



## **Alternative Delivery and Major Projects Division**

# **Design-Build Procurement and Administration Guide**

**4<sup>th</sup> Edition  
May 2025**

**Published by:  
ADOT Alternative Delivery and Major Projects Division  
206 S. 17th Ave., Rm. 193  
Phoenix, AZ 85007  
(602) 712-7323**

# Table of Contents

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
1.01	Purpose .....	1
1.02	Scope .....	1
1.03	Authority .....	1
1.04	Abbreviations, Acronyms, and Definitions .....	1
1.05	Background .....	1
<b>2</b>	<b>Project Initiation and Development .....</b>	<b>3</b>
2.01	Project Selection .....	3
2.02	Budget .....	4
2.03	Management Approval .....	4
2.04	Cost and Schedule Risk Assessment .....	4
2.05	Project Team .....	4
2.06	Core Procurement Team .....	8
2.07	Confidentiality and Conflicts of Interest .....	9
2.08	Procurement Methodology .....	10
2.09	Procurement Document Templates .....	10
2.10	Program Schedule .....	10
2.11	Public Records Requests .....	11
<b>3</b>	<b>RFQ Phase .....</b>	<b>12</b>
3.01	General .....	12
3.02	Pre-submittal Conference or Industry Forum .....	12
3.03	RFQ Development .....	12
3.04	RFQ Issuance Period .....	14
3.05	SOQ Evaluation Manual Development and Training .....	15
3.06	SOQ Evaluation Process .....	17
<b>4</b>	<b>RFP Phase .....</b>	<b>19</b>
4.01	General .....	19
4.02	Draft RFP Development .....	19
4.03	Industry Review Period .....	32
4.04	RFP Issuance Period .....	33
4.05	Proposal Evaluation Manual Development and Training .....	37
4.06	Proposal Evaluation Process .....	39
4.07	Contract Award .....	41
4.08	Post Award .....	42
<b>5</b>	<b>Project Administration .....</b>	<b>43</b>
5.01	General .....	43
5.02	ADOT Management and Oversight .....	45

5.03	Contract Time.....	48
5.04	NTP 1 Period.....	49
5.05	NTP 2 Period.....	56
5.06	Changes to the Contract .....	61

## **Exhibits**

Exhibit 1	Abbreviations, Acronyms, and Definitions.....	64
Exhibit 2	Arizona Revised Statutes.....	74
Exhibit 3	Conflict of Interest Guidelines .....	84
Exhibit 4	Confidentiality and Disclosure Forms .....	87
Exhibit 5	Standard Comment Forms .....	96
Exhibit 6	Design-Build Projects Under the P3 Statute .....	99
Exhibit 7	Historical Data for Key Personnel Liquidated Damages .....	101
Exhibit 8	Historical Data for Daily Value (B Component) .....	102
Exhibit 9	DBE/OJT/Labor Design-Build Guidelines.....	103
Exhibit 10	Sample Document Disposition Matrix .....	117
Exhibit 11	GEC DBE/OJT Compliance and Monitoring Manager .....	127

# 1 INTRODUCTION

## 1.01 Purpose

The purpose of this document is to establish and explain the Arizona Department of Transportation (ADOT)'s process for procuring and administering the design and construction of a highway facility with a single contract for projects that are run under Arizona Revised Statutes (ARS) Title 28, Chapter 20, Article 13 (*Alternative Contracting Procedures*). The process should clearly communicate all known information to the Proposers (and therefore Design-Builder) regarding site conditions, environmental issues, regulatory concerns, community and political interests, right-of-way (ROW) constraints, utility conditions, and other information pertinent to the project. The process should also clearly provide allocation of each project risk to the party that is best able to manage it. The purpose of the process is to provide early price certainty and/or accelerated delivery schedule for transportation projects.

ADOT may run Design-Build (DB) projects under ARS Title 28, Chapter 22, Article 1 [*Public-Private Partnerships (P3) in Transportation*]; however, there are some differences when run under ARS Title 28, Chapter 20, Article 13. Such differences are summarized in Exhibit 6 (*Design-Build Projects under the P3 Statute*).

## 1.02 Scope

This procedure affects all ADOT offices associated with the design and construction of major bridges, highways or other transportation-related projects using the DB project delivery method.

## 1.03 Authority

Certain ARS sections that are applicable to the DB project delivery method include: 28-6713; 28-6923, 28-6924, 28-7361, 28-7363, 28-7364, 28-7365, 28-7369.

A copy of such statutes as of publication of this Design-Build Procurement and Administration Guide (Guide) are included in Exhibit 2 (*Arizona Revised Statutes*).

## 1.04 Abbreviations, Acronyms, and Definitions

The meaning of various abbreviations, acronyms, and capitalized terms used in this Guide are defined in Exhibit 1 (*Abbreviations, Acronyms, and Definitions*).

## 1.05 Background

### (A) Legislation

DB combines into a single contract the design, construction, construction engineering, inspection requirements, and testing requirements for a project, all in accordance with project specific design criteria, construction specifications, and contract administration practices. These projects allow the contractor to participate in design in an effort to reduce costs and expedite construction.

In 1996, the Arizona State Legislature authorized ADOT to use the DB process on two pilot projects. In 1998, the pilot program was expanded to include three more projects.

In 2000, the Arizona State Legislature approved DB as a permanent program until 2007. Highlights of the approved legislation included:

- (1) The limitation of two DB contracts per year at a minimum cost of \$40 million each.
- (2) The ADOT Director must submit an annual report to the Governor and the Arizona State Legislature regarding the benefits associated with the DB program.
- (3) The score for each Technical Proposal must be publicly announced.

(4) At least three but no more than five firms are required to be short-listed from the request for qualifications.

(5) ADOT must pay a stipend of 0.2% to each short-listed firm of ADOT's estimated cost for design and construction cost of the project.

In 2008 subsequent legislation has deleted the requirement for annual reporting, the limitation on minimum cost, and the limit on number of projects.

In 2022, legislation changed the stipend (stipulated fee) from 0.2% to 0.4% paid to each short-listed as noted above.

In 2024, legislation extended the limitation on commencing a design-build project from December 31, 2025 to December 31, 2030.

## **(B) Partnership with the Arizona Associated General Contractors**

ADOT met with the Arizona Associated General Contractors of America (AZAGC) on a regular basis from January 2022 to June 2023 to discuss certain topics that the contracting community wanted to see revised in ADOT's DB projects. During this period, the AZAGC reviewed and commented on a previous DB contract and collaborated with ADOT, which ultimately led to the development of the *ADOT DB-Contract-Template* that is to be used on all future DB projects. The *ADOT DB-Contract-Template* is a living document and will be updated over time based on lessons learned on projects and changes in the industry. See [Section 2.09](#) for more information regarding ADOT procurement document templates.

**End Section**

## 2 PROJECT INITIATION AND DEVELOPMENT

### 2.01 Project Selection

#### (A) ARS § 28-7364 Criteria

ARS § 28-7364 defines the criteria as the minimum basis that ADOT must use for determining when to use the DB project delivery method and are as follows:

- (1) The extent to which ADOT can adequately define the project requirements.
- (2) The time constraints for delivery of the project.
- (3) The capability and experience of potential teams with DB method of project delivery.
- (4) The suitability of the project for use of the DB method of project delivery in the areas of time, schedule, costs and quality.
- (5) The capability of ADOT to manage the project, including the employment of experienced personnel or outside consultants.
- (6) The capability of ADOT to oversee the project with persons who are familiar with the DB method of project delivery.

#### (B) Other Criteria

Other criteria ADOT deems relevant, including:

- (1) **Funding:** the project must be programmed into the ADOT *Five-Year Transportation Facilities Construction Program* or the long-range plan.
- (2) **Available Design-Builders:** there should be a sufficient pool of available engineering design and highway/heavy construction firms capable of handling a project of this size. An industry forum may be performed to identify the availability of potential Proposers.
- (3) **ADOT Capabilities:** ADOT's Project Manager (PM) and Resident Engineer (RE) should seek out volunteers interested in the process and develop personnel to staff DB projects through orientation training.
- (4) **General Engineering Consultant (GEC) Selection:** the time it takes to select a GEC should be considered when determining the use of the DB project delivery method for a project. The PM should expect 10 months for selection and notice to proceed for the GEC contract. Close coordination with Engineering Consultant Section (ECS) will be required.
- (5) **Suitability of the Project:** a good candidate for a DB project must have manageable ROW impacts and minimal or readily resolvable utility relocations. Environmental documents do not need to be complete to advertise the Request for Proposals (RFP), but it is advisable.
- (6) **ROW Procurement:** ROW acquisitions shall remain the responsibility of ADOT; however, the cost of the acquisition of any ROW for Design-Builder's convenience will be the responsibility of the Design-Builder. Since available ROW significantly affects the final design, all parcels should be in possession at the time of advertisement. If this is not feasible, then the date the parcels will be available must be specified in the RFP. It is permissible to specify ROW limits and require all design features to remain within ADOT's ROW. The Design-Builder should identify temporary construction easements that are needed and ADOT may obtain such temporary construction easements.

(7) **Environmental Issues:** the preparation of all environmental documents and obtaining required environmental and regulatory clearances for the Schematic Design shall be performed by ADOT or its consultants. The scope of any remedial actions such as environmental mitigation measures, site cleanup, or hazardous materials abatement shall be clearly identified in the environmental documents and the RFP. If Design-Builder changes the Schematic Design or incorporates Design-Builder ROW into the project, additional environmental studies, re-evaluation, amendment, or modification may be required. If required, Design-Builder will be solely responsible for the cost of pursuing and undertaking any such study, re-evaluation, amendment, or modification. ADOT will be signatory and will submit such documents to the Governmental Entity.

(8) **Railroads:** review and approval for railroad facilities often takes three to four years from initiation. However, if it is more advantageous to use DB where a railroad is involved, by law, the railroad company must approve the use of the DB project delivery method before ADOT awards the DB contract.

(9) **Utilities:** utilities and their lead time for relocation should be considered when selecting a project to use the DB project delivery method.

## 2.02 Budget

When a section of roadway or transportation facility is being considered for the use of the DB project delivery method, adequate funding must have been previously identified and approved for the work. Funds must be established in the ADOT *Five-Year Transportation Facilities Construction Program* or long-range plan before the advertisement and the selection process begins. Bonding may also be considered for DB projects. The speed of a DB project may require temporary bonding to compensate for the Design-Builder's rapid earnings.

## 2.03 Management Approval

Before beginning the development of Procurement Documents (See [Section 2.09](#) for more information regarding ADOT procurement document templates), the Alternative Delivery and Major Projects (ADMP) Division Director will use the ADOT alternative delivery method selection tool to determine the appropriate project delivery method that should be used on the project.

## 2.04 Cost and Schedule Risk Assessment

A Cost and Schedule Risk Assessment (CSRA) should be prepared or updated early in the procurement phase for the project. The CSRA can be facilitated by the GEC or others, as applicable. This includes an in-depth risk assessment workshop that brings together internal and external stakeholders and subject matter experts together to identify and evaluate risks, including threats or opportunities. A risk that is identified as a threat results in cost increase or schedule delays. An opportunity can result in cost savings or an improved schedule. Those risks are then prioritized, their impacts are quantified, consensus is formed around the appropriate response strategies and the risk is assigned to an appropriate party. It is ADOT's intent to assign the risk to the party who is best able to define and manage the risk. The resultant report should be used to help prepare the Procurement Documents in relation to risks.

## 2.05 Project Team

### (A) Project Manager

#### (1) General

The PM is ADOT's lead individual and main point of contact for the project for preconstruction services. The PM will be responsible for coordinating the procurement of the Design-Builder and the GEC (if applicable). The PM is responsible for contract compliance oversight of pre-construction services and is responsible to manage the GEC contract.

## (2) Preliminary Design Phase

The PM should participate in the initial scoping of the project, including the development of the Design Concept Report (DCR) or Scoping Letter. Involvement is preferred in the necessary environmental studies, permits, and assessments required for the project, including reviewing environmental, archeological, and ROW documents. The PM is also responsible to ensure adequate funding for the GEC, as well as funding for the DB contract.

Prior to the Request for Qualifications (RFQ) advertisement date, the PM must be prepared to provide information about the project when meeting with prospective firms that are interested in the solicitation. The PM should prepare an outline to ensure the same information is provided to all prospective firms. The PM should also be prepared to answer questions posed by the prospective firms. The questions and answers should be documented and retained in the project file.

## (3) Design-Builder Procurement Phase

An involved and well-informed PM can accurately communicate ADOT's scoping, ROW, and environmental concerns when developing the RFQ and RFP. The goal is to ensure that the solicitation documents are prepared in accordance with the scoping and environmental documents and that the solicitation documents meets the needs of ADOT management and key project stakeholders. The PM must rely heavily on a multi-disciplined team in order to: (i) determine the prequalification requirements of a Design-Builder, as further described in [Section 3.06\(A\)](#); (ii) develop the project Procurement Documents; (iii) evaluate the Statement of Qualifications (SOQs) and Proposals; and (iv) oversee the pre-construction work.

In addition to participating in the various activities as part of the Core Procurement Team as specified in [Section 2.06](#), the PM responsibilities include, but are not limited to:

### (a) Approving the:

- (i) Procurement schedule;
- (ii) Project goals;
- (iii) *Confidentiality and Disclosure Forms*;

### (b) Determination of:

- (i) Whether or not to use an Independent Quality Firm (IQF) for the project (in conjunction with the District construction staff);
- (ii) Approach to stakeholder involvement during the procurement;
- (iii) Supporting the C&S Group with determination of Disadvantaged Business Enterprise (DBE) and On-the-Job Training (OJT) participation goals (in conjunction with ADOT Business Engagement and Compliance Office (BECO));
- (iv) Who the ADOT Point of Contact (POC) will be throughout the procurement;
- (v) Design-Builder's Key Personnel and associated requirements;
- (vi) Liquidated damage and sanction amounts (See [Section 4.02\(B\)\(2\)](#));
- (vii) Members of the Selection Team;

### (c) Performing reviews of the procurement related documents;



- (d) Participating in all procurement activities, including but not limited to:
  - (i) Administering Alternative Technical Concepts (ATCs) process;
  - (ii) Administering and supporting SOQ and Proposal evaluations;
  - (iii) Development and administration of Reference Information Documents (RIDs);
  - (iv) Leading the one-on-one meetings;
  - (v) Driving contract commercial close; and
- (e) Performing review and approval of all procurement-related documents.

#### **(4) Design and Construction Period**

During the D&C Period, the PM is the primary point of contact, involved in the day-to-day operations of the project, and is the primary decision maker regarding design, environmental, ROW, and utilities. The PM is one of the ADOT Authorized Representatives whose signature will validate certain documents as specified in the *ADOT DB-Contract-Template*. The PM is also an integral part of issue escalation as specified in the *ADOT DB-Contract-Template*.

### **(B) Resident Engineer**

#### **(1) Design-Builder Procurement Phase**

The RE has an integral role to play in the development of the Procurement Documents. During the development of the Procurement Documents, the role of the RE is similar to a conventional Design-Bid-Build (DBB) project. It is crucial for the RE to be involved with preparation of both the Contract and Technical Provisions to ensure continuity during the construction of the project. The RE should be part of the Core Procurement Team during the procurement process.

#### **(2) D&C Period**

The RE is ADOT's lead individual and main point of contact for the project during construction and will regularly coordinate with the PM throughout the construction. The RE is one of the ADOT Authorized Representatives whose signature will validate certain documents as specified in the *ADOT DB-Contract-Template*. The RE should perform constructability reviews of the design submittals as the design progresses. As with a conventional DBB project, the RE supervises a team of individuals who are responsible for the daily inspection, material quality acceptance, and project documentation requirements at the site of construction. The RE and field personnel interact daily with the Design-Builder throughout the construction of the project to verify that the Design-Builder complies with applicable federal, State, local, and other contractual requirements.

Other examples of involvement are:

- (a) Performing first review of all Supplemental Agreement requests submitted via *Contract Modification Request Form* and providing recommendations regarding the Design-Builder's entitlement based on the Contract Documents.
- (b) Reconciling monthly estimate submitted by the Design-Builder with that of field personnel; approving and processing payment(s) using ADOT's construction software.
- (c) Monitoring and evaluating the Design-Builder's schedule on a monthly basis during construction.

## **(C) Technical Leaders and Managers**

### **(1) Design-Builder Procurement Phase**

Technical leaders and managers from the various design and technical groups must be available to assist the GEC in the preparation of the Technical Provisions. The PM will reach out to the design section managers to obtain a list of the technical experts that will be assigned to assist with the project. In addition, technical leaders and managers may be asked to participate in the evaluation of Proposals as Subject Matter Experts (SMEs).

### **(2) D&C Period**

Technical leaders and managers from the various design and technical groups must be available to assist the GEC and provide guidance during the D&C Period when questions arise. The GEC will perform the design reviews, but will consult with the ADOT technical leaders and managers when questions arise. Technical leaders must realize that the design work progresses at a much faster and dynamic pace than traditional delivery. However, because of the accelerated design process and the overlap of design with construction, technical leaders and managers must be readily available and be able to support the GEC if the GEC cannot quickly solve a technical issue. ADOT technical leaders and/or staff shall be kept informed of potential issues so that they can quickly evaluate those that they may have to help resolve. Issues have to be resolved quickly and decisions must be expedited because most DB projects are schedule-driven. The time constraints may require the technical leader to frequently prioritize their DB project involvement over other projects.

## **(D) Construction Group**

ADMP manages ADOT's DB procurement process; however, open communication with the Construction Group should be made a part of the process. The Assistant State Engineer for Construction is a valuable resource that may assist with questions regarding policies, procedures, suitability of the DB project delivery method for a project, and the procedures for selecting a Design-Builder.

## **(E) Contracts and Specifications Group**

The C&S Group assists the PM in overseeing the procurement process and manages ADOT's Field Office Automated System (FAST) through Contract award. The C&S Group may assign a person to be the ADOT Procurement Manager during the procurement process. The ADOT Procurement Manager is an impartial representative on the Core Procurement Team, and their main purpose is to ensure the procurement process follows the prescribed procedures, which ensures a fair and competitive process for Proposers, solidifying the solidarity of the DB procurement process.

## **(F) General Engineering Consultant**

### **(1) General**

The GEC must provide, at a minimum, a project manager, deputy project manager, an RE counterpart, and a procurement lead to be part of the Core Procurement Team. In addition, the GEC should provide an expert in document control and scheduling. Ideally, the GEC should have personnel who have at least five years of DB project experience prior to working on an ADOT DB project. For projects with DBE and OJT requirements, the GEC should provide a DBE/OJT Compliance and Monitoring Manager to support ADOT. Recommended qualifications and responsibilities for the DBE/OJT Compliance and Monitoring Manager are included in Exhibit 11 (GEC DBE/OJT Compliance and Monitoring Manager).

### **(2) GEC Selection**

As discussed in Section 2.01, the time it takes to select a GEC should be considered when selecting a DB approach. The GEC will function as an extension of staff for ADOT and provide support to ADOT during the Design-Builder Procurement Phase and during the D&C Period. The PM should expect 10 months for selection and NTP for the GEC contract. Close coordination with ECS will be required.

### (3) Design-Builder Procurement Phase

During the Design-Builder Procurement Phase, the GEC will have the primary responsibility for:

- (a) The development of the Procurement Documents as defined in Sections 3.03 and 4.02;
- (b) Scheduling and organizing procurement-related meetings;
- (c) Assisting ADOT throughout all steps of the procurement process including, but not limited to:
  - (i) Answering Proposer questions;
  - (ii) Participating in one-on-one meetings;
  - (iii) Preparing Addenda;
  - (iv) Reviewing Preliminary ATCs and formal ATCs;
- (d) Developing the SOQ evaluation and Proposal evaluation training presentations and assisting ADOT in facilitating those training sessions;
- (e) Being a part of the Evaluation Committee for both the RFQ and RFP Phases in an advisory role only, and should not be part of the Selection Team (actual scorers of SOQs and Proposals) as further described in Sections 3 and 4; and
- (f) Preparing white papers to assist with decision-making on various items.

### (4) D&C Period

During the D&C Period, the GEC responsibilities typically include, but are not limited to:

- (a) Assisting ADOT in managing the project and administering the Contract;
- (b) Performing design reviews for contract compliance in consultation with the ADOT team leaders and managers; and
- (c) Performing construction oversight and verification.

## 2.06 Core Procurement Team

The Core Procurement Team should be comprised of the following members: PM, Deputy Project Manager overseeing the procurement process (if available), ADOT POC (typically the ADOT Procurement Manager from the C&S Group), the RE, GEC, and various technical leaders and managers relevant to the design of the project.

As determined by the PM, certain members of the Core Procurement Team will be involved in various activities during the procurement process, including, but not limited to:

- (a) Attending weekly Core Procurement Team meetings to give the team updates and to answer questions, as appropriate.
- (b) The RFQ Phase:
  - (i) Developing the RFQ;
  - (ii) Building the project in FAST;
  - (iii) Advertising the project;
  - (iv) Answering Proposer questions;

- (v) Preparing Addenda;
- (vi) Developing the SOQ Evaluation Manual;
- (vii) Facilitating or attending the SOQ Evaluation Training Workshop;
- (viii) Participating in the SOQ evaluation process; and
- (ix) Developing the RIDs.
- (c) The RFP Phase:
  - (i) Developing the RFP;
  - (ii) Answering Proposer questions;
  - (iii) Participating in one-on-one meetings;
  - (iv) Preparing Addenda;
  - (v) Reviewing Preliminary ATCs and formal ATCs;
  - (vi) Developing the Proposal Evaluation Manual;
  - (vii) Facilitating or attending the Proposal Evaluation Training Workshop;
  - (viii) Participating in the Proposal evaluation process;
  - (ix) Developing and managing the RIDs;
  - (x) Awarding the project; and
  - (xi) Executing the project.

## 2.07 Confidentiality and Conflicts of Interest

Confidentiality is important to the integrity of the procurement development and process for ADOT. All participants in the development of the Procurement Documents, procurement process, and evaluation of SOQs/Proposals are required to sign the ADMP standard *Confidentiality and Disclosure Forms*. See [Exhibit 4](#) (*Confidentiality and Disclosure Forms*). Such participants should sign the agreement:

- (A) Prior to procurement discussions/Procurement Document development;
- (B) At the SOQ Evaluation Training Workshop, unless previously signed as part of item (A);
- (C) After SOQs are submitted; and
- (D) Every time a Proposer adds a new team member (whether it be a firm or a person) during the procurement process.

ADOT intends to create a fair, unbiased, legally defensible procurement process and wants to avoid conflicts of interest, actual, potential, or perceived. ECS developed the *Conflict of Interest Guidelines* that replaces the *Transportation Policies and Procedures MGT 02-3 Consultant Participation in ADOT Contracts*. Refer to [Exhibit 3](#) (*Conflict of Interest Guidelines*) for a copy of the guidelines. If an actual, potential, or perceived conflict of interest is identified for the PM or the RE, the ADMP Division Director will determine the resolution of the conflict of interest under the applicable conflict of interest policy for a determination as to whether, and to what extent, that individual may participate in the procurement process. If participation is approved, the ADMP Division Director will also determine whether conditions or measures shall be imposed as mitigation to ensure a fair procurement process. For any actual, potential, or perceived conflicts of interest identified for other team members, the PM will make those determinations.

## 2.08 Procurement Methodology

The process for securing DB services must be clear, efficient, fair, and applied uniformly. The purpose is to: 1) receive the best value using this procurement method; and 2) build a project that meets the quality, schedule, budget expectations, and other project goals and objectives of ADOT. Under ARS § 28-7365, a TWO-PHASE selection process must be used. The first phase involves requesting SOQs from all interested Proposers and evaluating and developing a shortlist. Proposers from the responsive SOQs and those Proposers that are determined to be responsible are eligible to be short-listed. Only the short-listed Proposers will be able to participate in the second phase of the procurement process. The second phase involves requesting Proposals (Technical Proposal and Price Proposal) from the short-listed Proposers, and selecting a Design-Builder based on evaluation of each Technical Proposal and Price Proposal and utilization of an adjusted score methodology. If one or more of the firms on the shortlist drop out so that only two firms remain on the shortlist, the Selection Team may proceed with the selection process with the remaining firms, if at least two firms remain, or ADOT may readvertise as ADOT deems necessary. The RFQ and RFP Phases are further described in [Sections 3](#) and [4](#), respectively.

## 2.09 Procurement Document Templates

Procurement Documents will be assembled by the GEC, reviewed by the Core Procurement Team, published by the C&S Group and be made available to the public on the C&S Group website. The following documents are the starting point when developing the Procurement Documents:

- (A) *ADOT DB-RFQ-Template* (under development);
- (B) *ADOT DB-SOQ Evaluation Manual-Template* (under development);
- (C) *ADOT DB-ITP-Template* (under development);
- (D) *ADOT DB-Contract-Template*;
- (E) *ADOT DB-TP-Template*;
- (F) *ADOT DB-TPA Template*;
- (G) *ADOT DB-RID Index-Template*; and
- (H) *ADOT DB-Proposal Evaluation Manual-Template* (under development).

The templates were developed for federally funded projects and must be modified as appropriate for non-federally funded projects. When using the templates, the user should not delete sections and instead delete the content of the section and revise the heading to say, "Intentionally Left Blank." The reason for this is that other documents, such as *Subcontractor Request Forms* (SRFs), may include specific section references to these documents. Additional details regarding the development of the Procurement Documents are described in [Sections 3](#) and [4](#).

## 2.10 Program Schedule

The GEC should develop a program schedule for the project that include all major activities, including but not limited to the following as applicable:

- (A) Major milestones;
- (B) Federal Highway Administration (FHWA) coordination and required approval process;
- (C) Environmental:
  - (1) Environmental clearance process;
  - (2) Pre-Contract award environmental process (e.g., biological resources, cultural resources);
  - (3) Permitting;

- (D) Schematic Design;
- (E) ROW acquisition process per parcel;
- (F) Utilities:
  - (1) Utility agreement process;
  - (2) Utility investigation process;
- (G) Geotechnical investigation process;
- (H) Joint Project Agreements (JPA) and Intergovernmental Agreements (IGA) process;
- (I) Authorization documents approval process;
- (J) Detailed procurement process; and
- (K) High-level D&C schedule, which will be used in the Instructions to Proposers (ITP) to specify the maximum time allowable for D&C.

The PM should determine the level of detail that should be in the program schedule and what assumptions should be made.

## 2.11 Public Records Requests

A DB project includes numerous documents that are developed by ADOT or that ADOT has received from another party. For the purposes of this [Section 2.11](#), “documents” means all written and electronic correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, other graphic and visual aids, and other documentary materials related to the DB project. It is recommended that a document disposition matrix be developed per DB project that distinguishes which documents are to be destroyed, archived, etc. A sample document disposition matrix that focuses on the documents related to the procurement process is provided in [Exhibit 10](#) (*Sample Document Disposition Matrix*).

All documents are subject to the Arizona Public Records Law and other associated laws. A public records request may be submitted at any time during the development of the DB project, procurement process, D&C Period, or after Final Acceptance. However, if a public records request is submitted during an active procurement, ADOT is not obligated to provide information that could impact the outcome of the procurement. ADOT would be required to provide such requested information after the procurement is complete. It is imperative that from the early stages of the DB project development, through procurement, during the D&C Period, and after Final Acceptance, all documents are properly named and filed in an organized manner, and ultimately archived on ADOT’s Google Drive to allow for easy retrieval.

## End Section

## 3 RFQ PHASE

### 3.01 General

This Section 3 provides the reader guidance on the RFQ procurement process. The intent is not to give specific wording requirements or even dictate how the document should be organized and formatted. Rather, the purpose is to address elements that should be included in any RFQ.

The PM or the ADOT POC should establish the project e-mail address by submitting a request to the Information Technology Group (ITG) prior to advertising the project. The ADOT POC will be the primary person who uses the e-mail address and should make the Deputy Project Manager/PM their backup. The typical naming nomenclature for the project e-mail address is [TRACS]\_[Delivery Method]\_[Route]. For example, [F0721\\_db\\_I-10@azdot.gov](mailto:F0721_db_I-10@azdot.gov) was the email address used on the I-10 Gila River Indian Community Project.

After advertisement, the project e-mail address is the sole medium for conversing with Proposers regarding the project. When communicating with all Proposers, the ADOT POC should send the e-mail from the project e-mail address and blind carbon copy (BCC) the Proposers and the Core Procurement Team.

### 3.02 Pre-submittal Conference or Industry Forum

A pre-submittal conference or industry forum may be held for all firms and individuals to discuss the scope of the project, to introduce ADOT's DB management team, to clarify the DB selection process, to inform attendees about the availability of supplemental technical information for the project [such as DCRs, Environmental Assessment (EA) studies, etc.], and to answer any questions. This meeting should take place approximately 30 Days in advance of the advertisement.

### 3.03 RFQ Development

#### (A) General

ARS § 28-7365(C) requires that the RFQ shall include all of the following:

- (1) The minimum qualifications of the Design-Builder.
- (2) A scope of work statement and schedule.
- (3) Documents defining the project requirements.
- (4) The selection criteria for compiling a shortlist and the number of firms to be included on the shortlist. At least three but not more than five firms shall be included on the shortlist.
- (5) A description of the phase two requirements and subsequent management needed to bring the project to completion.
- (6) The maximum time allowable for D&C.
- (7) ADOT's estimated cost of D&C. The estimated cost of the project must not include the cost to procure any ROW or other cost of condemnation.

The GEC shall prepare the RFQ, the associated SOQ Evaluation Manual, and SOQ Evaluation Training Workshop Presentation using ADOT's templates as a base (See Section 2.09). The RFQ should focus on the qualifications of the Proposers and their Key Personnel and must not require the Proposer to perform any technical evaluation, detailed scheduling of project specifics, or any pricing of the project.

#### (B) Procurement Schedule

The RFQ must include the procurement schedule, including a high-level RFP phase. This schedule summarizes not only the deadlines for Proposers to submit questions and the SOQs, but establishes the anticipated schedule for

short-listing firms, release of draft and final RFP, Addenda, Proposal Due Date, and awarding the Contract. All key milestones in the selection process should be listed in the schedule. A schedule helps the Proposers plan their work and requires ADOT to commit to deadlines that will ensure efficiency and fairness in the selection process.

#### **(C) Key Personnel**

Section 110.03(B) (*Key Personnel*) of the *ADOT DB-TP-Template* includes a list of Key Personnel that should be included on all DB projects. Additional Key Personnel may be included in the RFQ/RFP based on the project details. When identifying the Key Personnel and their associated requirements, the PM should discuss such information with the technical leaders and managers, and the GEC SMEs to make sure the Core Procurement Team understands that the years' experience listed are preferences and not requirements. In addition, the requirements list of each Key Personnel in the RFQ should not change during the RFP Phase because the short-listed Proposers proposed those Key Personnel in their SOQs based on those requirements and ADOT determined the shortlist based in part on those proposed Key Personnel.

#### **(D) SOQ Page Limitation**

The maximum number of pages in the SOQ will be determined by the PM and should be kept to the minimum required to evaluate Proposers' qualifications. Page and sheet limitations should be listed in the RFQ.

#### **(E) SOQ Content**

The PM will also provide guidelines to the GEC as to the general content, evaluation criteria, and scoring requirements for the SOQ. The RFQ should describe the content of the SOQs that ADOT is requesting from Proposers in order to evaluate the qualifications of the Proposers. The RFQ should not request information from Proposers that will not be evaluated. The SOQ submittal is not intended to be a detailed submittal on how each firm will design and build the project. Rather, the SOQ submittal is intended to find out how each Proposer will approach both designing and constructing the project. It describes the processes and qualifications of the resources that each firm will use to tackle the project. The SOQ is also used to evaluate the Proposer's understanding of the project's scope and their grasp of the issues involved. Also, the SOQ shall demonstrate each Proposer's experience and resource capabilities of delivering the proposed successful project. ADOT is interested in getting the best talent and most qualified firms capable of doing the job, and then evaluating their ideas closer during the RFP Phase.

The SOQ should include the following main technical sections:

- (1) *Experience and Past Performance;*
- (2) *Proposer Organization;*
- (3) *Key Personnel;*
- (4) *Project Understanding and Management Approach;*
- (5) *Quality Management; and*
- (6) *Safety Information.*

Each Proposer should be using the SOQ as a way of introducing their team and people to ADOT.

#### **(F) Evaluation Criteria**

The RFQ should include the evaluation criteria listed in relative order of importance for each criterion. As it pertains to both establishing the evaluation criteria for the SOQ and evaluating the SOQ, ADOT should look at:

- (1) How well the Proposer understands the project and the issues;
- (2) The individual team members and their team experience;



- (3) Each Proposer's resources and ability to handle a project of this complexity and size;
- (4) The business practices of the Proposer; and
- (5) Their quality process and safety procedures.

#### **(G) RFQ Advertisement Process**

After the RFQ has been reviewed and approved by the Core Procurement Team, the GEC will package the RFQ with all necessary attachments and submit it to the C&S Group. The RFQ will be advertised on the *Current Alternative Delivery Projects* section of the ADOT C&S Group website. The GEC should be aware of the upload capacity limitation of 256MB of the C&S Group website and compress/zip files and folders, as necessary.

The Core Procurement Team should allow at least 28 days, excluding holidays for the project to be advertised on the C&S Group website. The C&S Group will take the RFQ and post it on the C&S website and setup the project in ADOT's FAST system. The steps to advertise DB projects are similar to DBB projects with the following exceptions:

- (1) In FAST, create four bid items, two for Construction Services and two for Professional Services; each set of two must have one with an open parenthesis that says "Supplement Agreements," and all four bid items must have a unit in dollars;
- (2) Enter at least \$1 in each of the bid items as part of the Engineers Estimate;
- (3) Ensure the Alternative Delivery radio button is selected on the Estimate screen of FAST;
- (4) Set the "Bid Opening" date for the expected Contract Execution or Project Award date, as DB procurement is not finished until after the Proposals are evaluated.

### **3.04 RFQ Issuance Period**

#### **(A) General**

During the RFQ issuance period, the RFQ, the responses to questions, comments, and clarification requests described in Section 3.04(B), and any Addenda as described in Section 3.04(C) are issued on the C&S Group website.

#### **(B) Questions and Responses**

ADOT will consider questions, comments, and clarification requests regarding the RFQ from the Proposers. All questions to ADOT must be in writing on the form provided in the RFQ and should be sent to the ADOT POC. See Exhibit 5-1 (RFQ Comment Form) for the standard *RFQ Comment Form* that must be included in the RFQ. The ADOT POC will, in turn, forward the questions to the Core Procurement Team to formulate mutually agreed-upon responses. ADOT will respond only to those questions, comments, and clarification requests that ADOT deems to be material and that are not adequately addressed in previously provided documents. ADOT will state the questions, comments, and clarification requests along with its responses. The GEC should phrase definitive responses as well as whether a change to the RFQ will be needed and specify which Addenda (if any) the change will appear for the Core Procurement Team's review. The responses should be short and must answer the question, but expanding on the response is recommended to provide clarity. ADOT may rephrase questions, comments, or clarification requests as it deems appropriate, and may consolidate questions, comments, or clarification requests concerning the same or similar subject. The goal of this process is to ensure fairness to and maintain a level playing field for all Proposers. Questions, comments, and clarification requests during the RFQ Phase typically are regarding the project at a high level, the procurement process, and SOQ submittal requirements.

