



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Modified Two Phase Design-Build
Project Delivery under Special Experimental
Project No. 14 (SEP-14)

Date: December 22, 2011

/Signed by Gerald Yakowenko for:/

From: David A. Nicol
Director, Office of Program Administration

In Reply Refer To:
HICP-20

To: Martin C. Knopp
Division Administrator
Tallahassee, Florida

This is in reference to Mr. Chris Richter's December 16, 2011 email that transmitted the Florida Department of Transportation's (FDOT) December 12, 2011 SEP-14 workplan for the use of a modified two-phase design-build procurement process.

As a result of increased industry interest in allowing more than five firms to compete in the design-build procurement process, the FDOT is proposing a modified procurement process that would more than five firms to continue with the procurement process after the short listing stage. Specifically, FDOT will post the phase I scores for all proposers and allow each firm to decide whether it wants to continue with Phase II of the procurement process (the submittal of technical and price proposals).

As FHWA's regulations were developed to minimize adverse impacts on the industry by limiting the number of short listed firms in Phase I to five (23 CFR 636.207), FDOT is now proposing an SEP-14 project to evaluate the advantages or disadvantages of allowing more than five firms to compete. FDOT's proposed process deviates from FHWA's policy in two areas as follows:

- The proposal allows more than five firms to advance to Phase II of the procurement process. This is not consistent with 23 CFR 636.207 which states "Normally, three to five firms are short listed, however, the maximum number specified shall not exceed five unless you determine, for that particular solicitation, that a number greater than five is in your interest and is consistent with the purposes and objectives of two-phase design-build contracting", and
- FDOT's selection process will use both a phase I evaluation score (qualifications, experience and project approach) and phase II score (technical and cost scores) to determine the successful proposer. This is inconsistent with 23 CFR 636.303(a) which states "If you use a prequalification procedure or a two-phase selection procedure to develop a short list of qualified offerors, then pre-qualification criteria should not be included as proposal evaluation criteria."

However, given FDOT's coordination with their industry members and their efforts to provide a

clear and transparent process in their revised policy and procurement documents, we are agreeable to proceeding with this process on an experimental project basis.

The FDOT's workplan and proposed schedule for evaluation are satisfactory. You may consider this project approved for evaluation under SEP-14. Thank you for the opportunity to review and comment on this SEP-14 request. Should you have any questions, please contact Gerald Yakowenko at (202) 366-1562.