementation and effectiveness of previously implemented corrective actions.

The second is preventive action, which plays a major role in this requirement. Most procedures addressing corrective action need to include preventive action. The investigation of nonconformances needs to look into three possible causes. They are the product, the process, and the quality system.

These nonconformances may be identified by either internal or external audits or during regular inspections or Design Reviews. The appropriate authority to implement, verify, and review the effectiveness of both preventive and corrective actions shall be identified. Written procedures shall be prepared and implemented to determine the root causes of nonconformances and to revise existing procedures and Work instructions or to establish new ones to prevent the identified situations that cause or allow nonconformances to develop.

Any corrective or preventive action taken to eliminate the causes of actual or potential nonconformities shall be to a degree appropriate to the magnitude of problems and commensurate with the risks encountered.

The Design-Builder shall implement and record any changes to the documented procedures resulting from corrective and preventive action.

DB 113-2.14.2 Corrective Action

The Design-Builder shall maintain and document a procedure for dealing with complaints ensuring the recording, investigating, and determining of the appropriate corrective action, if any, that shall be taken.

The procedures for corrective action shall include the following:

- A) The effective handling of complaints and reports of product nonconformities;
- B) Investigation of the cause of nonconformities relating to the product, process, and quality system and recording the results of the investigation (*see* DB Section 113-2.16);
- C) Determination of the corrective action needed to eliminate the cause of nonconformities;
- D) Application of controls to ensure that corrective action is taken and that it is effective;
and

- E) The tracking of complaints and identified nonconformance and the actions taken to resolve them as an indicator of the effectiveness of the quality system.

Determination and implementation of an effective corrective action requires knowing the root cause of the problem and planning the most effective method of resolving the problem.

Follow-up action shall investigate to see if the corrective action resolved the identified problem and also to ensure the corrective action did not have an undesirable effect on another element of the quality system.

DB 113-2.14.3 Preventive Action

The Design-Builder shall establish, document, and maintain procedures for implementing preventive actions.

The procedures for preventive action shall include the following:

- A) The use of appropriate sources of information, such as processes and Work operations, which affect product quality, concessions, audit results, quality records, service reports, and the complaints to detect, analyze, and eliminate potential causes of nonconformities;
- B) Determination of the steps needed to deal with any problems requiring preventive action;
- C) Initiation of preventive action and application of controls to ensure that it is effective; and
- D) Confirmation that relevant information on actions taken is submitted for management review (*see* DB Section 113-2.1.3).

DB 113-2.15 Handling, Storage, Packaging, Preservation, and Delivery

DB 113-2.15.1 General

The Design-Builder shall establish and maintain documented procedures for handling, storage, packaging, preservation, and delivery of product.

The procedures which shall be developed apply to all parties involved on a Project beginning with the Design-Builder writing the Specifications all the way through to the personnel responsible for the start up and turnover of the facility to the LA DOTD. The specific application of the requirements is determined by the function performed: Design-Builder, manufacturer, distributor, vendor, warehousing, Equipment operator, and installer.

The engineer writing the Specifications shall be responsible for identifying any special handling, storage, packaging, preservation, and delivery requirements and assuring the requirements are identified in the appropriate Project documents. Procurement shall be responsible for assuring the vendor, distributor, and/or Subcontractors are aware of the requirements and are also aware of their responsibilities to identify all requirements to their Subcontractors.

Procedures shall be developed and implemented for designating which items require special handling, storage, or maintenance. Development of the handling, storage, packaging, preservation, and delivery procedures and Work instructions are affected by the other elements of this DB Section 113 and therefore should be reviewed for applicability and requirement inclusion.

DB 113-2.15.2 Handling

The Design-Builder shall provide methods of handling products that prevent damage or deterioration.

Handling is any physical or electronic movement. Project Materials are usually handled numerous times from producer to installation and start up. Procedures appropriate to the circumstances shall be developed and implemented to assure handling is done in a manner that prevents damage or deterioration of the material/equipment. There shall be assurances that handling requirements are documented and understood.

The procedures shall cover special handling by people and/or machines.

Special handling clothing and precautions shall be identified for all hazardous materials with assurances that only qualified and trained personnel handle the hazardous material. The handling procedures shall include instructions to follow for decontamination and notification of authorities and responsible parties in the event of an accident.

DB 113-2.15.3 Storage

The Design-Builder shall use designated storage areas or stock rooms to prevent damage or deterioration of product pending use or delivery. Appropriate methods for authorizing receipt to and dispatch from such areas shall be stipulated.

In order to detect deterioration the condition of product in stock shall be assessed at appropriate intervals.

Items requiring protection shall be identified and protected as necessary to prevent loss, damage, deterioration, or loss of identification.

Special storage requirements shall be clearly defined for Materials and Equipment which are received on the Project, including, plans, records and operating manuals. A master list shall be maintained indicating applicable purchase orders, including, quantity, product identification, documentation and records required, receiving inspection requirements, and items requiring special storage or maintenance.

Materials shall be segregated to prevent cross contamination or environmental contamination.

Material with limited shelf life shall be identified and procedures developed and implemented to identify means of assuring usage of Material prior to its expiration date. The procedures shall also identify the disposal of Materials that may be toxic or hazardous or might otherwise have an adverse effect on the environment or on unsuspecting humans.

DB 113-2.15.4 Packaging

The Design-Builder shall control packing, packaging, and marking processes (including materials used) to the extent necessary to ensure conformance to specified requirements.

Engineering or procurement documents shall specify applicable packaging requirements to ensure no damage, contamination, or deterioration occurs in the course of packaging and transporting the Material and Equipment. Procedures/Work instructions shall clearly define all special packing and packaging and marking process requirements (i.e., export crating, moisture barrier, regulatory requirements, climate control, identification, and all Contract requirements).

Labeling of hazardous materials, special handling instructions, and notification of authorities and the Design-Builder shall be clearly and plainly identified on the packaging.

DB 113-2.15.5 Preservation

The Design-Builder shall apply appropriate methods for preservation and segregation of product when the product is under the Design-Builder's control.

Procedures shall include special unpacking instructions, controlled conditions necessary to prevent or deter deterioration of Material or Equipment, prevention of corrosion and/or contamination, and required servicing.

DB 113-2.15.6 Delivery

The Design-Builder shall arrange for the protection of the quality of product after final inspection and testing. Where contractually specified, this protection shall be extended to include delivery to the destination.

When delivery of Equipment and/or Materials to the job site is the responsibility of the Design-Builder, it shall develop procedures or reference appropriate standards to protect the items during delivery.

DB 113-2.16 Control of Quality Records

The Design-Builder shall establish and maintain documented procedures for identification, collection, indexing, access, filing, storage, maintenance, and disposition of quality records.

Quality records shall be maintained to demonstrate conformance to specified requirements and the effective operation of the quality system. Pertinent quality records from the Subcontractor shall be an element of these data.

Records shall be kept of documents which serve as evidence that quality is achieved in Work on the Project. Records shall be adequately identified, filed, and stored. Retention periods and the storage medium of such records shall be established in accordance with Contract requirements.

All quality records shall be legible and shall be stored and retained in such a way that they are readily retrievable in facilities that provide a suitable environment to prevent damage or deterioration and to prevent loss. Quality records shall be made available for evaluation by the LA DOTD as per Contract requirements.

The Design-Builder shall develop and implement procedures to store, retrieve, and dispose of the documents required by the quality management system, including, but not limited to, correspondence, certifications, design calculations, Plans, reports of Design Reviews, and audit reports. In storage, whether active Project files or long term archives, documents that are designated as records shall be originals or reproducible copies and shall be legible, accurate, identified, and indexed so they can be associated with specific Projects. Documents shall be retrievable in a timely manner. Storage criteria shall be set to specify allowable storage media and ensure physical protection from damage or loss, which could involve duplicate storage facilities for some types of records.

Management shall identify records necessary to provide objective evidence of Contract review, procedure compliance, Design Review (when applicable), training, and completion and acceptance of inspection and testing or to provide traceability of Equipment or items to documentation.

A list of Project-required records shall be developed, retained, and/or turned over to the LA DOTD prior to completing the Work.

DB 113-2.17 Internal Quality Audits

The Design-Builder shall establish and maintain documented procedures for planning and implementing internal quality audits to verify whether quality activities and related results comply with planned arrangements and to determine the effectiveness of the quality system.

Internal quality audits shall be conducted in accordance with sound auditing principles. The frequency of the audits shall be appropriate to the importance and complexity of a Project or corporate operation but shall at least be on a quarterly basis. Audits shall be initiated early enough in the life of a Project to assure effective QC during all phases. The audits shall include Project management as well as technical Work activities.

Internal quality audits shall be carried out by personnel independent of those having direct responsibility for the activity being audited.

The internal quality audit program shall provide verification that the quality system is operating and being implemented as planned. Audits should be conducted on a planned and scheduled basis consistent with the importance of the activities being performed.

The results of the audits shall be recorded (*see* DB Section 113-2.16) and brought to the attention of the personnel having responsibility in the area audited. The management personnel responsible for the area shall take timely corrective action on deficiencies found during the audit.

Follow-up audit activities shall verify and record the implementation and effectiveness of the corrective action taken (*see* DB Section 113-2.16).