#### **(C) Addenda**

ADOT may issue Addenda during the RFQ Phase at any time prior to the SOQ Due Date; however, it is recommended to allow Proposers a minimum of three weeks to prepare and submit SOQs after issuance of the last Addenda. When issuing Addenda, the Addenda should include a cover letter, a PDF "redline" version of the RFQ that shows the

changes from the previous version using track changes (formatting changes can be turned off from the view before making the PDF), and a PDF of the RFQ with all track changes accepted.

### **3.05 SOQ Evaluation Manual Development and Training**

#### **(A) Evaluation Organization**

The PM will establish an Evaluation Committee, with the approval of the ADMP Division Director, to review/evaluate SOQs, and that will short-list Proposers. The Evaluation Committee is comprised of:

- (1) Selection Official;
- (2) Selection Team;
  - (a) Technical Evaluation and Recommendations Committee (TERC);
- (3) Procurement Advisory Group (PAG);
  - (a) Technical Procurement Advisory Group (TPAG);
- (4) Procurement Facilitator;
- (5) ADOT POC; and
- (6) Observers.

Specific requirements and recommendations regarding each subgroup of the Evaluation Committee are described below.

##### **(1) Selection Official**

The Selection Official is the individual in the Evaluation Committee who:

- (a) Has final say on all evaluation process matters;
- (b) Establishes the relative weighting of the adjectival ratings;
- (c) Makes the final determination with respect to responsiveness of a SOQ, performance against the criteria for pass/fail of non-scored categories of the SOQ; and
- (d) Makes the final determination with respect to the SOQ rankings and of the Shortlist and submits to the ADMP Division Director for concurrence.

The ADMP Division Director or designee will be the Selection Official.

##### **(2) Selection Team**

The PM shall propose a list of the Selection Team members who will evaluate the SOQs against the evaluation criteria with the assistance of the PAG, and that will furnish to the Selection Official recommendations with respect to the SOQs' performance against the responsiveness requirements (e.g., the submittal requirements regarding the contents and format of the SOQs), pass-fail criteria, and qualitative evaluation criteria and submit the list to the Selection Official for approval. The ADMP Division Director must approve the Selection Team prior to the SOQ Evaluation Training Workshop.

The Selection Team must include at least five people, with at least one-half of them being engineers. An architect may be substituted for an engineer should it be deemed necessary by the ADMP Division Director due to project criteria. Both disciplines (engineers and architects) are required to be registered pursuant to ARS § 32-121. The Selection Team members may be either ADOT employees, city, county, or tribal government employees, or outside consultants. The Selection Team must also include at least one person who is a senior management employee of a

licensed contractor who is not involved in the project. The PM should contact the Assistant State Engineer for Construction for guidance regarding contractor selection. The PM may reach out to the President of AZAGC to obtain a list of interested candidates.

ADOT recognizes the advantages of maintaining continuity of Selection Team members; therefore, efforts will be made to retain Selection Team members throughout the entire evaluation and selection process (RFQ and RFP).

The PM should be included on the Selection Team as well as any other key project member, such as the RE. As a matter of policy, the Selection Team (other than the licensed contractor and the consultant, if participating) should be ADOT employees or other public officials.

### **(3) Procurement Advisory Group**

The PM will assign a group of individuals that is comprised of staff from ADOT and the GEC with technical expertise to serve in an advisory capacity, and such group will not make recommendations with respect to the SOQ's performance against the evaluation criteria, rating/scoring, or shortlist determination. The GEC members of this group should perform responsiveness reviews, responsibility reviews, reference checks, and be SMEs to provide the Selection Team with technical expertise.

### **(4) Procurement Facilitator**

The Selection Official will assign a Procurement Facilitator to serve as a point of contact, advising the Evaluation Committee in the SOQ evaluation process with respect to any procedural or administrative issues that arise during the SOQ evaluation process. The Procurement Facilitator will assist with drafting any correspondence to Proposers as part of the SOQ evaluation process. The Procurement Facilitator will also facilitate the consensus meeting with the Selection Team. The Procurement Facilitator should be an ADOT employee.

### **(5) ADOT Point of Contact**

The PM will assign an ADOT POC, typically a Procurement Manager from the C&S Group or ADMP, for the procurement process to be the sole point of contact for communications between ADOT and Proposers. All correspondence from ADOT to Proposers will be transmitted by, and in the name of, the ADOT POC. All correspondence from Proposers to ADOT will be transmitted to the ADOT POC, who will be responsible for distributing the correspondence to the appropriate project team members (typically the Core Procurement Team). The ADOT POC shall not respond to any other person or entity that contacts ADOT regarding the procurement. The ADOT POC should remind any entity or person attempting to communicate with ADOT of the requirements specified in the RFQ.

### **(6) Observers**

The PM may allow stakeholders and FHWA to participate in the SOQ evaluation process as ex-officio, non-voting observers.

## **(B) SOQ Evaluation Manual**

The GEC will have the primary responsibility to develop the SOQ Evaluation Manual using the *ADOT DB-SOQ Evaluation Manual-Template* as a base (See [Section 2.09](#)). The SOQ Evaluation Manual establishes the process for evaluating SOQs received from the Proposer and is intended to create a confidential, fair, consistent, and uniform basis and approach for the evaluation of SOQs and to generate a shortlist of potential Proposers. The SOQ evaluation process is also intended to ensure SOQs are evaluated in accordance with the criteria set forth in the RFQ, and to facilitate ADOT's selection of short-listed Proposers so that the project procurement can proceed on schedule. The SOQ Evaluation Manual must be completed prior to the SOQ Evaluation Training Workshop.

### (C) SOQ Evaluation Training Workshop

Prior to the SOQ Due Date (preferably not earlier than a week prior to the SOQ Due Date), the PM (with the assistance of the GEC) will schedule an SOQ Evaluation Training Workshop. At the workshop, the Selection Official or the PM shall present the project to the Evaluation Committee and explain the important issues and project goals. The Selection Official or the PM should also emphasize what the Evaluation Committee should look for in reviewing the SOQs. If any of the evaluation criteria in the RFQ require more explanation, the PM can arrange to have an appropriate technical group representative educate the Evaluation Committee about the particular evaluation criteria.

Prior to evaluating/reviewing SOQs, the Evaluation Committee shall sign the applicable *Confidentiality and Non-Disclosure Agreement* included in Exhibit 4. If an actual, potential, or perceived conflicts of interest is identified, the Procurement Facilitator, in consultation with the PM, will raise the issue with the Selection Official. The Selection Official will determine the resolution of conflicts of interest under the applicable conflict of interest policy for a determination as to whether, and to what extent, that individual may participate in the SOQ evaluation process, and, if participation is approved, what measures shall be imposed as mitigation to ensure a fair evaluation. In addition, the Evaluation Committee must have a copy of and review the SOQ Evaluation Manual, the RFQ, including any addenda. The Evaluation Committee must be familiar with such documents prior to evaluating/reviewing SOQs.

## 3.06 SOQ Evaluation Process

### (A) Prequalification Requirements

In order to submit an SOQ, interested firms must have prequalification with ADOT for the project. Each entity with a direct equity interest (except for professional services equity members) in the Proposer (whether as a member, partner, joint venture member, or otherwise) and the Lead Contractor must be prequalified as a contractor with ADOT. A member's share of a consortium may not exceed its prequalification limit. Proposers that are not prequalified shall submit the prequalification application a minimum of 15 Days prior to the submittal of an SOQ. Firms proposing as a joint venture shall submit their joint venture application a minimum of 20 Days prior to the SOQ Due Date to the C&S Group. The ADOT POC will check the prequalification status concurrent with the packaging and delivery responsiveness evaluation/review.

If such entities are not prequalified, then the Procurement Facilitator will notify the Selection Official of the finding and the Selection Official may, in their discretion, direct the Procurement Facilitator to prepare a notification to the Proposer requesting additional or clarifying information from the Proposer prior to final determination of a Proposer's responsiveness and responsibility status.

### (B) Packaging and Delivery Responsiveness Evaluation/Review

Upon receipt of SOQs by the ADOT POC, the ADOT POC must forward the SOQs to the TPAG chair or designee for logging and loading into the Project Management Information System (PMIS) to make ready for evaluation/review. The first step for the Evaluation Committee is to review the responsiveness of each SOQ against the packaging and delivery requirements established in the RFQ. The ADMP, with assistance from the GEC, will lead the effort of evaluating and certifying that the SOQs meet the packaging and delivery requirements. Each SOQ that is found to be responsive in regards the packaging and delivery requirements will continue with the next step of the evaluation process. Proposers shall be notified by the ADOT POC if the SOQ has been rejected.

### (C) Responsiveness and Responsibility Evaluation/Review

Upon notification that SOQs are ready for evaluation and review after the packaging and delivery responsiveness evaluation/review and the prequalification status check, the C&S Group with assistance from the TPAG, will review each SOQ for responsiveness to the submittal requirements and against the criteria for pass/fail of non-scored criteria categories set forth in the RFQ. Upon completing their initial responsiveness and responsibility reviews, the TPAG may draft clarification request letters to each Proposer requesting any items or additional information the TPAG requires to finalize their review. Each letter will list the item or information requested, and will establish a

1 timeline (e.g., two days) by which the Proposers must provide the item or information requested. Upon completion  
2 of their review, the TPAG will submit a summary of findings regarding their responsiveness and responsibility review  
3 to the C&S Group. The C&S Group will make the final responsiveness and responsibility determination and submit a  
4 memorandum to the Selection Official to file.

#### 5 **(D) Qualitative Evaluation/Review**

6 Those SOQs that are deemed responsive and those Proposers deemed responsible will be evaluated qualitatively.  
7 The TPAG will perform all reference checks, summarize their findings, and submit/present them to the TERC. The  
8 TERC will use the summary of findings when performing its qualitative evaluation of each SOQ. Upon completing  
9 their initial evaluations/reviews of the Proposers' technical qualifications, the TERC and TPAG may meet separately  
10 with the Procurement Facilitator to draft clarification request letters for each Proposer requesting any items or  
11 additional information required to finalize their qualitative evaluations/reviews. Thereafter, the Procurement  
12 Facilitator will consolidate the TERC's and TPAG's questions into a single letter for each Proposer, which letter will  
13 list the item or information requested, and will establish a timeline (e.g., two days) by which the Proposers must  
14 provide the item or information requested. After the TERC has completed its qualitative evaluation of each SOQ, the  
15 TERC will then meet with the TPAG to discuss the strengths and weaknesses of each Proposer against the evaluation  
16 criteria. The Procurement Facilitator will facilitate the consensus meeting where the TERC will discuss the strengths  
17 and weaknesses outlined by the TPAG as well as their own comments, findings and recommendations for each  
18 evaluation criterion and arrive at a team consensus for both comments and the adjectival rating. The Procurement  
19 Facilitator will then open the sealed envelope that contains the relative weighting of each adjectival rating and  
20 calculate the final SOQ and rankings.

#### 21 **(E) Shortlist Determination**

22 The TERC will submit the final ranking and scores to the Selection Official. Once reviewed and approved by the  
23 Selection Official, the notification letters that includes the names of the short-listed Proposers should be sent out to  
24 each Proposer who submitted an SOQ by the ADOT POC. The ADOT POC must also post the results on the C&S Group  
25 website. The posted results must include the address for each of the Proposer teams.

26 The shortlist shall contain three, but no more than five Proposers. However, if a smaller number of firms responds  
27 to the RFQ, the Selection Team may proceed with the selection process with the remaining firms if at least two firms  
28 remain, or ADOT may readvertise as ADOT deems necessary.

#### 29 **End Section**

## **4 RFP PHASE**

### **4.01 General**

This Section 4 provides the reader guidance on the RFP procurement process. The intent is not to give specific wording requirements or even dictate how the document should be organized and formatted. Rather, the purpose is to address elements that should be included in any RFP.

During the RFP Phase, including both the Industry Review Period as described in Section 4.03 and the RFP issuance period described in Section 4.04, the issuance of documents by ADOT to short-listed Proposers and the receipt of documents from short-listed Proposers should be through a project-specific PMIS that is supplied through the GEC's contract with ADOT. It is recommended that the PMIS used during the procurement process be the same as that used during the contract administration of the Contract. The GEC typically manages the PMIS with a specific folder structure for the various phases of the RFP Phase, and each folder will have restrictions on access. It is important to closely manage the permission access to these folders, which will be used to transfer confidential information between ADOT and Proposers.

### **4.02 Draft RFP Development**

#### **(A) General**

ARS § 28-7365(E) requires the RFP to include the following:

- (1) The scope of work, including programmatic, performance and technical requirements, conceptual design, specifications, and functional and operational elements for the delivery of the completed project, which shall all be prepared by an architect or engineer, as appropriate, who is registered pursuant to ARS § 32-121.
- (2) A description of the ideal qualifications required of the Design-Builder and its Key Personnel, and the selection criteria, including the weight or relative order, or both, of each criterion.
- (3) Form of the Contract that the selected Proposer will be expected to sign.
- (4) The maximum time allowable for D&C. The PM may also include the minimum time allowable.
- (5) ADOT's estimated cost of D&C.
- (6) The requirement that a Proposal be segmented into two parts: a Technical Proposal and a Price Proposal. Each Proposal shall be in a separately sealed, clearly identified package and shall include the date and time of the submittal deadline.
  - (a) The Technical Proposal shall include a schedule, schematic design plans and specifications, technical reports, calculations, permit requirements, applicable development requirements, and other data requested in the RFP.
  - (b) The Price Proposal shall contain all design, construction engineering, inspection, development, and construction costs for work proposed in the RFP, in the format as required by the RFP.
- (7) The date, time, and location of the public opening of the sealed Price Proposals.
- (8) Other information relevant to the project.

## **(B) RFP Documents**

The RFP consists of the following documents:

- (1) ITP;
- (2) Contract Documents:
  - (a) Contract, including exhibits;
  - (b) Technical Provisions, including Technical Provisions Attachments (TPAs); and
- (3) RIDs.

The GEC shall prepare the RFP documents, the associated Proposal Evaluation Manual, and the Proposal Evaluation Training Workshop Presentation using ADOT's templates as a base (See [Section 2.09](#)). The GEC should develop the RFP documents and check for compliance with current federal requirements, if applicable. Each of the RFP documents is described in the sections below.

### **(1) Instructions to Proposers**

#### **(a) General**

The ITP is the document that establishes the procurement process and rules during the RFP Phase of the project. In addition, the ITP includes submittal requirements during the RFP Phase of the project. The PM will provide guidelines to the GEC as to the general content, evaluation criteria, and scoring requirements for the Proposal. The GEC will have the primary responsibility to develop the ITP using the *ADOT DB-ITP-Template* as a base (See [Section 2.09](#)). The GEC should tailor each draft Proposal submittal requirement and scoring criteria to reflect the specific needs of each project. The GEC should establish the draft required contents of each Proposal on a section-by-section basis, determine the draft evaluation criteria to be used (how each section of the Proposal will be evaluated and in order of importance), and then decide on the draft scoring breakdown for the Proposal (the points assigned to each section). Points for specific categories may vary from project to project due to the specific characteristics of each project. The GEC's recommendations should be reviewed and approved by the Core Procurement Team before incorporation into the ITP.

The ITP should include the following:

- (i) *Section 1 General Information* – This section includes general information about the procurement process, including the procurement schedule. The procurement schedule should include a DBE and small business networking/bid outreach workshop event related to the project, coordinated and scheduled by ADOT's BECO.
- (ii) *Section 2 Project Information* – This section includes general project information and certain high-level requirements that are further detailed in the Contract.
- (iii) *Section 3 Communication* – This section includes the process and rules for communication, meetings, confidentiality, and disclosure during the procurement. Such rules include meetings during the procurement process between Proposers and stakeholders and whether ADOT must be aware of and/or invited to such meetings.
- (iv) *Section 4 Proposer Organization* – This section includes requirements for the Proposer's organization, including change in organization and Key Personnel.

- (v) *Section 5 Alternative Technical Concepts* – This section includes the requirements and process for review and inclusion of ATCs, as further described in Section 4.04(B).
- (vi) *Section 6 Proposal General Provisions* – This section includes requirements for the validity of Proposals and Proposal security.
- (vii) *Section 7 Pre-Proposal and Proposal Submittal Requirements* – This section includes requirements for pre-Proposal and Proposal submittals, such as packaging requirements and formatting requirements.
- (viii) *Section 8 Technical Proposal Content* – This section includes the requirements for the content of the Technical Proposal (See Section 4.02(B)(1)(f)).
- (ix) *Section 9 Price Proposal Content* – This section includes the requirements for the content of the Price Proposal (See Section 4.02(B)(1)(g)).
- (x) *Section 10 Evaluation Process* – This section includes the process for evaluating the Technical Proposal and the Price Proposal.
- (xi) *Section 11 Post-Evaluation Process and Requirements* – This section includes requirements of post-selection deliverables, such as Detailed Pricing Documents (DPDs).
- (xii) *Section 12 Contract Execution* – This section includes the requirements for executing the Contract.
- (xiii) *Section 13 Non-Selected Proposer Process* – This section includes the process for the return of Proposal security, conducting debriefings, and issuing stipends (See Section 4.02(B)(1)(d)).
- (xiv) *Section 14 Protest Procedures* – This section includes the process for protests.
- (xv) *Section 15 ADOT's Rights and Disclaimers* – This section includes ADOT's rights and disclaimers during the procurement process.
- (xvi) *Exhibits and forms.* The ITP exhibits and forms must include all forms that Proposers must complete and submit as part of their Proposal, including *Pricing Forms*, any other federal-aid contract forms, a surety bond, the receipt of addenda certificate, and the non-collusion affidavit.

The GEC should check with the C&S Group if new statutes or new requirements may require new forms in the ITP that the Proposers must complete and submit with their Proposals. C&S Group will be able to provide any new forms that ADOT has implemented in their standard procurement process for reference or implementation, as appropriate.

Once the procurement process is complete and the project is awarded, the ITP is no longer used and does not become a part of the Contract Documents.

#### **(b) DBE Goals for Professional Services and Construction Services**

The ITP establishes the criteria and percentages for DBE goals that Proposers are required to meet through their *DBE Utilization Plans*. In order to establish these project-specific DBE goals for the project, the C&S Group must submit a request through ADOT's DBE Goal Setting System. The PM, with assistance from the GEC, should help the C&S Group in filling out the dollar values assigned to the respective criteria. For DB projects, two requests must be submitted: one for Professional Services and one for Construction. It typically takes the BECO office 10 days to establish a goal.



### (c) Change in Organization and Key Personnel

ADOT aims to ensure that Proposers are able to develop and attract the greatest range and depth of expertise as may be necessary to participate in the procurement to optimally design and construct the project in an innovative, effective, and efficient manner. Unless otherwise approved in writing by ADOT, in order for a Proposer to remain qualified to submit a Proposal after they have been included on the Shortlist, Proposer's organization, including Equity Members, Major Non-Equity Members, Subcontractors, and Key Personnel identified in the SOQs, must remain intact for the duration of the procurement process through Contract execution and thereafter in accordance with the Contract Documents.

ADOT will permit Proposers to add team members and reorganize the Proposer organization or to change Key Personnel throughout the procurement process until submittal of the Proposals as described in the ITP, except in the event of potential organizational conflicts of interest and/or deficiencies in qualifications and experience for the proposed role. The ITP must describe the content of the request and process for requesting a change in organization or Key Personnel, including the reasons why the original party is no longer available and why the qualifications of the replacement are equal to or better than the original team member. A Proposal containing team member changes could be declared nonresponsive by ADOT if the changes are not approved by ADOT by the deadline specified in the ITP. ADOT will document the reasons why the approved changes would not have affected the shortlist determination.

### (d) Stipulated Fee (Stipend)

ADOT is required to pay a stipulated fee (or stipend) equal to 0.4% of ADOT's estimated cost of D&C to each short-listed responsible Proposer that has submitted a responsive, but unsuccessful Proposal. The selected Proposer (Design-Builder) is not eligible to receive the stipend. If ADOT does not award the Contract, all responsive short-listed Proposers are eligible to receive the stipend. If ADOT cancels the Contract before reviewing the Technical Proposals, each short-listed Proposer is eligible to receive the stipend.

The ITP must indicate the stipend amount, describe the stipend process, and include a *Stipend Agreement*. ADOT does not require any Proposer to accept a stipend payment. The stipend process is generally as follows:

- (i) During the procurement process and prior to the Proposal Due Date (typically sometime after receipt of Preliminary ATCs), Proposers must submit a *Stipend Agreement* to ADOT if the Proposer chooses to accept the stipend;
- (ii) If all conditions are met, ADOT will sign and return the *Stipend Agreement* to the Proposer;
- (iii) After award of the Contract, the unsuccessful Proposers must submit a completed *Form of Invoice of Stipend* that is included with the *Stipend Agreement* by the time specified in the ITP; and
- (iv) ADOT will pay the stipend no later than 90 Days after the award of the Contract or the decision not to award a Contract. The ADMP should lead the process of issuing the stipend payment.

If a Proposer elects to receive the stipend, ADOT may use any Work Product in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful Proposers. Inclusion of any Work Product from an unsuccessful Proposer into the Contract with the successful Proposer is handled through a Supplemental Agreement after Contract execution.

If an unsuccessful Proposer elected to waive the stipend by not submitting an executed *Stipend Agreement*, ADOT may not use any Work Product from such unsuccessful Proposer in the Contract.

**(e) Selection Equation**

ADOT will use an equation to determine an adjusted score that will determine which responsive and responsible Proposer is selected for the project. An adjusted score for each Proposer is calculated by taking the price stated in the Price Proposal *Pricing Forms* and dividing it by the Technical Proposal Score. The responsive and responsible Proposer whose adjusted score is the lowest would be the apparent selected Proposer. The adjusted score is calculated using the following formula:

$$AS = \frac{A}{TPS}$$

Where:

A = Summation of costs of the Pricing Forms

AS = Adjusted Score

TPS = Technical Proposal Score

If a time factor is included with the selection criteria, also known as A+B, ADOT may also adjust the proposed bid using a value of the time factor (daily value) established by ADOT. The value of the time factor shall be a value per day. The adjustment shall be based on the total time value. The total time value is the Proposer's proposed number of Days to complete the project multiplied by the factor. The time-adjusted price is the total time value plus the bid amount. This adjustment shall be used for selection purposes only and shall not affect ADOT's liquidated damages schedule or incentive and disincentive program. The adjusted score shall then be obtained by dividing each Proposer's time-adjusted price by the score given by the Technical Proposal Score. The adjusted score for A+B projects is calculated using the following formula:

$$AS = \frac{(A + B)}{TPS}$$

Where:

A = Summation of costs of the Pricing Forms

AS = Adjusted Score

B = (Design-Builder specified contract time x daily value)

TPS = Technical Proposal Score

The project team will determine the daily value (B component) of the contract time the Design-Builder is proposing to complete the project within. Exhibit 8 provides B component historical data across ADOT's portfolio of DB projects. The project team should consider this information in addition to industry accepted values nationwide when determining the daily value for the project. See Table 4-2 in Section 4.06(C)(2) for an example of the adjusted score calculations for an A+B project.

**(f) Technical Proposal Content**

Only short-listed Proposers may submit Price and Technical Proposals. The objective of the Technical Proposal is to evaluate how each Proposer intends to manage, design, and build the project. The ITP must include Technical Proposal requirements based upon project specifics: length, cost, specific engineering problems, and opportunity for innovation. In all cases the content and number of pages requested should be kept to the minimum required to properly address the scope of work. Specific requirements for the content of the Technical Proposals must be described in the ITP and should include the following:

(i) *Cover Sheet*

(ii) *Technical Proposal Checklist*

- (iii) *Table of Contents*
- (iv) *Confidential Content Index*
- (v) *Volume I – Introductory Content*
  - A. *Executive Summary* (must not include confidential information and must include a duplicate as a stand-alone document)
  - B. *Proposer Information, Certifications, and Documents*
  - C. *Volume I Appendices*
- (vi) *Volume II – Project Delivery Plan*
  - A. *Technical Approach* (describes the Proposer’s approach to technical solutions for both D&C)
  - B. *Project Delivery Approach* (describes the Proposer’s approach to the management of various aspects of the project)
  - C. *Volume II Appendices*
    - 1. *Organization charts*
    - 2. *Preliminary Schedule*
    - 3. *ATCs*
    - 4. *Proposal Design*
    - 5. Other preliminary documents and plans as required for the project (e.g., resumes of Key Personnel and other personnel, *Preliminary DBE Utilization Plan, Preliminary OJT Utilization Plan, etc.*)

**(g) Price Proposal Content**

The ITP must include well-defined Price Proposal content requirements. The Price Proposal generally includes the Proposal Security and the Price Proposal *Pricing Forms* (ITP pricing forms (Form M series)). DB projects are bid lump sum and are paid through a cost-loaded schedule based on all work tasks and any allowances. Therefore, the ITP pricing forms (Form M series) must include the lump sum price and a Contract Price breakdown for each of the major work activities. The Contract Price breakdown must be divided into at least two main categories:

- (i) Professional Services; and
- (ii) Construction.

In addition, the items must be categorized for DBE percentage application, and which items are eligible for fuel cost adjustment. The GEC shall work closely with the RE when developing the *Pricing Forms* to ensure the items correlate with how ADOT will input the Contract Price breakdown in FAST. Only short-listed Proposers may submit Price Proposals and may be submitted at a later date than the Technical Proposals because of the length of time required to review Technical Proposals. The PM must decide on this concept early in the development of the Procurement Documents and must be reflected in the program schedule and in the ITP.

## (h) Technical Proposal Evaluation Criteria

The ITP must include the criteria for evaluating Proposals. The GEC should prepare the project-specific Technical Proposal evaluation criteria based on three main categories: (i) *Technical Approach*; (ii) *Project Delivery Approach*; and (iii) *Quality Management Approach*.

The *Technical Approach* must include subfactors listed in descending order of importance and should include several evaluation criteria for each subcategory. Example subcategories for *Technical Approach* are traffic management, roadway, bridges and structures, and utilities.

The *Project Delivery Approach* must include subfactors listed in descending order of importance and should include several evaluation criteria for each subcategory. Example subcategories for *Project Delivery Approach* are project management approach, schedule and cost control management approach, environmental management approach, safety management approach, and public communications management approach.

The *Quality Management Approach* must include subfactors listed in descending order of importance and should include several evaluation criteria for each subcategory. Example subcategories for *Quality Management Approach* are general quality management approach, Professional Services quality management approach, and construction quality management approach.

The objective of the Technical Proposal is to evaluate how each Proposer intends to design and build the project. Generally, evaluation requirements should include:

- (i) Proposer's approach to achieving the project goals and their approach to key project issues and considerations including how their D&C methods solve the key issues and challenges of the project.
- (ii) Proposed project details such as the type of pavements and types of structures, and the concepts for lighting, traffic signals, striping, drainage, and maintenance of traffic.
- (iii) Proposer's innovative elements of the D&C included in their Proposals, any proposed design exceptions, elimination of any design exceptions shown in the Schematic Design, and constructability of the project.
- (iv) Proposer's approach to interfacing with third parties, including utility companies, government entities, other contractors, etc.
- (v) Proposer's approach to managing various aspects of the project to ensure that the project will be managed on time, within budget, safely, minimizing impacts to the public, and producing a quality project.

## (2) Contract

The DB project contract will be developed using the *ADOT DB-Contract-Template* as a base. The *ADOT DB-Contract-Template* should be modified not only for each Note to Drafter (NTD) specified in the *ADOT DB-Contract-Template*, but more specifically for project-specific information, including risk allocation. The Contract should be the primary document that discusses contractual time and money on the project, such as contractual deadlines, payment, liquidated damages, etc.

### (a) Liquidated Damages

#### (i) Key Personnel

Section 15.01(B) (*Key Personnel*) of the *ADOT DB-Contract-Template* sets forth the language to use when determining Key Personnel liquidated damage assessment amounts. The project team should consider the size, complexity, and risk profile of the project when choosing the liquidated damage assessment amounts and what Key

Personnel positions (if any) are to be added to Table 15-1 (Key Personnel Liquidated Damages) of the *ADOT DB-Contract-Template*. Exhibit 7 provides historical liquidated damage assessment amounts across ADOT's history of DB projects and P3 projects. The project team should consider this information in addition to industry-acceptable values nationwide when determining the Key Personnel liquidated damage assessment amounts.

## **(ii) Failure to Achieve Contractual Deadlines**

Section 15.02 (Failure to Complete the Work on Time) of the *ADOT DB-Contract-Template* describes the process to follow when assessing liquidated damage assessment amounts against the Design-Builder for failing to meet the contractual deadlines. When developing the liquidated damage assessment amounts for failure to achieve a contractual deadline, the project team should consider the additional costs for ADOT, GEC, third party (e.g., FHWA) oversight and the impacts to the traveling public.

## **(b) Traffic Control Sanctions**

Traffic control sanctions are described in Section 15.07 (Liquidated Damages and Sanctions for Lane Closures) of the *ADOT DB-Contract-Template*. The project team must use the prescribed ADOT-approved formula for determining amounts for sanctions. Guidance for when, where, and how to use the formula can be found in the *ADOT LD Procedural Guide* on ADOT's Value Engineering website at:

<https://azdot.gov/business/engineering-and-construction/construction/value-engineering>

## **(3) Technical Provisions**

### **(a) General**

Unlike traditional DBB projects, where a consulting engineer is retained to do the design work and a contractor is separately retained for the construction, a DB project is designed and built by a single entity under contract with ADOT. Furthermore, this entity must give ADOT a hard dollar amount for both D&C. Any change in scope or standards can have a huge ripple effect on the project. The design scope must clearly define both the expected design services and the design requirements. Design services are any tasks that support the design of the facility. These tasks include geotechnical investigations, surveying, permitting, mapping, and digital terrain models (DTMs), utility coordination/relocation, engineering drawings, plans, and construction specifications. The Technical Provisions should clearly define which design services will be performed by ADOT and which will be performed by the Design-Builder.

Design requirements included in the Technical Provisions are the contract standards and regulations that ADOT expects the Design-Builder to apply to the design. The Technical Provisions and TPAs are the portion of the Contract Documents that contains the D&C requirements of the project and is essentially the scope of work.

The GEC should coordinate with the Core Procurement Team to obtain the current D&C policies and standards from the various ADOT technical groups and incorporate these requirements into Technical Provisions. All standards, manuals, and guidelines that must be followed should be referenced in the Technical Provisions. Any studies, such as design concept reports, preliminary assessments, and environmental reports, should also be referenced. The goal should be to have a complete and exhaustive set of design standards, studies, and reports referenced in the Technical Provisions. However, requiring adherence to entire standards, manuals, and guidelines may limit innovation. Therefore, each case should be closely considered before referencing in the Technical Provisions. Even supporting references, such as water quality standards and regulatory statutes, should be cited. Because there are so many laws, regulations, and standards that govern highway design, complete disclosure is extremely important to minimize design oversights or regulatory violations that could halt the project during construction.

The GEC will have the primary responsibility to develop the project-specific Technical Provisions and TPAs using the *ADOT DB-TP-Template* and *ADOT DB-TPA-Template* as a base. The *ADOT DB-TP-Template* was developed based on the *ADOT Standard Specifications for Road and Bridge Construction, 2021*. The numbering system with the "100 series" sections is the "General Provisions," and the remaining sections follow the division and section numbers of the *ADOT Standard Specifications for Road and Bridge Construction, 2021*.

Technical innovation is typically constrained by the prescriptive nature of traditional DBB contracts. ADOT intends to take advantage of the flexibility offered by the DB project delivery method and provide Proposers the opportunity to innovate in D&C of the project to the maximum extent possible. The Technical Provisions should include the design requirements, the design standards, the allowable design exceptions, the design services required, the project performance requirements and constraints related to traffic, utilities, the environment, and ROW, the construction requirements, and the construction management services required. The Technical Provisions may include restrictions as to the type of bridges, pavements, construction components, etc. – keeping in mind unnecessary restrictions limit innovation, which can increase project costs. ADOT’s roles and responsibilities should also be included as appropriate throughout the Technical Provisions. The project requirements must be described completely and in a manner that will be easily interpreted and understood. ADMP, with the assistance of the GEC, will conduct adequate research and investigations to determine the facility requirements and clearly identify ADOT’s needs and goals for the facility.

### **(b) ADOT-Furnished Material**

The Technical Provisions must include a list of all ADOT-furnished material so that Proposers can account for the cost and time for the process to inspect and pick up such materials. ADOT-furnished materials could include any construction materials, equipment, testing devices, etc. The *ADOT DB-TP-Template* includes standard language for the process, but the PM and ADOT technical leaders and managers should provide a list of ADOT-furnished materials, the location for pickup, and the timing of availability for pickup to the GEC to incorporate into the Technical Provisions.

### **(c) Quality Management**

#### **(i) General**

When developing the project-specific quality management Technical Provisions, the PM should involve the Materials Group, the District, Construction Operations, and Roadway Group. The *ADOT DB-TP-Template* includes base language for quality management on a DB project. The GEC can then tailor those Technical Provisions to the needs of the new project.

The Technical Provisions must describe the requirements that must be included in the Design-Builder’s Quality Management Plan (QMP), consisting of:

- A. Volume 1: QMP General Requirements, which describes Design-Builder’s quality policies, procedures, processes, systems, and staffing to manage quality for administration of the project;
- B. Volume 2: Professional Services Quality Management Plan (PSQMP), which describes Design-Builder’s policies, procedures, and staffing to manage quality for Professional Services Work; and
- C. Volume 3: Construction Quality Management Plan (CQMP), which describes Design-Builder’s policies, procedures, and staffing to manage quality for Construction Work.

#### **(ii) Quality Management Responsibilities**

The Design-Builder is responsible for quality management. ADOT will verify quality management is being performed.

The Design-Builder is always responsible for quality control and quality assurance, while ADOT is always responsible for quality verification and final acceptance. In the area of quality conformance inspections and quality acceptance sampling and testing, there is a choice that can be made as to whether these functions are performed by the Design-Builder, ADOT field staff, or an IQF.

As applicable, the Technical Provisions for each of the QMP volumes must include roles and responsibilities for ADOT, Design-Builder, and an IQF (if applicable) regarding quality. An IQF is typically not used for DB projects run under the DB statute. Table 4-1 specifies the typical responsibility of the parties regarding quality.

**Table 4-1: Quality Responsibility Matrix**

Description		Entity		
		ADOT	Design-Builder	IQF
Projects without IQF	Quality Control		X	N/A
	Inspection	X	X	N/A
	Quality Assurance		X	N/A
	Quality Acceptance	X		N/A
	Oversight	X		N/A
Projects with IQF	Quality Control		X	
	Inspection	X	X	
	Quality Assurance		X	
	Quality Acceptance	X		X
	Oversight	X		
	Owner Verification	X		

ADOT will always be responsible for acceptance of the work and can use the results from the Design-Builder's quality conformance inspections and quality acceptance sampling and testing in arriving at an acceptance decision.

Design-Builder should include a Professional Services Quality Manager (PSQM) and a Construction Quality Manager (CQM) on its team to implement and oversee the PSQMP and CQMP, respectively.

