

Approved:

Effective: 7/13/2018  
Review: July 8, 2019  
Office: Contracts Administration  
Topic No.: 375-000-001-x



Department of Transportation

## **ROAD AND BRIDGE CONTRACT PROCUREMENT**

### **AUTHORITY:**

Section 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)

### **REFERENCES:**

Sections 337.11, 337.14, and 337.18, F.S.

Rule Chapter 14-22, Florida Administrative Code (F.A.C.), Contractors-Highway Qualification to Bid

Rule Chapter 14-78, F.A.C., Participation by Disadvantaged Business Enterprises

### **Department Procedures**

050-020-025 Records Management

350-020-200 Contract Funds Management Funds Approval

350-080-300 Securing, Transmitting, Depositing, Recording, and Refunding Receipts

375-040-130 Emergency Procurement During Governor Declared Emergencies

375-040-020 Procurement of Commodities and Contractual Services

600-010-001 Preparation of the Authorization/Official Construction Cost Estimate of Contract Bid Review Package 600-010-004 Technical Review Committee

600-010-006 Contract Awards Committee

630-010-005 Specification Package Preparation

850-000-025 Maintenance Specification Package

850-005-001 Reporting Incidents and Management of Damage Repair

Department Standard Specifications for Road and Bridge Construction

### **STATEMENT OF POLICY**

It is the policy of the Florida Department of Transportation to establish processes to procure low bid, design-bid build, construction and maintenance contracts.

## **PURPOSE:**

To provide procedures for contract procurement of Department of Transportation (Department) low bid, design-bid-build, construction, and maintenance contracts for work performed on roads and bridges in Florida.

## **SCOPE:**

This procedure applies to all Contracts Administration Offices responsible for advertising, letting, awarding, and executing low bid, design-bid-build, construction, and maintenance contracts. All solely state-funded construction contracts and all maintenance contracts shall be advertised, let, awarded, and executed from the appropriate District Contracts Administration Office, including the Turnpike Enterprise Contracts Administration Office unless an exception is approved by the Assistant Secretary for Engineering and Operations. All contracts with federal funds, with the exception of emergency contracts, shall be advertised, let, awarded, and executed from the Central Office Contracts Administration Office, unless an exception is approved by the Assistant Secretary for Engineering and Operations and the Federal Highway Administration Division Administrator, or delegate. Federally funded emergency contracts are advertised, let, awarded, and executed from the appropriate District Contracts Administration Office.

## **PROCEDURE**

### **1.0 INTRODUCTION**

#### **1.1 General**

This procedure sets forth the objectives for contracting of road and bridge construction and maintenance work while complying with applicable statutory, rule, and administration requirements.

#### **1.2 Objectives**

**1.2.1** To standardize and clarify procedures for administering low-bid, design-bid-build, construction, and maintenance contracts.

**1.2.2** To provide program flexibility and more rapid response time in meeting public needs.

### **2.0 AUTHORIZATION TO ADVERTISE**

**2.1** Authorization in the form of a transmittal memorandum must be received in the Contracts Administration Office prior to advertisement.

**2.2** The proposal budget amount shall be reviewed to determine advertising and bidding requirements.

**2.3** The Chief Engineer may waive prequalification requirements for construction contracts with an advertised budget amount \$500,000 or less. This waiver approval must be maintained in the contract or letting file.

**2.4** Prior to advertising, the following actions must be complete:

- A.** Funds approval must be obtained from the Department's Comptroller in accordance with ***Procedure No. 350-020-200, Contract Funds Management Funds Approval.***
- B.** A contract shall not be advertised until all necessary right-of-way has been acquired and all railroad crossing, utility, and maintenance agreements have been executed. At such time that all necessary right-of-way has been acquired and all railroad crossing, utility, and maintenance agreements have been executed, the Design Office, Maintenance Project Manager, the District Program Management Office, or the Production Management Office, as appropriate, will provide the appropriate Contracts Administration Office with a memorandum stating that the contract is ready to be advertised. A copy of this documentation must be maintained in the contract or letting file.
- C.** Permits related to a project should be obtained prior to advertising. If the Department elects to advertise the contract without all permits acquired, approval must be obtained from the District Secretary in advance of submitting the project for advertisement. The Project Manager should ensure that the Department receives all permits at least 5 calendar days, excluding Saturdays, Sundays, and state holidays, prior to the letting. If permits are not received at least 5 calendar days, excluding Saturdays, Sundays, and state holidays, prior to the letting, the Project Manager shall notify the appropriate Contracts Administration Office to remove the contract from the current letting.