The results of internal quality audits shall be reviewed in management review meetings. In accomplishing management review the results of internal audits and their attendant corrective action status shall be reviewed for adequacy and effectiveness.

Auditor qualifications shall be established and documented by the Design-Builder. Staff assigned auditing tasks shall be qualified accordingly with qualification records maintained as quality records. Auditing need not be a full time assignment but staff assigned auditing tasks shall have no direct responsibilities for the function or Work they audit.

Audits shall be carefully planned and executed to avoid or minimize disruption of the audited activity. Results shall be provided promptly to personnel responsible for the audited activity and their management. Corrective action shall be developed to identify the root causes and to institute measures to prevent the types of deficiencies identified in the audit. Corrective actions shall be monitored through review of documents, surveillance, or follow-up audits. These actions should be conducted in a timely manner to determine the effectiveness of corrective action that is implemented. Records of corrective actions should be kept together with the respective audit records.

Records of internal audits shall be maintained by the Design-Builder.

DB 113-2.18 Training

The Design-Builder shall establish and maintain documented procedures for identifying training needs and provide for the training of all personnel performing activities affecting quality. Personnel performing specific assigned tasks shall be qualified on the basis of appropriate education, training, and/or experience, as required. Appropriate records of training shall be maintained (*see* DB Section 113-2.16).

The Design-Builder shall establish documented procedures and records to ensure that the skills and professional judgment of its personnel are developed appropriately for their intended roles through training and/or the recorded accumulation of experience, with systematic reviews of their competence at determined levels, and before any deployment of new roles.

Training shall focus on improving competency and skill for those performing activities that materially impact quality.

Procedures established shall include the following:

- A) Position descriptions defining the requirements of the various positions required in conducting activities affecting quality;
- B) Personnel records documenting each person's experience and current education and training accomplished, both formal and informal, relative to current or projected position assignments;
- C) Documented evaluation of that experience and training, including a determination of what training is required to become fully qualified for the activities to which the person is intended to be assigned;
- D) A documented plan to accomplish the training deficiency;
- E) Records documenting accomplishment of that training; and
- F) Education, experience, and licensure used as a basis for qualifications of individuals, which should be verified.

All qualification and training records are quality records and shall be maintained accordingly (DB Section 113-2.16).

Project personnel shall be trained in all the special Project procedures applicable to their Work.

Craft journeymen with special skills need not be trained but their competency shall be verified and a record maintained of the verification.

DB 113-2.19 Servicing

Where servicing is a specified requirement, the Design-Builder shall establish and maintain documented procedures for performing, verifying, and reporting that the servicing meets the specified requirements.

The requirement of this DB Section 113-2.19 is applicable only where it is specified in a Contract.

Should such a requirement exist the Design-Builder shall document procedures which detail the methodologies to be used while performing the service, how compliance to these operations and the LA DOTD's requirements are verified, and the agreed upon method of reporting compliance of service operations to Contract requirements.

With respect to the design perspective this requirement deals with the service rendered to the LA DOTD during the defects liability period, if any.

DB 113-2.20 Statistical Techniques

DB 113-2.20.1 Identification of Need

The Design-Builder shall identify the need for statistical techniques required for establishing, controlling, and verifying process capability and product characteristics.

The Design-Builder shall review its operations for activities which may benefit from the use of statistical techniques as a means of establishing a level of control, the maintenance of an existing level of performance, and the verification of performance. The needs assessment could include determining an activity impact on cost, time management/utilization, and quality of deliverables. It could also identify areas where the application of statistics would provide an indication of variation, activities efficiencies, and deviation control.

DB 113-2.20.2 Procedures

The Design-Builder shall establish and maintain documented procedures to implement and control the application of the statistical techniques identified pursuant to DB Section 113-2.20.1.

Should the need for statistical programs be established the Design-Builder shall document procedures detailing the methods to be applied.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____ **[Insert the name of the parish]** PARISH
STATE PROJECT NO. _____ **[Insert the state project number]** _____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 114

FEDERAL REQUIREMENTS



DB SECTION 114

FEDERAL REQUIREMENTS

DB 114-1 REQUIREMENTS FOR FEDERAL AID PARTICIPATION PROJECTS

The Design-Builder shall comply and require its Subcontractors to comply with all federal requirements applicable to transportation projects that receive federal credit or funds, including those set forth in DB Appendix 114A – Federal Requirements Appendix. In the event of any conflict between any applicable federal requirements and the other requirements of the Contract Documents, the federal requirements shall prevail, take precedence, and be in force over and against any such conflicting provisions.

DB 114-2 DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION IN FEDERAL-AID CONSTRUCTION CONTRACTS

This project is a Disadvantaged Business Enterprise (DBE) goal project. In accordance with the Required Contract Provisions for DBE Participation in Federal Aid Design-Build Contracts contained in Appendix 114A, the DBE goal for approved subcontracting work on this Project is Fill in the DBE goal (in numerical format) on a project-by-project basis.% of the total Lump Sum Contract Price. The Design-Builder shall submit LA DOTD Form OMF-1A (DB) (Request to Sublet) and have it approved by the LA DOTD before any subcontract work is done on the Project. Only those businesses certified by the LA DOTD as DBEs may be utilized in fulfillment of the DBE goal requirement. Such businesses are those certified by the Louisiana Unified Certification Program on the basis of ownership and control by persons found to be socially and economically disadvantaged in accordance with Section 8(a) of the Small Business Act, as amended, and Title 49, Code of Federal Regulations, Part 26 (49 CFR 26).

DB 114-3 NON-DISCRIMINATION; EQUAL OPPORTUNITY

The Design-Builder shall not, and shall cause the Subcontractors to not, discriminate on the basis of race, color, national origin, or sex in the performance of the Work under the Contract Documents. The Design-Builder shall carry out, and shall cause the Subcontractors to carry out, applicable requirements of 49 CFR Part 26. Failure by the Design-Builder to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as LA DOTD deems appropriate (subject to the Design-Builder's rights to notice and opportunity to cure set forth in this Contract).

The Design-Builder shall include this DB Section 114-3 in every subcontract (including purchase orders and in every subcontract of any Affiliate for the Work), and shall require that they be included in all subcontracts at lower tiers, so that such provisions will be binding upon each Subcontractor.

The Design-Builder confirms for itself and all Subcontractors that Design-Builder and each Subcontractor has an equal employment opportunity policy ensuring Equal Employment Opportunity (EEO) without regard to race, color, national origin, sex, age, religion, or handicap, and that Design-Builder and each Subcontractor maintains no employee facilities segregated on the basis of race, color, religion, or national origin. The Design-Builder shall comply with all applicable laws relating to EEO and nondiscrimination and shall require its Subcontractors to comply with such provisions, including those set forth in the

Required Contract Provisions for Federal-Aid Construction Contracts and the LA DOTD's Supplemental Specifications for Female and Minority Participation in construction which are both included in Appendix 114A.

DB 114-4 PREVAILING WAGES

The Design-Builder shall pay or cause to be paid to all applicable workers employed by it or its Subcontractors to perform the Work not less than the prevailing rates of wages, as provided in the statutes and regulations applicable to public work contracts, including the Davis-Bacon Act, and as provided in Appendix 114A. The Design-Builder shall comply and cause its Subcontractors to comply with all laws pertaining to prevailing wages.

It is the Design-Builder's sole responsibility to determine the wage rates required to be paid. In the event rates of wages and benefits change while this Contract is in effect, the Design-Builder shall bear the cost of such changes and shall have no claim against the LA DOTD on account of such changes. Without limiting the foregoing, no claim will be allowed which is based upon the Design-Builder's lack of knowledge or a misunderstanding of any such requirements or the Design-Builder's failure to include in the Lump Sum Contract Price adequate increases in such wages over the duration of this Contract.

The Design-Builder shall comply and cause its Subcontractors to comply with all laws regarding notice and posting of intent to pay prevailing wages, of prevailing wage requirements, and of prevailing wage rates.

DB 114-5 BUY AMERICA PROVISIONS

Pursuant to the "Buy America Provisions" of the Surface Transportation Assistance Act (STAA) of 1982 as promulgated by current FHWA regulation 23 CFR 635.410 and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amendment to (STAA), all steel and iron materials permanently installed on this project shall be manufactured, including application of a coating, in the United States, unless a waiver of these provisions is granted. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. The request for waiver must be presented in writing to the LA DOTD by the Design-Builder. Such waiver may be granted if it is determined that:

- A) The application of Buy America Provisions would be inconsistent with the public interest or
- B) Such materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Minimal use of foreign steel and iron materials will be allowed without waiver provided the cost of these materials does not exceed 0.1 percent of the Lump Sum Contract Price or \$2,500, whichever is greater; however, the Design-Builder shall make written request to the LA DOTD's Construction Engineering Administrator for permission to use such foreign materials and shall furnish a listing of the materials, their monetary value, and their origin and place of production.

The burden of proof for the origin and place of production and any request for waiver is the responsibility of the Design-Builder.

Prior to the use of steel and iron materials in the project, the Design-Builder shall furnish Mill Test Reports to the LA DOTD's Project Manager for such steel and iron materials, accompanied by a certification stating that the Mill Test Reports represent the steel and iron materials to be furnished and that such materials were produced and fabricated in the United States.