#### **(d) Submittal Management**

##### **(i) Software**

The Technical Provisions must include a list of computer programs that are currently in use by ADOT and must require that the Design-Builder use software that is compatible with ADOT's requirements. The PM should provide the GEC with a list of software that is generally used, and the GEC should discuss with the ADOT technical leaders and managers for each discipline if there is specific software that must be used or demonstrate compatibility with ADOT systems.

##### **(ii) Submittal Reviews**

The Technical Provisions must clearly define any submittal (included but not limited to design plans, shop drawings or engineering calculations) that is to be received by ADOT, whether for information, review, and/or approval. Submittals for DB projects will be reviewed by the GEC for verification of compliance with the Contract Documents. The *ADOT DB-TP-Template* includes standard review times; however, the PM and their team should try in the early stages of the project development to obtain an IGA or JPA from other governmental entities and obtain commitments for review times and other information that would minimize unknowns for the project.

The Technical Provisions must also clearly define the final documents required by ADOT from the Design-Builder upon completion of the project, including record drawings, engineering reports, shop drawings, test results, daily reports, warranties, instruction manuals, and quantity summaries.

#### **(e) Community Relations and Public Involvement**

Public involvement is an important aspect of the project development process. It includes communicating with all interested persons, groups and government organizations regarding the development of the project. Therefore, it is imperative that the PM clearly define in the Technical Provisions the level of coordination and involvement required of the Design-Builder for a particular project. The trend on ADOT DB projects is to have the Design-Builder handle the more routine public involvement and community relations functions of the project. The PM and the Communications and Public Involvement (Communications) Group lead the higher-profile functions, such as public meetings and media contacts.

Since each DB project will have its own specific needs with respect to public involvement, the responsibilities of the GEC, PM, RE, Design-Builder, District, and the Communications Group will vary from project to project. However, what should not change is ADOT's lead in this area. Some of the public involvement duties, like maintaining a project hotline, presenting a design at a public meeting, or meeting with a neighbor, can be delegated to the Design-Builder.

#### **(f) Environmental**

In most cases, ADOT will prepare all environmental documents normally prepared during the design and development stages for the project. In certain circumstances, ADOT may have the selected Proposer assist with National Environmental Policy Act (NEPA) approvals. Any special environmental considerations to be addressed by the Design-Builder must also be included in the Technical Provisions. The Technical Provisions must include all permits that ADOT is responsible for obtaining, or responsible to maintain compliance with the provisions of approved permits.

ADOT may also obtain all the necessary environmental permits, such as permits under Section 404 or 401 of the Clean Water Act and clearance letters. Any special environmental remediation work that needs to be performed during construction as part of these permits should be specified in the Technical Provisions for the Design-Builder to perform. Some of these permits may be Design-Builder's responsibility to prepare and obtain approval; however, they may be required to be submitted and issued in ADOT's name. The Technical Provisions should include a list of such permits.

The Design-Builder is still responsible for obtaining all other permits, including the environmental permits such as dust control and hauling permits, as well as the National Pollution Discharge Elimination System's Notice of Intent (NOI) and Notice of Termination (NOT).

#### **(g) Right-of-Way**

As discussed in Section 2.01(B), it is highly desirable to have all needed ROW and Temporary Construction Easements (TCEs) acquired before the project is awarded for DB projects. ROW acquisition can take many months when condemnations and demolition are involved. TCEs can also be difficult to obtain, especially if the property owner is unfamiliar with the process or involves an attorney.

The Technical Provisions must indicate the limits of the ROW acquisitions or easements obtained or being obtained so that the Design-Builder can plan its operations accordingly. In addition, the GEC should develop TPA 118-1 (Acquisition and Relocation Status Report) using the *ADOT DB-TPA-Template* as a base, which specifies each parcel that ADOT is acquiring, the date by which a right of entry in favor of ADOT is anticipated to occur, and when the parcel will be available for Design-Builder's use. This TPA must be updated throughout the procurement process to allow the Proposers to plan and develop a Preliminary Schedule as part of their Proposal. The PM should verify that there is language in the Technical Provisions warning the Proposer of the time frames, processes and potential consequences if additional ROW and TCEs are required by the Design-Builder. The Design-Builder cannot make private deals for ROW acquisitions for parcels that ADOT is acquiring for the project. ADOT's ROW section must



perform all ROW acquisitions. However, the Design-Builder can deal with private property owners for setting up yards and gaining access for construction. ADOT must approve these activities, and any arrangements with private property owners must be in writing and submitted to ADOT. These requirements should also be included in the Technical Provisions.

The Technical Provisions must also include a section that specifies the responsibility for demolition and disposal or salvage of existing features or systems.

#### **(h) Utilities**

ADOT will conduct a Subsurface Utility Engineering (SUE) quality level B investigation and include the associated reports in the RIDs to prepare the project scope and to manage ADOT's utility risk. Proposers may rely on the information provided in the SUE report to design utility adjustments. ADOT will also make preliminary prior rights determination and include them in TPA 119-1 (*Prior Rights Document Index*) using the *ADOT DB-TPA-Template* as a base.

The Design-Builder, in consultation with utility companies, shall determine utility conflicts and arrange for relocation or adjustments as required. The Technical Provisions should specify if the utility company will self-perform any utility adjustment or if the Design-Builder is allowed to perform the utility adjustment work. In either case, the Technical Provisions must describe the process and requirements for the work. The Design-Builder's or the utility company's relocation work must conform to the requirements of the *ADOT Guide for Accommodating Utilities on Highway Right-of-Way*.

For projects with significant utility conflicts, the Technical Provisions should include a provision requiring the Design-Builder to include a utility adjustment coordinator as part of its team. The Technical Provisions must specify the utility adjustment coordinator's responsibilities and qualification requirements, including working with the utility companies during D&C to verify the location of utilities, obtain permits, and oversee utility relocation work and adjustments. Regular coordination meetings should be held by Design-Builder at least monthly to review the status of outstanding utility conflicts, resolve scheduling issues, and assist Design-Builder as much as possible.

Information regarding "prior rights" and compensation responsibilities for utility relocations must be clearly defined in the Technical Provisions and Contract. If the Design-Builder's Technical Proposal requires additional utility relocations (excluding Betterments), costs for self-performed relocations with prior rights should be reflected in the Price Proposal. All Utility relocations must also be shown in their schedule.

The PM shall consult with the Utilities and Railroad (U&RR) Engineering Section to determine what utilities are present and what utility and railroad coordination may be required. The Technical Provisions should make the Design-Builder responsible for obtaining ADOT permits for all utility relocation work. On DB projects, it is ADOT's policy to have the PM and their staff approve all permit work. The District permits office should receive copies of all approved permits.

The Technical Provisions should also require the Design-Builder to write all utility clearance letters for the project and submit them to ADOT.

Early in the project development, the PM must coordinate with the District to determine if they will be able to perform blue staking. If the District cannot perform blue staking, the PM should include a blue staking agreement with the GEC to perform blue staking.

#### **(i) Geotechnical**

The RIDs must contain any geotechnical information or reports prepared by ADOT or its consultants; however, the Technical Provisions must specify the reliability of the geotechnical information to the Proposers. ADOT will conduct some geotechnical investigations and preliminary geotechnical work to prepare the project scope and to save the short-listed firms the time and expense. For widening portions of highways, ADOT will perform geotechnical investigations and analysis and will be prescriptive in the Technical Provisions in regard to pavement for those areas. ADOT will perform limited geotechnical investigations at interchanges, because interchanges are areas where

Proposers may innovate and reconfigure the interchange compared to the Schematic Design. Design-Builder will ultimately perform geotechnical investigations and work to comply with the requirements specified in the Technical Provisions. ADOT will provide copies of any and all existing geotechnical information that is available in the RIDs. The Technical Provisions shall clearly delineate the geotechnical investigation responsibilities for both the Design-Builder and ADOT.

#### **(j) Maintenance and Protection of Traffic**

One of the most important elements of the Technical Provisions is the traffic control restrictions placed on the Design-Builder. Of all the factors affecting D&C, traffic control is often the single biggest limiting factor in determining what can be designed, how the project can be built, and the project time duration. Since one of the major advantages of the DB project delivery method is the way in which design innovation and construction resourcefulness are both liberated and integrated, traffic control restrictions can severely limit the amount of innovation and potential cost savings for a project. There is nothing inherently wrong with this limitation, since a balance needs to be achieved between operating a facility and upgrading it. The issue the project team needs to deal with is quantifying the traffic restrictions and keeping those restrictions to a minimum to encourage innovation and improved efficiency.

In quantifying the restrictions, it is very important for the PM to talk to those stakeholders within ADOT who operate the facility. In most cases, these stakeholders include the District Engineer, the Regional Traffic Engineer, the Traffic Operations Center, and District maintenance supervisors. If restrictions and closures are within or affect the jurisdictions of local governments, then their traffic officials also need to be involved in defining the restrictions. Also, if traffic restrictions have the potential to become a politically sensitive issue for ADOT, then the ADMP Division Director and Communications Group also need to be involved in defining those restrictions.

The PM's goal should be to carefully and clearly define the traffic restrictions that ADOT and stakeholders can accept. Being too restrictive may have unwanted side effects of discouraging innovation, creating an unlevel playing field for Proposers, increasing contract time and costs, and creating more of a disruption because of a protracted construction schedule. On the other hand, being too permissive can cause major disruptions to the traveling public that may have consequences affecting public safety, the local economy, and ADOT's relationship with the public and its political leaders. The results may lead to more restrictive traffic control provisions, resulting in a claim from the Design-Builder. The bottom line is that the Core Procurement Team needs to have a thorough understanding of project traffic control needs.

#### **(k) Land Surveying**

The Technical Provisions shall specify any survey information performed by ADOT, such as photogrammetry and digital terrain modeling, and which survey information upon which the Proposers can rely. Proposers should be made aware of all survey information available to them.

It may be necessary for ADOT to perform some survey work in the preparation of the project scope. In any event, the PM must determine who will provide the survey control for layout, the layout itself, and if it is to be tied to the State Plane Coordinate System. These items must be specified in the Technical Provisions.

#### **(l) Technical Specifications**

The TPAs should include any applicable specifications not found in the ADOT *Standard Specifications for Road and Bridge Construction*. Other referenced technical publications, such as the Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO), American Public Works Association (APWA), American Concrete Institute (ACI), American Society for Testing and Materials (ASTM), etc., can be referenced, but it is the Design-Builder's responsibility to obtain those industry standard publications. Not only does this include the latest ADOT *Stored Specifications*, but also any specialized specifications related to the project site and the uniqueness of the project work (the special provisions on a conventional DBB project).

## **(4) Reference Information Documents**

The RIDs are included in the RFP for the purpose of providing certain information to Proposers that is in ADOT's possession for the project. The RIDs should include any information that could assist Proposers in preparing their Proposals and ultimately assist the Design-Builder in designing and constructing the project. Such information could include survey data, geotechnical information, bridge hydraulic reports, existing plans, as-built drawings, record drawings, and ROW maps. Unless specifically identified in the Contract Documents, the RIDs will not form a part of the contract between ADOT and Design-Builder. Except as may be expressly provided otherwise in the Contract Documents, ADOT will make no representation, warranty, or guarantee as to, and will not be responsible for the accuracy, completeness, or pertinence of the RIDs, and, in addition, shall not be responsible for any conclusions drawn therefrom. The GEC is responsible for collecting, reviewing for efficacy, organizing, and indexing the RIDs using the *ADOT DB-RID Index-Template* as a base. It is important to use the standard naming conventions to help minimize issues when working with long file names and folder structures. It is also important to clearly describe what the RID is in the index to allow anyone to understand that the file is without the need to open the file. Finally, it is important that all information that is in ADOT's possession is included in the RIDs. Critical information that is not made available to Proposers can be considered superior knowledge that was withheld during the procurement process.

### **4.03 Industry Review Period**

#### **(A) General**

It is recommended that an Industry Review Period be used on the project. The Industry Review Period is when ADOT issues the draft RFP to the short-listed Proposers and gives them an opportunity to comment on the draft documents. The Industry Review Period is very important to Proposers as it allows them to express their opinions and to request changes to the draft RFP.

#### **(B) Questions and Responses**

ADOT will consider questions, comments, and clarification requests regarding the draft RFP from the Proposers. All questions to ADOT must be in writing on the form provided in the RFP and should be submitted through the project PMIS (See [Section 5.04\(D\)](#)) and concurrently notify the ADOT POC via e-mail that the questions have been submitted. See [Exhibit 5-2 \(RFP Comment Form\)](#) for the standard *RFP Comment Form* that must be included in the draft RFP. The ADOT POC will, in turn, notify the Core Procurement Team that questions have been submitted and to mutually determine the validity of the questions, comments, and clarification requests. Technical questions should be distributed by the GEC to the technical experts assembled for the DB project, such as the GEC SMEs and technical representatives from the various ADOT technical groups. During the Industry Review Period, ADOT will not respond to questions, comments, or clarification requests, but the Core Procurement Team will consider each question, comment, and clarification request to formulate a mutual agreement on the approach to handle each item in order to prepare the RFP. The goal of this process is to ensure fairness to and maintain a level playing field for all Proposers, and to optimize contract risk sharing. Questions, comments, and clarification requests during the Industry Review Period typically address the project risk allocation, procurement process, and technical requirements.

#### **(C) One-on-One Meetings**

During the Industry Review Period, the PM should plan to conduct at least one confidential one-on-one meeting with each Proposer to discuss the draft RFP. During the Industry Review Period, the one-on-one meetings typically include discussions on project risk allocation, procurement process, and an understanding of the technical requirements. Proposers explain their perspective of the draft RFP so ADOT can consider modifying the draft RFP documents by incorporating their suggested changes into the RFP. The *ADOT DB-ITP-Template* (See [Section 2.09](#)) includes specific rules and requirements for the one-on-one meetings.

**(D) Final RFP**

Based on the questions, comments, and clarification requests described in Section 4.03(B) and the one-on-one meetings described in Section 4.03(C), ADOT will prepare the final RFP.

**4.04 RFP Issuance Period****(A) General**

When the final RFP is ready to be issued, it must be authorized to be issued by FHWA if the project is federally funded. Once issued, any further changes to the RFP documents must be revised through addenda as described in Section 4.04(E).

**(B) Alternative Technical Concepts****(1) General**

Following release of the RFP, the procurement process affords opportunities to submit pre-Proposal submittals that include D&C concepts that may deviate from the D&C requirements of the Project or may otherwise require a modification of the technical requirements in the RFP. Such pre-Proposal submittals are referred to as ATCs. ATCs are only eligible for consideration if those deviations from the requirements of the as-issued Contract Documents result in performance and quality of the end product that is equal to or better than the performance and quality of the specified end product, absent the deviation or concept, as determined by ADOT. In addition, Proposers are required to submit an ATC for any concept that would necessitate federal approval of an additional design exception(s) or a modification to the change of access report. A concept is not eligible for consideration as an ATC, in ADOT's sole judgment, if it would:

- (a) Result in a reduction in the Basic Configuration or other scope of work set forth in the as-issued Contract Documents, provided that a reduction in the Schematic ROW will not render a concept ineligible for consideration as an ATC;
- (b) Result in a reduction in quantities only, without achieving equal or better quality and performance;
- (c) Result in a reduction in quality and performance;
- (d) Require major changes to the environmental documents, including the NEPA approvals, such as the need for a supplemental environmental impact statement;
- (e) Require the addition of a separate ADOT project to the Contract (such as expansion of the scope of the project to include additional roadways);
- (f) Require a change in law; or
- (g) Require an increase in the amount of time required to achieve Substantial Completion of the Work beyond the deadlines set forth in the Contract.

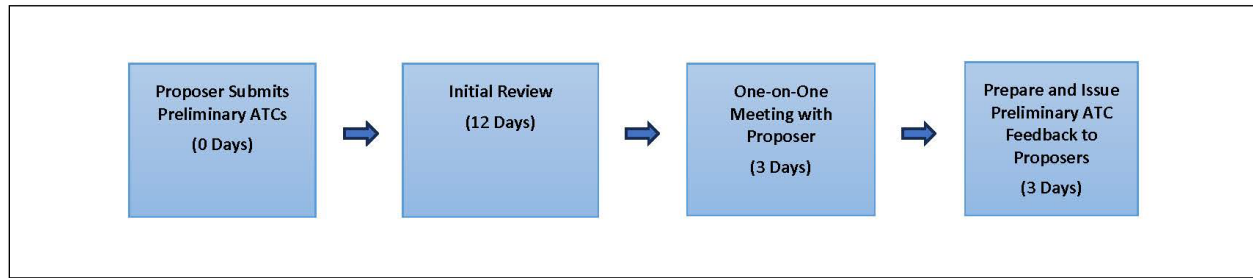
These ATCs are confidential, and the ADOT team that will review them must hold discussions of them (and the actual ATCs) with absolute confidence.

**(2) ATC Process Overview**

This ATC process is intended to allow Proposers the opportunity to incorporate innovation and creativity into their Proposals and includes two primary steps:

- (a) The Preliminary ATC process; and
- (b) The formal ATC process.

A typical process and approximate time frames for certain activities for these two steps are depicted in [Figure 4-1](#) and [Figure 4-2](#) and further described in [Sections 4.04\(B\)\(3\)](#) and [4.04\(B\)\(4\)](#).



**Figure 4-1: Preliminary ATC Process**



**Figure 4-2: Formal ATC Process**

The ATCs are typically reviewed by a panel consisting of ADOT, the GEC, and other agency panel members during the procurement. This panel meets and agrees on a consensus response to the Preliminary ATC or formal ATC as further described in the sections below.

### (3) Preliminary ATCs

Proposers are given the opportunity to submit Preliminary ATCs to ADOT's informal and preliminary consideration on a confidential basis. The Preliminary ATCs are a high-level, less-intensive submittal package that includes a narrative that describes the potential advantages and disadvantages of the ATC and may include conceptual drawings. The confidential Preliminary ATC submittals are intended to afford Proposers an opportunity to have ADOT review the Preliminary ATC. The Proposer gains early ADOT feedback as to the merit of a formal ATC Submittal and

provides ADOT with a better understanding of the potential ATC to be discussed during one-on-one meetings described in Section 4.04(D). A Preliminary ATC is not a prerequisite to submitting an ATC under the RFP.

The panel described in Section 4.04(B)(2) will review each Preliminary ATC and will respond to each Proposer submitting Preliminary ATCs as to whether ADOT will consider a formal ATC based on the Preliminary ATC. ADOT may also inform Proposers as to whether a Preliminary ATC takes advantage of any error, omission, ambiguity, conflict, or mistake in the RFP, including the Technical Provisions or other documents incorporated into the requirements in Technical Provisions by reference. In this case, ADOT will not consider the Preliminary ATC and will revise the RFP to correct the error, omission, ambiguity, conflict, or mistake. If ADOT provides a favorable response to a Preliminary ATC, it does not mean that ADOT must provide a favorable response to a formal ATC Submittal. Likewise, a favorable response to a Preliminary ATC Submittal does not mean the Proposer is allowed to include the ATC in its Proposal.

#### **(4) Formal ATCs**

After receipt of ADOT's feedback on the Preliminary ATCs, Proposers may advance the ATCs or may produce new ATCs. Proposers would prepare and submit, at their option, ATCs that include detailed narrative that describes the advantages, disadvantages, cost savings, schedule savings, and, as appropriate, detailed analysis, calculations, estimates, and conceptual drawings. Each Proposer has the opportunity, at its election, to discuss its proposed formal ATCs at the one-on-one meetings described in Section 4.04(D).

The panel described in Section 4.04(B)(2) will review each formal ATC and determine whether to accept and approve an ATC for submission in a Proposal, and will respond to each Proposer submitting formal ATCs. ADOT will make one of the following preliminary determinations for each ATC submitted by Proposers:

- (a) The ATC is acceptable for inclusion in the Proposal (with any such conditions, modifications, or requirements as are identified by ADOT);
- (b) The ATC is not acceptable for inclusion in the Proposal;
- (c) The ATC is not acceptable in its present form, but may be acceptable upon the satisfaction, in ADOT's sole discretion, of certain identified conditions that must be met, including the incorporation of any clarifications or modifications. Such conditions may include that ADOT accepts the ATC in part and rejects the ATC in part;
- (d) The ATC Submittal does not qualify as an ATC, but may be included in Proposer's Proposal because it appears to conform to the RFP requirements, provided, however, that should it turn out that such ATC Submittal or concept does not conform to the requirements RFP requirements, ADOT reserves the right to require compliance with the RFP and Contract Documents (without regard to ADOT's response to the ATC Submittal), in which event the Proposer will not be entitled to modify its Proposal and Design-Builder will not be entitled to an increase in the Contract Price, a Contractual Deadline adjustment, or any other Claim under the Contract Documents; or
- (e) The ATC Submittal does not qualify as an ATC for one or more of the reasons set forth in Section 5.02 (Concepts Eligible for Review as ATCs) of the *ADOT DB-ITP-Template* (See Section 2.09) (See items (a) through (g) in Section 4.04(B) of this Guide) and may not be included in the Proposer's Proposal.

If ADOT responds as set forth in item (a) or (c) above, ADOT will issue an ATC approval letter regarding the subject ATC, setting forth ADOT's acceptance of the ATC for inclusion and ADOT's conditions, clarifications and modifications.

After receipt of ADOT's preliminary determination, Proposers typically add discussion of these determinations in the one-on-one meeting agenda, move forward with the ATC, or stop moving forward with the ATC. Proposers then

submit, at their option, revised ATCs for ADOTs review. Similar to the review process above, the panel reviews the revised ATCs and provides a final ATC determination to the Proposers.

### (C) Questions and Responses

ADOT will consider questions, comments, and clarification requests regarding the RFP from the Proposers. All questions to ADOT must be in writing on the form provided in the RFP and should be submitted through the project PMIS, and concurrently notify the ADOT POC via e-mail that the questions have been submitted. See Exhibit 5-2 (RFP Comment Form) for the standard *RFP Comment Form* that must be included in the RFP. The ADOT POC, will in turn, notify the Core Procurement Team that questions have been submitted and to formulate mutually agreed-upon responses. Technical questions should be distributed by the GEC to the technical experts assembled for the DB project, such as the GEC SMEs and technical representatives from the various ADOT technical groups.

Questions, comments, and clarification requests may be claimed by the Proposer to contain confidential or proprietary information relating to the Proposer's Proposal, Preliminary ATC, or ATCs. ADOT will evaluate the validity of the confidentiality of the question prior to providing a response, but will not publicly respond to such confidential questions. If ADOT determines that the question is not confidential, ADOT will inform the Proposer and may allow the Proposer to withdraw the question, comment, or clarification request, rephrase it, or have it responded non-confidentially. If ADOT determines that it is appropriate to provide a general response, ADOT will modify the question, comment, or clarification request to remove information that ADOT determines is confidential. If ADOT determines it is a confidential question, ADOT will provide a response to such confidential question, comment, or clarification request to that Proposer only.

ADOT will respond only to those questions, comments, and clarification requests that ADOT deems to be material and that are not adequately addressed in previously provided documents. ADOT will state the questions, comments, and clarification requests along with its responses. The GEC should phrase definitive responses as well as whether a change to the RFP will be needed and specify in which Addenda (if any) the change will appear for the Core Procurement Team's review. The responses should be short and must answer the question, but expanding on the response is recommended to provide clarity. ADOT may rephrase questions, comments, or clarification requests as it deems appropriate, and may consolidate questions, comments, or clarification requests concerning the same or similar subject. The goal of this process is to ensure fairness to and maintain a level playing field for all Proposers. Questions, comments, and requests for clarification during the RFP Phase typically are regarding the project risk allocation, contract terms, procurement process, and the technical requirements.

### (D) One-on-One Meetings

After issuance of the Final RFP, the PM should plan to conduct a minimum of three confidential one-on-one meetings with each Proposer to discuss issues and clarifications regarding the RFP and the Proposer's Preliminary ATCs and ATCs. The *ADOT DB-ITP-Template* (See Section 2.09) includes specific rules and requirements of the one-on-one meetings and is subject to the following:

- (1) The meetings are intended to provide Proposers with a better understanding of the RFP and to provide ADOT with a better understanding of Proposer concerns;
- (2) ADOT will conduct one-on-one meetings in a fair, consistent, and transparent manner and shall endeavor to provide uniform information to all Proposers;
- (3) ADOT will adhere to the allotted time scheduled for the one-on-one meetings. If a Proposer does not use or need the total allotted time, unused time will not be carried over to future one-on-one meetings;
- (4) ADOT will not discuss with any Proposer any Proposal, Preliminary ATC, or ATC other than its own;

- (5) ADOT reserves the right to discuss issues that are raised during the one-on-one meetings with other Proposers, unless ADOT determines that such disclosure would reveal a Proposer's confidential business strategies;
- (6) ADOT reserves the right to respond in writing to all Proposers to any questions raised by Proposers during one-on-one meetings, except to the extent such questions are deemed by ADOT to contain confidential or proprietary information relating to a particular Proposer's Proposal;
- (7) Proposers shall not seek to obtain commitments from ADOT in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer;
- (8) Nothing said in the meetings by ADOT or the Proposer will constitute a commitment or be binding. If anything discussed at the meetings is to be binding, it will be incorporated into the RFP or as an Addenda to the RFP;
- (9) No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers;
- (10) No part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings; and
- (11) ADOT will not keep any written or electronic materials that Proposers bring to or present at a one-on-one meeting. Instead, Proposers must take any such materials with them when the meeting ends.

#### **(E) Addenda**

ADOT may issue Addenda during the RFP Phase at any time prior to the Proposal Due Date. When issuing Addenda, the Addenda should include a cover letter, a PDF "redline" version of the RFP documents that shows the changes from the previous version using track changes (formatting changes can be turned off from the view before making the PDF), and a PDF of the RFP documents with all track changes accepted. It is recommended that at least a month is provided in the schedule from the issuance of the last significant Addenda to the Proposal Due Date. A final Addenda, issuing the Davis-Bacon wage decision rates for federally funded projects, is issued not earlier than seven days prior to the Proposal Due Date. It is best if the wage decision is the only item on that last Addenda. Providing more time allows the Proposers to prepare a better Proposal.

### **4.05 Proposal Evaluation Manual Development and Training**

#### **(A) Evaluation Organization**

The Evaluation Committee established during the RFQ Phase should roll over to the RFP Phase for the Proposal evaluation with the addition of more members and an additional group. The PM will establish the Evaluation Committee, with the approval of the ADMP Division Director, to review/evaluate Proposals. The Evaluation Committee for the RFP Phase is comprised of:

- (1) Selection Official;
- (2) Selection Team;
  - (a) Technical Evaluation Recommendations Committee (TERC);
  - (b) Financial Evaluation and Recommendations Committee (FERC);
- (3) PAG;
  - (a) Technical Procurement Advisory Group (TPAG);



- (b) Financial Procurement Advisory Group (FPAG);
- (4) Procurement Facilitator;
- (5) ADOT POC; and
- (6) Observers.

Specific requirements and recommendations regarding each subgroup of the Evaluation Committee are described below.

#### **(1) Selection Official**

The Selection Official is the individual in the Evaluation Committee who:

- (a) Has final say on all evaluation process matters;
- (b) Establishes the relative weighting of the adjectival ratings;
- (c) Makes the final determination with respect to responsiveness of a Proposal, performance against the criteria for pass/fail of non-scored categories of the Proposal; and
- (d) Makes the final determination with respect to the Technical Proposal Score.

The ADMP Division Director or designee will be the Selection Official.

#### **(2) Selection Team**

The Selection Team requirements during the RFP Phase are the same requirements as during the RFQ Phase as specified in Section 3.05(A)(2), but for the Proposal evaluation. The Selection Team members from the RFP Phase should be the same Selection Team members from the RFQ Phase, if possible; however, a new subcommittee, the FERC, is needed to evaluate and manage the Price Proposal as described in Section 4.06. The Selection Team members will evaluate the Proposals against the evaluation criteria with the assistance of the PAG, and that will furnish to the Selection Official recommendations with respect to the Proposals' performance against the responsiveness requirements (e.g., the submittal requirements regarding the contents and format of the Proposals), pass-fail criteria, and qualitative evaluation criteria.

#### **(3) Procurement Advisory Group**

The PM will assign a larger group of individuals compared to the RFQ Phase that is comprised of staff from ADOT and the GEC with technical expertise to serve in an advisory capacity and will not make recommendations with respect to the Proposal's performance against the evaluation criteria or rating/scoring. The GEC members of this group, the TPAG, should perform responsiveness reviews and responsibility reviews. The TPAG members will include SMEs for each technical discipline to provide strengths and weaknesses for each evaluation criterion to assist the Selection Team with their evaluation.

The PM may also assign a small group of individuals that is comprised of staff from ADOT and the GEC to serve in an advisory capacity and will not make recommendations with respect to the Proposal's performance against the evaluation criteria or rating/scoring. This FPAG must be separate from the TPAG and will perform the responsiveness reviews and responsibility reviews of the Price Proposals.

#### **(4) Procurement Facilitator**

The Procurement Facilitator requirements and responsibilities during the RFP Phase are the same requirements and responsibilities as during the RFQ Phase as specified in Section 3.05(A)(4), but for the Proposal evaluation process.

## **(5) ADOT Point of Contact**

The ADOT POC requirements and responsibilities during the RFP Phase are the same requirements and responsibilities as during the RFQ Phase as specified in Section 3.05(A)(5), but for the Proposal evaluation process.

## **(6) Observers**

The PM may allow stakeholders and/or FHWA to participate in the Proposal evaluation process as ex officio, non-voting observers.

## **(B) Proposal Evaluation Manual**

The GEC will have the primary responsibility to develop the Proposal Evaluation Manual using the *ADOT DB-Proposal Evaluation Manual-Template* as a base (See Section 2.09). The Proposal Evaluation Manual establishes the process for evaluating Proposals received from Proposers and is intended to create a fair, consistent, and uniform basis and approach for the evaluation of Proposals. The Proposal evaluation process is also intended to ensure Proposals are evaluated in accordance with the criteria set forth in the ITP, and to facilitate ADOT's selection of a Proposer for the project. The Proposal Evaluation Manual must be completed prior to the Proposal Evaluation Training Workshop.

## **(C) Proposal Evaluation Training Workshop**

Prior to the Proposal Due Date (Preferably not earlier than a week prior to the Proposal Due Date), the PM (with the assistance of the GEC) will schedule a Proposal Evaluation Training Workshop. At the workshop, the Selection Official or the PM shall present the project to the Evaluation Committee and explain the important issues and project goals. The Selection Official or the PM should also emphasize what the Evaluation Committee should look for in reviewing the Proposals. If any of the evaluation criteria in the ITP require more explanation, the PM can arrange to have an appropriate technical group representative educate the Evaluation Committee about the particular evaluation criteria.

Prior to evaluating/reviewing Proposals, the Evaluation Committee shall sign the applicable *Confidentiality and Non-Disclosure Agreement* included in Exhibit 4. If an actual, potential, or perceived conflict of interest is identified, the Procurement Facilitator, in consultation with the PM, will raise the issue with the Selection Official. The Selection Official will determine the resolution of conflict of interest under the applicable conflict of interest policy. The Selection Official will decide whether, and to what extent, that individual may participate in the Proposal evaluation process, and any conditions or measures that shall be imposed as mitigation to ensure a fair evaluation. In addition, the Evaluation Committee must have a copy of and review the Proposal Evaluation Manual, the RFP, including any Addenda. The Evaluation Committee must be familiar with such documents prior to evaluating/reviewing Proposals.

## **4.06 Proposal Evaluation Process**

### **(A) Packaging and Delivery Responsiveness Evaluation/Review**

Upon receipt of Proposals by the ADOT POC, the ADOT POC will notify the TPAG chair or designee that Proposals are ready for logging and loading into the appropriate folders in the project PMIS to make ready for evaluation/review. Proposers are required to submit the Technical Proposal and a portion of the Price Proposal as separate electronic files. Proposers are required to submit Price Proposal *Pricing Forms* on a Universal Serial Bus drive in a sealed envelope to ADOT. The first step for the Evaluation Committee, typically led by the ADMP and similar to the SOQ Evaluation Process in Section 3.06(B), is to review the responsiveness of each Proposal against the packaging and delivery requirements established in the ITP. Each Proposal that is found to be responsive in regards the packaging and delivery requirements will continue with the next step of the evaluation process.

## **(B) Technical Proposal Evaluation/Review**

### **(1) Responsiveness and Responsibility Evaluation/Review**

Upon notification that Proposals are ready for evaluation and review after the packaging and delivery responsiveness evaluation/review, the TPAG, the C&S Group with assistance from the TPAG, will review each Technical Proposal for responsiveness to the submittal requirements and against the criteria for pass/fail of non-scored criteria categories set forth in the ITP. Upon completing their initial responsiveness and responsibility reviews, the TPAG may draft clarification request letters to each Proposer requesting any items or additional information the TPAG requires to finalize their review. Each letter will list the item or information requested, and will establish a timeline (e.g., two Business Days) by which the Proposers must provide the item or information requested. Upon completion of their review, the TPAG will submit a summary of findings regarding their responsiveness and responsibility review to the C&S Group. The C&S Group will make the final responsiveness and responsibility determination and submit a memorandum to the Selection Official to file.

### **(2) Qualitative Evaluation/Review**

Those Technical Proposals that are deemed responsive and those Proposers deemed responsible will be evaluated qualitatively. Upon completing their initial evaluations/reviews of the Technical Proposals, the TERC and TPAG may meet separately with the Procurement Facilitator to draft clarification request letters for each Proposer requesting any items or additional information required to finalize their qualitative evaluations/reviews. Thereafter, the Procurement Facilitator will consolidate the TERC's and TPAG's questions into a single letter for each Proposer, which letter will list the item or information requested, and will establish a timeline (e.g., two days) by which the Proposers must provide the item or information requested. After the TERC has completed its qualitative evaluation of each Technical Proposal, the TERC will then meet with the TPAG to discuss the strengths and weaknesses of each Proposer against the evaluation criteria. The Procurement Facilitator will facilitate the consensus meeting where the TERC will discuss the strengths and weaknesses outlined by the TPAG as well as their own comments, findings and recommendations for each evaluation criterion and arrive at a team consensus for both comments and the adjectival rating. The Procurement Facilitator will then open the sealed envelope that contains the relative weighting of each adjectival rating and calculate the final Technical Proposal Score.

Interviews are not recommended; however, if the PM would like to incorporate interviews in the evaluation process, the PM shall discuss and obtain approval from the ADMP Division Director.

### **(3) Technical Score Determination**

The TERC will submit the final ranking and scores to the Selection Official. Once reviewed and approved by the Selection Official, the Technical Proposal Scores will be submitted to the Procurement Facilitator for use at the public opening of Price Proposals.

## **(C) Price Proposal Evaluation/Review**

### **(1) Responsiveness Evaluation/Review**

Upon notification that Proposals are ready for evaluation and review after the packaging and delivery responsiveness evaluation/review, the FPAG will review each Price Proposal, except the Price Proposal *Pricing Forms* that are in a separate sealed envelope, for responsiveness to the submittal requirements and against the criteria for pass/fail of non-scored criteria categories set forth in the ITP. Upon completing their initial responsiveness and responsibility reviews, the FPAG may draft clarification request letters to each Proposer requesting any items or additional information the FPAG requires to finalize their review. Each letter will list the item or information requested, and will establish a timeline (e.g., two Business Days) by which the Proposers must provide the item or information requested. Upon completion of their review, the FPAG will submit a summary of findings regarding their responsiveness and responsibility review to the FERC. Based on the FERC's own review of the Price Proposals, excluding the Price Proposal *Pricing Forms*, and the FPAG's summary of findings, the FERC will submit a

recommendation to the Selection Official regarding the responsiveness and responsibility of each Proposal. The Selection Official will make the final responsiveness and responsibility determination.