### **3.0 ADVERTISEMENT**

**3.1** Letting dates should be coordinated to avoid conflict with scheduled Central Office lettings, District lettings, and statewide events involving the road and bridge industry. This coordination is accomplished using the ***Letting Date Scheduling Chart*** located on the Contracts Administration Office SharePoint site. Consideration should be given to estimated cost, Major Work Type, location, and prospective bidders in making the determination to let on a date concurrent with another District or Central Office letting. Lettings shall not be scheduled for the day after any observed federal or state holiday. No letting shall occur later than June 15 of any year to accommodate Department fiscal year end activities.

**3.2** Perform the following:

- Attach proposals to the letting in AASHTOWare Project system.
- Load the proposal and letting documents to the Contract Proposal Processing Online Ordering system
- Verify Work Class requirements
- Load the Work Class percentages and other necessary information for each proposal to the Contract Proposal Processing System
- Create the letting in Bid Express
- Upload EBSX (Electronic Bid System) files to Bid Express
- Upload Fuel Allocation and DBE (Disadvantaged Business Enterprise) % Availability Table to website

**3.3** All contracts that do not require prequalification, including construction contracts \$250,000 or less, construction contracts in which the Department has waived prequalification, all maintenance contracts, and all Business Development Initiative (BDI) contracts, must be advertised not less than twice in a newspaper of general circulation that includes the county or counties where the work is located. The first publication shall not be less than 14 calendar days and the second publication not less than seven calendar days prior to the bid opening date. At a minimum, an advertisement must provide the proposal number, location, type of work, letting date, and a link to the website where advertisement information can be accessed.

#### **3.4 Bid Solicitation Notice (BSN) Advertisement Requirements**

The AASHTOWare Project ***Bid Solicitation Notice Report*** must be used for the advertisement. Any corrections to the BSN will be sent to prospective bidders using Contact Mailer.

All Construction and Maintenance contracts must be appropriately advertised in a BSN and posted on the appropriate Contracts Administration Office Website. Notification of the advertisement must be sent through Contact Mailer no less than 30 calendar days prior to the bid opening, or 60 calendar days prior to the bid opening for contracts requiring a 60-calendar day advertisement period. If a shorter advertisement period is deemed necessary, requests should be sent to the Manager, Contracts Administration Office.

Unless an exception is obtained from the Assistant Secretary of Engineering and Operations, 60 calendar day advertisements are required for the following:

- A. Contracts which include a pre-bid meeting
- B. Contracts which include projects having any of the following Work Program mixes:
  1. 0023 Bridge – Replace and Add Lanes
  2. 0025 Bridge – Rehabilitate and Add Lanes
  3. 0213 Add Lanes and Reconstruct