Pig iron and processed, pelletized, and reduced iron ore are exempt from the Buy America Provisions.

DB 114-6 PARTICIPATION IN JOB TRAINING

If the Design-Builder desires to participate in job training, as provided by the LA DOTD's Supplemental Specifications for On-the-Job Training which is included in Appendix 114A, the Design-Builder shall submit a written request to the Department's Project Manager with a copy to the Compliance Program Section.

According to the design formula, the number of potential trainees has been established as one. For the purposes of reimbursement, this number of trainees has been translated into an estimated one thousand trainee hours. The pay item for Trainee Reimbursement will be established in the Contract in accordance with the Supplemental Specifications for On-The-Job Training in Appendix 114A and the above hours.

Should the design formula not indicate that the Contract could support training, the Design-Builder may still train upon the approval of the LA DOTD.

DB 114-7 FEDERAL-AID PARTICIPATION

When the United States government participates in the cost of the Work covered by the Contract, the Work shall be under the supervision of the State through the LA DOTD, but subject to inspection and approval of the proper official of the United States government, in accordance with applicable federal statutes, and rules and regulations pursuant thereto. Such inspection shall not make the federal government a party to the Contract and will not interfere with the rights of either party thereunder.

STATE OF LOUISIANA

[Insert the name of the project]

DESIGN-BUILD PROJECT

_____**[Insert the name of the parish]**_____ **PARISH**
STATE PROJECT NO. _____**[Insert the state project number]**_____
FEDERAL AID PROJECT NO. **[IF A FEDERAL PROJECT ONLY]**

REQUEST FOR PROPOSALS

CONTRACT DOCUMENTS

DB SECTION 114

APPENDIX 114A

FEDERAL REQUIREMENTS APPENDIX



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ATTACHMENT A

**LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

REQUIRED PROVISIONS FOR FEDERAL-AID CONSTRUCTION PROJECTS

GENERAL. — The Work herein proposed will be financed in whole or in part with federal funds, and therefore all of the statutes, rules, and regulations promulgated by the federal government and applicable to work financed in whole or in part with federal funds will apply to such Work. The "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," are included in this Attachment A – Louisiana Department of Transportation and Development Required Provisions for Federal-Aid Construction Projects." When utilized in the "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," the following terms will have the following meanings:

- A) "SHA contracting officer," "SHA resident engineer," or "authorized representative of the SHA" shall be construed to mean LA DOTD or its authorized representative, including the Department's Project Manager;
- B) "Contractor," "prime contractor," "bidder," or "prospective primary participant" shall be construed to mean the Design-Builder or its authorized representative, including any of its Key Personnel;
- C) "Contract" or "prime contract" shall be construed to mean the Design-Build (DB) Agreement between Design-Builder and LA DOTD for the Project, including all of the Contract Documents referenced therein;
- D) "Subcontractor," "supplier," "vendor," "prospective lower tier participant," or "lower tier subcontractor" shall be construed to mean any Subcontractor or Supplier; and
- E) "Department," "agency," or "department or agency entering into this transaction" shall be construed to mean the LA DOTD, except where a different department or agency is specified.

NON-COLLUSION PROVISION. — The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary Projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the Contract for this Work that each Proposer file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such Contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted Proposal. A form to make the non-collusion affidavit statement required by 23 U.S.C. 112 is included in the Request for Proposals (RFP). (*See* Instructions to Proposers, Appendix C – Proposal Forms, Form of Proposal.)

CONVICT PRODUCED MATERIALS

- A) Federal Highway Administration federal-aid projects are subject to 23 Code of Federal Regulations (CFR) 635.417, entitled "Convict produced materials."

- B) Materials produced after July 1, 1991, by convict labor may only be incorporated in a federal-aid highway construction project if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison; or (ii) produced in a prison project in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in federal-aid highway construction projects, and the cumulative annual production amount of such materials for use in federal-aid highway construction does not exceed the amount of such materials produced in such project for use in federal-aid highway construction during the 12 month period ending July 1, 1987.

**REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION
CONTRACTS – Rev. 05/94 (FHWA FORM 1273) SECTIONS VI., VII.1, AND VII.2 INAPPLICABLE**

- A) Pursuant to FHWA memorandum dated May 22, 2007, the collection of the information requested on Form FHWA-47 has been discontinued. Accordingly, the requirements to the information requested on Form FHWA-47 contained in Section VI. of FHWA Form 1273 (included in this Attachment A) are inapplicable to this Contract.
- B) Pursuant to 23 CFR 635.116(d), the requirements of Sections VII.1 and VII.2 of FHWA Form 1273 (included in this Attachment A) are inapplicable to this Contract.

ACCESS TO RECORDS

- A) As required by 49 CFR 18.36(i)(10), the Design-Builder and its Subcontractors shall allow FHWA and the Comptroller General of the United States, or their duly authorized representatives, access to all books, documents, papers, and records of the Design-Builder and Subcontractors which are directly pertinent to any grantee or subgrantee contract, for the purpose of making audit, examination, excerpts, and transcriptions thereof.
- B) The Design-Builder agrees to include this section in each subcontract at each tier, without modification except as appropriate to identify the Subcontractor that will be subject to its provisions.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive

Louisiana Department of Transportation and Development

Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and

conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees.

The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without

regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (ii) The classification is utilized in the area by the construction industry; and
- (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do

not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or

any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last

four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of

Compliance” required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as

stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the

journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated

damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

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(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a

violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not

suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as

the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification

of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual

preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ATTACHMENT B

**LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

**REQUIRED CONTRACT PROVISIONS FOR
DBE PARTICIPATION IN FEDERAL AID DESIGN-BUILD CONTRACTS
(DBE GOAL PROJECT)**

A. AUTHORITY AND DIRECTIVE: The Code of Federal Regulations, Title 49, Part 26 (49 CFR Part 26) as amended and the Louisiana Department of Transportation and Development's (DOTD) Disadvantaged Business Enterprise (DBE) Program are hereby made a part of and incorporated by this reference into this contract. Copies of these documents are available, upon request, from DOTD Compliance Programs Office, P.O. Box 94245, Baton Rouge, LA 70804-9245.

B. POLICY: It is the policy of the DOTD that it shall not discriminate on the basis of race, color, national origin, or sex in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the US DOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq.).

C. DBE OBLIGATION: The design-builder, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The design-builder shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT assisted contracts. Failure by the design-builder to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the DOTD deems appropriate.

The preceding policy and DBE obligation shall apply to this design-build contract and shall be included in the requirements of any subcontract. Failure to carry out the requirements set forth therein shall constitute a breach of contract and, after notification by DOTD, may result in termination of the contract, a deduction from the contract funds due or to become due the design-builder or other such remedy as DOTD deems appropriate. The design-builder is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial. The term DBE is inclusive of women business enterprises (WBE) and all obligations applicable to DBE shall apply to firms certified and listed as WBE.

D. FAILURE TO COMPLY WITH DBE REQUIREMENTS: The design-builder that is awarded this contract and all subcontractors are hereby advised that failure to carry out the requirements set forth above and in Section G shall constitute a breach of contract and, after notification by DOTD may result in rejection of the proposal; termination of the contract; a deduction from the contract funds due or to become due the design-builder; or other such remedy as DOTD deems appropriate. Failure to comply with the DBE requirements shall include but not be limited to failure to meet the established goal and/or failure to submit documentation of good faith efforts; failure to exert a reasonable good faith effort (as determined by DOTD) to meet established goals; and failure to realize the DBE participation set forth on approved Form CS-6AAA (DB) and attachments. Failure to submit Form CS-6AAA (DB) and attachments and/or reasonable good faith efforts'

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documentation within the specified time requirements will result in the Department taking the actions specified in Heading G(6) below. The utilization of DBE is in addition to all other equal opportunity requirements of the contract. The design-builder shall include the provisions in Sections B, C and D of these provisions in subcontracts so that such provisions will be binding upon each subcontractor, regular dealer, manufacturer, consultant, or service agency.

E. ELIGIBILITY OF DBE: The DOTD maintains a current list containing the names of firms that have been certified as eligible to participate as DBE on US DOT assisted contracts. This list is not an endorsement of the quality of performance of the firm but is simply an acknowledgment of the firm's eligibility as a DBE. Only DBE listed on this list may be utilized to meet the established DBE goal for these projects.

F. COUNTING DBE PARTICIPATION TOWARD DBE GOALS: DBE participation toward attainment of the goal will be credited on the basis of total subcontract prices agreed to between the design-builder and subcontractors for the work or portions of work being sublet as reflected on Form CS-6AAA (DB) and attachments, in accordance with the DOTD DBE Program, and the following criteria.

(1) Credit will only be given for use of DBE that are certified by the Louisiana Unified Certification Program. Certification of DBE by other agencies is not recognized.

(2) The total value of subcontracts awarded for construction and services to an eligible DBE is counted toward the DBE goal provided the DBE performs a commercially useful function. The design-builder is responsible for ensuring that the goal is met using DBE that perform a commercially useful function.