## (2) Public Opening of Price Proposals (Pricing Forms)

The manager of the C&S Group will present the Technical Proposal Scores publicly in the ADOT auditorium and then open the sealed portion of the Price Proposals, the *Pricing Forms*. After opening the sealed portion of the Price Proposal, the manager of the C&S Group will announce the Price Proposal amounts and input them in the spreadsheet to calculate the adjusted score for each Proposer based on the applicable selection equation in Section 4.02(B)(1)(e). In computing the adjusted score, the manager of the C&S Group should note that when “A+B” bidding is specified, the A and the B are added (cost and time-related cost), and that sum is divided by the technical score. The “A” alone is not divided by the technical score. Table 4-2 illustrates how the adjusted scores are computed. Please note that in this example, the second low bidder (Firm Y) in terms of cost ended up as the apparent low bidder on an adjusted score basis due to a higher technical score.

**Table 4-2: Example Adjusted Score Table**

Proposer	A Amount	B Amount	Total Price Proposal (PP) A+B Amount	Technical Proposal Score (TPS)	Adjusted Score (PP/TPS)
ADOT’s Estimate	\$69,020,330	\$13,440,000	\$82,460,330		
Firm X	\$71,900,000	\$9,352,000	\$81,252,000	108	\$752,333
Firm Y	\$75,685,003	\$9,240,000	\$84,925,003	115	\$738,478
Firm Z	\$87,498,280	\$9,996,000	\$97,494,280	109	\$894,442

The manager of the C&S Group will then announce the adjusted scores for each Proposer and identify the apparent lowest adjusted score.

## (3) Responsiveness Evaluation/Review of the Pricing Forms

After the adjusted scores are calculated and announced at the public opening meeting, indicating which Proposer has the apparent lowest adjusted score, the Selection Team must review each Price Proposal *Pricing Form* for responsiveness, irregularities, and other requirements. If there are any issues with responsiveness, irregularities, or other requirements, the procurement team will submit clarification requests. Once all clarification requests have been resolved, the scores will be reviewed by the PM, Selection Official, and ADMP Division Director, and a recommendation made to the State Transportation Board.

### 4.07 Contract Award

DB projects are awarded like any other ADOT highway contract. After the public opening, the C&S Group will enter the bids in FAST and check to ensure the Price Proposal complies with the ITP. If C&S Group and ADMP Division Director determine that the bids are within a reasonable tolerance compared to ADOT’s estimate, then the C&S Group will add the project to the State Transportation Board agenda. The State Transportation Board will decide to award the Contract at its next regularly scheduled meeting, unless the State Transportation Board rejects all Proposals.

In the event the bids on the Price Proposal are not within a reasonable tolerance compared to ADOT’s estimate, then the ADMP Division Director or appointee will justify the cost discrepancy to the State Transportation Board when the project is scheduled to be awarded.

Once awarded, C&S will send a notice of award letter to the apparent selected Proposer.

## **4.08 Post Award**

### **(A) Detailed Pricing Documents**

Not later than 10 Days after receipt of the notice of award letter, the apparent selected Proposer must submit DPDs to the RE. The DPDs must:

- (1) Include the Proposer's assumptions made in determining the scope of work and calculating the Proposal prices;
- (2) Include detailed information from all Subcontractors identified in the Proposal and any other potential Subcontractors who provided data upon which the Proposal is based;
- (3) Include detailed, separately stated pricing of insurance premiums for the insurance coverage required by the Contract;
- (4) Be in a format that will allow ADOT to verify the accuracy and completeness of the lump sum prices provided on the Price Proposal *Pricing Forms*; and
- (5) Be in sealed containers labeled as specified in the ITP.

After receipt of the DPDs and prior to Contract execution, ADOT will review the DPDs with the apparent selected Proposer present, and ultimately provide any comments that ADOT may have. DPDs can be reviewed only when both parties are present.

The DPDs will ultimately be stored in a locked, fireproof cabinet supplied by the Design-Builder and located in the ADOT area of the Project Office or as determined by the RE with the key to the fireproof cabinet(s) held only by the Design-Builder.

### **(B) Contract Execution**

Like any other DBB project, the C&S Group will package the Contract Documents for execution with assistance from the GEC. ADOT must deliver the Contract Documents within 15 days of the notice of award. Within 10 days of receiving the Contract Documents, the apparent selected Proposer must submit a signed Contract, evidence of insurance, a performance bond, a payment bond, and all other items specified in the ITP.

After delivery of the above materials and satisfaction of all conditions specified in the ITP, ADOT will execute the Contract and issue NTP 1.

Upon execution of the Contract by both parties, the C&S Group will post the "Ranking Results" on the C&S Group website.

Inclusion of any Work Product from an unsuccessful Proposer into the Contract with the successful Proposer is handled through a Supplemental Agreement after Contract execution.

**End Section**

## 5 PROJECT ADMINISTRATION

### 5.01 General

This Section 5 provides the reader with guidance for administering the project after completion of the procurement and execution of the Contract. DB project administration presents unique complexities as compared to DBB work. This section will outline the major components of administering a DB project and what the Collocated Team (RE, PM, and GEC) is expected to handle. For the purposes of this section, GEC assumes the responsibilities of construction administration services as support to the RE.

#### (A) Parties

The contracting parties for the project are ADOT and Design-Builder. The Design-Builder is typically comprised of Affiliates, a Lead Contractor, a Lead Design Firm, suppliers, and Subcontractors (including subconsultants).

#### (B) Roles and Responsibilities

##### (1) ADOT's Role

ADOT will provide oversight on DB projects as identified in the Contract Documents. ADOT will inspect, review, and verify the Design-Builder's quality records throughout the duration of the contract. The Contract will set forth ADOT's oversight rights. The *ADOT DB-Contract-Template* language is summarized below:

- (1) Monitoring and auditing Design-Builder and related entities, and the Books and Records in accordance with the Contract Documents;
- (2) Conducting periodic reviews of project documentation and files;
- (3) Conducting material tests, according to ADOT's test methods or an Authority Having Jurisdiction test methods, as determined by ADOT, to verify:
  - (a) Design-Builder's compliance with all testing frequencies and requirements, including performance and testing set forth in the Contract Documents and the approved Project Management Plan (PMP);
  - (b) The accuracy of the tests performed by or on behalf of Design-Builder pursuant to the approved CQMP; and
  - (c) Compliance of materials incorporated into the project with the applicable requirements, conditions, and standards of the Contract Documents, Governmental Approvals, the PMP, and Law;
- (4) Confirming that inspections and audits were performed by or on behalf of Design-Builder pursuant to the approved PSQMP and approved CQMP;
- (5) Reviewing and commenting on submittals;
- (6) Reviewing records and conducting interviews as necessary to verify compliance with federal, State, and local laws and regulations;
- (7) Participating in meetings will be described in Section 108.13 (Meetings) of the Technical Provisions to discuss design progress, construction progress, Design-Builder's quality control processes, audit activities, and other PMP issues;
- (8) Accompanying Design-Builder on inspections, conducting its own inspections, assessing Design-Builder's records of inspections and project conditions, and assessing the condition of elements;

- (9) Attending and witnessing Design-Builder's other tests and inspections, including ITS and irrigation system start-up and acceptance tests and inspections;
- (10) Reviewing Design-Builder's certification of Record Drawings, surveys, and Project Schedule; and
- (11) Investigating and monitoring Design-Builder's compliance with the Safety Management Plan.

Nothing in the Contract Documents will preclude, and Design-Builder shall not interfere with, any review, inspection, or oversight of submittals or of work that ADOT desires to conduct, or that the FHWA or any Authority Having Jurisdiction may desire to conduct.

As indicated in Section 4.02(B)(3)(c), if ADOT decides to have the Design-Builder provide IQF services, then ADOT and the IQF will collaboratively perform quality acceptance on the project.

## **(2) GEC**

The GEC performs as an extension of ADOT staff, specifically supporting the PM and RE with all activities associated with the administration of the Contract. ADOT will assign tasks to GEC based upon project needs and in accordance with the division of talent within the team. It is advantageous to ADOT and the project to engage GEC personnel who have experience delivering projects using the DB delivery method.

## **(C) Contract Documents**

The Contract Documents are used to administer the project, with terms and conditions set forth prior to the Design-Builder submitting their Proposal. As such, the Collocated Team shall refer to the Contract Documents when giving direction or providing clarifications to the Design-Builder or to project stakeholders. The order of precedence will be specified in Section 1.03 (Contract Documents and Order of Precedence) of the Contract. The language in *ADOT DB-Contract-Template* is generally outlined below.

- (1) Supplemental Agreements;
- (2) The DB Contract, including all Exhibits, is the actual contract between ADOT and Design-Builder and contains all commercial and other requirements;
- (3) Commitments made in the Technical Proposal;
- (4) Approved Deviations and Interpretive Engineering Decisions to the Technical Provisions;
- (5) Technical Provisions and Technical Provisions Attachments contain the project-specific provisions to design and construct the project. Unlike past ADOT projects, the Design-Builder does not necessarily have to design and construct the Project per ADOT manuals, unless otherwise specified in the Contract Documents;
- (6) The DBE Utilization Plan and OJT Utilization Plan;
- (7) Standards, manuals, guidelines, and other publications to the extent incorporated only by reference into the Contract Documents; and
- (8) Release for Construction (RFC) Submittals developed in accordance with the Contract Documents, provided that Project Special Provisions, written by the Design-Builder and contained in the RFC Submittals, shall have precedence over Plans.

This order of precedence determines which of the Contract Documents will be enforceable in the case of a conflict or discrepancy.

## 5.02 ADOT Management and Oversight

ADOT's role, as generally performed by the Collocated Team, includes management and oversight of the work performed by the Design-BUILDER. ADOT also has the responsibility to manage those risks that remain in the purview of the owner during the execution of the project. Key components of that management and oversight are presented below.

### (A) Third-Party Agreements

Third-Party Agreements (IGAs and JPAs), where applicable, are the agreements between ADOT and other entities that may have an impact on the project. If there are Third-Party Agreements on a project, they will be listed in Section 115 (Third-Party Agreements) of the Technical Provisions. Design-BUILDER is responsible for performing and complying with all obligations of ADOT under such Third-Party Agreements, except those obligations that are specifically identified in TPA 115-2 (Third-Party Agreement Commitments) as being retained by ADOT.

### (B) Partnering and Resolving Disputes

The relationship between the Collocated Team and the Design-BUILDER can have a significant impact on the success of a project. The purpose of the partnering relationship is to establish and maintain effective communication between the parties to cooperatively identify and resolve critical project-related issues. ADOT and the Design-BUILDER will conduct various partnering meetings. At these meetings, the Parties are to equally share the costs of the facilitator, the site, and food. Also, each party bears its own costs of participation.

The Collocated Team will encourage issues to be resolved through partnering at the lowest level possible, but strongly emphasize escalating issues if neither party is willing to concede.

Section 14 (Partnering and Dispute Resolution) of the Contract establishes step-by-step procedures for resolving Disputes. A clear Issue Resolution Ladder with roles and responsibilities is outlined in Table 14-1 (Issue Resolution Ladder Levels of Review) of the Contract.

To initiate the issue resolution procedures, the Parties must agree upon the issue being disputed by jointly developing the *Issue Escalation Documentation Binder* in Exhibit 12 (Issue Escalation) of the Contract and have it signed by both Parties. The GEC counterparts will attend each issue resolution ladder level of review meeting, to take notes and support the RE and the PM. At each level of review, if the Parties are unable to reach a mutually agreed-upon solution, then the reviewers will escalate the issue to the next level until the highest level has been reached.

If ADOT and Design-BUILDER succeed in resolving a Dispute using the Issue Resolution Ladder, the parties shall memorialize the resolution in writing, including execution of any Supplemental Agreement as appropriate. For this reason, the Collocated Team should prioritize preparing the documentation necessary for the RE to execute a Supplemental Agreement.

In the event issues cannot be resolved through the Dispute resolution process outlined above, ADOT and the Design-BUILDER may proceed with mediation, arbitration and possibly litigation.

### (C) Design-Build Administration

DB project administration is a fast-paced environment as compared to traditional DBB projects. ADOT's submittal review periods are shorter, and the Design-BUILDER controls the D&C, while dealing with utilities, stakeholders, ROW acquisitions, and environmental requirements. The tension of meeting schedule activity deadlines further complicates the hectic nature of this work. The Collocated Team must be ready to pivot as needed to address changes in D&C that allow the Design-BUILDER to proceed with the work in alignment with their Proposal assumptions. In DB projects, the break between D&C does not exist. Each process complements the other throughout construction. This process of co-mingling D&C on an ADOT project results in the PM and RE having overlapping responsibilities. ADMP suggests a more collaborative approach in sharing responsibilities and making



decisions between the PM and RE. Both must work together, communicate effectively, and contribute their expertise in resolving both D&C issues with the Design-Builder.

The Collocated Team must thoroughly review the Design-Builder's Technical Proposal after award of the contract. The Technical Proposal becomes part of the Contract Documents upon award, and the Collocated Team will verify compliance with the Technical Proposal by the Design-Builder. Particular attention should be paid to the quality management processes that the Design-Builder proposed to use during both D&C. The RE and PM should oversee these processes to verify they are implemented as proposed. The design features and the construction methods that the Design-Builder described in the Technical Proposal should also be examined and verified during prosecution of the contract.

On DB projects, there is an established protocol for providing direction and making contractual commitments in the form of Authorized Representatives, who will be listed specifically in Exhibit 4-1 (ADOT Authorized Representatives) of the Contract and may make decisions and commitments on behalf of their respective entity. This is a critical concept for the Collocated Team to understand for administration of the Contract. Design-Builder personnel who are not listed in Exhibit 4-1 (ADOT Authorized Representatives) of the Contract are not in a position to commit the Design-Builder. Conversely, Collocated Team members must use caution not to purvey direction to the Design-Builder unless they are within their assignments as Authorized Representatives in Exhibit 4-1 (ADOT Authorized Representatives) of the Contract.

## **(D) Design and Construction**

### **(1) General**

ADOT will review the Design-Builder's QMP and audit the Design-Builder's compliance with all aspects regularly.

ADOT has the right, but is not obligated and does not intend, to conduct formal reviews of every Design Document and Construction Document. The intent is to preserve the risk assignments in the Contract, and therefore the tasks that make up the management of those risks. ADOT makes certain commitments for review and approval of submittals and will closely follow and execute those commitments. However, it is the Design-Builder's responsibility to execute quality work and fulfill quality program requirements. ADOT will endeavor not to usurp those responsibilities nor perform those activities on behalf of the Design-Builder.

ADOT's review of Design Documents is intended to be conducted at an audit level for the purpose of checking that they comply with contractual requirements. The Design-Builder has the independent obligation to meet all contract requirements and to implement a Professional Services Quality Management Program faithfully in accordance with the ADOT-approved QMP.

ADOT will manage construction quality risk similar to the way that it is managed in DBB projects. Inspection and testing frequency are managed in accordance with the acceptance program in mainstream ADOT projects. However, NCR and resolution are managed differently in DB projects. See discussion on Non-Conformance in Section 5.05(G).

### **(2) Levels of Review**

See Section 3.01 (ADOT Submittal Review Time, Levels of Review, and Comment Resolution) of the Contract and Section 113 (Submittal Management) of the Technical Provisions for detailed requirements regarding Submittals and review. See also Section 5.04(C)(2) for specific guidance.

## **(E) Managing ADOT's Risk**

One of the fundamental differences between the Contract Documents for DB projects and ADOT's more standard contracting is in the allocation of certain risks.

### **(1) Risk Shifting**

The fundamental concept in the Contract Documents is that the Design-Builder is taking on all risks to cost, schedule and performance that could affect the project, except for specific, enumerated risks set forth in the Contract

Documents. See Section 8.01 (General) of the Contract. Examples of risks entirely allocated to the Design-Builder include risk of design defects, D&C integration risk, risk of construction defects, and risk of inflationary and other market changes (aside from bituminous and fuel price adjustments) in its costs to design and construct. The Design-Builder also bears risk for obtaining Governmental Approvals.

## **(2) ADOT Retained Risk**

Key categories of risk to which ADOT has exposure include, but are not limited to:

- (a) Risk of loss or damage to physical facilities from specified events (insured events covered in Section 19 (Insurance Claims and Loss) of the Contract;
- (b) Risk arising from Hazardous Materials. The Collocated Team should verify the pertinent information for any Hazardous Materials Management ADOT has performed is placed in the RIDs and referenced in the Technical Provisions.
- (c) Risks defined as Relief Events (specifically enumerated events that, if they occur, may entitle DB to relief from specific cost and time impacts).
- (d) Risk arising from uncooperative third parties.

All of these risks are best managed through an engaged and focused Collocated Team. Weekly risk management meetings internal to the Collocated Team are recommended. It is also recommended that someone from within the Collocated Team be assigned to manage each project risk.

## **(3) Hazardous Materials**

If Hazardous Materials are encountered in the course of work, the Design-Builder is generally responsible for management of the Hazardous Materials in accordance with the applicable laws and regulations, the ADOT-approved Hazardous Materials Management Plan, and the Contract Documents.

ADOT, however, is responsible for management of Hazardous Material releases from a vehicle operating or located within the project ROW or from such vehicle's cargo, unless it is from a vehicle of or operated by a Design-Builder-Related Entity.

Whether Design-Builder is entitled to extra compensation or schedule relief due to the presence of Hazardous Materials depends on whether the presence is a Relief Event. See Section 8 (Changes to the Contract Documents) of the Contract for further information.

ADOT is required to assume the status of generator and arranger, and to sign manifests for off-site disposal of all Hazardous Materials that require off-site disposal, other than those caused by the Design-Builder or Design-Builder-Related Entity.

## **(4) Design-Builder Relief**

In the case of a Relief Event, compensation for increases in costs of performing work and costs of delay directly attributable to the Relief Event can be entitled. In conjunction with costs, Design-Builder may receive an extension of completion deadlines by the period that the end of the critical path extends beyond the original completion deadline (if the event causes delay to the critical path and is not concurrent with any other delay not caused by a Relief Event). Design-Builder is also potentially provided an excuse from Design-Builder default in performing its obligations, where the Relief Event causes the Design-Builder default. Relief Events can provide an extension of the cure period for a Noncompliance Event if it is not reasonably capable of being cured on time due solely to the Relief Event, and relief from assessment of Noncompliance Points for a Noncompliance Event that is directly attributable to a Relief Event.

Relief Events are specifically enumerated in Section 8 (Changes to the Contract Documents) and the definition of Relief Event in Exhibit 1 (Abbreviations, Acronyms, and Definitions) of the Contract.

## **5.03 Contract Time**

### **(A) Contractual Deadlines**

Contractual deadlines refer to either or both the Substantial Completion deadline and Final Acceptance (D&C) deadline in Section 4.05 (*Substantial Completion*) and 4.06 (*Acceptance*) of the Contract, as the context requires.

### **(B) Substantial Completion (D&C) Deadline**

Section 4.05 (*Substantial Completion*) and Exhibit 6-5 (*Conditions Precedent to Substantial Completion*) of the Contract describe the conditions precedent and process for issuing a Certificate of Substantial Completion to the Design-Builder.

#### **(1) Liquidated Damages for Failing to Meet**

Substantial Completion is a key deadline on the project, wherein liquidated damages begin to be assessed if the conditions precedent are not met prior to the Substantial Completion Deadline.

#### **(2) Conditions Precedent to Substantial Completion**

Exhibit 6-5 (*Conditions Precedent to Substantial Completion*) of the Contract describes the conditions precedent to Substantial Completion and provides guidance to both ADOT and Design-Builder as to the expectations that the contract establishes to achieve Substantial Completion.

#### **(3) Certificate of Substantial Completion**

ADOT's standard letter for Certificate of Substantial Completion must be used.

### **(C) Acceptance**

#### **(a) Punch List**

Section 4.06(A) (*Acceptance*) of the Contract provides instructions for the Design-Builder to complete the Punch List and provides opportunity for both ADOT and Design-Builder to participate in the Punch List compilation and completion verification process. It is always recommended that the project team begin the Punch List as early as possible, well before the Substantial Completion deadline.

#### **(b) Landscape Establishment**

Section 4.06(B) (*Landscape Establishment*) of the Contract provides instruction as to completion of the landscape establishment period for those projects that contain the requirement to deliver a landscape establishment period. ADOT and Design-Builder will perform an inspection jointly, approximately 300 Days after Substantial Completion. Design-Builder then prepares a landscape inspection report and completes necessary replanting within 30 Days.

#### **(2) Final Acceptance (D&C) Deadline**

Section 4.06(C) (*Final Acceptance (D&C)*) and Exhibit 6-6 (*Conditions Precedent to Final Acceptance (D&C)*) of the Contract describe the conditions precedent and process for issuing a Certificate of Final Acceptance (D&C) to the Design-Builder.

#### **(a) Conditions Precedent**

Exhibit 6-6 (*Conditions Precedent to Final Acceptance (D&C)*) of the Contract describes the conditions precedent to Final Acceptance and provides guidance to both ADOT and Design-Builder as to the expectations that the Contract establishes to achieve Final Acceptance.

**(b) Certificate of Final Acceptance**

Additional project-specific contractual deadlines may have been added during procurement, such as additional NTPs. ADOT's standard letter for Certificate of Final Acceptance must be used.

**5.04 NTP 1 Period****(A) Issuance of NTP 1**

Each project will have a minimum of two NTPs: an NTP 1 and an NTP 2. The conditions precedent for ADOT to issue NTP 1 are included in the ITP. After issuance of NTP 1, Design-Builder is allowed to perform the activities specified in Section 4.03(A) (Issuance of NTP 1) and Table 4-1 (NTP 1 Work) of the Contract. NTP 1 is typically issued immediately after execution of the Contract.

**(B) Design Work****(1) Progress During Procurement**

During DB project procurement, the Design-Builder may use schematic design files to establish the base design on which to innovate and establish a compliant design. Although the Design-Builder will continue to advance the design at risk, ADOT will not review or pay for design work completed until the conditions precedent in accordance with Exhibit 6-1 (Conditions Precedent to ADOT Review of Design Documents) of the Contract have been met. The Collocated Team should understand that once those conditions have been met, design submittals can be submitted to ADOT for review. The design submittal process will ramp up as the Design-Builder finalizes its approach to building the project.

**(2) Design-Builder Submittal Priorities**

Unlike DBB work where the design is 100% complete prior to construction, the Design-Builder will direct their designers to develop drawings in the order of which the project is most efficiently built. This means that the initial submittals may be heavy in drainage, structures, and earthwork design. The Collocated Team will endeavor to anticipate the staffing needs on the project from the start.

The GEC reviewers must be familiar with the submittal tables in the Technical Provisions to verify the Design-Builder is complying with the requirements of the Contract Documents prior to submitting to ADOT. Since the designers are under immense pressure to meet schedule deadlines, this may lead to submission of designs that do not comply with the requirements of the Technical Provisions.

**(3) Environmental and Governmental Approvals**

Concurrent with design submittals, the Design-Builder typically begins the process of obtaining the necessary Environmental Approvals and Governmental Approvals. It is important that the Collocated Team has representatives attend meetings with Authorities Having Jurisdiction to understand what is discussed and agreed upon, as well as to verify that the Design-Builder submits detailed and factual meeting notes and other submittals.

**(4) Geotechnical Investigations and Survey**

As part of the design work, the Design-Builder will need the engineering data necessary to establish the basis for their design. Frequently, geotechnical, survey, and other investigations will be conducted in the field through drilling, potholing, and surveying. It is suggested that the Collocated Team perform oversight on this work to verify that the work is being performed in accordance with the Contract Documents. Also, see Section 5.04(H) for conditions precedent to ground disturbing activities. Additionally, these field activities may impact the traveling public, which will require that the RE or PM send out traffic control notifications to the public.

## (5) Design Partnering Meeting

A design partnering meeting, with all key stakeholders, should be planned immediately after issuance of NTP 1. A goal of the meeting is to develop the project charter. This charter describes the roles, interactions, and responsibilities of ADOT's and the Design-Builder's key project team members. The team members who should be in attendance include the PM, RE, GEC (including all reviewers), and each of their counterparts on the Design-Builder's team. One of the primary goals of the meeting is to determine how the ADOT team makes decisions and how it interacts with the Design-Builder's team on design reviews and ADOT approvals.

## (C) Design Review and ADOT Approvals

### (1) Role of the Design Manager

The primary focus of the ADOT Design Manager is to provide oversight of the Design-Builder's design compliance. The ADOT Design Manager may be an ADOT employee or a GEC employee. The ADOT Design Manager will review Design-Builder's schedules and coordinate with Design-Builder to ascertain the anticipated submittal schedule and assign the appropriate technical resources to complete reviews within ADOT's committed timeframes. The ADOT Design Manager will evaluate review comments that are generated for appropriate contractual validity and work with reviewers to avoid issuing improper comments. The ADOT Design Manager will verify that all risk assignments identified in the Contract are maintained, while preference comments and contractual direction within comments are eliminated. The ADOT Design Manager is a member of the Collocated Team.

### (2) Levels of Review

All technical reviewers, as led by the ADOT Design Manager, must be familiar with the levels of review for their respective discipline submittals. Comments made by the GEC should be mindful of ADOT's level of review. See [Table 5-1](#) which contains a summary of the base language for the various levels of review outlined in the *ADOT DB-Contract-Template*.

**Table 5-1: Level of Review Summary**

No.	Description	Time Period	ADOT DB-Contract-Template Section Ref.
1.	<b>Level 1 (Sole Discretion Approval)</b> This means that ADOT's decision is completely discretionary, final, and not subject to being overturned.	Deemed disapproved if ADOT does not approve within the hold period.	<a href="#">3.01(B)(1)</a>
2.	<b>Level 2 (Good Faith Discretion Approval)</b> This means that ADOT has considerable discretion and its decision cannot be overturned unless shown by clear and convincing evidence to be arbitrary.	If ADOT does not respond within the hold period, it must respond within five Business Days after notice from Design-Builder in order to avoid a delay Claim.	<a href="#">3.01(B)(2)</a>

No.	Description	Time Period	ADOT DB-Contract-Template Section Ref.
3.	<b>Level 3 (Review and Comment)</b> This means that comments need to be resolved, based on what is required by the Contract Documents, permits, and applicable Law. <b>Caution:</b> ADOT should confine its comments to what is required by the Contract Documents, Governmental Approvals, the Law, approved management plans and the standard of care. Insistence on extraneous preferences could expose ADOT to a Claim.	If ADOT does not respond within the hold period, Design-Builder may proceed at its election and risk, but ADOT can still later comment, object or reject. <b>Caution:</b> ADOT nevertheless could lose its rights if it unduly delays in providing comments or objections.	<u>3.01(B)(3)</u>
4.	<b>Level 4 (Submit/Receive)</b> This means that upon submission, Design-Builder may continue to proceed, but ADOT may still object that the submittal does not comply with the requirements of the Contract Documents, permits, or applicable Law.	No hold period.	<u>3.01(B)(4)</u>
<b>Note:</b> The standard time period for ADOT review of Submittals (the “hold period”) is 10 Business Days. Certain Submittals have their own particular hold periods for review. See <u>Section 3.01(A) (Review Time)</u> of the <i>ADOT DB-Contract-Template</i> .			

### (3) Over-the-Shoulder Review

Over-the-shoulder reviews are informal in-process reviews of submittal progress and can be completed at any location as agreed by the parties. They are offered to Design-Builder to assist with understanding the Contract requirements and to provide opportunity to anticipate issues that may present noncompliance determination in a formal submittal. ADOT will support the Design-Builder’s request for over-the-shoulder reviews and should invite over-the-shoulder reviews as often as possible. Over-the-shoulder reviews allow the Collocated Team to get insight into the design and give suggestions or redirect assumptions made to avoid unnecessary comments or resubmittals that can be costly for the Design-Builder. ADOT may also choose to initiate an over-the-shoulder review for any submittal that may have a disconnect in understanding regarding contract compliance.

### (4) Compliance with the Technical Provisions

Evaluation of submittals must consider the current conformed Technical Provision requirements, forming the basis for submittal review. The ADOT Design Manager should verify every comment made on submittals has a contractual basis and that the comment form has the appropriate Technical Provision citation.

### (5) Comments by Reviewers

Comments are critical items and shall be given proper focus and vetting through the administration of design oversight. Comments will be focused on contractual compliance. The GEC must avoid comments that inject the commenter’s preference, ask questions or are not consistent with contract requirements. Comments are not intended to provide direction to the Design-Builder, nor to suggest resolution of technical issues. Commenters will exercise care to avoid the perception of giving technical direction to Design-Builder. When the Collocated Team identifies a concern with the quality of multiple submittals being reviewed that a corrective action review is initiated.

### (6) Interpretive Engineering Decisions

The purpose for Interpretive Engineering Decisions is described in Section 3.03 (Interpretive Engineering Decisions) of the Contract and includes the process for prosecuting Interpretive Engineering Decisions. Note that Interpretive Engineering Decisions do not provide entitlement for Contract changes, but they often lead to subsequent ADOT-

Directed Change. The Collocated Team should verify that the Design-Builder has provided the necessary information, including the language that is the subject of the Interpretive Engineering Decision, and if the language is interpreted differently for a single occurrence or if a change to the Technical Provisions is necessary. To that end, it is imperative to evaluate the contractual implications of ADOT's resolution of Interpretive Engineering Decision requests.

## **(7) Deviation Requests**

Deviation Requests are a Design-Builder Requested Change, presented in Section 8.03(A) (Deviations) of the Contract. They are presented here due to the connection to the Technical Provisions. Deviation Requests are presented to ADOT by the Design-Builder as a tool to request a change to the Technical Provisions. Approved Deviation Requests amend the Technical Provisions. As such, the Collocated Team must verify that the Design-Builder has identified the language that will be amended and that it is appropriately documented in the Deviation Request. The request must provide equal or better quality than the original requirement and does not constitute a waiver by ADOT to seek relief. No entitlement for Contract Change can be asserted. If the Deviation Request involves cost in any way, the Collocated Team should respond to the Deviation Request, requiring the Design-Builder to submit a Change Request.

## **(8) Constructability Reviews**

Constructability reviews must be performed by both ADOT and the Design-Builder. ADOT constructability reviews are completed for two reasons: i) to verify that the Basic Configuration can be accomplished as required; and ii) to anticipate constructability issues and inform submittal review comments. It is important to note that issues relating to constructability are the Design-Builder's risk. The Collocated Team must review the Design-Builder's performance of the QMP regarding constructability reviews.

## **(9) Quality Control and Assurance**

Quality of the design is the responsibility of the Design-Builder, and an approved PSQMP is required before design commences. ADOT will perform oversight of the Design-Builder's compliance with the commitments made in the PSQMP. The GEC must verify each design submittal is accompanied by a quality certificate signed by the QM, PSQM and CQM.

## **(D) Preconstruction Work**

### **(1) ROW Acquisition**

See Section 118 (Right-of-Way) of the Technical Provisions and Section 11 (Right-of-Way and Use of ADOT Property) of the Contract for detailed requirements regarding Project ROW Work. ADOT will perform the specific tasks related to ROW, with the exception of Design-Builder ROW. The Collocated Team has the responsibility to track the status of all project parcels relative to the committed dates in TPA 118-1 (Acquisition and Relocation Status Report) of the Technical Provision Attachments. The Collocated Team will coordinate with ADOT ROW staff and consultants on a regular basis to verify that appropriate resources and efforts are being made to meet those obligations. The Collocated Team will continue to be the ADOT representative with Design-Builder on ROW issues.

### **(2) Utility Agreements**

See Sections 115 (Third-Party Agreements) and 119 (Utilities) of the Technical Provisions and Section 12 (Utility Adjustments) of the Contract for detailed requirements regarding utilities. Design-Builder is responsible to perform coordination with Utility Companies sufficient to complete all Utility Agreements. Utility Agreements wherein the Utility Company self-performs the utility Work will be executed by ADOT. Utility performance is a shared contractual risk, and the Collocated Team must make a focused effort to be intimately involved in all meetings, discussions and decisions regarding the Utility Agreements, schedules, and costs.

### (3) Environmental Compliance

Design-Build is responsible to fulfill environmental requirements and commitments assigned by ADOT in the Contract. Those responsibilities include performing all mitigation measures required by the Contract Documents and compliance with the provisions regarding environmental compliance in accordance with Section 117 (Environmental) of the Technical Provisions. As the aforementioned responsibilities are fulfilling ADOT obligations, oversight of Design-Build performance of environmental obligations is of paramount importance. The Collocated Team will coordinate with ADOT Environmental Planning personnel and be the sole ADOT contact as it relates to direction to the Design-Build. Development and approval of a focused project-specific Environmental Management Program in accordance with Section 117 (Environmental) of the Technical Provisions will establish approach and protocols. The Environmental Management Program will also establish communication protocols and training requirements. These items are key early in the NTP 1 period, because the environmental resources must be managed appropriately prior to ground disturbing activities. The Collocated Team will verify Design-Build compliance with the Environmental Management Plan throughout the D&C Period.

The scope of any remedial actions, such as environmental mitigation measures, site cleanup, or hazardous materials abatement, shall be clearly identified in the environmental documents and the RFP. If Design-Build changes the Schematic Design or incorporates Design-Build ROW into the project, additional environmental studies, re-evaluation, amendment, or modification may be required. If required, Design-Build will be solely responsible for the cost of pursuing and undertaking any such study, re-evaluation, amendment, or modification. ADOT will be signatory and will submit such documents to the Governmental Entity.

ADOT may also obtain all the necessary environmental permits, such as Section 404 permits and clearance letters. Any special environmental remediation work that needs to be performed during construction as part of necessary environmental permits is specified in the Technical Provisions for the Design-Build to perform.

The Design-Build is still responsible for obtaining all other permits including the environmental permits such as dust control and hauling permits as well as the National Pollution Discharge Elimination System's NOI and NOT.

### (4) Preliminary Management Plans

Design-Build's Proposal requirements include the development of the Preliminary Schedule and the preliminary DBE/OJT Utilization Plans.

#### (a) Project Baseline Schedule

The Preliminary Schedule will form the basis of the Project Baseline Schedule. The Project Baseline Schedule is an important tool that is used to plan, monitor, and report on the progress of the Work, and is used for payment as further described in Section 5.05(D). Section 108.12 (Schedules) of the *ADOT DB-TP-Template* is based on the ADOT stored specification (108SCHLVL3, 08/19/21).

#### (b) Project Management Plan

Volumes of the PMP form the basis of the Design-Builders strategies and approach to manage the project. Development of these plans is of the most critical nature to show the Design-Builders understanding of the project and how the Design-Build will meet the requirements of the Contract Documents including environmental, utilities, and quality. The Collocation Team should collaborate with the Design-Build in the expedient development of these plans as ADOT's approval is required prior to issuance of NTP 2.

