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CALIFORNIA TRANSPORTATION COMMISSION

September 09, 2009

CALIFORNIA TRANSPORTATION COMMISSION

POLICY GUIDANCE
PROJECT AUTHORIZATIONS UNDER THE DESIGN-BUILD DEMONSTRATION PROGRAM
Resolution G-09-09

The Design-Build Demonstration Program was established in Chapter 6.5 (commencing with Section 6800) of Part 1 of Division 2 of the Public Contract Code, as added by Chapter 2 of the Statutes of 2009 (Senate Bill 4, Second Extraordinary Session). The purpose of the program is described in Section 6800: "The design-build method of procurement authorized under this chapter should be evaluated for the purposes of exploring whether the potential exists for reduced project costs, expedited project completion, or design features that are not achievable through the traditional design-bid-build method. A demonstration program will allow for a careful examination of the benefits and challenges of design-build contracting on a limited number of projects. This chapter shall not be deemed to provide a preference for the design-build method over other procurement methodologies."

The Design-Build Demonstration Program authorizes use of the design-build method of procurement by local transportation entities for up to five projects and by the Department of Transportation for up to ten projects, subject to project authorization by the California Transportation Commission. The design-build projects authorized by the Commission for the demonstration program shall vary in size, type, and geographical location. The Commission shall also determine whether a transportation entity may award a design-build contract based on lowest responsible bid or best value, balancing the number awarded according to each method to enable the Commission to determine the costs and benefits of using each method.

Eligibility for the demonstration program is limited to projects that the Commission has programmed for funding from the state transportation improvement program (STIP), from the state highway operation and protection program (SHOPP), from the Traffic Congestion Relief Program (TCRP), or from one of the programs designated under Proposition 1B of 2006.

The purpose of this guidance is to set forth the Commission's policy and expectations for the selection of projects for the Design-Build Demonstration Program. This guidance does not address other responsibilities under the program that the Commission will address separately:

- The Commission shall establish a peer review committee to conduct an evaluation of the 15 projects selected for design-build procurement.
- The Commission shall develop guidelines for a standard organizational conflict of interest policy for entities entering into design-build contracts authorized under the demonstration program.
- The Commission shall develop a standard form of payment and performance bond.

- The Commission shall submit an annual report to the Legislature that includes the information provided by the Department and local transportation entities in the annual design-build project progress reports submitted pursuant to Public Contract Code Section 6811.

This guidance does not address the statutory responsibilities of the Department and local transportation entity under the Design-Build Demonstration Program that are not within the purview of the Commission.

Project Authorization. The Commission will select and authorize each project for the Design-Build Demonstration Program through the adoption of a resolution at a regularly scheduled Commission meeting. The Commission will authorize each project with reference to a project authorization request submitted by the Department or a local transportation entity.

The Commission's design-build authorization will include:

- The project scope described in the design-build project authorization request.
- Whether the Department or local transportation entity may award the contract based on lowest responsible bid or best value.
- An expiration date by which the Department or local transportation entity must execute a design-build contract.

Criteria for Commission Approval. The Commission will authorize a project under the Design-Build Demonstration Program if it finds that the project:

- meets the statutory programming requirement for eligibility;
- is fully funded and a design-build contract will be awarded before January 1, 2014.
- contributes to the statutory mandate for a balance of the number of transportation entities that may use the low bid and best value selection methods;
- contributes to the statutory mandate that selected projects shall vary in size; and
- contributes to the statutory mandate that selected projects shall vary in geographical location.

Commission Expectations. The selection of projects will depend in large part on the project requests the Commission receives from the Department and local transportation entities and when the Commission receives them. The Commission expects that it will select the first projects on a first-come first-served basis, and that the mandates for balance will become ever-larger factors as the number of projects authorized approaches the maximums authorized in statute. The Commission's expectations for project balance include the following:

- Transportation Entity. This is firmly mandated. There will be a maximum of 5 projects for local transportation entities and 10 projects for the Department. The Commission may approve a project for a local transportation entity that is on the state highway system if the Department approves the local entity's implementation of the project.

- Selection method. The Commission expects that it will approve 7-8 projects for selection by low bid and 7-8 projects for selection by best value.
- Geographical location. The Commission expects that it will approve 8-10 projects in the South and 5-7 projects in the North, with South and North defined as for the STIP.
- Project size. The Commission expects that will approve 2-3 projects with a total design-build contract cost estimate under $20 million and 2-3 projects with a total design-build contract cost estimate over $200 million.

The Commission's expectations for geographic location and project size are subject to change, particularly if adhering to these expectations would preclude the Commission from authorizing up to 15 projects that can be constructed by the expiration date of the demonstration program.

Project Authorization Requests. The Commission will consider approval of a project for the Design-Build Demonstration Program only after the Department or a local transportation entity has submitted a project design-build authorization request to the Commission. The Department or local transportation entity may submit a project design-build authorization request at any time, either in conjunction with a project allocation request or separately from it. Project authorization requests are due to the Commission no earlier than January 1, 2010. The Commission will usually place a design-build authorization request on its agenda at a meeting at least 45 days after the Commission office receives the design-build authorization request.

The design-build project authorization request will describe the scope of the project, the total estimate of project cost, the estimated schedule for project completion, the full funding plan for the project, including both state and local funding, and whether the Department or local transportation entity proposes to select the contractor using a low bid or best value selection method.