The design-builder shall operate in a manner consistent with the guidelines set forth in the DOTD DBE Program. A commercially useful function is performed when a DBE is responsible for the execution of a distinct element of work by actually managing, supervising, and performing the work in accordance with standard industry practices except when such practices are inconsistent with 49 CFR Part 26 as amended, and the DOTD DBE Program, and when the DBE receives due compensation as agreed upon for the work performed. To determine whether a DBE is performing a commercially useful function, the DOTD shall evaluate the work subcontracted in accordance with the DOTD DBE Program, industry practices and other relevant factors. When an arrangement between the design-builder and the DBE represents standard industry practice, if such arrangement erodes the ownership, control or independence of the DBE, or fails to meet the commercially useful function requirement, the design-builder will not receive credit toward the goal.

(3) A DBE design builder may count only the contract amount toward DBE participation for work he/she actually performs and for which he/she is paid. Any subcontract amounts awarded to certified DBE by a DBE prime will also be credited toward DBE participation provided the DBE subcontractor performs a commercially useful function.

(4) A design-builder may count toward the DBE goal 100 percent of verified delivery fees paid to a DBE trucker. The DBE trucker must manage and supervise the trucking operations with its own employees and use equipment owned by the DBE trucker. No credit will be counted for the purchase or sale of material hauled unless the DBE trucker is also a DOTD certified DBE supplier. No credit will be counted unless the DBE trucker is an approved subcontractor.

(5) A design-builder may count toward the DBE goal that portion of the dollar value with a joint venture equal to the percentage of the ownership and control of the DBE partner in the joint venture. Such crediting is subject to a favorable DOTD review of the joint venture agreement to be furnished

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by the apparent low bidder before award of the contract. The joint venture agreement shall include a detailed breakdown of the following:

- a. Contract responsibility of the DBE for specific items of work.
- b. Capital participation by the DBE.
- c. Specific equipment to be provided to the joint venture by the DBE.
- d. Specific responsibilities of the DBE in the control of the joint venture.
- e. Specific manpower and skills to be provided to the joint venture by the DBE.
- f. Percentage distribution to the DBE of the projected profit or loss incurred by the joint venture.

(6) A design-builder may count toward the DBE goal only expenditures for materials and supplies obtained from DBE suppliers and manufacturers in accordance with the following:

- a. The DBE supplier assumes actual and contractual responsibility for the provision of materials and supplies.
- b. The design-builder may count 100 percent of expenditures made to a DBE manufacturer provided the DBE manufacturer operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the design-builder.
- c. The design-builder may count 60 percent of the expenditures to DBE suppliers who are regular dealers but not manufacturers, provided the DBE supplier performs a commercially useful function in the supply process including buying the materials or supplies, maintaining an inventory, and selling materials regularly to the public. Dealers in bulk items such as steel, cement, aggregates and petroleum products are not required to maintain items in stock, but they must own or operate distribution equipment. The DBE supplier shall be certified as such by DOTD.
- d. A DBE may not assign or lease portions of its supply, manufactured product, or service agreement without the written approval of the DOTD.

(7) A design-builder may count toward the DBE goal reasonable expenditures to DBE firms including fees and commissions charged for providing a bona fide service; fees charged for hauling materials unless the delivery service is provided by the manufacturer or regular dealer as defined above; and fees and commissions for providing any bonds or insurance specifically required for the performance of the contract.

(8) The design-builder will not receive credit if the design-builder makes direct payment to the material supplier. However, it may be permissible for a material supplier to invoice the design-builder and DBE jointly and be paid by the design-builder making remittance to the DBE firm and material supplier jointly. Prior approval by DOTD is required.

(9) The design-builder will not receive credit toward the DBE goal for any subcontracting arrangement contrived to artificially inflate the DBE participation.

G. DOCUMENTATION AND PROCEDURE: This project has specific DBE goal requirements set forth in the design-build contract. The proposer, by submitting a proposal, hereby certifies that should this

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design-build contract be awarded to the proposer:

(1) The goal for DBE participation prescribed in the design-build contract shall be met or exceeded and arrangements will be made with certified DBE or good faith efforts made to meet the goal will be demonstrated.

(2) Affirmative actions have been taken to seek out and consider DBE as potential subcontractors. Bidders shall contact DBE to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain, on file, proper documentation to substantiate their good faith efforts.

(3) For each DBE performing work under the contract, Form CS-6AAA (DB) and "Attachment to Form CS-6AAA (DB)" shall be submitted by the selected design-builder at least 30 days prior to the work being performed by the DBE except that all Forms CS-6AAA (DB) and "Attachments to Form CS-6AAA (DB)" meeting or exceeding the stated goal shall be submitted prior to the date when one-third of the total contract time, as proposed, elapses. Submittals shall be made the DOTD Compliance Programs Office. All attachments to Form CS-6AAA (DB) shall include:

- a. The names of DBE subcontractors that will actually participate in meeting the contract goal; and
- b. A complete description of the work to be performed by the DBE; and
- c. The total dollar value of work that can be credited toward the contract goal; and
- d. Any assistance to be provided to the DBE; and
- e. The original signature of each DBE and the design-builder attesting that negotiations are in progress and that it is the intention of the parties to enter into a subcontract within 30 calendar days.

It shall be the design-builder's responsibility to ascertain the certification status of designated DBEs. An extension of time for submittal of Form CS-6AAA (DB) and Attachments will not be granted beyond the stated time. Questionable technical points will be cleared with the DOTD Compliance Programs Office within the time period allowed. If the documentation required is not provided in the time and manner specified, DOTD will take the actions specified in Heading (6) below.

(4) If the design-builder is not able to meet the DBE goal, the DBE firms that can meet a portion of the goal shall be listed on the form CS-6AAA (DB). Form CS-6AAA (DB) and attachments shall be completed and submitted in accordance with Heading (3) above. Form CS-6AAA (DB) shall indicate the DBE participation which has been secured along with documentation of good faith efforts. The design-builder shall document and submit justification stating why the goal could not be met and demonstrate the good faith efforts as shown in Section J.

For consideration, good faith efforts shall include the requirements listed in these provisions as well as other data the contractor feels is relevant.

(5) Form CS-6AAA (DB) and attachments, and documentation of good faith efforts, when appropriate, will be reviewed by DOTD. The information provided shall be accurate and complete.

(6) A design-builder's failure, neglect, or refusal to submit Form CS-6AAA (DB) and attachments committing to meet or exceed the DBE goal and/or documentation of good faith efforts, shall

constitute a breach of contract unless the design-builder can show, as determined by the DOTD, that the reason for not meeting the requirements given in these DBE Provisions was beyond the design-builder's control. The DOTD DBE Oversight Committee will review the design-builder's reasons for not meeting these DBE Provisions and make a determination.

(7) The design-builder has the right to appeal the DOTD's findings and rulings to the DOTD Chief Engineer. The design-builder may present information to clarify the previously submitted documentation. The decision rendered by the DOTD Chief Engineer will be administratively final. There shall be no appeal to the US DOT.

(8) Agreements between the design-builder and the DBE, whereby the DBE agrees not to provide subcontracting quotations to other bidders, are prohibited.

H. POST AWARD COMPLIANCE

(1) If the contract is awarded on less than full DBE goal participation, such award will not relieve the design-builder of the responsibility to continue exerting good faith efforts. The design-builder shall submit documentation of good faith efforts with requests to sublet prior to approval of subcontracting work being performed on the project.

(2) The design-builder shall establish a program which will effectively promote increased participation by DBE in the performance of contracts and subcontracts. The design-builder shall also designate and make known to the DOTD a liaison officer who will be responsible for the administration of the design-builder's DBE program.

(3) The design-builder shall enter into subcontracts or written agreements with the DBE identified on Form CS-6AAA (DB) and attachments for the kind and amount of work specified. The subcontracting requirements of the contract will apply. The design-builder shall submit copies of subcontracts or agreements with DBE to DOTD upon request.

(4) The design-builder shall keep each DBE informed of the construction progress schedule and allow each DBE adequate time to schedule work, stockpile materials, and otherwise prepare for the subcontract work.

(5) At any point during the project when it appears that the scheduled amount of DBE participation may not be achieved, the design-builder shall provide evidence demonstrating how the goal will be met.

(6) If the design-builder is unable to demonstrate to the DOTD's satisfaction that it failed to achieve the scheduled DBE participation due to reasons other than quantitative underruns or elimination of items contracted to DBE and that good faith efforts have been used to obtain the scheduled contract participation, the DOTD may withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

(7) When the DOTD has reason to believe the design-builder, subcontractor, or DBE may not be operating in compliance with the terms of these DBE provisions, to include, but not be limited to the encouragement of fronting, brokering, or not providing a commercially useful function, the DOTD will conduct an investigation of such activities with the cooperation of the parties involved. If the DOTD finds that any person or entity is not in compliance, the DOTD will notify such person or entity in writing as to the specific instances or matters found to be in noncompliance.

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At the option of the DOTD, the person or entity may be allowed a specified time to correct the deficiencies noted and to achieve compliance. In the event that the person or entity cannot achieve compliance, or fails or refuses to do so, the DOTD reserves the right to initiate administrative action against the design-builder which may include but not be limited to terminating the contract; withholding a percentage of the design-builder's next partial payment equal to the shortfall amount until corrective action is taken; or other action the DOTD deems appropriate. The design-builder has the right to appeal the DOTD's finding and rulings to the DOTD Chief Engineer.