### (5) Existing Site Documentation

Requirements for documentation of the Site are provided in Section 100.19 (Documentation of the Site) of the *Technical Provision*. This is a critical scope of work item to be completed during the NTP 1 period and prior to any ground disturbing activity on the Site. The RE should assign an inspector to monitor and oversee the Design-Build's documentation of the existing site conditions.



## **(6) Project Office**

The Design-Builder will be developing the Project Office during the NTP 1 period, with the anticipation that ADOT and the Design-Builder's project teams will collocate as soon as possible during NTP 1 and throughout the remaining D&C Period. ADOT will take an active oversight role as the plans and improvements are made to the project office, verifying compliance and providing input to enhance the efficacy of the office for the ADOT Collocated Team.

## **(7) ADOT's PMIS and Project Documentation**

The Collocated Team will use the PMIS established in Section 4.01. ADOT's PMIS will serve as the primary repository of submittals delivered from the Design-Builder. The PMIS must be equipped to receive, store, catalog, filter, and retrieve project-related documents with unique document control numbers. The PMIS must document the logging, tracking, retrieval, and approval information for all submittals to ADOT from the Design-Builder and vice versa. The Collocated Team should set up a meeting early in NTP 1 to go over the process of submitting documents through ADOT's PMIS. It is essential that the Collocated Team requires all submittals to be submitted through the PMIS. The Collocated Team should also keep a well-documented record of the project. The Collocated Team should be adamant that the Design-Builder submits notes for ADOT's review and comment, for any meeting the Design-Builder has with any stakeholder, utility company, property owner, Governmental Entity, or Authority Having Jurisdiction connected with the project. The GEC should train each of its employees to understand the need for and ability to contribute to a well-documented record of the project for every discipline and role.

## **(E) Subcontracting**

### **(1) SRFs, Certified Payrolls and Prevailing Wages**

When the contract has federal funding, ADOT is required to enforce the federal requirements that the Design-Builder is certified in their Proposal. ADOT is vulnerable to sanctions and fines if the Design-Builder does not follow the subcontracting federal requirements. As such, each Subcontractor that performs work for or on behalf of the Design-Builder is required to fill out a SRF and submit it to ADOT for approval before the Subcontractor does any work on the project. The Collocated Team will remind the Design-Builder that their Subcontractors (including subconsultants) are to submit SRFs prior to performing any work, including attending project meetings.

SRFs represent the beginning of verifying compliance with subcontracting federal requirements. The Collocated Team will assist ADOT in reviewing certified payrolls to verify that the Design-Builder is paying their subs, conducting interviews for compliance with Davis-Bacon prevailing wages, and monitoring the DBE and OJT utilization plans.

### **(2) DBE/OJT Preliminary Plan**

The strategy to achieve the goals set forth for DBE and OJT on DB projects includes the establishment of preliminary plans developed during the procurement process. Exhibit 9 provides guidance to the Collocated Team on the requirements of DBE/OJT compliance and monitoring requirements. The Collocated Team should use this guidance in verifying that the Design-Builder follows the requirements in Section 5.02 (*Disadvantaged Business Enterprise*) of the Contract and the preliminary DBE and OJT plans as the Design-Builder carries out the work.

## **(F) NTP 1 Payment**

### **(1) FAST**

Prior to the first *Draw Request*, the Collocated Team will break down the estimate in ADOT's FAST program into subitems. When the C&S Group builds the estimate in FAST, only two items are typically created: one for Construction Work and one for Professional Services Work. These lump sum subitems must match the Design-Builder's pricing form in the Contract. Depending on ADOT's funding sources, each item on the pricing forms may have separate subitems for each funding source. See Exhibit 2-3 (*Contract Price Tables*) of the Contract.

## **(2) First Draw Request and Subsequent Draw Requests**

Payment for completed work will be in accordance with Section 6 (Payment) of the Contract. The Collocated Team will draft a *Draw Request Calendar* prior to the first *Draw Request*. The *Draw Request Calendar* will be based on ADOT's Contractor Key Cycle Date calendar. The calendar shall enumerate contract dates for the draft *Draw Request*, Progress Meetings, and submittal of the final *Draw Request*. The Collocated Team should prioritize turning comments around quickly on the draft *Draw Request*. Upon receiving comments from ADOT, the Design-Builder will schedule the Progress Meeting to discuss ADOT's comments on the draft *Draw Request*. The ADOT Design Manager will give a report of the progress of the design work based on the submittals ADOT has received in the PMIS. The RE(s) will meet with the Design-Builder to agree on progress. Once ADOT and the Design-Builder have agreed on the changes (if any) to the draft *Draw Request*, the Design-Builder will address the changes and submit the final *Draw Request* to ADOT for approval.

Once the *Draw Request* has been approved by both parties authorized representatives, a diary will be drafted in PEN for the RE's approval to process the payment in ADOT FAST.

## **(3) Long-Lead Items and Materials On Hand**

Payment for long-lead items and material stored on the project but not yet incorporated allows the Design-Builder to plan the work out in advance. The Collocated Team should ask for a list of long-lead items including material that is anticipated to be stored on the project. Payment for long-lead items and material on hand will be in accordance with Section 6.04 (Partial Payment for Material on Hand) of the Contract. The Collocated Team should monitor the Project Schedule for activities that require the incorporation of long-lead items.

## **(G) NTP 1 Project Meetings**

### **(1) General**

The Collocated Team will be expected to attend various meetings between the Design-Builder and ADOT, including, Technical Working Group (TWG), pre-design coordination, utility coordination, schedule coordination etc., per Section 108.13 (Meetings) of the Technical Provisions.

### **(2) Technical Working Group Meetings**

The TWG meetings facilitate the progress of the design work. The PM or the ADOT Design Manager should attend TWGs whenever possible to enhance discussions regarding interpretations of the Contract Documents. The Collocated Team should pay close attention to what is said in these meetings that could be interpreted as approving additional scope or other contractual matters.

### **(3) PM Meeting, Executive Meetings**

A weekly meeting between the management personnel of ADOT and the Design-Builder is highly recommended to enhance the ability of the two parties to quickly resolve any issues or changes. Delayed decisions not only presents additional hours to designers but could also delay start of construction work. Decisions made in this meeting will be led by either the PM or RE. The GEC will support such discussions with the appropriate correspondence and notes from other meetings and conversations.

The PM and RE will attend targeted quarterly Executive Meetings with the ADMP Division Director and the Design-Builder leadership to discuss any issues that are ongoing and have been escalated above their level. The GEC will prepare materials to talk through at this meeting.

## **(H) Conditions Precedent**

### **(1) Pre-NTP 2 Ground Disturbance**

The Collocated Team should be aware of the conditions precedent to ground disturbing activities in Exhibit 6-2 (Conditions Precedent to Ground Disturbing Activities) of the Contract. One thing to note is that there are certain

activities (e.g., geotechnical investigations) that will take place without RFC plans and are localized to smaller areas. Therefore, ground disturbing submittals such as the draft SWPPP and plant salvage operation plan, can focus only on the area where the specific work is taking place.

## **(2) Build At Risk**

The Contract envisions certain work that can be Build At Risk, including removals, rough grading, drainage pipes, temporary works, or maintenance of traffic to be completed with in-process plans. The RE and Design-Builder will agree to the acceptable form of in-process plans for the subject work.

### **(I) Conditions Precedent to NTP 2**

Exhibit 6-3 (Conditions Precedent to Issuance of NTP 2) of the Contract details the requirements that must be met by the Design-Builder in order to be granted issuance of NTP 2. During NTP 1, the Design-Builder will submit several plans, including the volumes of the *Project Management Plan (PMP)* and the *Project Baseline Schedule* to ADOT for review and approval. The components of the *PMP* and the *Project Baseline Schedule* usually take the most time to get approved by ADOT, due to the project-specific strategies the Design-Builder is required to describe to complete them. The Collocated Team should keep track of the progress the Design-Builder is making in getting the items in Exhibit 6-3 (Conditions Precedent to Issuance of NTP 2) of the Contract completed and the number of times these items are required to be resubmitted (if any). Aside from the *Project Baseline Schedule*, each submittal in Exhibit 6-3 (Conditions Precedent to Issuance of NTP 2) of the Contract should have an initial and final submittal if proper quality control has been completed.

## **5.05 NTP 2 Period**

### **(A) Issuance of NTP 2**

NTP 2 authorizes the Design-Builder to perform all Work and related activities to the Project (except for any project-specific work associated with additional NTPs, if included). Exhibit 6-3 (Conditions Precedent to Issuance of NTP 2) of the *ADOT DB-Contract-Template* is a list of the typical conditions precedent; however, any project-specific conditions should be added to that list. ADOT must confirm that all conditions in Exhibit 6-3 (Conditions Precedent to Issuance of NTP 2) of the Contract have been completed prior to issuance of NTP 2. The expected Issuance of NTP 2 is established in Exhibit 5 (Contractual Deadlines) of the *ADOT DB-Contract-Template* as not earlier than 275 Days after issuance of NTP 1.

### **(B) Construction Partnering Meeting**

The Construction Partnering Meeting, with all key stakeholders in attendance, should take place prior to any significant Construction Work. ADOT and the Design-Builder will use or expand upon the goals of the project charter developed during the initial workshop. One of the primary goals of the document is to determine how the ADOT team makes decisions and how it interacts with the Design-Builder's team, to anticipate obstacles to success and develop avoidance strategies.

### **(C) Conditions Precedent to Construction Work**

ADOT will verify that the Design-Builder is compliant with Section 7.04(A) (Conditions to Commencement of Construction) and Exhibit 6-4 (Conditions Precedent to Commencement of Construction Work) of the Contract and has disseminated RFC Plans and has held appropriate Pre-Activity Meeting(s) prior to allowing any Construction Work. The administrative requirements of DB projects are complex and widespread throughout the Contract Documents. The Collocation Team should assist the Design-Builder in knowing the pertinent requirements the Design-Builder is required to meet prior to beginning Construction Work to show ADOT is acting in good faith as the project administrator.

## **(1) RFC Plans**

RFC Plans represent the Design-Builder's design intent and are compliant with the Technical and Quality requirements in the Contract Documents. The Design-Builder is also responsible for uploading and disseminating of the correct RFC Plans to all parties involved in the construction and the quality of the work. It is advisable that the Collocated Team verify the Design-Builder's electronic document management system has the correct drawings uploaded to avoid confusion for field personnel.

## **(2) Pre-Activity Meetings**

When construction activities are scheduled, all parties must be aware of the key aspects of that activity. Everything from safety to quality, including answering the questions of who will do what and when they will do it, is addressed. Pre-Activity meetings are especially critical for activities that are underway for the first time. ADOT will evaluate the need for subsequent Pre-Activity Meetings in the event that there are changes in the design, process, team, or quality.

## **(D) NTP 2 Payment and Project Schedule Updates**

### **(1) Draw Request During NTP 2**

With the start of Construction Work, the *Draw Request* requires additional information to substantiate costs incurred. Design Work will continue to be paid in accordance with Section 6 (Payment) of the Contract, until all the design documents have been released for construction. Construction Work is paid based on the percent complete reflected on the *Monthly Progress Schedule*. The Collocated Team will review the draft *Draw Request* in concert with the *Monthly Progress Schedule*. The percentages shown on the *Draw Request* must directly correlate to the progress made on the *Monthly Progress Schedule*.

### **(2) Narrative and Monthly Progress Schedule Updates**

The Design-Builder will submit a narrative with the Project Schedule information as part of the *Monthly Progress Schedule*. The Collocated Team should verify that the cutoff date is in accordance with Section 6 (Payment) of the Contract. This narrative must be consistent with what is shown in the Project Schedule, and with observations on the project. The Collocated Team must be attentive to what is stated in the narrative regarding responsible parties for delays or events that may lead to delay, as this is a submittal that requires ADOT approval.

### **(3) Withholdings and Deductions**

The Design-Builder's *draft Draw Request* shall include any deductions due to liquidated damages, sanctions, and noncompliance charges, as well as withholdings from Nonconforming Work Reports (NCRs) and unapproved portions of the *Monthly Progress Schedule*. The Collocated Team should verify the withholdings and deductions are in accordance with Sections 6 (Payment), 15 (Liquidated Damages and Sanctions), and 16 (Contractual Noncompliance) of the Contract.

## **(E) Post Design**

At some point during the NTP 2 period, it is anticipated that the bulk of the design will be completed, and TWG meetings will cease to provide value to the project. During the post-design effort, the professional services team will be focused on dealing with design changes and clarifications, and with staying ahead of the construction. Despite the urgency with which post design is executed, it is critical that all design changes follow the same quality process and ADOT concurrence with which the original design was developed. Priorities are established by the Design-Builder but should be relatively consistent with the *Three Week Look Ahead* schedule. A regular (weekly) Post-Design Meeting is typically held to assist the Design-Builder with moving their changes through the RFC process.

## **(1) Notice of Design Change vs Field Design Change**

Design changes in a DB project can be numerous and will run the continuum from truly minor to significant major modifications of the original RFC Plans. Management of the design change process becomes critical path for the project during construction. The Collocated Team will verify that the Design-Builder continues to follow the quality and approval processes throughout the D&C Period. It is recognized that some minor changes can be merely documented through redlines in the Record Drawings, whereas more significant changes must include revised RFC Plans prior to performing the Construction Work.

## **(2) Record Drawings Development**

The Collocated Team will contemporaneously verify that the Design-Builder is actively maintaining a set of Record Drawings at the Project Office, including verifying that quality processes are followed. Completed Record Drawings are a condition precedent to Final Acceptance. In the past, some Design-Builders have not advanced the completion of the Record Drawings until very late in the project, creating potential delays to Final Acceptance and Final Payment. The Collocated Team will periodically verify that Design-Builder is advancing Record Drawings and that the final product has a reasonable likelihood of achieving acceptable quality prior to Final Acceptance.

## **(F) Construction Oversight**

### **(1) Three Week Look-Ahead Schedule**

During the NTP 2 period, the Collocated Team will meet weekly with the Design-Builder to discuss upcoming work that is planned in the *Three Week Look-Ahead*. The Collocated Team will remind the Design-Builder of the requirement to submit the *Three Week Look-Ahead* prior to the weekly construction meeting so that ADOT has the opportunity to review it for consistency with the *Monthly Progress Schedule*. ADOT will also verify that the schedule correctly identifies the work that is on the critical path and identifies that the work is being prioritized.

### **(2) Traffic Control**

Traffic control restrictions, closures, and detours are common on any construction project, but the difference on DB projects arises when the Design-Builder, due to schedule deadlines, abruptly changes the plan for traffic control. The Collocated Team will review the *Monthly Progress Schedule* and ask for the Design-Builder's plan for traffic control. In addition, the Collocated Team will verify that the design of the traffic control plan is appropriate and that the plan is being followed.

Traffic control inspection and oversight will continue to be performed by the Collocated Team on DB projects. ADOT remains the owner of the facility and is accountable to the public for the safe and efficient conduct of traffic through the project corridor. The Collocated Team will review and approve all traffic control plans. The Design-Builder's designer and traffic control coordinator should also review traffic control plans for compliance with the Contract Documents prior to ADOT's review. Traffic must be able to quickly distinguish the correct path when traveling at a reasonable speed. Pedestrian traffic safety and access must be addressed in traffic control plans.

### **(3) Transportation Management Plan**

Another component of a DB project that differentiates it from DBB projects is the requirement of a project-wide Transportation Management Plan. The Collocated Team will verify that the Design-Builder has considered and coordinated with all the relevant stakeholders. The Collocated Team will also verify that the Design-Builder has an Emergency Vehicle Access Plan in place to allow emergency personnel to seamlessly traverse the project.

### **(4) Public Information**

The Design-Builder must be heavily involved in the community relations activities for a DB project. ADOT expects a high level of participation from the Design-Builder in handling neighborhood complaints, dealing with business owners, attending and participating in public meetings, talking to community leaders, and answering calls from the public. The Communications Group will still handle media relations. The Collocated Team will regularly meet with

the Design-Builder to discuss impacts to the traveling public, so the RE can update the ADOT event reporting system for traffic closures, restrictions, and detours.

The GEC will assist the PM and RE with community relations and public involvement activities. Either the PM or RE will take the lead in this area with assistance from the Communications Group. The Collocated Team must manage the process, control the flow of public information, and be responsive to the public.

## **(5) ADOT Acceptance**

Because DB project delivery is a fast-tracked method of project delivery with a feedback loop between construction and design, changes are often made to the design while the work is under construction. This can sometimes be a little confusing for inspectors who are accustomed to operating in the traditional DBB environment. It is important for the RE to brief the GEC on the differences between inspecting in the DB environment compared to traditional DBB. It is advisable for the RE to spend time training their staff on how to inspect a DB project, so they are as empowered to make decisions and work with the Design-Builder's construction staff as if they were on a DBB project.

ADOT will be performing the quality inspections and quality acceptance testing. As a result, the RE should staff the project like a traditional DBB project. ADOT's inspection consists of verifying that work conforms to the Contract Documents with special emphasis on designated hold points throughout the course of the work. The inspection process requires the continual attention of the ADOT and GEC inspectors while the work is in progress.

ADOT is always the final point of acceptance on a DB project. Acceptance of the work cannot be delegated to the Design-Builder. Inspectors and the RE have the right to inspect the work anywhere, at any time, and to any level of detail, whether or not they suspect nonconforming work.

## **(6) Survey**

On a DBB project, the District survey crew performs the initial control survey for the project, then verifies the contractor's survey work throughout the life of the project when requested by the RE or project supervisor. On a DB project, the Design-Builder's surveyors will perform all surveys, including verifying the datum and control used during the design so they are compatible with the existing ADOT control in the corridor. ADOT should check the Design-Builder's survey work at key points during construction.

## **(7) Maintenance During Construction**

See Section 105.15 (Maintenance During Construction) of the Technical Provisions and Section 7.05 (Maintenance During Construction) of the Contract for detailed requirements for maintenance during construction beginning upon issuance of NTP 2 and ends after issuance of *Certificate of Substantial Completion*. ADOT will perform all maintenance work not specified in Section 105.15 (Maintenance During Construction) of the Technical Provisions, unless ADOT directs Design-Builder to perform additional Maintenance During Construction in accordance with Section 7.05 (Maintenance During Construction) of the Contract.

## **(G) Construction Issues and Nonconforming Work Report**

### **(1) Identification, Classification and Documentation**

As stated in Section 7.04(C) (Conformity with Plans and Project Special Provisions) of the Contract, whenever materials furnished and work performed or the finished product does not conform to the Contract Documents, the work is to be identified as such. The process of how the Design-Builder will document nonconforming work will be identified in the CQMP. It is the Design-Builder's responsibility to complete NCRs. The Collocated Team should ask the Design-Builder to run through the database of NCRs during the project quality meeting.

### **(2) Resolution**

As outlined in Section 7.04(C) (Conformity with Plans and Project Special Provisions) of the Contract, NCRs can be resolved by leaving the product in place or complete removal and replacement, where the burden of proof for

allowing it to stay in place is on the Design-Builder. The acceptable resolution for an NCR may come as a credit to ADOT for nonconforming work that ADOT allows to stay in place at the Design-Builder's request. Each NCR that is not fully resolved during the applicable Draw Request period, to the satisfaction of ADOT, is subject to a withholding up to the requested amount for the completion of the work. The Collocated Team should verify that the Design-Builder is identifying withholdings (if any) on the draft *Draw Request* submittal.

## **(H) Noncompliance Event System**

The Noncompliance Event (NCE) system established by Section 16 (*Contractual Noncompliance*) of the Contract is a system that is intended to promote Design-Builder compliance with requirements and standards in the Contract Documents and to provide objective remedies to ADOT, tailored to the adverse effects of Design-Builder breaches. ADOT established Noncompliance Event implications during the procurement, communicating to Proposers those items that ADOT expects to be well managed during the project execution. Those implications are codified in Section 16 (*Contractual Noncompliance*) and Exhibit 11 (*Noncompliance Event Tables*) of the Contract. It measures Design-Builder's performance of certain listed obligations and requires cures for Design-Builder's breach or failure to perform these obligations. Noncompliance Points/Charges are not intended to be a punitive measure to the Design-Builder. However, Noncompliance Events affect commercial performance as Noncompliance Charges reduce the moneys owed to the Design-Builder.

### **(1) General**

The Collocated Team should not use NCEs as punitive measures that may damage the relationship between ADOT and the Design-Builder. Attention should be given to the NCE waiver system in Section 16.03(B) (*Waiver*) of the Contract, so that in the event a Design-Builder makes an honest mistake, they are not immediately penalized.

To be effective, the NCE system requires concerted and diligent ADOT oversight and administration. The NCE system has three main components:

- (a) NCEs are those specified breaches and failures in Exhibit 11 (*Noncompliance Event Tables*) of the Contract;
- (b) Noncompliance Points that ADOT may assess for the occurrence of NCE; and
- (c) Noncompliance Charges for each point established in the corresponding NCE in Exhibit 11 (*Noncompliance Event Tables*) of the Contract.

### **(2) Notification and Documentation**

It is the Design-Builder's responsibility to establish an electronic database for documenting the notification, tracking, and curing of NCEs in accordance with Section 16.02 (*Noncompliance Assessment Notification and Cure Process*) of the Contract. Notification may come from either Design-Builder or ADOT. The Design-Builder will submit a *Monthly Report* on the status of curing NCEs as part of the draft *Draw Request*. After receiving the *Monthly Report*, the Collocated Team will respond in writing within a reasonable time to address whether ADOT agrees the NCEs reported as cured were cured within the applicable cure periods, and with the Noncompliance Points and Noncompliance Charges to be assessed.

### **(3) Curing and Assessment**

Upon notification, the Collocated Team may elect to assess less than the maximum Noncompliance Points on any given event in accordance with Section 16.03 (*Assessment and Waiver of Noncompliance Points*) of the Contract. Noncompliance Points are assessed based on the category ("A" or "B") event and whether the Design-Builder has been able to cure within the specified period in Exhibit 11 (*Noncompliance Event Tables*) of the Contract. More severe breaches or failures of the Design-Builder have been assigned category "B", which means the Design-Builder will immediately be assessed Noncompliance Points without an opportunity to cure. The cure period for category "B" events begins after the assessment of Noncompliance Points. If the Design-Builder has a breach or failure under

category “A” the Design-Builder will have an opportunity to avoid Noncompliance Points by curing the event within the applicable period.

## **5.06 Changes to the Contract**

### **(A) General**

This Section 5.06 describes the provisions for ADOT to issue Supplemental Agreements to the Contract through ADOT-Directed Changes, Design-Builder Requested Changes, and Relief Events. Section 8 (Changes to the Contract Documents) of the Contract provides the specific language for the process related to these Supplemental Agreements. For amending Contract terms that have no monetary implications, ADOT may use its Procedural Change Order form of Supplemental Agreement. The Collocated Team should be aware of changes to the Contract that may put restrictions on or delays to the work of the Design-Builder, which can quickly accumulate costs.

### **(B) Relief Events**

ADOT’s risk resides in the eligible items of relief specified in Section 8.03(C)(3) (Items Eligible for Design-Builder Requested Relief Events) of the Contract. The Contract also describes the process that the Design-Builder is required to follow in order to receive such relief. The first step to relief is entitlement to and application of an item eligible for relief. The starting point for entitlement is in well-documented project records, including any correspondence, meeting notes and reports. For this reason, it is critical that the Collocated Team documents the progress of the project in a neat and orderly manner within ADOT’s PMIS.

If ADOT and the Design-Builder mutually agree that there is entitlement to an item eligible as stated above, the Design-Builder shall follow Section 8 (Changes to the Contract Documents) of the Contract to seek relief. The most useful tool available to ADOT in resolving relief events is partnering. There is always give and take on projects, so if the parties are able to maintain a spirit of partnering in the best interest of the project, then handling relief events can be seamless and respectful.

Just like the project records, it is important to document the Relief Event process. ADOT shows they are acting in good faith under the Contract, in the administration of Relief Events, by reminding the Design-Builder of their contractual obligations in writing. Additionally, relief events often take on a life of their own, and the Design-Builder, after notifying ADOT, will proceed with measures to resolve the matter. The Collocated Team should monitor and keep track of the steps the Design-Builder takes. ADOT should be involved in those decisions.

Exhibit 10 (Extra Work Costs and Delay Costs Specifications) of the Contract describes the compensation for Relief Events is categorized into Extra Work Costs and Delay Costs. Extra Work Costs and Delay Costs payable for a Relief Event may be a negotiated lump sum payment, progress payments as Work is completed, or a combination.

### **(C) Supplemental Agreement Process**

Supplemental Agreement process on DB projects does not differ significantly from DBB projects. One component is that federally funded DB projects may require the submission of the Alternative Delivery Contract Modification Request be submitted to the FHWA Area Engineer for approval. The RE will process Supplemental Agreements in FAST with a modified approval hierarchy compared to DBB projects in ADOT. Typically, the RE still is the first level then the District Engineer, but the ADMP Division Director replaces any levels after that. To be effective, the Supplemental Agreement must be signed by ADOT’s Authorized Representative.

ADOT may process minor requested changes that have no significant cost savings, as requests to approve a Deviation Request, in which case no Change Request or Supplemental Agreement is required.

The process to complete Supplemental Agreements is described in Section 8 (Changes to the Contract Documents) of the Contract.

No document, including any field directive, is valid, effective or enforceable as a Supplemental Agreement unless it is expressly identified as a “Supplemental Agreement”; and is signed by the appropriate ADOT personnel identified



in Exhibit 4 (*Initial Designation of Authorized Representatives*) of the Contract as having authority to execute Supplemental Agreements.

## **(D) ADOT-Directed Changes**

### **(1) Directive Letters**

The PM or RE may issue a directive letter at any point per Section 8.03(A) (*Deviations*) of the Contract, directing the Design-Builder to proceed in accordance with the Contract if there is a disagreement on the interpretation of the Contract Documents. The Collocated Team should be aware that if the Design-Builder believes an ADOT-Directed Change has occurred, then under Section 8 (*Changes to the Contract Documents*) of the Contract, the Design-Builder may be entitled to submit a Relief Event notice.

### **(2) Request for Change Proposal**

ADOT may, from time to time, wish to consider a change to the Contract. In that event, ADOT may issue a written notice, advising Design-Builder that ADOT may issue an ADOT-Directed Change or wishes to evaluate whether to initiate such a change. The process to issue a Request for Change Proposal is established in Section 8.02(B) (*Request for Change Proposals*) of the Contract. It is advisable to be very selective when asking Design-Builder to expend resources on pricing changes that may not happen. Fruitless disruptions can be very costly and frustrating to Design-Builders.

### **(3) ADOT-Directed Changes**

ADOT's Authorized Representatives have the discretion to direct changes in the scope of work, including scope reductions, and changes to the Technical Provisions per Section 8.02(C) (*ADOT-Directed Changes*) of the Contract. The Collocated Team needs to be aware that ADOT-Directed Changes may allow the Design-Builder to put ADOT on notice for a potential Relief Event as stated in Section 8.03(C) (*Design-Builder Change*) of the Contract. ADOT-Directed Changes may also be reductive in nature. The Collocated Team should be very specific to the direction given so there is no misinterpretation, and shall document it in writing to the Design-Builder.

### **(4) Suspensions for Convenience**

Section 8.02(D) (*Suspensions for Convenience*) of the Contract provides the opportunity for ADOT to suspend all or any part of the Work for the period of time that ADOT deems appropriate for the convenience of ADOT. It is important to note that any such suspension is likely an ADOT-Directed Change and/or ADOT-Caused Delay.

## **(E) Design-Builder Requested Changes**

ADOT has sole discretion whether to accept or reject a Change Request. If ADOT accepts, the Parties are to execute a Supplemental Agreement setting forth the terms, including changes to pricing and schedule, and to implement those changes. The Design-Builder bears all cost increases and additional risks resulting from an accepted Change Request. The Design-Builder receives no extension of the Project Schedule or Contractual Deadlines due to delays or other impacts resulting from an accepted Change Request. ADOT is entitled to compensation for any incremental increase in its overhead, administrative, and out-of-pocket costs resulting from an accepted Change Request. If analysis indicates that an accepted Change Request will produce net cost savings to the Design-Builder, then ADOT is entitled to 50% of the net cost savings.

Via a Change Request, the Design-Builder may request changes to:

- (1) The Technical Provisions;
- (2) The Design-Builder's Proposal Commitments; and
- (3) The Project ROW or TECs not already indicated in the Proposal Design.

1 No Change Request is required to implement any change to the Work that is not a Deviation and is not specifically  
2 regulated or addressed by the Contract Documents or applicable Law. The Design-Builder has the flexibility to  
3 implement such changes without prior approval, an ADOT-Directed Change, or a Supplemental Agreement.

4 **End Section**

## EXHIBIT 1 ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

### 1 Abbreviations and Acronyms

§	Section
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADMP	Alternative Delivery and Major Projects Division
ADOT	Arizona Department of Transportation
APWA	American Public Works Association
ARS	Arizona Revised Statutes
ASTM	American Society of Testing Materials
ATC	Alternative Technical Concept
AZAGC	Arizona Associated General Contractors of America
BCC	Blind Carbon Copy
BECO	Business Engagement and Compliance Office
C&S	Contracts and Specifications
CQM	Construction Quality Manager
CQMP	Construction Quality Management Plan
CSRA	Cost and Schedule Risk Assessment
D&C	Design and Construction
DB	Design-Build
DBB	Design-Bid-Build
DBE	Disadvantaged Business Enterprise
DCR	Design Concept Report
DPD	Detailed Pricing Documents
DTM	Digital Terrain Model
EA	Environmental Assessment
ECS	Engineering Consultant Section
PMIS	Project Management Information System
FAST	Field Office Automated System
FERC	Financial Evaluation and Recommendations Committee
FHWA	Federal Highway Administration
FPAG	Financial Procurement Advisory Group

1	GEC	General Engineering Consultant
2	IGA	Intergovernmental Agreement
3	IQF	Independent Quality Firm
4	ITG	Information Technology Group
5	ITP	Instructions to Proposers
6	JPA	Joint Project Agreement
7	LD	Liquidated Damage
8	MUTCD	Manual on Uniform Traffic Control Devices
9	NCE	Noncompliance Event
10	NCR	Nonconforming Work Report
11	NEPA	National Environmental Policy Act
12	NOI	Notice of Intent
13	NOT	Notice of Termination
14	NTD	Note to Drafter
15	NTP	Notice to Proceed
16	OJT	On-the-Job Training
17	P3	Public-Private Partnership
18	PAG	Procurement Advisory Group
19	PDF	Portable Document Format
20	PM	Project Manager
21	PMIS	Project Management Information System
22	POC	Point of Contact
23	PSQM	Professional Services Quality Manager
24	PSQMP	Professional Services Quality Management Plan
25	QM	Quality Manager
26	QMP	Quality Management Plan
27	R&R	Responsiveness and Responsibility
28	RE	Resident Engineer
29	RFC	Release for Construction
30	RFP	Request for Proposals
31	RFQ	Request for Qualifications
32	RID	Reference Information Document
33	ROW	Right-of-Way

SME	Subject Matter Expert
SOQ	Statement of Qualifications
SRF	Subcontractor Request Form
SUE	Subsurface Utility Engineering
TCE	Temporary Construction Easement
TERC	Technical Evaluation and Recommendations Committee
TP	Technical Provisions
TPA	Technical Provision Attachment
TPAG	Technical Procurement Advisory Group
TRACS	Transportation Accounting System

## 2 Definitions

### Addenda/Addendum:

The supplemental additions, deletions, and modifications to the provisions of the RFQ or RFP issued by ADOT, after the advertisement date of the RFQ or RFP, respectively.

### Alternative Technical Concept (ATC):

A concept contained in a Proposal that deviates from the Technical Provisions represents an innovative design or construction approach to the project, provides equal or better quality and performance, and is approved by ADOT in its sole discretion.

### Authority Having Jurisdiction:

Governmental Entities, Utility Companies, Railroads, and any other authority having jurisdiction of the Work.

### Basic Configuration:

Those items identified in Section 100.13 (*Basic Configuration*) of the *ADOT DB-TP-Template* that describes the elements of the project that are not allowed to be changed unless approved by ADOT in its sole discretion and authorized by a Supplemental Agreement.

### Claim:

A demand by Design-Builder, which is or potentially could be disputed by ADOT, for:

- (A) A Contractual Deadline adjustment under the Contract Documents,
- (B) Payment of money or damages from ADOT to Design-Builder, including Extra Work Costs and/or Delay Costs, or
- (C) Any other type of relief from ADOT, whether claimed under the Contract Documents or at Law or in equity, or a demand by ADOT, which is or potentially could be disputed by Design-Builder, for payment of money or damages from Design-Builder to ADOT.

A Claim includes each request by Design-Builder due to a Relief Event that is submitted to ADOT, which is subject to the procedures under Section 8 (*Changes to the Contract Documents*) of the *ADOT DB-Contract-Template*.

**Construction Work:**

All work to build or construct, make, form, manufacture, furnish, install, supply, deliver or equip the project or the utility adjustments. Construction Work includes landscaping and landscape establishment.

**Core Procurement Team:**

The team that is comprised of the PM, Deputy Project Manager overseeing the procurement process (If available), ADOT POC, the RE, various technical leaders and managers relevant to the design of the project, and certain members of the GEC that lead the procurement effort on a DB project.

**Cost and Schedule Risk Assessment (CSRA):**

The process to assess risk to the project schedule and estimated costs. Each risk criterion in the CSRA is given a probability of occurring and an associated time and/or cost impact. These probabilities are then factored using a Monte Carlo Simulation to forecast the contract time and price for the project.

**Delay Costs:**

Additional costs attributable to a Relief Event, which costs are limited to those provided under Section 2 of Exhibit 10 (Extra Work Costs and Delay Costs Specifications) of the *ADOT DB-Contract-Template*, and provided that the entitlement for such costs is not expressly excluded under the Contract. However, in the event of a Relief Event that is concurrent with a delay for which Design-Builder is responsible under the Contract Documents, Design-Builder shall not be entitled to Delay Costs, except that, and subject to other limitations in the Contract Documents on Delay Costs. Delay Costs do not include any costs that Design-Builder can or could reasonably mitigate. Delay Costs are not recoverable for delays to work that are not a Controlling Work Item.

**Design-Bid-Build (DBB):**

The project delivery method where an owner contracts with a designer to fully design the project and subsequently contracts with a contractor to construct the project.

**Design-Build (DB):**

The project delivery method where an owner has one contract with an entity to design and construct the project.

**Design-Builder:**

The individual, joint venture, partnership, firm, corporation, or other legal entity that is appropriately licensed in Arizona, contracting with ADOT to provide design services and construction for the DB project.

**Design-Builder ROW:**

All real property interests and any temporary rights or interests, including all airspace, surface rights, and subsurface rights, outside the Schematic ROW that is acquired at Design-Builder's request for the project. Design-Builder ROW includes all:

- (A) Design-Builder-Designated ROW;
- (B) Temporary easements or other temporary interests located outside the Schematic ROW; and
- (C) Temporary Work Areas.

**Design-Builder-Designated ROW:**

All real property interests and any temporary rights or interests, including all airspace, surface rights, and subsurface rights, located outside of the Schematic ROW for Design-Builder's convenience. The term Design-Builder-Designated ROW specifically includes:

- (A) Any easements required for drainage for the Project that are not shown in the Schematic Design, or as indicated in TPA 118-1 (Acquisition and Relocation Status Report) of the *ADOT DB-TPA-Template*;
- (B) The necessity to condemn an entire parcel even though only a portion of the parcel is acquired as Design-Builder-Designated ROW; and
- (C) All real property interests and any temporary rights or interests, including all airspace, surface rights, and subsurface rights acquired to implement an ADOT-approved ATC.

The term Design-Builder-Designated ROW specifically excludes:

- (A) Replacement Utility Property Interests; and
- (B) Temporary Work Areas.

#### **Detailed Pricing Documents (DPDs):**

The Design-Builder documents that are prepared in the Design-Builder's usual format that:

- (A) Include all cost, unit pricing, price quote, and other documentary information used in preparation of the Contract Price;
- (B) Clearly detail how each cost or price included in the Proposal has been determined and must show cost or price elements in sufficient detail adequate to enable ADOT to understand how Design-Builder calculated the Contract Price;
- (C) Itemize the estimated costs or price of performing the Work separated into usual and customary items and cost or price categories to present a detailed estimate of costs and price, such as direct labor, repair labor, equipment ownership and operation, expendable materials, permanent materials, supplies, Subcontract costs, plant and equipment, insurance, bonds, letters of credit, indirect costs, contingencies, mark-up, overhead, and profit;
- (D) Itemize the estimated annual costs of insurance premiums for each coverage required to be provided by Design-Builder under Section 19 (Insurance Claims and Loss) of the *ADOT DB-Contract-Template*; and
- (E) Include all assumptions made in determining the scope of the Work and calculating the Contract Price, detailed quantity takeoffs, price reductions and discounts, rates of production and progress calculations, and copies of quotes from Subcontractors and suppliers used by Design-Builder to arrive at the Contract Price, memoranda, narratives, consultant's reports, add/deduct sheets, and any adjustments to the Contract Price under the Contract.

The DPDs that are provided in connection with quotations and Supplemental Agreements must, *inter alia*, clearly detail how the total cost or price and individual components of that cost or price were determined.

#### **Environmental Assessment (EA):**

A public document that provides evidence and analysis regarding the significance of environmental impacts of the proposed action and provides alternatives to that proposal to aid in decision-making when there is an unresolved conflict in the use of resources.

#### **Equity Member:**

Means:

- (A) Each entity with a direct equity interest in the Proposer (whether as a member, partner, joint venture member, or otherwise);

(B) Each entity proposed to have a direct interest in Design-Builder (whether as a member, partner, joint venture member, or otherwise); and

(C) Each entity that will have an indirect interest in the Proposer through one or more intermediaries.

Notwithstanding the foregoing, if the Proposer is a publicly traded company, shareholders with less than a 20% interest in the Proposer shall not be considered Equity Members.

#### **Evaluation Committee:**

The individuals who are designated and approved by the Selection Official to participate in the SOQ evaluation/Proposal evaluation and review process. The individuals include the Selection Official; ADOT POC; Procurement Facilitator; members of the TERC, and TPAG; and Observers.

#### **Extra Work Costs:**

The incremental increase in Design-Builder's cost of labor, material, equipment, and other direct and indirect costs directly attributable to Extra Work. Such Extra Work Costs shall be calculated in accordance with Exhibit 10 (Extra Work Costs and Delay Costs Specifications) of the *ADOT DB-Contract-Template*.

#### **Financial Evaluation and Recommendations Committee (FERC):**

The committee that performs the responsiveness and responsibility (pass/fail) evaluation of the Price Proposals, and evaluates the Price Proposals for recommendation to the Selection Official.

#### **Financial Procurement Advisory Group (FPAG):**

The advisory group ADOT forms to perform reviews of the Price Proposals and to assist the FERC.

#### **General Engineering Consultant (GEC):**

ADOT's consultant and their subconsultants that is providing owner's representative services for the project.

#### **Governmental Entity:**

Any federal, state, local, or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body, or entity other than ADOT. Governmental Entity includes the local jurisdictions.

#### **Independent Quality Firm (IQF):**

The independent firm identified in the Proposal (or such other firm approved by ADOT in ADOT's sole discretion) responsible for performing independent quality assurance material testing, inspection, and audits of the CQMP.

#### **Instructions to Proposers (ITP):**

The documents, including exhibits and forms, included in the RFP, containing directions for the preparation and submittal of information by the Proposers in response to the RFP. The ITP is not a Contract Document.

#### **Key Personnel:**

Those individuals identified in Design-Builder's SOQ to fill the "Key Personnel" positions identified in Section 110.03(B) (Key Personnel) of the *ADOT DB-TP-Template*, or those individuals approved by ADOT, in accordance with the Contract, to serve as replacements. The specific individuals appointed by Design-Builder and approved by ADOT to initially fill the Key Personnel positions are identified in Exhibit 2-10 (Key Personnel) of the *ADOT DB-Contract-Template*.



**Lead Design Firm:**

The member of Design-Builder's team, whether a single entity or joint venture, primarily responsible for the Professional Services of the project. The Lead Design Firm is Design-Builder's engineering firm of record with primary responsibility for Professional Services work under the Contract.

**Lead Contractor:**

The member of the Proposer team, whether a single entity or joint venture, primarily responsible for the construction of the project.

**Major Non-Equity Member:**

The following members of the Proposer team, if such team members are not Equity Members:

- (A) The Lead Design Firm (if a consortium, partnership, or any other form of a joint venture, all such members);
- (B) The Lead Contractor (if a consortium, partnership, or any other form of a joint venture, all such members); and
- (C) Any firm that will be responsible for 20% or more of the Construction Work on the project.

**Notice to Proceed (NTP):**

A written notice issued by ADOT to Design-Builder authorizing Design-Builder to proceed with certain work specified in the Contract.

**Owner Verification:**

Sampling and testing performed by ADOT or ADOT's representatives to verify that the Project is constructed in compliance with the Contract Documents.

**Preliminary ATC:**

A high-level preliminary concept that the Proposer may submit to ADOT for information and preliminary consideration that describes the Proposer's idea that deviates from the Technical Provisions, represents an innovative design or construction approach to the Project, provides equal or better quality and performance, and is approved by ADOT in its sole discretion.

**Procurement Advisory Group (PAG):**

The advisory groups ADOT forms that consist of the TPAG and the FPAG, which perform reviews of the SOQs and Proposals, and assist the TERC and FERC.

**Procurement Documents:**

The various solicitation documents that are issued and/or used during the procurement of the DB project.

**Procurement Facilitator:**

The member of the Evaluation Committee who serves as the facilitator of the SOQ/Proposal evaluation, advising all Evaluation Committee participants in the SOQ/Proposal evaluation process with respect to any procedural or administrative issues that arise during the SOQ/Proposal evaluation process.

**Procurement Phase:**

The phase of a DB project where solicitation documents are developed and issued that consist of two primary phases (RFQ Phase and RFP Phase), to ultimately award a DB contract.

**Professional Services:**

All work performed under the DB contract other than Construction Work and Maintenance During Construction, including the following services and work:

- (A) Design, architecture, and engineering;
- (B) Utility Adjustment design;
- (C) Environmental permitting and compliance;
- (D) Public involvement;
- (E) ROW acquisition services;
- (F) Surveying; and
- (G) Independent quality services.

**Proposer:**

An individual, partnership, firm, corporation, or any acceptable combination thereof, or joint venture, submitting an SOQ in response to this RFQ or a Proposal in response to the subsequent RFP.

**Reference Information Documents (RIDs):**

Those documents identified and that are to be included in the *ADOT DB-RID Index-Template* (See [Section 2.09](#)) that are accompanied with the Contract Documents. Except as expressly provided in the Contract Documents, the RIDs are not considered Contract Documents and were provided to Design-Builder for informational purposes only and without representation or warranty by ADOT.

**Relief Event:**

Any of the events eligible for Design-Builder relief in accordance with [Section 8.03\(C\)\(3\)](#) (*Items Eligible for Design-Builder Requested Relief Events*) of the *ADOT DB-Contract-Template*.

**Request for Proposals (RFP):**

The written solicitation, including ITP, Contract Documents, and RIDs, including all Addenda thereto, issued by ADOT seeking Proposals from the short-listed Proposers, to undertake the project to be used to identify the short-listed Proposer offering the best value to ADOT.

**Request for Qualifications (RFQ):**

The written solicitation, including all Addenda thereto, issued by ADOT seeking SOQs to identify and short-list Proposers eligible to receive and respond to the RFP for the project.

**RFP Phase:**

The phase of the procurement of the DB project where the RFP is developed and issued to the short-listed firms to ultimately select a team to design and construct the DB project.

**RFQ Phase:**

The phase of the procurement of the DB project where the RFQ is developed and issued, to short-list a number of qualified firms to be eligible to submit Proposals for the DB project.

**Schematic Design:**

The placemark file, roll plots, utility matrix, wall report, traffic data, and associated CAD files that ADOT prepared depicting ADOT's conceptual design for the project, as included in the RIDs.

**Schematic ROW:**

Those real property interests and any temporary right or interests, including all airspace, surface rights, and subsurface rights, ROW, and ADOT-provided TCEs identified and that are to be included in TPA 118-1 (*Acquisition and Relocation Status Report*) of the *ADOT DB-TPA-Template* and as shown on the Schematic Design included in the RIDs that ADOT is acquiring for the project based on the Schematic Design.

**Selection Official:**

The ADOT official who will make the short-list determination the ranking, and who will determine the apparent selected Proposer, subject to ratification by the ADMP Division Director.

**Selection Team:**

The individuals who are designated and approved by the Selection Official to participate in the SOQ/Proposal evaluation process that will provide recommendations with respect to the SOQs'/Proposals' performance against the responsiveness requirements, pass-fail criteria, and qualitative evaluation criteria, as applicable.

**Statement of Qualifications (SOQ):**

A statement, in the prescribed format, submitted by Proposers in support of their request to be considered for short-listing to the second stage of the selection process.

**Technical Evaluation and Recommendations Committee (TERC):**

The committee that performs the responsiveness and responsibility (pass/fail) evaluation of the SOQs and Technical Proposals, and evaluates the SOQs and Technical Proposals, for recommendation to the Selection Official.

**Technical Procurement Advisory Group (TPAG):**

The advisory group ADOT forms to perform reviews of the SOQs and Technical Proposals and to assist the TERC.

**Technical Proposal:**

The technical information included in a Proposal submitted by a Proposer providing the information requested in Section 8 (*Changes to the Contract Documents*) of the *ADOT DB-ITP-Template* (See Section 2.09).

**Technical Provisions (TPs):**

The Contract Documents identified as Technical Provisions, including Technical Provision Attachments, that includes requirements to design and construct the Project.

**Technical Provision Attachment (TPA):**

The Project-specific attachments to the Technical Provisions entitled "Technical Provision Attachment or TPA," which includes requirements to design and construct the Project.

**Temporary Work Areas:**

Areas in which Design-Builder carries out, on a temporary basis, project-specific or project-related activities in connection with the work but located outside of the Schematic ROW, such as Construction Work sites, the project office, staging areas, storage areas, lay-down areas, earth work material borrow sites, and other locations for the convenience of Design-Builder.

**Work Product:**

Proposer's concepts (including ATCs), written and electronic correspondence, exhibits, photographs, reports, printed material, electronic files, tapes, electronic media, designs, concepts, ideas, technology, techniques, methods, processes, drawings, reports, plans, specifications, information, documents, data, and other graphic and visual aids generated by or on behalf of the Proposer, each as contained in the Proposer's Proposal or as otherwise received by ADOT.

**EXHIBIT 2 ARIZONA REVISED STATUTES**

Current as of 1/21/2025.

**28-6713 Bids for construction, reconstruction, equipment or supplies; procedures; bond; exceptions**

- A. Except as provided in subsection G of this section, in a county with a population of two hundred fifty thousand persons or more as determined by the most recent United States decennial census or the most recent special census as provided in section 28-6532, bids for all items of construction or reconstruction involving an expenditure equal to or greater than the amount determined pursuant to subsection B of this section, all purchases or other acquisition of equipment involving an expenditure of more than five thousand dollars and all purchases of supplies and materials involving an expenditure of two thousand five hundred dollars or more shall be called for by advertising in a newspaper of general circulation in the county for two consecutive publications if it is a weekly newspaper, or for two publications of at least six but not more than ten days apart if it is a daily newspaper. The advertisement shall state specifically the character of the work to be done and the kind and quality of materials or supplies to be furnished.
- B. Bids shall be called pursuant to subsection A of this section for all items of construction or reconstruction involving an expenditure of:
1. In fiscal year 1985-1986, thirty-five thousand dollars.
  2. In fiscal year 1986-1987 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.
- C. If the board of supervisors receives a satisfactory bid, it shall contract with the lowest responsible bidder after the contractor or supplier gives any bond required by title 34, chapter 2, article 2, except that in counties with a population of more than one million persons according to the most recent United States decennial census, in determining the lowest responsible bidder under this section, the board may consider, for no more than five projects, the time of completion proposed by the bidder, the value over time of completed services and facilities and the value over time of interrupted services, if the board determines that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules and if the formula for considering the time of completion is specifically stated in the bidding information. The board may reject any or all bids and readvertise.
- D. The board of supervisors, a member of the board of supervisors or any other official or agent of a county affected by this section shall not segregate or divide into separate units a contiguous or continuous portion of highway construction or reconstruction or divide into separate portions an item of equipment or generally recognized unit of supplies or material to avoid the restrictions imposed by subsection A of this section.
- E. The board of supervisors, a member of the board of supervisors or any other official or agent of a county affected by this section shall make every effort to combine the following:
1. Separate portions of highway construction or reconstruction projects.
  2. Items of equipment, supplies and materials.
- F. After a contract has been awarded, the board of supervisors' authorized representative may authorize change orders to the contract if necessary pursuant to guidelines set by the board of supervisors. This authority does not permit the board of supervisors' authorized representative to act independently to award new contracts.
- G. A building, structure, addition or alteration may be constructed without complying with the bidding requirements of this section if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section

9-463.01 or 11-822. For the purposes of this subsection, building does not include any police, fire, school, library or other public building.

H. Subsections A, B and C of this section do not apply to procurement of construction-manager-at-risk, design-build and job-order-contracting construction services pursuant to title 34, chapter 6.

**28-6923 Bid requirements; procedure; bond**

A. All items of construction or reconstruction of department facilities involving an expenditure of \$189,000 or more shall be called for by advertising in a newspaper of general circulation published in this state for either:

1. Two consecutive publications if it is a weekly newspaper.

2. Two publications at least six but not more than ten days apart if it is a daily newspaper.

B. In fiscal year 2008-2009 and each fiscal year thereafter, the amount provided in subsection A of this section shall be adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

C. The advertisement shall state specifically the character of the work to be done and where a person may obtain copies of the plans, specifications and complete information as to the proposed work.

D. The bidding information provided shall state specifically the character of the work to be performed and the kind, quantity and quality of materials or supplies to be furnished. The plans and specifications:

1. Shall be sufficiently complete, definite and explicit to allow informed, free, open and competitive bidding on a common basis.

2. May require performance on the basis of either means and methods specifications or end result specifications.

3. If end result specifications are used, shall provide an objective or standard to be achieved with the successful bidder expected to exercise the bidder's skill and ingenuity in achieving that objective or standard of performance by selecting the means and manner of performance and by assuming a corresponding responsibility for that selection.

E. If contractor insurance is required for construction or reconstruction pursuant to this section, the insurance shall be placed with an insurer authorized to transact insurance in this state pursuant to title 20, chapter 2, article 1 or a surplus lines insurer approved and identified by the director of the department of insurance and financial institutions pursuant to title 20, chapter 2, article 5.

F. A bid shall be accompanied by a certified check, cashier's check or surety bond for ten percent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal pursuant to the plans and specifications.

G. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted and to the successful contractor on the execution of a satisfactory bond and contract as provided in this article.

H. The surety bond provided pursuant to subsection F of this section shall be executed and furnished as required by title 34, chapter 2, and the conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the form required under section 34-201, subsection A, paragraph 3.

I. If a bid that is satisfactory to the board is received, it shall let a contract to the lowest responsible bidder, on the contractor giving performance and payment bonds that follow the form and include the provisions required by title 34, chapter 2, article 2.

- J. If the bids received for construction or reconstruction are not satisfactory to the board, a second call shall be made. If they are again rejected by the board, it may authorize the state engineer to construct or reconstruct the item as it deems most advantageous.
- K. In determining the lowest responsible bidder under this section, the department and the board may consider the time of completion proposed by the bidder if the department and the board determine that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules and if the formula for considering the time of completion is specifically stated in the bidding information.
- L. This section does not prohibit a change to a construction contract that either:
1. Does not alter the scope of the work under a contract and the cost of the change does not exceed ten percent of the contract amount or \$50,000, whichever is greater.
  2. Does alter the scope of the work if the cost of the change does not exceed ten percent of the contract amount or \$50,000, whichever is greater, and the changed work is within twenty percent of the total project length.
- M. If a project is funded completely with private monies, the private entity is not required to comply with subsections A through L of this section if the private entity complies with all of the following:
1. Before advertising for bids, submits to the department a bond that is issued by a surety insurer authorized to do business in this state and that is in an amount equal to one hundred twenty-five percent of the anticipated construction cost of the project, including construction management and contractor costs.
  2. Solicits sealed bids from at least four contractors who are prequalified by the department to perform a contract of the anticipated dollar amount of the construction.
  3. Awards the contract to the best bidder taking into account price and other criteria as provided in the bid documents.
  4. Obtains bonds from the selected contractor that provide the same coverage as performance and payment bonds issued under title 34, chapter 2, article 2.
  5. Uses department construction standards.
  6. Pays all costs of department reviews of the contract and inspections of the project.
- N. For the purposes of this section, a project is funded completely with private monies if all of the following apply:
1. The contractor is paid entirely with monies from private entities.
  2. The private entities hire a competent construction manager and contractor who do not have an affiliation with each other.
  3. The private entities either pay all costs of design or reimburse the department for all costs of design.
- 28-6924 Progress payments; changed or additional work; attorney fees; definitions**
- A. The following apply to the department's highway construction projects awarded pursuant to section 28-6923, 28-7365 or 28-7366:
1. Progress payments may be made by the department to the contractor on the basis of a duly certified and approved estimate of the work performed during a preceding period of time. The progress payments shall be paid on or before fourteen days after the estimate of the work is certified and

- approved. The estimate of the work shall be deemed received by the department on submission to the person designated by the department for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this section shall be deemed approved and certified seven days after the date of submission unless before that time the department prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract. The department may withhold an amount from the progress payment that is sufficient to pay the expenses the department reasonably expects to incur in correcting the deficiency set forth in the written finding. On completion and acceptance of separate divisions of the contract on which the price is stated separately in the contract, payment may be made in full including retained percentages, less deductions, unless a substitute security has been provided.
2. The contractor shall pay to the contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractors or material suppliers, within seven days after receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the contractor or subcontractor on account of the work performed by the contractor's or subcontractor's subcontractors or material suppliers, to the extent of each subcontractor's or material supplier's interest in the amount. These payments to subcontractors or material suppliers shall be based on payments received pursuant to this section. Any diversion by the contractor or subcontractor of payment received for work performed on a contract or failure to reasonably account for the application or use of the payments constitutes grounds for disciplinary action by the registrar of contractors. A subcontractor or material supplier shall notify the registrar of contractors and the department in writing of any payment less than the amount of percentage approved for the class or item of work as set forth in this section.
3. A subcontractor may notify the department in writing requesting that the subcontractor be notified by the department in writing within five days after payment of each progress payment that is made to the contractor. The subcontractor's request under this paragraph remains in effect for the duration of the subcontractor's work on the project.
4. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one percent per month or a fraction of the month on the unpaid balance.
5. If any periodic or final payment to a subcontractor or material supplier is delayed by more than seven days after receipt of the periodic or final payment by the contractor or subcontractor, the contractor or subcontractor shall pay the subcontractor or material supplier interest, beginning on the eighth day, at the rate of one percent per month or a fraction of a month on the unpaid balance.
- B. A contract for construction shall not materially alter the rights of any contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this section.
- C. This section does not prevent a contractor or subcontractor, at the time of application and certification to the department or contractor, from withholding the application and certification to the department or contractor for payment to the subcontractor or material supplier for unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third-party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the contractor or another subcontractor, reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract amount or a reasonable amount for retention that does not exceed the annual percentage retained by the department.
- D. This section does not create a duty of the department to a subcontractor or material supplier other than the duty to notify pursuant to subsection A, paragraph 3 of this section and does not create a cause of action in favor of a subcontractor or material supplier against this state, the department or any state employee or agent.



- E. If the department directs the contractor in writing to perform changed or additional work in accordance with the terms of the construction contract and the contractor submits to the department a reasonable cost estimate of the changed or additional work as may be required under the construction contract, pending a final determination of the total amount to be paid for the changed or additional work, the contractor may request payment for changed or additional work that the contractor completed during the preceding calendar month in monthly pay estimates based on the costs the contractor incurred to perform that work. The person designated in the construction contract to certify and approve the monthly payment estimate shall make an interim determination for purposes of approval for payment of those costs and certify for payment the amount that person determines to be reasonably justified. Either party may disagree with the interim determination and may assert a claim in accordance with the terms of the construction contract.
- F. If the department directs the contractor in writing to perform changed or additional work in accordance with the construction contract and the contractor submits to the department a reasonable cost estimate of the changed or additional work as may be required under the construction contract and if the contractor directs the subcontractor to perform the changed or additional work in accordance with the terms of the agreement between the contractor and subcontractor and the subcontractor submits to the contractor a reasonable cost estimate of the changed or additional work as may be required under the construction contract, pending a final determination of the total amount to be paid for the changed or additional work, the subcontractor may request payment from the contractor for the changed or additional work that the subcontractor completed during the preceding calendar month in monthly pay estimates based on the costs the subcontractor incurred to perform that work. Either party may disagree with the interim determination and may assert a claim in accordance with the terms of the agreement between the contractor and subcontractor.
- G. In any action or arbitration brought pursuant to this section, the successful party shall be awarded reasonable attorney fees and costs.
- H. For the purposes of this section:
  1. "Construction contract" means a written agreement relating to constructing, altering or repairing all work on state highways.
  2. "Contractor":
    - (a) Means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct contract with the department to perform work under a construction contract.
    - (b) Does not include an agricultural improvement district formed pursuant to title 48, chapter 17, an electric cooperative formed pursuant to title 10, chapter 19, article 2 or 4 or a domestic water improvement district or a domestic wastewater improvement district formed pursuant to title 48, chapter 6, article 4.
  3. "Costs" means the aggregate costs of all labor, materials, equipment and services.
  4. "Subcontractor":
    - (a) Means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct contract with a contractor or another subcontractor to perform a portion of the work under a construction contract.
    - (b) Does not include an agricultural improvement district formed pursuant to title 48, chapter 17, an electric cooperative formed pursuant to title 10, chapter 19, article 2 or 4 or a domestic water improvement district or a domestic wastewater improvement district formed pursuant to title 48, chapter 6, article 4.

5. "Work" means the labor, materials, equipment and services to be provided by a contractor or subcontractor under a construction contract.

## **28-7361 Definitions**

In this article, unless the context otherwise requires:

1. "Architect services" means those professional architect services that are within the scope of architectural practice as provided in title 32, chapter 1.
2. "Construction-manager-at-risk" means a project delivery method in which:
  - (a) There is a contract for construction services that is separate from the contract for design services, except that instead of a single contract for construction services, the department may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
  - (b) Design services are performed under a separate design services contract, except that as to bridges and other transportation facilities the department may perform with its own employees or force account preliminary design and either:
    - (i) In the case of bridges only, all design services up to final design.
    - (ii) In the case of other transportation facilities, up to twenty percent of the design work.
  - (c) The contract for construction services may be entered into at the same time as the design services are commenced or at a later time.
  - (d) Design and construction of the project may be either:
    - (i) Sequential with the entire design complete before construction commences.
    - (ii) Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
  - (e) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
3. "Construction services" means either of the following for construction-manager-at-risk and job-order-contracting project delivery methods:
  - (a) Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.
  - (b) A combination of construction and, as elected by the department, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definition of construction-manager-at-risk or job-order-contracting.
4. "Contract" means all types of department agreements, regardless of what they are called, for procurements pursuant to this article.
5. "Contractor" means any person who has a contract with the department.
6. "Design-build" means the process of entering into and managing a contract between the department and another party in which the other party agrees to both design and build a highway, a structure, a facility or other items specified in the contract.

7. "Design-builder" means any individual, partnership, joint venture, corporation or other legal entity that is appropriately licensed in this state and that furnishes the necessary design services, in addition to construction of the work, whether by itself or through subcontracts, including subcontracts for architectural and engineering services.
8. "Design services" means architect services, engineer services or landscape architect services.
9. "Emergency" means an immediate threat to public health, welfare or safety caused by flood, earthquake, hurricane, tornado, explosion, fire or other catastrophe such that compliance with normal bidding procedures for repair or reconstruction of transportation facilities would be impracticable or contrary to the public interest.
10. "Engineer services" means those professional engineer services that are within the scope of engineering practice as provided in title 32, chapter 1.
11. "Finance services" means financing for a construction services project.
12. "Job-order-contracting" means a project delivery method in which:
  - (a) The contract is for indefinite quantities of construction and, at the election of the department, may or may not include a guaranteed minimum amount of work.
  - (b) The construction to be performed is specified in job orders issued during the contract.
  - (c) Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
13. "Landscape architect services" means those professional landscape architect services that are within the scope of landscape architectural practice as provided in title 32, chapter 1.
14. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
15. "Operations services" means routine operation of existing facilities, structures, buildings or real property.
16. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
17. "Preconstruction services" means services and other activities during the design phase.
18. "Specific single project" means a project that is constructed at a single location, at a common location or for a common purpose.
19. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with the department.

**28-7363 Design-build method of project delivery**

- A. Notwithstanding any other law, the department may use the design-build method of project delivery on a project if the department makes a determination in writing that it is appropriate and in the best interests of the department to use the design-build method of project delivery for that project, except that:
  1. The department shall not enter into a contract to operate any structure, facility or other item pursuant to this article.
  2. Each design-build project shall be a specific single project.

3. The department shall not commence any design-build project after December 31, 2030. For the purposes of this paragraph, a project is commenced on the date the department solicits the contract for the project. If the department solicits a design-build contract on or before December 31, 2030, the contract may be executed and services and construction under the contract may be rendered in whole or in part after December 31, 2030.

B. The estimated cost of the project shall not include the cost to procure any right-of-way or other cost of condemnation. The cost to procure any right-of-way or other cost of condemnation remains at all times the responsibility of the department. The department shall obtain all necessary rights-of-way.

C. The department is responsible for preparing and acquiring of all environmental documents, including the scope of any remediation and required clearances.

D. If construction of a design-build project involves railroad facilities, the railroad shall approve the use of the design-build delivery method before the department awards the design-build contract.

E. To ensure fair, uniform, clear and effective procedures that will deliver a quality project on time and within budget, the director, in conjunction with the appropriate and affected professionals and contractors, may adopt procedures for procuring a project using the design-build method of project delivery.

F. The provisions of sections 28-6923 and 28-6924 relating to bid, performance and payment bonds and to change orders, progress payments, contract retentions, definitions and authority to award contracts apply to department design-build projects for transportation facilities pursuant to this article.

#### **28-7364 Design-build criteria**

The department shall use the following criteria as the minimum basis for determining when to use the design-build method of project delivery:

1. The extent to which it can adequately define the project requirements.
2. The time constraints for delivery of the project.
3. The capability and experience of potential teams with the design-build method of project delivery.
4. The suitability of the project for use of the design-build method of project delivery in the areas of time, schedule, costs and quality.
5. The capability of the department to manage the project, including the employment of experienced personnel or outside consultants.
6. The capability of the department to oversee the project with persons who are familiar with the design-build method of project delivery.
7. Other criteria the department deems relevant.

#### **28-7365 Design-build; two-phase solicitation**

A. If the department determines that the design-build method of project delivery is appropriate, the department shall establish a two-phase procedure for awarding the design-build contract. The department shall limit each solicitation for a design-build contract to a specific single project.

B. During phase one, and before solicitation, the director shall appoint a selection team of at least three persons. At least one-half of the selection team shall be architects or engineers who are registered pursuant to section 32-121. The selection team members may be either department employees or outside consultants. The selection team shall also include at least one person who is a senior management employee of a licensed contractor who is not involved in the project. Any architect or engineer who is serving on the selection team

and who is not a department employee shall not be otherwise involved in the project. The department shall prepare documents for a request for qualifications.

C. The request for qualifications shall include all of the following:

1. The minimum qualifications of the design-builder.
2. A scope of work statement and schedule.
3. Documents defining the project requirements.
4. The form of contract to be awarded.
5. The selection criteria for compiling a short list and the number of firms to be included on the short list. At least three but not more than five firms shall be included on the short list.
6. A description of the phase two requirements and subsequent management needed to bring the project to completion.
7. The maximum time allowable for design and construction.
8. The department's estimated cost of design and construction.

D. The selection team shall evaluate the design-build qualifications of responding firms and shall compile a short list of firms in accordance with technical and qualifications-based criteria. The number of firms on the short list shall be the number of firms specified in the request for qualifications, except that, if a smaller number of firms responds to the solicitation or if one or more of the firms on the short list drop out so that only two firms remain on the short list, the selection team may proceed with the selection process with the remaining firms if at least two firms remain or the department may readvertise as the department deems necessary.

E. During phase two, the department shall issue a request for proposals to the design-builders on the short list. The request shall include:

1. The scope of work, including programmatic, performance and technical requirements, conceptual design, specifications and functional and operational elements for the delivery of the completed project, which shall all be prepared by an architect or engineer, as appropriate, who is registered pursuant to section 32-121.
2. A description of the qualifications required of the design-builder and the selection criteria, including the weight or relative order, or both, of each criterion.
3. Copies of the contract documents that the successful proposer will be expected to sign.
4. The maximum time allowable for design and construction.
5. The department's estimated cost of design and construction.
6. The requirement that a proposal be segmented into two parts, a technical proposal and a price proposal. Each proposal shall be in a separately sealed, clearly identified package and shall include the date and time of the submittal deadline. The technical proposal shall include a schedule, schematic design plans and specifications, technical reports, calculations, permit requirements, applicable development fees and other data requested in the request for proposals. The price proposal shall contain all design, construction, engineering, inspection and construction costs of the proposed project.
7. The date, time and location of the public opening of the sealed price proposals.
8. Other information relevant to the project.

- 1 F. If stated in the request for proposals, in order to inform each firm whether the firm's concept is responsive to  
2 the request for proposals, the department may enter into a separate confidential discussion with each firm  
3 on the short list to discuss alternative technical concepts that the firm may propose.
- 4 G. The department shall proceed as follows:
- 5 1. The selection team shall review the technical proposals and score the technical proposals using the  
6 selection criteria in the request for proposals. The technical review team shall then submit a technical  
7 proposal score for each design-builder to the department. The technical review team shall reject any  
8 proposal it deems to be nonresponsive.
  - 9 2. The department shall announce the technical proposal score for each design-builder, shall publicly  
10 open the sealed price proposals and shall divide each design-builder's price by the score that the  
11 selection team has given to it to obtain an adjusted score. The design-builder selected shall be that  
12 responsive and responsible design-builder whose adjusted score is the lowest.
  - 13 3. If a time factor is included with the selection criteria in the request for proposals package, the  
14 department may also adjust the bids using a value of the time factor established by the department.  
15 The value of the time factor shall be a value per day. The adjustment shall be based on the total time  
16 value. The total time value is the design-builder's proposed number of days to complete the project  
17 multiplied by the factor. The time adjusted price is the total time value plus the bid amount. This  
18 adjustment shall be used for selection purposes only and shall not affect the department's liquidated  
19 damages schedule or incentive and disincentive program. An adjusted score shall then be obtained by  
20 dividing each design-builder's time adjusted price by the score given by the technical review team. The  
21 department shall select the responsive and responsible design-builder whose adjusted score is the  
22 lowest.
  - 23 4. Unless all proposals are rejected, the board shall award the contract to the responsive and responsible  
24 design-builder with the lowest adjusted score. The board reserves the right to reject all proposals.
  - 25 5. The department shall award a stipulated fee equal to four-tenths of one percent of the department's  
26 estimated cost of design and construction to each short list responsible proposer that provides a  
27 responsive, but unsuccessful proposal. If the department does not award a contract, all responsive  
28 proposers shall receive the stipulated fee. If the department cancels the contract before reviewing the  
29 technical proposals, the department shall award each design-builder on the selected short list a  
30 stipulated fee equal to four-tenths of one percent of the department's estimated cost of design and  
31 construction. The department shall pay the stipulated fee to each proposer within ninety days after  
32 the award of the contract or the decision not to award a contract. In consideration for paying the  
33 stipulated fee, the department may use any ideas or information contained in the proposals in  
34 connection with any contract awarded for the project, or in connection with a subsequent  
35 procurement, without any obligation to pay any additional compensation to the unsuccessful  
36 proposers. Notwithstanding the other provisions of this paragraph, an unsuccessful short list proposer  
37 may elect to waive the stipulated fee. If an unsuccessful short list proposer elects to waive the  
38 stipulated fee, the department may not use ideas and information contained in the proposer's  
39 proposal, except that this restriction does not prevent the department from using any idea or  
40 information if the idea or information is also included in a proposal of a short list proposer that accepts  
41 the stipulated fee.

## EXHIBIT 3 CONFLICT OF INTEREST GUIDELINES

Revised version 12.08.23.

### STANDARDS OF CONDUCT AND CONFLICT OF INTEREST GUIDELINES

It is ADOT's desire to maintain complete transparency in all business dealings and to be above reproach in the stewardship of available transportation funding. Everyone in the transportation community wants to avoid conflicts of interest, real or perceived. Not only is conflict of interest a breach of professional and personal ethics, it also damages the reputation of ADOT and the Transportation Consultant community. To ensure the industry does not have conflict of interest issues, ADOT has developed simple and direct processes where all parties involved in contracts, including current and former ADOT employees with a significant procurement role must review, comply with, and where necessary disclose potential conflicts of interest.

This guidance is not intended to cover every situation but to identify some common potential conflicts of interest. The intent is for situations to be disclosed early and to proactively mitigate potential conflicts of interests. This guidance applies to ADOT employees, consultants that act as ADOT employees, Prime Consultants on ADOT and Local Government Projects and may apply to Sub-Consultants depending on the circumstances.

For clarity, conflict of interest is a situation in which an organization or individual is involved in multiple interests, financial or otherwise, one of which could possibly bias the motivation or decision-making of that organization or individual.

The ethical conduct of ADOT employees is a primary concern of ADOT. ADOT established the [ADOT Policy and Procedure PER-6.02 Conflict of Interest of Officers and Employees](#) in order to protect ADOT and its employees and stress the importance of maintaining the ADOT procurement process without any appearance of conflict of interest. In addition, [ARS 38-501 thru 38-511 Conflict of Interest and AAC R4-30-301 Rules of Professional Conduct Number 7](#) apply to the Transportation Consultant Community.

All selection panel members (ADOT employees, consultants, other applicable governmental entities) serving on a selection panel must certify they have no conflict of interest, either real or potentially perceived, to any matter which is entrusted to them in their job or assignment on ADOTs [Conflict of Interest and Confidentiality Form](#). This form must be completed prior to serving on a selection panel and receiving consultant or contractor proposals.