The design-builder may present additional information to clarify that previously submitted. Any new information not included in the original submittal will not be used in the final determination. The decision rendered by the DOTD Chief Engineer will be administratively final.

(8) To ensure that the obligations under subcontracts awarded to subcontractors are met, the DOTD will review the design-builder's efforts to promptly pay subcontractors for work performed in accordance with the executed subcontracts. The design-builder shall promptly pay subcontractors and suppliers, including DBE, their respective subcontract amount within 14 calendar days after the design-builder receives payment from DOTD for the items satisfactorily performed by the subcontractors in accordance with Louisiana Revised Statute 9:2784. The design-builder shall provide the DBE with a full accounting to include quantities paid and deductions made from the DBE's partial payment at the time the check is delivered. Retainage may not be held by the design-builder. Delay or postponement of payment to the subcontractor may be imposed by the design-builder only when there is evidence that the subcontractor has failed to pay its labor force and suppliers for materials received and used on the project. Delay or postponement of payment must have written approval by the Project Engineer. Failure to promptly pay subcontractors or to release subcontractors' retainage shall constitute a breach of contract and after notification by the DOTD may result in (1) a deduction from the contract funds due or to become due the design-builder, (2) disqualification of a design-builder as non-responsive, or (3) any other such remedy under the contract as DOTD deems appropriate. All subcontracting agreements made by the design-builder shall include the current payment to subcontractors' provisions as incorporated in the contract. All disputes between design-builders and subcontractors relating to payment of completed work or retainage shall be referred to the DBE Oversight Committee. Members of the DBE Oversight Committee are: the Deputy Chief Engineer; the DOTD Compliance Programs Director; and an FHWA Division Representative.

(9) The design-builder shall submit DOTD Forms OMF-1A (DB), Request to Sublet and OMF-2A (DB), Subcontractor's EEO Certification. These forms shall be approved by DOTD before any subcontract work is performed.

(10) DOTD reserves the right to withhold any partial payment from the design-builder when it is determined that a DBE is not performing a commercially useful function or that achievement of the goal is in jeopardy. Payment may be withheld in the amount of the DBE goal that is in jeopardy until either the design-builder submits to DOTD a revised plan for achieving the contract goal and the plan is approved, or the DBE goal amount in question has been met.

(11) The DOTD will monitor the design-builder's DBE involvement during the contract, the level of effort by the design-builder in meeting or exceeding the goal requirements in the contract, the design-builder's attempts to do so, and the efforts in soliciting such involvement. If, at the completion of the project, the design-builder has failed to meet the DBE goal and has not demonstrated good faith efforts or obtained a waiver or reduction of the goal, DOTD will withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

I. SUBSTITUTIONS OF DBE FIRMS

- (1) The design-builder shall conform to the scheduled amount of DBE participation.
- (2) Contract items designated to be performed by the DBE on Form CS-6AAA (DB) and attachments shall be performed by the designated DBE or DOTD approved substitute. Substitutions of named DBE shall be approved in writing by the DOTD Compliance Programs Section. Substituted DBE shall not commence work until the design-builder is able to demonstrate that the listed DBE is unable to perform because of default, overextension on other jobs, or other acceptable justification. It is not intended that a design-builder's ability to negotiate a more advantageous contract with another subcontractor be considered a valid basis for change. Substitution of DBE will be allowed only when the DBE is unable to perform due to default, overextension on other jobs, or other similar justification. Evidence of good faith efforts exerted by the design-builder shall be submitted to DOTD for approval. Work eliminated from the project will not diminish the design-builder's DBE participation.
- (3) Under no circumstances will a design-builder perform work originally designated to be performed by a DBE without prior written approval from the DOTD Compliance Programs Section.
- (4) When a listed DBE is unwilling or unable to perform the items of work specified in the Form CS-6AAA (DB) and attachments, the design-builder shall immediately notify the DOTD Compliance Programs Section.

When a design-builder's request to be relieved of the obligation to use the named DBE results in a DBE Goal shortfall, the design-builder shall immediately take steps to obtain another certified DBE to perform an equal amount of allowable credit work or make documented good faith efforts to do so. The new DBE's name and designated work shall be submitted to the DOTD for approval using Form OMF-1A, Request to Sublet, prior to proceeding with the work.

If the design-builder is unable to replace a defaulting DBE with another DBE for the applicable item, a good faith effort shall be made to subcontract other items to DBE for the purpose of meeting the goal. The DOTD Compliance Programs Section will determine if the design-builder made an acceptable good faith effort in awarding work to DBE firms. Any disputes concerning good faith efforts will be referred to the DBE Oversight Committee. The DOTD Compliance Programs Section may allow a waiver or adjustment of the goal as may be appropriate, depending on individual project circumstances.

J. GOOD FAITH EFFORTS: Good faith efforts are required by the design-builder when the DBE goals established for a contract are not met, or at any time during the contract when achievement of the DBE goal is in jeopardy. It is the design-builder's responsibility to provide sufficient evidence for DOTD to ascertain the efforts made. The design-builder shall demonstrate good faith efforts to maximize participation by DBE prior to award and during the life of the contract. Good faith efforts include personal contacts, follow-ups and earnest negotiations with DBE. DOTD will consider, at a minimum, the following efforts as relevant, although this listing is not exclusive or exhaustive and other factors and types of efforts may be relevant:

- (1) Efforts made to select portions of the work to be performed by DBE in order to increase the likelihood of achieving the stated goal. It is the design-builder's responsibility to make a sufficient portion of the work available to subcontractors and suppliers and to select those portions of work or materials consistent with the availability of DBE subcontractors and suppliers to assure meeting the

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goal for DBE participation. Selection of portions of work are required to at least equal the DBE goal in the contract.

(2) Written notification at least 14 calendar days prior to the opening of the price proposal which solicits a reasonable number of DBE interested in participation in the contract as a subcontractor, regular dealer, manufacturer, or consultant for specific items of work. The design-builder shall provide notice to a reasonable number of DBE that their interest in the contract is being solicited, with sufficient time to allow the DBE to participate effectively. The design-builder shall seek DBE in the same geographic area from which it generally seeks subcontractors for a given project. If the design-builder cannot meet the goal using DBE from the normal area, the design-builder shall expand its search to a wider geographic area.

(3) Demonstrated efforts made to negotiate in good faith with interested DBE for specific items of work include:

- a. The names, addresses and telephone numbers of DBE contacted. The dates of initial contact and whether initial solicitations of interest were followed-up personally, by mail, or by phone to determine the DBE interest.
- b. A description of the information provided to DBE regarding the nature of the work, the plans and specifications and estimated quantities for portions of the work to be performed.
- c. A statement of why additional agreements with DBE were not reached.
- d. Documentation of each DBE contacted but rejected and the reasons for rejection. All bids and quotations received from DBE subcontractors whether verbal or written, and the design-builder's efforts to negotiate a reasonable price shall be submitted. Rejecting a DBE's bid because it was not the lowest quotation received will not be a satisfactory reason without an acceptable explanation of how it was determined to be unreasonable. A statement that the DBE's quotation was more than the design-builder's price proposal for an item or items will not be acceptable.
- e. Copies of all bids and quotations received from DBE subcontractors and an explanation of why they were not used.
- f. Scheduling meetings to discuss proposed work or to walk the job-site with DBE.
- g. Informing DBE of any pre-bid conferences scheduled by the DOTD.
- h. Assisting DBE in obtaining bonding, insurance, or lines of credit required by the design-builder.
- i. Evidence of DBE contacted but rejected as unqualified, accompanied by a reason for rejection based on a thorough investigation of the DBEs capabilities.
- j. Any additional information not included above which would aid the DOTD in evaluation of the design-builder's good faith efforts.

(4) The following are examples of actions that will not be accepted as justification by the design-builder for failure to meet DBE contract goals:

- a. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.
- b. Rejection of a DBE bid or quotation based on price alone.

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- c. Failure to contract with a DBE because the DBE will not agree to perform items of work at the unit price bid.
- d. Failure to contract with a DBE because the design-builder normally would perform all or most of the work in the contract.
- e. Rejection of a DBE as unqualified without sound reasons based on a thorough investigation of their capabilities.
- f. Failure to make more than mail solicitations.

K. RECORD KEEPING REQUIREMENTS: The design-builder shall keep such records as are necessary for the DOTD to determine compliance with the DBE contract obligations. These records shall include the names of subcontractors, including DBE; copies of subcontracts; the type of work being performed; documentation such as canceled checks and paid invoices verifying payment for work, services, and procurement; and documentation of correspondence, verbal contacts, telephone calls, and other efforts to obtain services of DBE. When requested, the design-builder shall submit all subcontracts and other financial transactions executed with DBE in such form, manner and content as prescribed by DOTD. The DOTD reserves the right to investigate, monitor and/or review actions, statements, and documents submitted by any design-builder, subcontractor, or DBE.

L. REPORTING REQUIREMENTS: The design-builder shall submit monthly reports on DBE involvement. At the conclusion of each estimate period the design-builder shall submit the Form CP-1A (DB), DESIGN-BUILDER'S MONTHLY DBE PARTICIPATION, to the project manager or the project manager's designated representative to verify actual payments to DBE for the previous month's reporting period. These reports will be required until all DBE subcontracting activity is complete or the DBE Goal has been achieved. Reports are required regardless of whether or not DBE activity has occurred in the monthly reporting period.

Upon completion of all DBE participation, the design-builder shall submit the Form CP-2A (DB), DBE FINAL REPORT, to the DOTD Compliance Programs Section with a copy to the project engineer detailing all DBE subcontract payments. When the actual amount paid to DBE is less than the subcontract amount, a complete explanation of the difference is required. If the DBE goal is not met, documentation supporting good faith efforts shall be submitted. Failure to submit the required reports will result in the withholding of partial payments to the design-builder until the reports are submitted. All payments due subcontractors which affect DBE goal attainment, including retainage, shall be paid by the design-builder before the DOTD releases the payment/performance/retainage bond.

The DOTD reserves the right to conduct an audit of DBE participation prior to processing the final estimate and at any time during the work.

M. APPLICABILITY OF PROVISIONS TO DBE DESIGN-BUILDERS: These provisions are applicable to all design-builders including each design-builder that is a DBE (DBE design-builder). The DBE design-builder is required to perform at least 50 percent of the work of the contract with its own work force in accordance with the terms of the contract, normal industry practices, and the DOTD DBE Program. If the DBE design-builder sublets any portion of the contract, the DBE design-builder shall comply with provisions regarding design-builder and subcontractor relationships. A DBE design-builder may count only the contract amount toward DBE participation for work that he/she actually performs and any amounts awarded to other certified DBE subcontractors that perform a commercially useful function.

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**FORM CS-6AAA (DB)
DESIGN-BUILDER'S ASSURANCE OF DBE PARTICIPATION**

S.P.# [Insert the state project number]	Contract Amount: \$
F.A.P.# [Insert the federal-aid project number]	DBE Goal Percentage
Award Date:	DBE Goal Dollar Value: \$

By its signature affixed hereto, the design-builder assures the DOTD that one of the following situations exists (check only one box):

- The project goal will be met or exceeded.
- A portion of the project goal can be met, as indicated below. Good faith effort documentation is attached. DBE Goal Participation Amount _____ % \$ _____.

The design-builder certifies that each firm listed is currently on the DBE list as maintained by DOTD and is certified for the items of work shown on the attachment(s). The design-builder having assured that the goal for DBE participation prescribed in the design-build contract will be met or exceeded, or that the portion of the DBE goal will be met or exceeded, attests that negotiations are in progress or complete and that a subcontract(s) will be executed with the firm(s) listed below within 30 calendar days.

NAME OF DBE FIRM(S)	INTENDED SUBCONTRACT PRICE ¹

¹For suppliers list only the value of the subcontract that can be credited toward the DBE goal. This amount shall be equal to the amount shown for the supplier on the Attachment to Form CS-6AAA (DB). Details are listed on the attachment(s) to Form CS-6AAA (DB).

The design-builder assessed the capability and availability of named firm(s) and sees no impediment to prevent award of subcontract(s) as described on the attachments.

The design-builder shall evaluate the subcontract work or services actually performed by the DBE to ensure that a commercially useful function is being served in accordance with the Required Contract Provisions for DBE Participation in Federal Aid Construction Contracts. The design-builder understands that no credit toward the DBE goal will be allowed for DBE that do not perform a commercially useful function. The design-builder has a current copy of the DOTD DBE Program Implementation Guide which details the methods of operation that are acceptable on projects containing DBE goals. Copies of this guide may be obtained by calling the DOTD Compliance Programs Section at (225) 379-1382.

NAME OF DESIGN-BUILDER	
AUTHORIZED SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DESIGN-BUILDER'S DBE LIAISON OFFICER (typed or printed name)	
PHONE NUMBER	
DATE	TAX ID#

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**FORM CP-1A (DB)
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DESIGN-BUILDER'S MONTHLY DBE PARTICIPATION**

STATE PROJECT NO. <u>[Insert the state project number]</u>	DESIGN-BUILDER:
FEDERAL AID PROJECT NO. <u>[Insert the federal-aid project number]</u>	
ESTIMATE NO.	REPORT PERIOD: _____ TO _____

DOTD CERTIFIED DBE SUBCONTRACTOR OR SUPPLIER	WORK PERFORMED AND PAID THIS ESTIMATE PERIOD	AMOUNT PAID THIS MONTH ¹	TOTAL PAID TO DATE ¹

¹For suppliers, list total amount paid and the 60 percent value counted toward the goal.

This report covers the previous estimate period and shall be submitted to the Project Manager or the Project Manager's designated representative with the current month's pay estimate. Estimates will be withheld until the required form is submitted. Questions should be directed to the DOTD Compliance Programs Section at (225) 379-1382.

The Design-Builder certifies that the above amounts were paid to the listed DBEs and that documentation of these payments is available for inspection. Project Manager or Project Manager's designated representative has reviewed this form.
(Signature of Project Manager or Project Manager's designated representative).

Authorized Signature	
Typed or Printed Name	
Title	
Phone No.	
Date	

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**FORM CP-2A (DB)
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DBE FINAL REPORT**

STATE PROJECT NO. <u>[Insert the state project number]</u>	DBE GOAL AMOUNT: \$ _____	DESIGN-BUILDER:
FEDERAL PROJECT NO. <u>[Insert the federal-aid project number]</u>	CONTRACT AMOUNT: \$ _____	
PARISH(ES) <u>[Insert the parish]</u>	AWARD DATE: _____	

DOTD CERTIFIED DBE SUBCONTRACTOR OR SUPPLIER	WORK PERFORMED AND PAID	TOTAL DOLLAR AMOUNT PAID TO SUB OR SUPPLIER (60%)

This is to certify that \$ _____ has been paid to Disadvantaged Business Enterprise Subcontractors/Suppliers listed above.

Authorized Signature	_____
Typed or Printed Name	_____
Title	_____
Date	_____

Parish or County _____ State of _____

Subscribed and sworn to, before me, this _____ day of _____, A.D. 20 _____

Notary Public _____

My commission expires: _____

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DBE GOOD FAITH EFFORT DOCUMENTATION

The intent of this form is to document the good faith effort attempts made by the apparent low bidder in soliciting DBE firms to meet the DBE project goal. Please note that the project goal will not be waived and the contractor must make efforts to achieve the goal throughout the life of the contract.

Every work type where there is a certified DBE, the apparent low bidder must submit the form as follows:

- 1 available DBE – must contact 1 DBE
- 2-5 available DBEs – must contact 3 DBEs minimum
- 6-7 available DBEs – must contact 4 DBEs minimum
- 8-9 available DBEs – must contact 5 DBEs minimum
- 10 or more available DBEs – must contact 6 DBEs minimum

All information submitted on this form is subject to audit by the DBE Goal Committee

Date Submitted: _____

State Project Number: _____ Parish: _____

Contractor Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone Number: _____

Email Address: _____

Project Goal Percentage: _____

Commitment Percentage: _____

Unattained Percentage: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and/or prosecution under applicable State and Federal laws.

Bidder/Authorized Representative Signature: _____

Title: _____ Date: _____

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DBE GOOD FAITH EFFORT DOCUMENTATION

Work Type Number	Description of Work, Service or Material	DBE Firm Name		
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				
Work Type Number	Description of Work, Service or Material	DBE Firm Name		
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				
Work Type Number	Description of Work, Service or Material	DBE Firm Name		
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				

EXAMPLES OF GOOD FAITH EFFORT DOCUMENTATION

The following is a list of types of actions a bidder should take when documenting good faith efforts. This list is not intended to be exclusive or exhaustive, nor are all the actions mandatory. Other factors or types of efforts may be relevant in appropriate cases.

SOLICITATION /ADVERTISEMENT EFFORTS - should include your efforts to solicit quotes, through all reasonable and available means, the interest of all certified firms who have the capability to perform the work of the contract. The bidder should ensure that the requests are made within sufficient time to allow DBE firms to respond. The contractor should take the initiative to contact firms which have indicated an interest in participating as a subcontractor/supplier.

NEGOTIATION EFFORTS - should include your efforts to make a portion of the project work available consistent with the availability and capabilities of our DBE firms in order to facilitate DBE participation. You are encouraged to break out contract work items into smaller economically feasible subcontracts to ensure DBE participation. As a part of your negotiation you should make plans/specifications available to the DBE firms which have shown an interest in participating. When negotiating with DBE firms a contractor should use good business judgment by considering price and capability, as well as, project goals. A contractor is not expected to accept a price that is not reasonable and is excessive. Comparison figures should accompany your good faith effort submittal which supports the price differential.

ASSISTANCE EFFORTS - should include your efforts to assist DBE firms in obtaining bonding, lines of credit, insurance, equipment, materials, supplies or other project related assistance. Contractors are encouraged to assist firms with independently securing/obtaining these resources. A contractor may not provide these resources to the DBE firm, except in certain instances where joint checks are permissible with DOTD's prior approval. The level of assistance should be limited to referral sources, introductions, and making initial contacts with industry representatives on the DBE firm's behalf.

ADDITIONAL EFFORTS - could include any additional efforts to utilize the services of minority/women organizations, groups; local, state and federal business offices which provides assistance in the recruitment and placement of DBE firms. Utilizing the services offered by the department's DBE supportive services consultant for assistance with advertisement and recruitment efforts. Contractors are encouraged to undertake and document any other efforts taken in their attempt to fulfill the project goal.