### ADOT Conflict of Interest Review Team

ADOT has a standard process where disclosed concerns are reviewed and addressed on a consistent case-by-case basis by a Conflict of Interest (COI) Review Team. The disclosed concerns are forwarded to the Engineering Consultant Services (ECS) Manager or screening who makes a determination or forwards to the COI Review Team for a determination. The COI Review Team is composed of the ECS Manager, Project Management Group Manager and/or applicable Technical Group Manager, Construction Group Manager, one Deputy State Engineer, and a representative from the ADOT Office of Law and Policy.

### Consultant acting as ADOT Project Manager, Supplemental Services Support, and/or Program Management Support Conflict of Interest

When ADOT retains Consultants to perform ADOT Project Manager, Supplemental , and/or Program Management Support Services, it is imperative that Consultants in these roles represent ADOT in an equitable, ethical and unbiased manner. Consultants acting in any of these roles must disclose potential conflicts of interest between their firm, the other consultants they manage, and the project(s) via [Supplemental Services Conflict of Interest Disclosure Statement](#).

All potential conflicts of interest must be disclosed to the ADOT ECS Manager. In cases of potential conflicts of interest, the applicable ADOT Technical Group/Contract Manager will work together to determine how to best mitigate the conflict or escalate to the COI Review Team.

## Construction Engineering and Design by Same Consultant Conflict of Interest

ADOT may retain Consultants to perform both design and construction engineering management on the same project. ADOT recognizes there are times when having the same Consultant perform both design and construction engineering management is advantageous. However, ADOT is aware there may be a perception of negative influence when a Consultant performing construction engineering management for a project also performs the design services for the same project. FHWA outlines this potential conflict in the [Consultant Services Procurement, Management, and Administration of Engineering and Design Related Services - Questions and Answers Section VIII](#).

ADOT Project Management Group and Construction Group must consider and evaluate possible conflicts of interest when selecting a Consultant Resident Engineer employed by the same design consultant team. If the ADOT Construction Group considers selecting a Resident Engineer employed by the same design consultant team, they will be required to submit documentation with an explanation of benefits to the Division Director of IDO for approval prior to the Consultant selection.

## Project Conflict of Interest

The ADOT Conflict of Interest Review Team will review any potential conflict of interest on projects solicited for consultant delivery. Prime Consultants shall proactively disclose any potential conflict of interest on a project that they are interested in pursuing and submit a [Conflict of Interest Disclosure Statement](#). In some cases significant sub-consultants may also require disclosure of any potential conflict of interest. It is also foreseeable that once selected, conflicts of interest can occur during the course of delivering the project to ADOT and must be identified. The conflict of interest Disclosure Statement shall propose actions or strategies to mitigate the conflict for review by the ADOT COI Review Team.

### Examples:

1. Prime is working on either an ADOT project or Local Government project and desires pursuing/performing work with the adjoining entity or ADOT.
2. Prime is working on an ADOT project while also contracted with a private developer who owns property that the ADOT project will impact.

## Alternative Delivery Conflict of Interest

The Alternative Delivery and Major Projects Division (ADMPD) along with a representative from the Office of Law and Policy will review any potential conflicts. If necessary, ADMPD may forward potential conflicts to the ADOT COI Review Team for additional review. ADOT developed the below definition of a conflict of interest to preclude a Consultant from participating on any phase of an alternative delivery project. However, if a situation occurs outside the definition but may still be considered a conflict, please contact the Assistant State Engineer for Construction.

Any individual, organization or association that is directly involved in the development of selection criteria for the Alternative Delivery RFQ/RFP or is involved in the RFQ/RFP selection process is precluded from proposing on the project as part of an Alternative Delivery Team.

All selection panel members (ADOT employees, consultants, other applicable governmental entities) serving on a selection panel must certify they have no conflict of interest, either real or potentially perceived, to any matter which is entrusted to them in their job or assignment on ADOTs [Conflict of Interest and Confidentiality Form](#). This form must be completed prior to serving on any phase of an active procurement.

**Example:** If a key person leaves an organization that is directly involved in the development of selection criteria for the Alternative Delivery RFQ/RFP or is involved in the RFQ/RFP selection process and joins another organization, both organizations may be precluded from proposing on the project as part of an Alternative Delivery Team based on a determination by the ADOT Conflict of Interest Review Team.

“Organization” includes all entities existing within the same corporate umbrella.



1 For Program Management services such as General Engineering Consultants, if eligible sub consultants to the Prime  
2 Consultant choose to pursue participation on a Design-Build team they and the Program Management Consultant,  
3 will be required to submit a [Conflict of Interest Disclosure Statement](#) and a mitigation plan to ADOT, and receive  
4 ADOT approval of that Plan.

#### 5 **Environmental Conflict of Interest**

6 ADOT may retain Consultants to prepare an environmental impact statement (EIS), an environmental assessment  
7 (EA), or a Categorical Exclusion (CE) for a project must affirm there is no financial or other interest in the outcome  
8 of the environmental project nor has any agreement, enforceable promise or guarantee to provide future work on  
9 the project. As part of the environmental contract package, the Consultant(s) must provide a signed a [Conflict of](#)  
10 [Interest Disclosure Statement](#).

1	<b>EXHIBIT 4</b>	<b>CONFIDENTIALITY AND DISCLOSURE FORMS</b>	
2	Exhibit 4-1	Confidentiality and Non-Disclosure Agreement .....	88
3	Exhibit 4-2	Disclosure Statement Form.....	90
4	Exhibit 4-3	Confidentiality and Non-Disclosure Agreement (AZAGC Member) .....	92
5	Exhibit 4-4	Disclosure Statement Form (AZAGC Member) .....	94
6			

**EXHIBIT 4-1 CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

I, \_\_\_\_\_, as a participant in the preparation of the Request for Qualifications (RFQ) and/or Request for Proposals (RFP), and/or evaluation of Statement of Qualifications (SOQ), and/or Proposals (the "Procurement Process") for the [Project Name], and commonly referred to as the [Short Project Name] (the "Project"), hereby agree that, except as otherwise provided by law:

- (A) I will maintain the confidentiality of all non-public or confidential data that I gain access to as a result of my participation in the Procurement Process. This includes proprietary information; information designated confidential by the Arizona Department of Transportation (ADOT); information submitted from or on behalf of any of the firms submitting SOQs/Proposals in response to the RFQ/RFP (either as part of their SOQ, Proposals, or included in supplemental information requested by ADOT and including information from supporting firms, such as sureties or banks); all evaluation process materials including, but not limited to, the SOQ/Proposal Evaluation Manual; and/or any other information that might be considered sensitive which I have heard, seen, or reviewed (collectively known as "Confidential Information").
- (B) I will follow the SOQ/Proposal Evaluation Manual as issued by ADOT for the Project. I will maintain security and control over all SOQs/Proposals containing such Confidential Information in my physical or virtual custody during the Procurement Process. I will not download, print out, make copies in paper or digital form of any kind (including screenshots) or photographs, in whole or in part, any document or remove documents from the physical or virtual locations assigned for evaluations except as expressly authorized by the Procurement Manager, and will return or check in all documents to its original physical or virtual location when my work with the documents is completed.
- (C) I will not divulge any Confidential Information regarding the Procurement Process to any representative of the firms submitting SOQs/Proposals in response to the RFQ/RFP. I will not divulge any Confidential 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 SOQs/Proposal in response to the RFQ/RFP, or other ADOT employees. Internal Confidential Information exchange shall be conducted only as necessary to conduct the Procurement Process. If contacted by any representative of a firm that has submitted an SOQ/Proposal in response to the RFQ/RFP, the media, or the public or any employee of ADOT, 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 ADOT.
- (D) Furthermore, I have disclosed any potential conflicts of interest on the attached *Disclosure Statement Form*, or alternately, I hereby certify that to the best of my knowledge, I do not have a conflict of interest, either real or apparent, as a result of a direct or indirect financial interest on my part or that of any member of my immediate family, nor of my employer, partner(s), or joint venture members, in any firm under consideration for the design-build agreement associated with the Project. I agree not to solicit or accept gratuities, unwarranted privileges or exemptions, favors or anything of value from any firm under consideration for the design-build agreement associated with the Project, and I recognize that doing so may be contrary to statutes, ordinances, and rules governing or applicable to ADOT or may otherwise be a violation of law.

1 This Agreement is subject to the laws of the State of Arizona and applicable rules and regulations.

2 ☐ Pre-SOQ Due Date ☐ Post SOQ Due Date ☐ Changes post Short-listing

3  
4 ☐ No *Disclosure Statement Form* Required

5 ☐ See attached *Disclosure Statement Form*\*

6 \* If a *Disclosure Statement Form* is required, please fill out the attached form.

7  
8  
9  
Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

**EXHIBIT 4-2 DISCLOSURE STATEMENT FORM**

I, \_\_\_\_\_, in agreeing to participate as a participant, member of a team or committee evaluating/reviewing the SOQs/Proposals for the design and construction of the [Project Name], and commonly referred to as the [Short Project Name] (the "Project"), make the following representations:

- (A) Except as set forth in this *Disclosure Statement Form*, neither I nor any member of my immediate family has a direct or indirect financial interest in any entity participating in any SOQ/Proposal.
- (B) Except as set forth in this *Disclosure Statement Form*, no business or organization with which I am associated has a direct or indirect financial interest in any entity participating in any SOQ/Proposal.
- (C) Except as set forth in this *Disclosure Statement Form*, no member of my immediate family or other person, business, or organization with which I am associated is negotiating or has an arrangement concerning prospective employment relating to any entity participating in any SOQ/Proposal.
- (D) Except as set forth in this *Disclosure Statement Form*, neither I nor any member of my immediate family is involved in discussions with any business participating in any SOQ/Proposal.
- (E) I will not solicit or accept, directly or indirectly, any gift, favor, gratuity, entertainment, food, lodging, loan, or other item from any firm that has submitted an SOQ/Proposal in response to the RFQ/RFP if it tends to influence me in the discharge of my duties.
- (F) In the event that the circumstances under which I made this disclosure statement change such that a response pertaining to items (A) through (E) must be provided, I will promptly contact the ADOT Project Manager and prepare a revised *Disclosure Statement Form*.

This *Disclosure Statement Form* outlines potential conflicts of interest, either real or apparent, as a result of a direct or indirect financial interest on my part or that of any member of my immediate family, or of my employer, partner(s), or joint venturers, in any firm under consideration for the design-build agreement associated with the Project. Section I of this *Disclosure Statement Form* describes the potential conflicts of interest. Section II of this *Disclosure Statement Form* describes the management plan for dealing with the potential conflicts of interest as described in Section I of this *Disclosure Statement Form*. I acknowledge that ADOT may require revisions to the management plan described in Section II of this *Disclosure Statement Form* prior to approving it and that ADOT has the right, in its sole discretion, to limit or prohibit my involvement in the Project as a result of the potential conflicts of interest described in Section I of this *Disclosure Statement Form*. Attach additional pages, as necessary.

**EXHIBIT 4-2 DISCLOSURE STATEMENT FORM (CONTINUED)**

**Section I – Description of Potential Conflicts of Interest**

**Section II – Plan for Managing Potential Conflicts of Interest**

Signed:	_____	Date:	_____
Print Name:	_____	Title:	_____
Representing:	_____		
E-mail:	_____	Phone:	_____

---

**Approved by the Arizona Department of Transportation:**

Signed:	_____	Date:	_____
Print Name:	_____	Title:	_____
E-mail:	_____	Phone:	_____

**EXHIBIT 4-3 CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (AZAGC MEMBER)**

I, \_\_\_\_\_, as a participant in the evaluation of Statement of Qualifications (SOQ), and/or Proposals (the "Procurement Process") for the [Project Name], and commonly referred to as the [Short Project Name] (the "Project"), hereby agree that, except as otherwise provided by law:

- (A) I will maintain the confidentiality of all non-public or confidential data that I gain access to as a result of my participation in the Procurement Process. This includes proprietary information; information designated confidential by the Arizona Department of Transportation (ADOT); information submitted from or on behalf of any of the firms submitting SOQs/Proposals in response to the RFQ/RFP (either as part of their SOQ, Proposals, or included in supplemental information requested by ADOT and including information from supporting firms, such as sureties or banks); all evaluation process materials including, but not limited to, the SOQ/Proposal Evaluation Manual; and/or any other information that might be considered sensitive which I have heard, seen, or reviewed (collectively known as "Confidential Information").
- (B) I will follow the SOQ/Proposal Evaluation Manual as issued by ADOT for the Project. I will maintain security and control over all SOQs/Proposals containing such Confidential Information in my physical or virtual custody during the Procurement Process. I will not download, print out, make copies in paper or digital form of any kind (including screenshots) or photographs, in whole or in part, any document or remove documents from the physical or virtual locations assigned for evaluations except as expressly authorized by the Procurement Manager, and will return or check in all documents to its original physical or virtual location when my work with the documents is completed.
- (C) I will not divulge any Confidential Information regarding the Procurement Process to any representative of the firms submitting SOQs/Proposals in response to the RFQ/RFP. I will not divulge any Confidential 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/Proposal in response to the RFQ/RFP, or other ADOT employees. Internal Confidential Information exchange shall be conducted only as necessary to conduct the Procurement Process. If contacted by any representative of a firm that has submitted an SOQ/Proposal in response to the RFQ/RFP, the media, or the public or any employee of ADOT, 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 ADOT.
- (D) Furthermore, I have disclosed any potential conflicts of interest on the attached *Disclosure Statement Form*, or alternately, I hereby certify that to the best of my knowledge, I do not have a conflict of interest, either real or apparent, as a result of a direct or indirect financial interest on my part or that of any member of my immediate family, nor of my employer, partner(s), or joint venture members, in any firm under consideration for the design-build agreement associated with the Project. I agree not to solicit or accept gratuities, unwarranted privileges or exemptions, favors or anything of value from any firm under consideration for the design-build agreement associated with the Project, and I recognize that doing so may be contrary to statutes, ordinances, and rules governing or applicable to ADOT or may otherwise be a violation of law.

In addition, I have confirmed that \_\_\_\_\_ or any affiliate of \_\_\_\_\_ (any person or entity that directly or indirectly controls, or is controlled by, or is under common control with, such firm or any of its members, partners, etc.) has not communicated or will cease all communications with firms proposing on this Project and will not team with any Proposer or its Subcontractors for the duration of this Project.

1 This Agreement is subject to the laws of the State of Arizona and applicable rules and regulations.

2 ☐ Pre-SOQ Due Date ☐ Post SOQ Due Date ☐ Changes post Short-listing

3  
4 ☐ No *Disclosure Statement Form* Required

5 ☐ See attached *Disclosure Statement Form*\*

6 \* If a *Disclosure Statement Form* is required, please fill out the attached form.

7  
8  
9  
Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_



## EXHIBIT 4-4 DISCLOSURE STATEMENT FORM (AZAGC MEMBER)

I, \_\_\_\_\_, in agreeing to participate as a participant, member of a team or committee evaluating/reviewing the SOQs/Proposals for the design and construction of the [Project Name], and commonly referred to as the [Short Project Name] (the "Project"), make the following representations:

- (A) Except as set forth in this *Disclosure Statement Form*, neither I nor any member of my immediate family has a direct or indirect financial interest in any entity participating in any SOQ/Proposal.
- (B) Except as set forth in this *Disclosure Statement Form*, no business or organization with which I am associated has a direct or indirect financial interest in any entity participating in any SOQ/Proposal.
- (C) Except as set forth in this *Disclosure Statement Form*, no member of my immediate family or other person, business, or organization with which I am associated is negotiating or has an arrangement concerning prospective employment relating to any entity participating in any SOQ/Proposal.
- (D) Except as set forth in this *Disclosure Statement Form*, neither I nor any member of my immediate family is involved in discussions with any business participating in any SOQ/Proposal.
- (E) I will not solicit or accept, directly or indirectly, any gift, favor, gratuity, entertainment, food, lodging, loan, or other item from any firm that has submitted an SOQ/Proposal in response to the RFQ/RFP if it tends to influence me in the discharge of my duties.
- (F) In the event that the circumstances under which I made this disclosure statement change such that a response pertaining to items (A) through (E) must be provided, I will promptly contact the ADOT Project Manager and prepare a revised *Disclosure Statement Form*.

This *Disclosure Statement Form* outlines potential conflicts of interest, either real or apparent, as a result of a direct or indirect financial interest on my part or that of any member of my immediate family, or of my employer, partner(s), or joint venturers, in any firm under consideration for the design-build agreement associated with the Project. Section I of this *Disclosure Statement Form* describes the potential conflicts of interest. Section II of this *Disclosure Statement Form* describes the management plan for dealing with the potential conflicts of interest as described in Section I of this *Disclosure Statement Form*. I acknowledge that ADOT may require revisions to the management plan described in Section II of this *Disclosure Statement Form* prior to approving it and that ADOT has the right, in its sole discretion, to limit or prohibit my involvement in the Project as a result of the potential conflicts of interest described in Section I of this *Disclosure Statement Form*. Attach additional pages, as necessary.

**EXHIBIT 4-4 DISCLOSURE STATEMENT FORM (CONTINUED)**

**Section I – Description of Potential Conflicts of Interest**

**Section II – Plan for Managing Potential Conflicts of Interest**

Signed:	_____	Date:	_____
Print Name:	_____	Title:	_____
Representing:	_____		
E-mail:	_____	Phone:	_____

**Approved by the Arizona Department of Transportation:**

Signed:	_____	Date:	_____
Print Name:	_____	Title:	_____
E-mail:	_____	Phone:	_____

1	<b>EXHIBIT 5</b>	<b>STANDARD COMMENT FORMS</b>	
2	Exhibit 5-1	RFQ Comment Form.....	97
3	Exhibit 5-2	RFP Comment Form .....	98
4			

1 **EXHIBIT 5-1 RFQ COMMENT FORM**

<b>Proposer:</b>		<b>Date:</b>
<b>Proposer POC:</b>		
<b>E-mail:</b>		<b>Phone Number:</b>
<b>Notes:</b> <b>A</b> – Options include, but not limited to, RFQ, Exhibit X, Form A-X, etc.  <b>B</b> - Do not identify the Proposer in the body of the question/comment/suggested revision.		

2

No.	Document <sup>A</sup>	RFQ Section	Page Number	Line Number	Question/Comment/Clarification Request <sup>B</sup>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

3

1 **EXHIBIT 5-2 RFP COMMENT FORM**

<b>Proposer:</b>		<b>Date:</b>
<b>Proposer POC:</b>		
<b>E-mail:</b>		<b>Phone Number:</b>
<p><b>Notes:</b></p> <p><b>A</b> – Options include, but not limited to, ITP, ITP Ex. X, ITP Form X, Contract, Contract Ex. X, TP, TPA X-X, RID X, etc.</p> <p><b>B</b> - Do not identify the Proposer in the body of the question/comment/suggested revision.</p> <p><b>C</b> – Categories as follows:</p> <p>1 = Potential “go/no-go” issue that, if not resolved in an acceptable fashion, may preclude the Proposer from submitting a Proposal.</p> <p>2 = Major issue that, if not resolved in an acceptable fashion, will significantly affect value for money or taken together with the entirety of other issues, may preclude the Proposer from submitting a Proposal.</p> <p>3 = Issue that may affect value for money, or another material issue, but is not at the level of a Category 1 and Category 2 issue.</p> <p>4 = Issue that is minor in nature, a clarification, a comment concerning a conflict between documents or within a document, etc.</p> <p><b>D</b> - Question or comment marked as “Yes” in the “Confidential” column necessarily contains confidential or proprietary information, such as information regarding an ATC or Proposer’s organization. ADOT reserves the right to disagree as provided in <u>ITP Section 3.04(D)</u> (<i>ADOT Responses</i>).</p>		

2

No.	Document <sup>A</sup>	Section Number	Page Number	Line Number	Question/Comment/Request for Clarification <sup>B</sup>	Category <sup>C</sup> (1, 2, 3, or 4)	Confidential <sup>D</sup> (Yes or No)
1.							
2.							
3.							
4.							
5.							
6.							

3

## EXHIBIT 6 DESIGN-BUILD PROJECTS UNDER THE P3 STATUTE

ADOT has compared and contrasted the statutes authorizing ADOT to enter into DB procurements (ARS Title 28, Chapter 20, Article 13, Alternative Contracting Procedures) and the statutes authorizing ADOT to enter into private public partnerships (P3) (ARS Title 28, Chapter 22, Public-Private Partnerships in Transportation). Both statutory schemes authorize DB contracting. This Exhibit 6 does not go into tolling or private financing because if ADOT does consider including private financing or tolling in a project, it would have to use the P3 statutes. This Exhibit 6 also does not cover having maintenance or operations as part of the contract scope because again the project would have to use the P3 statutes.

A P3 procurement gives ADOT much greater flexibility in managing projects than the DB statutes. The DB statutes are largely a list of things that ADOT must do to run a DB procurement; the P3 statutes are more like a list of things ADOT “may” do if ADOT believes they would be in the state’s best interest. Furthermore, P3 projects are exempt from many laws applicable to DB because ARS § 28-7704(F) exempts ADOT P3 procurements from any other law “relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.” Note that this statute does not exempt ADOT from applicable federal laws.

Below are specific differences between the two procurement methods:

- (A) Contract Authority: Under the P3 statutes, the ADOT Director enters into the contract (see ARS § 28-7704), but the State Transportation Board enters into DB contracts.
- (B) Authority to hire consultants: Only the P3 laws specifically allow ADOT to hire outside financial, legal and other consultants and experts to assist with the evaluation, negotiations, and development of eligible facilities such as highways. See ARS § 28-7704(G).
- (C) Right of Way (ROW): ARS § 28-7363(B) of the DB statutes states, “(t)he department shall obtain all necessary rights-of-way.” This prohibits ADOT from privatizing the ROW acquisition and relocation services. Under P3 statute ARS § 28-7705(A)(9), ADOT is allowed to address acquisition of ROW in the P3 contract, with the exception that the power of eminent domain cannot be relinquished to the private partner. Accordingly, under the P3 statutes, ADOT can privatize the ROW acquisition and relocation functions.
- (D) Railroad Facilities: The DB statutes require railroad approval if the construction involves a railroad facility. ARS § 28-7363(D). The P3 statutes are silent as to railroads, so railroad permission to use a P3 procurement is not required even if the project involves a railroad.
- (E) Bonds: Under the DB statutes, ARS § 28-7363(F) requires ADOT to follow ARS §§ 28-6923 and 28-6924. ARS § 28-6923 relates to bidding requirements, many of which, while not required by the P3 statutes (due to the ARS § 28-7704(F) exemption), are just good practice. For example, this statute requires the advertisement of the procurement whereas the P3 statutes are silent on the matter. Nevertheless, ADOT’s practice is to advertise P3 procurements like other procurements.

The bonding requirements for a DB project, found in ARS § 28-6923, are, however, more prescriptive than those under the P3 statutes. Pursuant to ARS § 28-6923(F), the bid bond for a DB procurement must be set at 10% of the bid. The P3 statutes have no requirements for bid bonds, so ADOT can set them at an amount other than 10%. ARS § 28-6923(I) requires ADOT to follow Title 34, Chapter 2, Article 2 regarding payment and performance bonds. Pursuant to ARS § 34-222(A), both types of bonds must be set at 100% of the contract amount. Under the P3 statutes, however, ADOT is allowed to require performance and payment bonds at less than 100% of the value of the contract, based on a case by case determination of what is needed to protect the public. See ARS § 28-7705(A)(14).

- (F) Progress Payments: ARS § 28-6924, which ADOT must follow in a DB procurement, sets forth strict procedures and requirement for ADOT to follow if it wants to make progress payments. Pursuant to

the P3 statutes, ARS § 28-7705(A)(2), ADOT can make availability and performance payments without following the procedures of ARS § 28-6924.

- (G) Solicitation Requirements: ARS § 28-7365 sets forth requirements for a DB solicitation. It requires a two phase procurement for DB (a request for qualifications and a request for proposals). It requires the director to appoint a selection team with at least three members prior to the solicitation; one-half of the team members must be registered engineers or architects; team members can be ADOT employees or outside consultants (so no MAG or City of Phoenix members); one member must be senior manager of a licensed contractor not involved in the project. See ARS § 28-7365(A).

Under the DB statutes, the RFQ must include specific things: notification that the short-list will be limited to three to five firms; the form of contract must be attached (prohibiting negotiation of contract terms after issuance of the RFQ); a maximum contract time for completion must be stated; and an estimate of cost must be attached. Likewise, ADOT must also attach to the RFP the contract the successful proposer will be required to sign, again limiting the right to modify the contract after issuance of the RFP. This would limit ADOT's ability to conduct negotiations and a comment reconciliation process. A DB procurement would also be required to state the maximum time for completion of design and construction and disclose ADOT cost estimates.

The P3 statutes regarding the requirement of a solicitation are broader than the DB statutes. ARS § 28-7704 lists the available procurement methods, including DB and best value selection procurements; accordingly, a design build project could be solicited using the P3 statutes. The P3 statutes do not dictate the composition of the selection team, and ADOT is not required to short-list between three to five firms (it can be more or less). Further, ADOT is not required to attach the final contract to either an RFQ or RFP, meaning ADOT would have more flexibility to modify the contract during the procurement process up to the time of final award.

- (H) Stipend: Under the DB statute ARS § 28-7365(G)(5) and P3 statute ARS § 28-7705(I) the stipend amount is now four tenths of one percent of the ADOT's estimate for design and construction.

- (I) RFP Evaluation: Under the DB statutes, the selection team that reviews the SOQs must review the proposals. The score for the proposal is the ratio of the tech score to price (divide price by score), but ADOT can also consider a time factor pursuant to a formula set forth in the statutes. After doing the math required by the statutes, ADOT "shall award" to the best overall scorer. Under P3 statutes, ARS § 28-7704(B) just requires the factors for evaluation be set forth in the RFQ, RFP, or similar solicitation documents. ADOT is not required to use any statutorily imposed formula in evaluating the proposals.

- (J) Best and Final Offers (BFO): Under the DB statutes, the contract is awarded to the lowest responsible bidder. There is no DB procedure for negotiations after the proposals are submitted. Inclusion of any Work Product from an unsuccessful Proposer into the Contract with the successful Proposer must be handled through a Supplemental Agreement after Contract execution. Under the P3 statutes, however, ADOT can ask for final and best offers and can negotiate with one or more of the Proposers after bid evaluations.

1 **EXHIBIT 7 HISTORICAL DATA FOR KEY PERSONNEL LIQUIDATED DAMAGES**

No.	DB Statute or P3 Statute	TRACS No.	Project Name	Bid Year	D&C Price	Project Manager (Value and % of D&C Price)	Construction Manager (Value and % of D&C Price)	Design Manager (Value and % of D&C Price)
1.	P3	H882701C	SR202L_I-10 Maricopa to I-10 Papago	2015	\$916,549,178	\$370,000 0.040%	\$300,000 0.033%	\$280,000 0.031%
2.	Design-Build	F012101C	SR101L_I-17 to Pima Rd	2018	\$184,835,000	\$30,000 0.016%	\$30,000 0.016%	\$20,000 0.011%
3.	Design-Build	H687301C	SR101L_Baseline Rd to SR 202L (SANTAN)	2018	\$59,482,777	\$15,000 0.025%	\$15,000 0.025%	\$10,000 0.017%
4.	P3	H804501C	SR189_International Border to Grand Avenue	2020	\$82,146,113	\$50,000 0.061%	\$50,000 0.061%	\$35,000 0.043%
5.	P3	F007201C	I-10_I-17 Split to SR 202L (SANTAN)	2021	\$615,600,950	\$275,000 0.045%	\$225,000 0.037%	\$225,000 0.037%
6.	P3	H680001C	I-17_Anthem Way TI to SR 69 (Cordes Junction)	2021	\$362,077,500	\$200,000 0.055%	\$150,000 0.041%	\$150,000 0.041%

2



## 1 EXHIBIT 8 HISTORICAL DATA FOR DAILY VALUE (B COMPONENT)

No.	DB Statute or P3 Statute	TRACS NO.	Project Name	Bid Year	D&C Price	Daily Value (Value and % of D&C Price)
1.	Design-Build	H687101C	SR202L_I-10/SR 51 TI to SR 101L	2008	\$188,895,000	\$38,000 0.020%
2.	Design-Build	H745701C	SR202L_I-10 TI to Gilbert Rd	2010	\$88,688,947	\$38,000 0.043%
3.	Design-Build	H745601C	SR101L_I-10 to Tatum Blvd	2010	\$89,955,200	\$30,000 0.033%
4.	Design-Build	H770901C	I-10_Perryville Road	2013	\$18,797,950	\$12,000 0.064%
5.	Design-Build	H816901C	SR 202L_SR101L to Broadway Rd	2013	\$109,177,109	\$15,000 0.014%
6.	Design-Build	F012101C	SR101L_I-17 to Pima Rd	2018	\$184,835,000	\$40,000 0.022%
7.	Design-Build	H687301C	SR101L_Baseline Rd to SR 202L (SANTAN)	2018	\$59,482,777	\$25,000 0.042%
8.	P3	H804501C	SR189_International Border to Grand Avenue	2020	\$82,146,113	\$40,000 0.049%

2

1	<b>EXHIBIT 9</b>	<b>DBE/OJT/LABOR DESIGN-BUILD GUIDELINES</b>	
2	Exhibit 9-1	DBE Compliance & Monitoring .....	104
3	Exhibit 9-2	OJT Compliance & Monitoring .....	108
4	Exhibit 9-3	Labor Compliance Procedures .....	111
5	Exhibit 9-4	Monthly Compliance Oversight Meetings .....	114
6			

**EXHIBIT 9-1 DBE COMPLIANCE & MONITORING****PROJECT PROCEDURES MANUAL  
Civil Rights Program**

Procedure No:		DBE Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 1 of 4

**Purpose:**

The Arizona Department of Transportation has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. ADOT has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, ADOT has signed an assurance that it will comply with 49 CFR Part 26. The regulations require that Design-Builder take necessary and reasonable steps to ensure that DBEs have an equal and fair opportunity to compete for and perform the Agreement.

The Major Projects Division uses alternative contracting methods, such as Design-Build. These projects potentially have significant subcontracting opportunities for DBEs. For projects that are over \$100 million and durations of more than two years, it may be practical to use an Open-Ended DBE Utilization Plan, where the Contractor makes a commitment to the DBE program goals, but secures DBE participation over the life of the project.

**General:**

ADOT will assess the Design-Builder's compliance with the DBE regulations and monitor progress towards the DBE Open Ended Performance Plan (DBE Utilization Plan) through this procedure.

**Responsibilities:**

- ADOT – Business Engagement and Compliance Office – Provide checklists for procedures and recommend approvals
- ADOT Contract Compliance and Training Officer – Provide ADOT approvals
- ADOT– Receive, review, verify, and comment on Design-Builder's monthly and cumulative progress and reporting
- DBE/OJT Compliance Oversight Committee Members – Review and comment on Design-Builder's monthly and cumulative progress and reporting
- FHWA Civil Rights Program Manager – Provide third-party approvals for FHWA

**Procedure:**

1. Receive Final DBE Utilization Plan within thirty (30) days of NTP 1 - This becomes the plan and schedule for DBE compliance monitoring.
  - a. Review the draft plan of the selected Design-Build team with BECO staff and make recommendations to improve the plan for quality and effectiveness
  - b. Receive final approval from BECO Manager with concurrence by FHWA
  - c. Incorporate final plan into the Contract Documents
2. Confirm and updated ADOT's Comment Matix according to the Agreement
3. Review DBE Monthly Utilization Progress Report on or about the 22nd of month – Monthly Utilization Reports are required to be submitted according to the Draw instructions, which include the report and all supporting documents.

# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:		DBE Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 2 of 4

- a. Receive and review monthly submittals according to the terms of the agreement
- b. Generate DBE Warning Notification to the Design-Builder for missing items
- c. Draft a summary of compliance issues and findings from GEC Preliminary Review of Monthly Utilization Report for discussion at the meeting
- d. Assess any sanctions, penalties or liquidated damages for noncompliance according to the Agreement.
4. Convene Monthly DBE/OJT Compliance Oversight Committee meeting on or about the 25th of the month – The Compliance Oversight Committee is an interdisciplinary committee which includes BECO, the PMT, FHWA, and the Design-Builder. The meeting is to review and modify the approved DBE Utilization Plan; review planned versus actual participation, supporting documentation, and identifies compliance issues and discrepancies.
  - a. Receive the DBE Monthly Utilization Report, meeting invitation, and meeting agenda according to the TPs.
  - b. Distribute the ADOT review for discussion to the DBE/OJT Compliance Oversight Committee for comment.
  - c. Record attendance and key topics to compare to the Design-Builder's meeting minutes.
  - d. Include comments on unresolved compliance issues through the Draw Review and Comment process.
5. Conduct preliminary review of Monthly Utilization Report and draft summary of findings.
  - a. Read and compare to DBE Utilization Plan, ADOT Comment Matrix and ADOT Good Faith Efforts Guide; summarize findings and observations for:
    - i. Outreach and Recruitment narrative reported for the month
    - ii. DBE Business and Capacity Building narrative
    - iii. DBE Technical Assistance narrative
  - b. Review and reconcile DBE Procurements/Awards and compare to ADOT DBE & OJT Online Reporting System (DOORS) and ADOT FAST Contract Card
  - c. Investigate discrepancies and Good Faith Efforts when DBE Procurements are less than projected awards
    - i. Review Good Faith Efforts planned to make up the shortfall
    - ii. Review against schedule, total awards, non-DBE subcontract awards, and report narrative
  - d. Review DBE procurement projections for work items not yet completed or subcontracted which are targeted for DBE Utilization in the coming quarter – Compare to DBE Utilization plan and schedule
  - e. Investigate Prompt Pay issues
    - i. Run ADOT DBE & OJT Online Reporting System (DOORS) report for Prompt Pay issues and payment discrepancies
    - ii. Compare items in ADOT DBE & OJT Online Reporting System (DOORS) to the narrative and Design-Builder's Monthly Subcontractor/Subconsultant Payment form
  - f. Submit for approval any DBE Substitution/Replacement proposed by the Design-Builder
    - i. Submit to ADOT – BECO for approval
    - ii. Check new or changed award against ADOT FAST Contract Card

# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:		DBE Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 3 of 4

- iii. Update ADOT DBE & OJT Online Reporting System (DOORS) awards
- g. Review narrative on other issues encountered and/or resolved pertaining to DBEs working on the project that could impact ability to meet the goal
  - i. Compare to DBE Utilization Plan and Good Faith Efforts and summarize recommendations for BECO approval
- h. Investigate Deviations/Revisions to DBE Utilization Plan and recommend updates to BECO
  - i. Compare to DBE Utilization Plan and Good Faith Efforts
  - ii. Summarize recommendations for discussion at the Monthly Compliance Oversight committee
  - iii. Submit to BECO approval
  - iv. Record the acceptance date of the revised plan
- i. Verify Progress Towards Meeting Project Goals/Commitments – Review progress towards current month and YTD goals
  - i. Verify percentage of DBE Subcontract awards compared to total subcontract awards
  - ii. Compare total cumulative payment in the Monthly DBE Subcontractor Payment Form to Design-Builder's Draw amounts and percentages for Construction and Professional Services
  - iii. Compare Monthly DBE Subcontractor Payment Form to ADOT DBE & OJT Online Reporting System (DOORS)
  - iv. Confirm Design-Builder payments reported in ADOT FAST payments match with ADOT DBE & OJT Online Reporting System (DOORS) payments
- j. Confirm DBE Intended Participation Affidavit Summary for correctness and completeness (Professional Services and Construction).
  - i. Use BECO checklist for Individual Affidavit approval
  - ii. Confirm Subcontractor Request Form and Individual Affidavits match the summary report
  - iii. Compare scope, quantities, and committed dollars against ADOT FAST Contract Card and ADOT DBE & OJT Online Reporting System (DOORS)
- k. Verify Monthly Non-DBE Subcontract awards for Professional Services firms, Construction subcontractors, and Small Business Concerns.
  - i. Compare scope, quantities, and committed dollars against ADOT FAST Contract Card and ADOT DBE & OJT Online Reporting System (DOORS)
  - ii. Review against DBE Utilization Plan and Good Faith Efforts narrative
- l. Verify Monthly DBE and Non-DBE Subconsultant/Subcontractor Payment Forms - Confirm amounts earned by and paid to all Professional Services firms, Construction firms, and DBEs in the previous month.
  - i. Check payments posted match payments in ADOT DBE & OJT Online Reporting System (DOORS)
  - ii. Note any firms at or above 80% complete - Investigate if work has been reviewed, and if/when retention will be released
  - iii. Verify construction firms reaching completion have indicated final Certified Payroll Report

## PROJECT PROCEDURES MANUAL

### Civil Rights Program

Procedure No:		DBE Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 4 of 4

- iv. Confirm final payment has been indicated for completed subcontractors in the ADOT DBE & OJT Online Reporting System (DOORS)
- m. Verify Termination/Substitution or reduction in work for committed DBEs
  - i. Receive and review the request form and DBE's response
  - ii. Collect and review all documentation in relation to the request
  - iii. Present findings and recommendation to BECO for final approval
- n. Transmit to BECO for approval DBE Certificate of Final Payments (Professional Services and Construction)
  - i. Confirm amounts indicated match ADOT DBE & OJT Online Reporting System (DOORS)
  - ii. Confirm that payment is marked Final in ADOT DBE & OJT Online Reporting System (DOORS)
  - iii. Confirm that construction firms have indicated Final on Certified Payroll Reports
  - iv. Send DBE Certificate of Final Payment to BECO via email for final reconciliation
  - v. Upload Certificate of Final Payment into ADOT DBE & OJT Online Reporting System (DOORS)
  - vi. Prior to substantial completion, transmit to BECO for approval the cumulative DBE Certificates of Final Payments (Professional Services and Construction)
- o. Transmit to BECO the Bidder's List Forms of firms who quoted or bid on subcontracts during the previous month
- p. Joint Check agreements Requests
  - i. Receive, review and process requests and the joint check agreement
  - ii. Collect any necessary additional information and submit to BECO for approval
  - iii. Monitor the use of the joint check agreement
6. Monitor the project for potential impact of DBE decertification or certification during the project lifetime to ensure proper counting of DBE participation
7. Conduct Commercial Useful Function (CUF) reviews
  - a. Conduct CUF when notified DBEs are on-site
  - b. Use BECO checklist for CUF review
  - c. Load CUF into Docs tab in ADOT DBE & OJT Online Reporting System (DOORS)
  - d. Submit CUF, ADOT DBE & OJT Online Reporting System (DOORS) to BECO for approval
8. Review annual and project completion reports as required.
  - a. Review Annual DBE Utilization Report on anniversary of Agreement Execution Date to ensure cumulative report matches monthly reports
    - i. Send annual report to BECO for submittal to FHWA
  - b. Review Final DBE Utilization Report per the terms of the Agreement
    - i. Send annual report to BECO for submittal to FHWA
  - c. Compare to information in ADOT systems (DBE & OJT Online Reporting System (DOORS), LCPTracker, etc.) and correct discrepancies

#### Exclusions and Exemptions:

DBE Completion Cover Letter is sent directly from ADOT BECO to ADOT Field Reports to indicate whether final DBE goals have been achieved on the project and whether any sanctions will be assessed.

**EXHIBIT 9-2 OJT COMPLIANCE & MONITORING****PROJECT PROCEDURES MANUAL  
Civil Rights Program**

Procedure No:		OJT Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 1 of 3

**Purpose:**

Training and upgrading of minorities, women, the economically disadvantaged, and veterans toward journeyman status is a primary objective of the OJT Special Provisions.

ADOT has supplied the OJT Special Provisions and required forms to the Design-Builder to ensure the documentation and reporting of information necessary to review compliance and identify technical assistance required by the Design-Builder to deliver the project.

**General:**

ADOT will assess the Design-Builder's efforts to enroll minority, women, economically disadvantaged, and veteran trainees to the extent that such persons are available within a reasonable area of recruitment.

ADOT will assess the Design-Builder's compliance with the regulations and progress towards the OJT goals through this procedure.

**Responsibilities:**

- ADOT – Business Engagement and Compliance Office – Provide checklists for procedures and recommend approvals
- ADOT Contract Compliance and Training Officer – Provide ADOT approvals
- ADOT – Receive, review, verify, and comment on Design-Builder's monthly and cumulative progress and reporting
- DBE/OJT Compliance Oversight Committee Members – Review and comment on Design-Builder's monthly and cumulative progress and reporting
- FHWA Civil Rights Program Manager – Provide third-party approvals for FHWA
- ADOT Field Reports – Approve Apprentice/Trainee Certificates

**Procedure:**

- Receive Final OJT Utilization Plan within thirty (30) days of NTP 1 - This becomes the plan and schedule for OJT compliance monitoring.
  - Review the draft plan of the selected Design-Build team with BECO staff and make recommendations to improve the plan for quality and effectiveness
  - Receive final approval from BECO Manager with concurrence by FHWA
  - Incorporate final plan into the Contract Documents
- Confirm and updated ADOT's Comment Matix according to the Agreement

# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:

OJT Compliance Procedures

Revision No: 0

Original Issue: 04/05/2024

Effective Date: 05/01/2024

Page 2 of 3

3. Review and approve OJT Trainee enrollment, progression, graduation and monthly report of hours in ADOT DBE & OJT Online Reporting System (DOORS) in accordance with the Agreement
4. Receive and verify OJT Monthly Utilization Progress Report on or about 22nd of the month – Monthly Utilization Reports are required to be submitted according to the Draw instructions, which include the OJT Monthly Progress Reports, OJT Monthly Trainee Status Report, OJT Schedule, and all supporting documents.
  - a. Receive and review monthly submittals according to the terms of agreement
  - b. Generate OJT Warning Notification to the Design-Builder for missing items
  - c. Draft a summary of compliance issues and findings from GEC Preliminary Review of Monthly Utilization Report for discussion at the meeting
  - d. Assess any sanctions, penalties or liquidated damages for noncompliance according to the Agreement.
5. Convene monthly DBE/OJT Compliance Oversight Committee Meeting on or about the 25th of the month– The DBE/OJT Compliance Oversight Committee is an interdisciplinary committee which includes BECO, the PMT, FHWA, and the Design-Builder. The meeting is to review and modify the approved OJT Utilization Plan; review planned versus actual participation, supporting documentation, and identifies compliance issues and discrepancies.
  - a. Receive the OJT Monthly Utilization Report, meeting invitation, and meeting agenda according to the TPs.
  - b. Distribute the ADOT review for discussion to the DBE/OJT Compliance Oversight Committee for comment.
  - c. Record attendance and key topics to compare to the Design-Builder's meeting minutes.
  - d. Include comments on unresolved compliance issues through the Draw Review and Comment process.
6. Conduct preliminary review of Monthly Utilization Report and draft summary of findings.
  - a. Read and compare to OJT Utilization Plan and Federal Good Faith Efforts Guidelines, 23 CFR 230.409(g)(4); summarize findings and observations for:
    - i. Outreach and recruitment narrative reported for the month
    - ii. Other issues reported that affect plan effectiveness
  - b. Approve updated OJT Schedule
    - i. Review and verify trainee utilization to date is at least 90% of OJT Utilization Schedule
    - ii. Generate OJT Warning Notification
    - iii. Finalize findings and sanctions with BECO's approval
    - iv. Enter negative payment into ADOT/PEN system if compliance issues are not resolved according to agreement terms
  - c. Review progress towards meeting OJT Goals
    - i. Compare summary report to cumulative enrollment and termination/completion reported in ADOT DBE & OJT Online Reporting System (DOORS)



# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:		OJT Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 3 of 3

- ii. Run LCPtracker report (Training Reimbursement Report) to verify hours worked within the month
        - iii. Compare enrollee, classifications, and hours reported in LCPtracker to the reported hours for each trainee in the ADOT DBE & OJT Online Reporting System (DOORS)
      - d. Review Good Faith Effort Documentation on or about the 22nd of the month
        - i. Evaluate based on past and planned outreach efforts
        - ii. Review according to Federal Good Faith Efforts Guidelines, 23 CFR 230.409(g)(4), if out of conformance
        - iii. Review for reasonableness if in conformance
      - e. Review and comment on updated Project OJT Schedule for upcoming quarter and projected through substantial completion
7. Submit for BECO Approval
  - a. New Training Programs
    - i. Receive new or modified training programs and forward to BECO for approval (with FHWA concurrence).
    - ii. Ensure programs have been approved by BECO/FHWA 60 days prior to use according to OJT Special Provisions
  - b. Deviations/Revisions to OJT Utilization Plan
    - i. Review proposed changes or deviations from approved OJT Utilization Plan
    - ii. Verify Good Faith Effort according to Federal Good Faith Efforts Guidelines, 23 CFR 230 Subpart D
    - iii. Evaluate effectiveness of approach and schedule
8. Review and verify information reported in ADOT DBE & OJT Online Reporting System (DOORS)
  - a. Review and approve OJT Trainee Enrollment
    - i. Review for completeness and correctness
    - ii. ADOT approves trainees
    - iii. Field Reports approves trainee certificates in LCPtracker
  - b. Review and approve OJT Trainee Progression/Graduation
  - c. Confirm Monthly OJT Trainee Hours Report
    - i. Verify report reflects cumulative enrollment and termination/completion
    - ii. Run LCPtracker report - Training Reimbursement Report – to verify hours reported
    - iii. Compare employee demographics, classification, hours worked to hours reported for each trainee in ADOT DBE & OJT Online Reporting System (DOORS)

**EXHIBIT 9-3 LABOR COMPLIANCE PROCEDURES****PROJECT PROCEDURES MANUAL  
Civil Rights Program**

Procedure No:		Labor Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 1 of 3

**Purpose:**

This project 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," is included in the Design-Builder's Agreement.

The Davis-Bacon and Related Acts are applicable this project and all related subcontracts and lower-tier subcontracts (regardless of subcontract size).

**General:**

ADOT will assess the Design-Builder's compliance with the terms of FHWA 1273 - Required Contract Provisions Federal-Aid Construction Contracts

**Responsibilities:**

- ADOT– Provide overall compliance monitoring of Labor Compliance requirements. Provide compliance guidance and checklists for procedures as required. Receive, review, verify, and comment on Design-Builder's daily submissions
- Department of Labor – Approves Wage Conformance Requests

**Procedure:**

1. Review Subcontractor Request Form (SRF) to determine if subcontractor is subject to FHWA 1273 (the Subcontract Checklist ensures the FHWA 1273 is included in each fully executed subcontract agreement)
2. Verify all construction subcontractors have been entered into appropriate reporting systems
  - a. Verify LCPtracker assignment to project and correct tier
  - b. Add contractors/subcontractors to a Payroll Tracker Database
  - c. Ensure subcontractor has been entered into ADOT DBE & OJT Online Reporting System (DOORS) according to the Agreement
  - d. Ensure subcontract amount in ADOT FAST/Contract Card matches the amount shown in the ADOT DBE & OJT Online Reporting System (DOORS)
3. Receive Subcontractor 48 hour start notice
  - a. Verify notification has been submitted within the correct timeframe
  - b. Input start date into ADOT FAST/Contract Card, a Payroll Tracker Database and LCPtracker
  - c. Schedule field employee interviews and possible Commercially Useful Functions for DBEs
4. Verify Current Fringe Benefit Plans according to ADOT Field Reports procedure
  - a. If Design-Builder/Subcontractor has not submitted a current fringe benefit plan to ADOT in the last one year the Design-Builder/Subcontractor will need to submit documents per the Fringe Benefit Plan checklist to Field Reports

# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:		Labor Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 2 of 3

- b. Review Employer Fringe Benefit Summary in LCPtracker (eDocuments)
  - c. Verify against payroll
5. Wage Conformance Requests
  - a. Review SF-1444 submitted through ADOT DocuSign
  - b. Review LCPtracker to ensure new classification and wage rates have been entered
  - c. Verify DOL approval has been received at 30 days from submission.
  - d. Request back wages if a denial has been ascertained for the requested rate
  - e. Ensure DOL approvals are posted with Wage Decision on site bulletin boards
6. Review Contractor Employee Interviews
  - a. Review Bulletin Board to ensure Notice to Employees, Wage Decision, DOL conformance letters are posted on site
  - b. Conduct Employee Interviews
  - c. Follow ADOT Payroll Checklist items for Employee Interviews
  - d. Enter interview information into ADOT/PEN system
  - e. Upload interviews into LCPtracker (eDocuments)
7. Conduct DBE Commercial Useful Function interviews
8. Approve or Reject Weekly Certified Payroll Reports
  - a. Use ADOT Payroll Checklist to ensure accuracy of the certified payroll
  - b. Use a Payroll Tracker Database to track payroll progress daily
  - c. Log findings into a Payroll Tracker database
  - d. Verify if any contractors are nearing completion of their contracts (i.e., 80% complete or paid)? If so, a final payroll will be forthcoming.
9. Review Employee Authorized Deduction (EAD) Forms
  - a. Verify EAD forms are loaded into LCPtracker (eDocuments)
  - b. Verify EAD according to ADOT Deduction Guidelines
  - c. Verify payroll deduction shown on certified payroll matches authorization
10. Review Apprentice Certificates
  - a. Verify trainee certification has been loaded into LCPtracker (eDocuments)
  - b. Confirm trainee classification matches certificate
  - c. Verify in LCPtracker the ratio is being followed on the certified payroll
11. Submit De Minimis Trucking Request to Field Reports for approval - Truckers who spend less than 20% of their time on-site are not required to submit certified payrolls.
  - a. Review letter and proof of determination from Contractor
  - b. Approve or reject
  - c. If approved, have Construction Manager sign letter for concurrence
  - d. Submit letter and proof to ADOT Field Reports for their review and comment

## PROJECT PROCEDURES MANUAL

### Civil Rights Program

Procedure No:		Labor Compliance Procedures
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 3 of 3

- 1 e. Receive concurrence or denial from Field Reports
- 2 f. Request back wages and certified payroll submission if a denial is received
- 3 12. Notify Payroll Discrepancies on or about the 15th of the month
- 4 a. Generate Payroll Warning letter
- 5 b. Send Payroll Warning letter to Design-Builder
- 6 c. Review retention being held from past months and release corrected items through ADOT/PEN
- 7 system
- 8 13. Withhold Payroll Retention on or about 25th of the month
- 9 a. Generate Payroll Retention Letter
- 10 b. Confirm status of notifications from Payroll Warning letter sent on the 15th
- 11 c. Notify contractor of retention and/or liquidated damages
- 12 d. Record negative payment (retention) in ADOT/PEN system
- 13 14. Approve Contractor/Subcontractor Final Payroll Reports when work on site is complete
- 14 a. Add last date physically worked in ADOT FAST/Contract Card, a Payroll Tracker Database and
- 15 LCPtracker
- 16 b. Verify in ADOT's DBE & OJT Online Reporting System (DOORS) final payment has been submitted
- 17 according to the Agreement
- 18 15. Coordinate and monitor contractor/subcontractors annual 1391 report submittal
- 19 a. Follow Form FHWA 1391 and FHWA 1392 Procedures for the LCPtracker report submittal

**EXHIBIT 9-4 MONTHLY COMPLIANCE OVERSIGHT MEETINGS****PROJECT PROCEDURES MANUAL  
Civil Rights Program**

Procedure No:	Monthly Compliance Oversight Meetings
Revision No: 0	Original Issue: 04/05/2024
Effective Date: 05/01/2024	Page 1 of 3

**Purpose:**

ADOT will convene an interdisciplinary Compliance Oversight Committee to monitor and oversee OJT compliance and progress towards meeting the DBE and OJT Goals. The Compliance Oversight Committee will include representatives of ADOT's General Engineering Consultant (GEC) for the Project, FHWA, ADOT's Business Engagement & Compliance Office and other entities.

The purpose of the monthly meetings will be to review information submitted in the DBE Monthly Utilization Reports and the OJT Monthly Progress Reports, and to monitor whether the utilization of DBEs and OJT Trainees is consistent with the goal commitments and approved utilization plans.

ADOT has supplied the components of the DBE Monthly Utilization Report and the OJT Monthly Progress report to the Design-Builder in the Agreement.

**General:**

Design-Builder will arrange and conduct the Monthly Compliance Oversight Committee meeting, including scheduling the meeting, developing the agenda, attending the meeting, taking meeting notes, and preparing final meeting notes for distribution.

**Responsibilities:**

- ADOT – Business Engagement and Compliance Office – Convene an interdisciplinary Compliance Oversight Committee monthly to monitor and oversee compliance and progress towards meeting the DBE and OJT Goals. Provide guidance and recommendations for compliance issues as it relates to the DBE and OJT Special Provisions, ADOT procedures, and forms.
- ADOT Contract Compliance and Training Officer – Approve final agenda.
- Design-Builder DBE/OJT Compliance Manager– Schedule meetings, develop the agendas, attend and facilitate the meetings, track meeting attendance, provide feedback and input as it relates to the overall project and Design-Builder Agreement, take meeting notes, and prepare final meeting notes for distribution
- DBE/OJT Compliance Oversight Committee Members – Review and comment on Design-Builder's monthly and cumulative progress and reporting
- FHWA Civil Rights Program Manager – Provide guidance and recommendations for compliance issues as it relates to the Federal regulations and procedures. Provide third-party approvals for FHWA.
- Design-Builder – Provide monthly compliance reports as outlined in the agreement. Make available the DBE/OJT Compliance liaison and Project Manager (or designee responsible for the management professional services and construction activities) to attend scheduled meetings. Discuss and clarify issues found in submitted documents. Provide additional information as requested.

**Procedure:**

# PROJECT PROCEDURES MANUAL

## Civil Rights Program

Procedure No:		Monthly Compliance Oversight Meetings
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 2 of 3

1. Meeting Dates – Design-Builder will schedule monthly DBE/OJT Compliance Oversight Committee Meeting on or about the 25th of the month.
2. Attendees– The DBE/OJT Compliance Oversight Committee is an interdisciplinary committee which includes BECO, ADOT GEC, ADOT RE, FHWA, and the Design-Builder.
3. Agenda Items –The meeting is to review and modify the approved DBE Utilization Plan and OJT Utilization Plans; review planned versus actual participation, supporting documentation, and identifies compliance issues and discrepancies. The specific agenda items are as follows:
  - a. Monthly DBE Utilization Report
    - i. Summary of Utilization to Date
    - ii. Review DBE Utilization Plan
    - iii. Review Design-Builder’s Good Faith Efforts to meet DBE Goals
    - iv. Identify and resolve impediments to successful DBE participation
    - v. Investigate Prompt Pay issues and Resolutions
    - vi. Review issues with DBE firms behind in utilization schedule or nearing completion
    - vii. Accept or reject Deviations/Revisions to DBE Utilization Plan and recommend updates to BECO
    - viii. Report of potential DBE fraud
    - ix. Action items to resolve DBE compliance issues that may arise
    - x. List remaining Non-compliance Issues for Sanctions letter
    - xi. Outstanding issues, sanction, and liquidated damages
    - xii. Upcoming compliance training
  - b. OJT Monthly Progress Report
    - i. Summary of Utilization to Date
    - ii. Review OJT Utilization Plan
    - iii. Review projected OJT recruitment and hiring for upcoming month
    - iv. Review Design-Builder’s Good Faith Efforts to meet the OJT Goals
    - v. Identify and resolve impediments to successful OJT Trainee participation
    - vi. Accept or reject Deviations/Revisions to OJT Utilization Plan and recommend updates to BECO
    - vii. Action items to resolve OJT compliance issues that may arise
    - viii. List remaining Non-compliance Issues for Sanctions letter
    - ix. Outstanding issues, sanction, and liquidated damages
4. Kickoff Meeting – Kick-off meeting will be convened shortly after the Design-Builder agreement is finalized to review the DBE and OJT special provisions and forms and coordinate the logistics of reporting and meeting.
  - a. DBE Special Provisions and Forms

## PROJECT PROCEDURES MANUAL

### Civil Rights Program

Procedure No:		Monthly Compliance Oversight Meetings
Revision No:	0	Original Issue: 04/05/2024
Effective Date:	05/01/2024	Page 3 of 3

- 1 b. OJT Special Provisions and Forms
- 2 c. Comments to the Preliminary DBE Utilization Plan
- 3 d. Comments to the Preliminary OJT Utilization Plan
- 4 e. Compliance tracking and reporting tools
- 5 f. Document submission procedures
- 6 g. Document naming sequence
- 7 h. Monthly compliance meeting schedule
- 8 i. Monthly compliance meeting agenda
- 9 5. Notice, agenda, and notes
- 10 a. 3 days before meeting date - Receive final meeting notice to meeting participants
- 11 b. 1 day before meeting date – Receive meeting agenda and supporting documents to meeting
- 12 participants
- 13 c. Review and comment on Design-Builders meeting minutes.

1 **EXHIBIT 10** **SAMPLE DOCUMENT DISPOSITION MATRIX**

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
<b>General</b>								
1.	CSRA Report			x			x	x
2.	Risk Tracking Matrix	x		x			x	x
3.	Industry Forum Documents/Presentation		x	x			x	x
4.	White Papers	x		x			x	x
5.	Open Items List	x		x		x		
6.	CPT Meeting Agenda/Notes	x		x		x		
7.	Program/Procurement Schedule	x		x			x	
8.	DB Presentation		x	x			x	
9.	Liquidated Damages Calcs	x		x			x	x
10.	This Document Disposition Matrix	x		x			x	
11.	Misc. Procurement Notes/Files	x		x		x		
<b>RFQ Phase</b>								
12.	Confidentiality Agreements (Pre-SOQ Due Date)	x		x			x	
13.	RFQ Draft Versions, including draft addenda	x		x		x		
14.	RFQ Comments, including draft addenda	x		x		x		
15.	RFQ Comment Resolution Matrix	x		x		x		



No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
16.	Final RFQ	x		x			x	
17.	Final RFQ (Published PDF Files)		x	x			x	
18.	RFQ Addendum No. 1	x		x			x	
19.	RFQ Addendum No. 1 (Published PDF and Certain Native Files)		x	x			x	
20.	RFQ Addendum No. 2	x		x			x	
21.	RFQ Addendum No. 2 (Published PDF and Certain Native files)		x	x			x	
22.	RFQ Addendum No. 3	x		x			x	
23.	RFQ Addendum No. 3 (Published PDF and Certain Native files)		x	x			x	
24.	Proposer's Original Questions, Comments, and Clarification Requests		x	x			x	
25.	Questions and Responses Matrix Draft Version	x		x		x		
26.	Questions and Responses Matrix Draft Version Comments	x		x		x		
27.	Questions and Responses Matrix	x		x			x	
28.	Questions and Responses Matrix (Published PDF Files)		x	x			x	
29.	Other Informational Memoranda						x	
30.	SOQs		x	x			x	
31.	Draft SOQ Evaluation Manual	x		x		x		

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
32.	Draft SOQ Eval Training Presentation	x		x		x		
33.	Draft SOQ Evaluation Manual Comments	x		x		x		
34.	Final SOQ Evaluation Manual	x		x			x <sup>A</sup>	
35.	Final SOQ Eval Training Presentation	x		x			x <sup>A</sup>	
36.	Final SOQ Eval Training Presentation (Published PDF Files)	x		x			x <sup>A</sup>	
37.	SOQ Eval Training Workshop Sign-In Sheet	x		x	x	x		
38.	Adjectival Rating Weighting	x		x			x	
39.	SOQ Eval General Checklist (Log of SOQs, etc.)	x		x		x		
40.	Confidentiality Agreements (Post SOQ Due Date)	x		x			x	
41.	Clarification Request (R&R)	x		x			x	
42.	Clarification Request (R&R) (Published PDF Files)		x	x			x	
43.	Clarification Request Responses (R&R)		x	x			x	
44.	Exhibit 2-3: Proposer Teams List	x		x		x		
45.	Exhibit 4: SOQ Evaluation Committee Checklist	x		x		x		
46.	Form A-1: Packaging and Delivery Responsiveness Worksheets (Individual)	x		x		x		
47.	Form A-2: SOQ Responsiveness Worksheets (Individual)	x		x		x		
48.	Form B-1: SOQ Responsibility Worksheets (Individual)	x		x		x		

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
49.	Form C-1: Responsiveness and Responsibility Recommendations Memorandum, including attachments (clarification requests and responses, and consolidated forms)	x		x			x	
50.	Form C-2: Responsiveness and Responsibility Determination Memorandum	x		x			x	
51.	Form D-1: Project Reference Interview Questionnaires	x		x		x		
52.	Form D-2: Key Personnel Reference Interview Questionnaires	x		x		x		
53.	Form D-3: Reference Check Summary of Findings	x		x		x		
54.	Form E-1: Qualitative Evaluation/Review Worksheets (Individual)	x		x		x		
55.	Form E-2: Qualitative Rating Worksheets (TPAG and TERC)	x		x			x	
56.	Form F-1: Scoring Worksheet	x		x			x	
57.	Form F-2: Shortlist Recommendation Memorandum, including attachments	x		x			x	
58.	Form F-3: Shortlist Determination Memorandum, including attachments	x		x			x	
59.	Shortlist Announcement		x	x			x	
60.	All other correspondence to/from Proposers		x	x			x	
<b>RFP Phase</b>								
61.	Confidentiality Agreements (Changes Post Short-listing)	x		x			x	

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
62.	RFP Draft Versions, including draft addenda	x		x		x		
63.	RFP Comments, including draft addenda	x		x		x		
64.	RFP Comment Resolution Matrix	x		x		x		
65.	Industry Review Draft RFP	x		x			x	
66.	Industry Review Draft RFP (Published PDF Files)		x	x			x	
67.	Proposer's Original Industry Review Questions, Comments, and Clarification Requests		x	x			x	
68.	Industry Review Questions and Responses Matrix Draft Version	x		x		x		
69.	Industry Review Questions and Responses Matrix Draft Version Comments	x		x		x		
70.	Industry Review Questions and Responses Matrix	x		x			x	
71.	Industry Review One-on-One Meeting Notes	x		x			x	
72.	Industry Review One-on-One Meeting Sign-In Sheet	x		x	x		x	
73.	Industry Review One-on-One Meeting Script	x		x			x	
74.	Final RFP	x		x			x	x
75.	Final RFP (Published PDF Files and Certain Native Files)		x	x			x	x
76.	Preliminary ATCs		x	x			x	x
77.	Preliminary ATC Feedback		x	x			x	x
78.	ATCs		x	x			x	x

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
79.	Preliminary Determination of ATC Documentation		x	x			x	x
80.	Revised ATCs		x	x			x	x
81.	Final Determination of ATC Documentation		x	x			x	x
82.	Proposer's Original Questions, Comments, and Clarification Requests		x	x			x	x
83.	Questions and Responses Matrix Draft Version	x		x		x		
84.	Questions and Responses Matrix Draft Version Comments	x		x		x		
85.	Questions and Responses Matrix (All rounds)		x	x			x	x
86.	Stipend Agreement		x	x			x	
87.	RFP Addendum No. 1	x		x			x	
88.	RFP Addendum No. 1 (Published PDF and Certain Native files)		x	x			x	x
89.	One-on-One Meeting Notes (All rounds)	x		x			x	x
90.	One-on-One Meeting Sign-In Sheets (All rounds)	x		x	x		x	
91.	One-on-One Meeting Script (All rounds)	x		x			x	
92.	RFP Addendum No. 2	x		x			x	
93.	RFP Addendum No. 2 (Published PDF and Certain Native files)		x	x			x	x
94.	Requests for Change in Proposer Organization and Key Personnel		x	x			x	

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
95.	Draft Requests for Change Draft Responses	x		x		x		
96.	Final Requests for Change Draft Responses		x	x			x	
97.	RFP Addendum No. 3	x		x			x	
98.	RFP Addendum No. 3 (Published PDF and Certain Native files)		x	x			x	x
99.	RFP Addendum No. 4	x		x			x	
100.	RFP Addendum No. 4 (Published PDF and Certain Native files)		x	x			x	x
101.	Proposals		x	x			x	x
102.	Proposal Security		x	x			x <sup>B</sup>	
103.	Other Work Product from Proposers		x	x			x	
104.	Draft Requests for Proposal Revisions	x		x		x		
105.	Request for Proposal Revisions		x	x			x	x
106.	Proposal Revisions		x	x			x	x
107.	Proposal Revisions Responsiveness Worksheets	x		x			x	
108.	Draft Proposal Evaluation Manual	x		x		x		
109.	Draft Proposal Eval Training Presentation	x		x		x		
110.	Draft Proposal Evaluation Manual Comments	x		x		x		
111.	Final Proposal Evaluation Manual	x		x			x <sup>A</sup>	

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
112.	Final Proposal Eval Training Workshop Presentation	x		x			x <sup>A</sup>	
113.	Final Proposal Eval Training Workshop Presentation (Published PDF Files)	x		x			x <sup>A</sup>	
114.	Proposal Eval Training Workshop Sign-In Sheet	x		x	x	x		
115.	Adjectival Rating Weighting	x		x			x	
116.	Proposal Eval General Checklist (Log of Proposals, etc.)	x		x		x		
117.	Confidentiality Agreements (Post Proposal Due Date)	x		x			x	
118.	Clarification Request (R&R)	x		x			x	
119.	Clarification Request (R&R) (Published PDF Files)		x	x			x	
120.	Clarification Request Responses (R&R)		x	x			x	
121.	Clarification Request (Qualitative)	x		x			x	
122.	Clarification Request (Qualitative) (Published PDF Files)		x	x			x	
123.	Clarification Request Responses (Qualitative)		x	x			x	
124.	Exhibit 4: Proposal Evaluation Committee Checklist	x		x		x		
125.	Form A-1: Packaging and Delivery Responsiveness Worksheets (Individual)	x		x		x		
126.	Form A-2: Technical Proposal Responsiveness Worksheet (Individual)	x		x		x		
127.	Form A-3: Price Proposal Responsiveness Worksheet (Individual)	x		x		x		

No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
128.	Form B-1: Technical Proposal Responsibility Worksheet (Individual)	x		x		x		
129.	Form B-2: Price Proposal Responsibility Worksheet (Individual)	x		x		x		
130.	Form C-1: Technical Proposal R&R Recommendations Memorandum, including attachments (consolidated forms)	x		x			x	
131.	Form C-2: Price Proposal R&R Recommendations Memorandum, including attachments (consolidated forms)	x		x			x	
132.	Form C-3: Technical Proposal R&R Determination Memorandum	x		x			x	
133.	Form C-4: Price Proposal R&R Determination Memorandum	x		x			x	
134.	Form D-1: Qualitative Evaluation/Review Worksheet (Individual)	x		x		x		
135.	Form D-2: Qualitative Rating Worksheet (TPAG and TERC)	x		x			x	
136.	Form E-1: QES Calculations Worksheet	x		x			x	
137.	Form E-2: QES Recommendation Memorandum, including attachments	x		x			x	
138.	Form E-3: QES Determination Memorandum	x		x			x	
139.	Form F-1: TPS Calculations and Rankings Worksheet	x		x			x	
140.	Form F-2: TPS and Proposal Rankings Recommendation Memorandum, including attachments	x		x			x	



No.	Procurement Phase Document (All are native files unless otherwise noted)	Internal Document	External Document	Electronic	Hard Copy	Destroy	Archive	Copy on the PMIS during the D&C Period
141.	Form F-3: Apparent Best Value Proposer Determination Memorandum, including attachments	x		x			x	
142.	Contract Price E-Mail from the FERC Chair	x		x			x	x <sup>C</sup>
143.	Apparent Best Value Proposer Announcement	x		x			x	
144.	Draft Execution Contract Documents (Internal Negotiated Versions)	x		x		x		
145.	Draft Execution Contract Documents (Negotiated Versions to the Design-Builder)		x	x			x	
146.	Memo to the ADOT Director for execution, including a summary of negotiations	x		x			x	
147.	Executed Contract Documents		x	x	x		x	x
148.	All other correspondence to/from Proposers		x	x			x	

**Notes:**

- A. Redact Names.
- B. ADOT should return originals and retain a copy.
- C. Microsoft Excel version of the Contract Price forms ("Form M series") completed by the Selected Proposer.

## EXHIBIT 11 GEC DBE/OJT COMPLIANCE AND MONITORING MANAGER

For projects with DBE and OJT requirements, the GEC must have a DBE/OJT Compliance and Monitoring Manager that focuses on the management and compliance monitoring with ADOT's DBE and OJT Program requirements for the project while working in direct contact with ADOT BECO's Alternative Delivery Project Manager. The DBE/OJT Compliance and Monitoring Manager's qualifications and responsibilities are as follows:

### (A) Qualifications

- (1) Minimum five years of experience managing a DBE or other diversity program or seven years of project-level DBE/OJT program management experience;
- (2) Strong knowledge of construction industry, particularly infrastructure construction and alternative delivery methods;
- (3) Demonstrable knowledge of a variety of federal and state regulatory practices, particularly FHWA;
- (4) Strong knowledge of various minority business rules, regulations and practices;
- (5) Excellent research skills and ability to read and scrutinize contract documents;
- (6) Excellent organizational and prioritization skills;
- (7) Excellent written and verbal communication skills;
- (8) Excellent training and presentation skills;
- (9) Ability to work independently with minimal supervision;
- (10) Ability to be flexible and change directions to meet ADOT needs;
- (11) General knowledge of computer applications: Microsoft Office Suite, etc.; and
- (12) Ability to travel to the project site;

### (B) Responsibilities

- (1) Auditing project-specific compliance requirements with the project's specifications;
- (2) Receive all DBE/OJT submittals, verify and make determination of compliance and receive BECO's concurrence for GFE determination;
- (3) Meeting regularly with project field personnel and BECO to discuss the DBE and OJT utilization on the project and the applicable rules and regulations related to DBE and OJT participation on the project;
- (4) Monitoring the performance of the developer in meeting the DBE and OJT goals established for the entire life of the project, including reviewing and auditing documentation, assessing the sufficiency of Good Faith Efforts;
- (5) Meeting regularly with the Developer and BECO to review DBE and OJT participation and the participation and the progress of the participating firms;
- (6) Monitoring DBEs performance at the project level either by personal observation or by review of project documentation and contractual requirements down to subcontractors and vendors;
- (7) Monitoring payment reporting and prompt payment compliance throughout the project; and
- (8) Scrutinizing contracts and purchase orders/invoices and conducting field audits and CUF evaluations.