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Form OMF-1A (DB)

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
REQUEST TO SUBLET AND EXTRACT OF SUBCONTRACT
FOR FEDERAL-AID DESIGN-BUILD CONTRACTS

DATE: _____

STATE PROJECT NO. [Insert the state project number]

FEDERAL AID PROJECT NO. [Insert the federal-aid project number]

NAME OF PROJECT [Insert the name of the project]

Notes to design-builder:

You may use the attachment if additional space is needed.

As design-builder of the above project, I request you consent to sublet the following items of work to the undersigned Subcontractor

<u>Description of Work to be Performed</u>	<u>Subcontractor Price</u>

I, as design-builder, understand and agree that the subcontract shall not relieve me of my liability under the contract and bonds, and that the subcontract work is a part of the work covered by a written agreement I have with the subcontractor which incorporates all requirements and pertinent provisions of the design-build contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE Participation as required by 49 CFR 26.13(b). The terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

DESIGN-BUILDER _____ PHONE NO. _____ FAX NO. _____

NAME OF OWNER (use only if company is a Sole Proprietorship) _____

ADDRESS _____ LICENSE NO. _____

FEDERAL TAX I.D. _____

BY: _____ TITLE _____

(Signature)

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I, as subcontractor, understand and agree that no part of the above listed subcontract work shall be further sublet without written consent. I certify that the subcontracted work is covered by a written agreement with the design-builder which states the work shall be performed in accordance with the DOTD construction contract with the design-builder for this project, and that the written subcontract agreement incorporates all requirements and pertinent provisions of the prime contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE Participation as required by 49 CFR 26.13(b) and that the minimum wages stated in said prime contract shall be applied to the subcontracted work, and the terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

SUBCONTRACTOR _____ PHONE NO. _____ FAX NO. _____
NAME OF OWNER (use only if company is a Sole Proprietorship) _____
ADDRESS _____ LICENSE NO. _____
FEDERAL TAX I.D. _____
BY: _____

REVIEWED BY: _____ (Signature) _____ DATE _____ APPROVED BY: _____
(Signature) _____ DATE _____ Compliance Programs
DATE: _____

RETURN TO:
DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT ATTENTION: COMPLIANCE
PROGRAMS SECTION
P. O. BOX 94245
BATON ROUGE, LA 70804-9245

DATE: _____

**LOUISIANA DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT
SUBCONTRACTOR'S EQUAL EMPLOYMENT OPPORTUNITY
CERTIFICATION
FEDERAL-AID DESIGN-BUILD CONTRACTS**

Certification with regard to the performance of previous contracts or subcontracts subject to the equal opportunity clause and the filing of required reports – federal-aid contracts.

STATE PROJECT NO. [Insert the state project number]

FEDERAL AID PROJECT NO. [Insert the federal-aid project number]

PARISH [Insert the name of the parish]

NAME OF DESIGN-BUILDER _____

The proposed Subcontractor certifies that it has , has not , participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that it has , has not , filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a federal government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

By: _____
COMPANY
(Signature)

DATE _____

TITLE

The above certification is required by the Equal Employment Opportunity (EEO) regulations of the Secretary of Labor (41 CFR 60-1.7 (B)(1)), and must be submitted by Proposers and proposed Subcontractors in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. Generally only contracts or subcontracts of \$10,000 or under are exempt.

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed Design-builders, their members, and Subcontractors that have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports shall submit a report covering the delinquent period or such other period specified by the Federal Highway Administration or the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Form OMF-2A (DB)

**ATTACHMENT C
LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS**

SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General

a. Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Orders 11246 and 11375 are set forth in Required Contract Provisions (Form FHWA-1273) and these Supplemental Specifications which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal Aid Highway Act of 1968. The requirements set forth herein shall constitute the specific affirmative action requirements for project activities under this contract and supplement the EEO requirements set forth in the Required Contract Provisions.

b. The contractor shall work with the Department and the Federal Government in carrying out EEO obligations and in their review of his activities under the contract.

c. The contractor and all his subcontractors holding subcontracts (not including material suppliers) of \$10,000 or more shall comply with the following minimum specific requirement activities of EEO. The EEO requirements of Executive Order 11246, as set forth in the Federal-Aid Policy Guide 23 CFR 230A, are applicable to material suppliers as well as contractors and subcontractors. The contractor shall include these requirements in every subcontract of \$10,000 or more with such modification of language as necessary to make them binding on the subcontractor.

2. EEO Policy

The contractor shall accept as his operating policy the following statement which is designed to further the provision of EEO to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of EEO through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color or national origin. Such action shall include employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship and on-the-job training.

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3. EEO Officer

The contractor shall designate and make known to the Department an EEO Officer who shall have the responsibility for and must be capable of effectively administering and promoting an active contractor EEO program and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

a. All members of the contractor's staff who are authorized to hire, supervise, promote and discharge employees, or who recommend such action, or who are substantially involved in such action, shall be made fully cognizant of and shall implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions shall be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees shall be conducted before the start of work and then at least once every 6 months, at which time the contractor's EEO policy and its implementation shall be reviewed and explained. The meetings shall be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees shall be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's EEO obligations within 30 days after their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project shall be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. To make the contractor's EEO policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor shall take the following actions:

(1) Notices and posters setting forth the contractor's EEO policy shall be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The contractor's EEO policy and the procedures to implement such policy shall be brought to the attention of employees by means of meetings, employee handbooks or other appropriate means.

5. Recruitment

a. When advertising for employees, the contractor shall include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements shall be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor shall, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor shall, through his EEO Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

If the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor shall encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants shall be discussed with employees.

6. Personnel Actions

Wages, working conditions and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff and termination, shall be taken without regard to race, color, religion, sex or national origin. The following procedures shall be followed.

a. The contractor shall conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

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c. The contractor shall periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor shall promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor shall promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, shall attempt to resolve such complaints, and shall take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor shall inform every complainant of all of his avenues of appeal.

7. Training and Promotion

a. The contractor shall assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship and job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. If the Supplemental Specifications for Job Training are provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

c. The contractor shall advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor shall periodically review the training and promotion potential of minority group and women employees and shall encourage eligible employees to apply for such training and promotion.

8. Unions

If the contractor relies in whole or in part upon unions as a source of employees, the contractor shall use his best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent shall include the procedures set forth below:

a. The contractor shall use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor shall use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex or national origin.

c. The contractor shall obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the Department and shall set forth what efforts have been made to obtain such information.

d. If the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor shall, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) If the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these specifications, such contractor shall immediately notify the Department.

9. Subcontracting

a. The contractor shall use his best efforts to solicit bids from and utilize minority group subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from the Department.

b. The contractor shall use his best efforts to ensure subcontractor compliance with their EEO obligations.

10. Records and Reports

a. The contractor shall keep such records as necessary to determine compliance with the contractor's EEO obligations. The records kept by the contractor shall indicate:

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(1) the number of minority and nonminority group members and women employed in each work classification on the project,

(2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force),

(3) the progress and efforts being made in locating, hiring, training, qualifying and upgrading minority and female employees, and

(4) the progress and efforts being made in securing the services of minority group subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of 3 years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department and the Federal Highway Administration.

c. The contractor shall submit an annual report to the Department each July for the duration of the project, indicating the number of minority, women and nonminority group employees currently engaged in each work classification required by the contract work. This information shall be reported on Form PR-1391. If job training is required, the contractor shall furnish Form DOTD 03-37-0014.

ATTACHMENT D

**LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS**

FEMALE AND MINORITY PARTICIPATION IN CONSTRUCTION

The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the director of OFCCP. Execution of the contract by the successful bidder and any subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in this notice.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

AREA	PARISH OR COUNTY	GOAL (%)
FEMALE PARTICIPATION		
-	All Covered Areas	6.9
MINORITY PARTICIPATION (UNDER NEW ORLEANS PLAN)		
-	* See Note Below	20 to 23
MINORITY PARTICIPATION (NOT UNDER NEW ORLEANS PLAN)		
1	Jefferson LA, Orleans LA, St. Bernard LA, St. Tammany LA	31.0
2	Assumption LA, Lafourche LA, Plaquemines LA, St. Charles LA, St. James LA, St. John the Baptist LA, Tangipahoa LA, Terrebonne LA, Washington LA, Forrest MS, Lamar MS, Marion MS, Pearl River MS, Perry MS, Pike MS, Walthall MS	27.7
3	Ascension LA, East Baton Rouge LA, Livingston LA, West Baton Rouge, LA	26.1
4	Concordia LA, East Feliciana LA, Iberville, LA, Pointe Coupee LA, St. Helena LA, West Feliciana LA, Adams MS, Amite MS, Wilkinson, MS	30.4
5	Lafayette LA	20.6
6	Acadia LA, Evangeline LA, Iberia LA, St. Landry LA, St. Martin LA, St. Mary LA, Vermillion LA	24.1
7	Calcasieu LA	19.3
8	Allen LA, Beauregard LA, Cameron LA, Jefferson Davis LA, Vernon LA	17.8
9	Grant LA, Rapides LA	25.7
10	Avoyelles LA, Bienville LA, Bossier LA, Caddo LA, Claiborne LA, DeSoto LA, Natchitoches LA, Red River LA, Sabine LA, Webster LA, Winn LA	29.3
11	Ouachita LA	22.8
12	Caldwell LA, Catahoula LA, East Carroll LA, Franklin LA, Jackson LA, LaSalle LA, Lincoln LA, Madison LA, Morehouse LA, Richland LA, Tensas LA, Union LA, West Carroll LA,	27.9

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*These goals apply only to those contractors signatory to the New Orleans Plan and only with respect to those trades which have unions participating in said Plan. The New Orleans Plan Covered Area is as follows: The parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John the Baptist, Plaquemines, Washington, Terrebonne, Tangipahoa (that area east of the Illinois Central Railroad), Livingston (that area southeast of the line from a point off the Livingston and Tangipahoa Parish line adjacent from New Orleans and Baton Rouge), St. James (that area southeast of a line drawn from the Town of Gramercy to the point of intersection of St. James, Lafourche and Assumption Parishes), and Lafourche.

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor is also subject to the goals for both its federally involved and non-federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor, or from project to project, for the purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Regional Administrator of the Office of Federal Contract Compliance Programs (555 Griffin Square Building, Dallas, TX 75202) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and geographical area in which the contract is to be performed.

4. As used in this Notice and in the contract, the "covered area" is that area shown in the foregoing table in which the project is located.

The following Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of \$10,000. Execution of the contract by the successful bidder and any

subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in these Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. If the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, he shall include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is required to comply with his obligations under the EEO clause, and to make good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractor or subcontractors toward a goal in an

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approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any OFCCP office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women, shall excuse the contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications will be based on his effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign 2 or more women to each construction project. The contractor shall ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to

- community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor has taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman set by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting his EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendent, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
 - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than 1 month prior to the date for the acceptance of

applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above describing the openings, screening procedures and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women, and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
- l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling its obligations under 7a through 7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet his goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A goal for minorities and a separate goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a group is employed

in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a minority group of women is underutilized).

10. The contractor shall not use the goals or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

11. The contractor shall not enter into a subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling his obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as the standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors will not be required to maintain separate records.

15. Nothing herein shall be construed as a limitation on the application of other laws which establish different standards of compliance or on the application of requirements for hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the contractor and subcontractors holding subcontracts (not including material suppliers) in excess of \$10,000

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shall submit for every month of July during which work is performed, employment data as contained under Form FHWA-1391 in accordance with instructions included thereon.

**ATTACHMENT E
WAGE DETERMINATION**

[Look up and insert the appropriate wage determination for the parish and type of construction for the specific project.]

ATTACHMENT F

**LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS
ON-THE-JOB TRAINING**

The Louisiana Department of Transportation and Development (LADOTD) has partnered with the Louisiana Associated General Contractors (LAGC) to ensure that on-the-job training is provided on a voluntary basis by contractors performing work on LADOTD's federally assisted construction projects.

The LAGC has committed that its member contractors will enroll a minimum of 15 trainees statewide during the period July 1 through June 30 annually. It is anticipated that this annual training goal will be increased in future years as participation in the program grows.

The LADOTD on-the-job training program will be monitored by the Compliance Programs Section. At all times it will be the responsibility of the contractor to comply with the Job Training Supplemental Specifications. LAGC will provide support to their member contractors in the area of on-the-job training as they would in any contractual activity. LAGC has committed to assisting contractors in areas such as recruitment, record keeping, graduation certificates, and ongoing encouragement of contractors to participate in the training program. LAGC has expressed their willingness to work with LADOTD and FHWA in making the contracting industry as strong as possible in all areas, including on-the-job training.

Non-LAGC members are encouraged to participate in the LADOTD on-the-job training program. No aspect of the LADOTD/LAGC partnership is designed to eliminate the right of any non-LAGC member to participate in the training program described in these specifications. If any non-LAGC member does not utilize a previously approved training program, he/she is directed to develop and submit a training program to LADOTD for approval by LADOTD and FHWA.

Although training under this contract is not limited to minorities and females, contractors should be aware that one of the objectives of the training program is to increase the participation and skills of minorities and females in highway construction. Contractors must exert good faith efforts to comply with the Equal Employment Opportunity contract requirements governing recruitment and upgrading when seeking to fill vacancies in the work force and select candidates for the training program. Adequate documentation of good faith efforts should be maintained and submitted to the Compliance Programs Section Training Program Manager (TPM) when requested.

These supplemental specifications are in implementation of 23 USC 140(a). Training under this contract shall be optional to the successful bidder, provided the item for which training is requested is less than 70 percent complete. If the contractor elects to provide training under the

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contract as established in these specifications, he may submit a written request to the project engineer with a copy to the Construction Section. A plan change will be prepared to incorporate a pay item using the trainee hours stated in the Special Provisions elsewhere herein. Training will only be reimbursed after the approval of this plan change.

It is intended that training under these supplemental specifications be in crafts directly related to highway construction. Therefore, training in classifications such as clerk-typist, secretary, bookkeeper, fireman, office engineer, estimator, timekeeper, and unskilled or common laborer will not be approved for participation under these supplemental specifications.

No employee shall be employed as a trainee in any classification in which he/she has successfully completed a training course leading to journey person status or in which he/she has been employed as a journey person. The contractor shall satisfy this requirement by completing the Contractor's Trainee Enrollment & Interview Form for each potential trainee. The completed form shall be electronically submitted to the TPM for review and approval.

The contractor will be reimbursed \$3.00 per hour of training provided in accordance with an approved training program. Reimbursement will be made for training hours in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other sources do not specifically prohibit the contractor from receiving other reimbursement. The contractor will be reimbursed for the number of trainee hours actually trained on the project in accordance with these supplemental specifications.

The contractor will be credited for each trainee employed on the project that is currently enrolled or becomes enrolled in an approved training program and will be reimbursed for such trainees as provided in these supplemental specifications.

The minimum length and type of training for each classification selected by the contractor will be established in the training program approved by the Department, Federal Highway Administration (FHWA), and/or Office of Federal Contract Compliance Programs (OFCCP). The Department, FHWA, and/or OFCCP will approve a program if it is reasonably calculated to meet the Equal Employment Opportunity obligations of the contractor and to qualify the average trainee for journey person status in the classification concerned by the end of the training period. Apprenticeship programs registered with the U. S. Department of Labor, Bureau of Apprenticeship and Training or with a state apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U. S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training will also be considered acceptable if it is being administered in a manner consistent with the equal employment obligations of federal-aid highway construction contracts.

It is normally expected that a trainee will begin training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his/her work classification or until he/she has completed the training program.

Enrollment of trainees in excess of the required number will be permitted, with approval, to allow the contractor to maintain the required continuous effort to complete the training of individual trainees.

Trainees will be paid at least 60 percent of the appropriate minimum journey person's rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent of the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Departments of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by these supplemental specifications.

The contractor, prior to the start of training, shall provide written notice to each person to be trained under these supplemental specifications of that person's designation as a trainee, the training program and classification under which training will be provided, the length of the training program, and the hourly wage rate to be paid to the trainee. This requirement shall be fulfilled by use of the Contractor's Trainee Enrollment & Interview Form.

Upon graduation, the contractor shall issue the trainee a certification showing the type and length of training satisfactorily completed along with a permanent photo identification card designating the bearer as a graduate journey person of the appropriate training program.

The contractor shall electronically submit the Contractor's Trainee Enrollment & Interview Form for each employee on the project who is enrolled as a trainee in an approved training program or apprenticeship program. The trainee enrollments shall be submitted to the TPM within the first payroll period in which each trainee or apprentice is assigned to the project.

In order to collect the \$3.00 per hour reimbursement for training, the contractor shall electronically submit to the project engineer's office each week that training is conducted on the project the Contractor's OJT Weekly Reporting Form along with the payroll. For projects where weekly payroll submission is not required, the Contractor's OJT Weekly Reporting Form shall be submitted to the project engineer's office.

At anytime during the life of the project, provided that the item for which training is requested is less than 70 percent complete, a subcontractor may elect to train. The subcontractor should follow the steps described above in order to participate in the on-the-job training program. If the

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subcontractor does not utilize a previously approved training program, he/she is directed to develop and submit a training program to the TPM for approval by LADOTD and FHWA.

Contractors are to train according to their work force needs and as training opportunities exist on a project. If a trainee graduates from a training classification, training opportunities no longer exist in the approved classification, or a contractor's work force needs change, a trainee could be enrolled in a different classification. The Contractor's OJT Change Form is to be used when these circumstances necessitate enrolling a current trainee or a graduate in a new classification. Multiple enrollments of an individual should not be used to diminish the objectives of these specifications, but to enhance the trainee's career growth, benefit the contractor's operations, and improve the contracting industry overall.

All required forms can be found on the LADOTD website on the Compliance Programs page and the Construction Letting Information page under Doing Business with DOTD. Instructions for completing any required form may be obtained from the TPM.

It is the goal of the LADOTD/LAGC partnership to maintain a voluntary on-the-job training program, but revisions to the program may be deemed necessary should participation fall below acceptable levels.