4. 0218 Add Lanes and Rehabilitate Pavement
5. 0236 Interchange Add Lanes

### 3.5 Pre-Bid Meetings

- A. At the option of the District Construction Engineer, the District Maintenance Engineer, or the Contracts Administration Office, a pre-bid meeting may be held in order to explain the terms and conditions of the proposed contract so prospective bidders will have full understanding of the responsibilities they have under a contract. The pre-bid meeting will provide uniform information to all prospective bidders and other interested parties; however, no information, instructions, or other condition/direction that changes any contract requirement will be given unless an addendum is also issued. Prospective bidders attending the pre-bid meeting shall not be allowed to ask questions and should be directed to submit all questions to the online pre-bid question and answer website in accordance with **Specification 2-4** governing the contract. Attendance at a pre-bid meeting is not a prerequisite for bidding unless specifically stated in the Advertisement.
- B. Prior to a pre-bid meeting for which attendance is a prerequisite for bidding, only plans and specifications can be provided to prospective bidders through the Contract Proposal Processing Online Ordering System (CPP). Bidding documents are only provided to those contractors who attended the pre-bid meeting and meet all other requirements.
- C. On contracts where attendance at the pre-bid meeting is a prerequisite for bidding, all prospective bidders must be present at the meeting location and sign the attendee sign-in sheet prior to the start of the pre-bid meeting. The meeting convener will provide the attendee sign-in sheet prior to the advertised meeting time. **Pre-bid Sign in Sheet (Form No. 375-000-24)** should be used. Once all prospective bidders have signed in, the meeting convener will take possession of the sign-in sheet and the meeting "Officially" starts. Any prospective bidder not signed in at the "official" start of the meeting will be considered late, will not be allowed to sign the sign-in sheet, and will not be allowed to bid on the contract. Agenda and attendance records must be maintained in the contract or letting files.
- D. Pre-bid meetings should be audio/video recorded. Pre-bid meeting audio/video recordings must be maintained with the contract or letting files. Attendees can record the meeting. If recording of the meeting is not possible, minutes must be taken as an alternative. The summary minutes must be maintained in the contract or letting file.
- E. On contracts where attendance at the pre-bid meeting is a prerequisite for bidding, Contracts Administration Office staff should obtain the sign in sheet and update the CPP System within 24 hours after the meeting.

- F. On contracts where attendance at the pre-bid meeting is a prerequisite for bidding, the list of all prospective bidders attending the pre-bid meeting must be published on the appropriate Contracts Administration Office website.

## 4.0 PLANS, SPECIFICATIONS, AND ESTIMATES

### 4.1 Construction Contracts over \$250,000

A. Construction contracts that are greater than \$250,000 must use the **Standard Plans** and **Specification** packages. The **Standard Plans** and **Specifications** packages include the **Standard Specifications for Road and Bridge Construction**, the appropriate **Special Provisions**, and those **Supplemental Specifications** that have been approved since the last publication of the **Standard Specifications for Road and Bridge Construction**.

B. Notification of any changes to specifications, plans, or bid/proposal documents will be distributed via an addendum. This notification of addendum must be sent to Plans, Specifications, and proposal holders via e-mail as part of the CPP addenda process. The revised documents must be uploaded to CPP Online Ordering.

C. Revisions to contract specifications must be reviewed per **Procedure No.630-010-005, Specifications Package Preparation Procedure**.

### 4.2 Cost Estimate

The Department's official estimate is confidential until the contract has been executed or is no longer under active consideration, per **Section 337.168(1), F.S.** Only those with proper authority may have access to the electronic file in the Design Quantities & Estimates (DQE) System or AASHTOWare Project System. **Section 337.168(3), F.S.**, exempts the bid analysis and monitoring system from inspection, examination, or duplication.

### 4.3 New Bidder's Orientation

Prospective bidders can request an orientation meeting to obtain information about the bidding/contracting process. A Contracts Administration Office may conduct one-on-one or scheduled group meetings when requested or on predetermined advertised dates. Upon receipt of a request, the district office may conduct an orientation meeting to provide the contractor information about the bidding/contracting process.

A New Bidder's Orientation presentation is posted on the Contracts Administration Office website.

### 4.4 Bid Document Issuance

Prior to issuing a bid document for construction contracts over \$250,000 requiring prequalification:

(1) Verify the prospective bidder is prequalified in one or more classes of work which, in the aggregate, comprises 50% or more of the Department's budget amount for total value of work included in the proposal/bid documents. This will be accomplished primarily using the CPP System. If the contract is not in the CPP System, verification will be accomplished using the "Prequalified Contractor Inquiry Menu." A copy of the work class percentage report from AASHTOWare Project Web Page Reporting or a work class percentage designation will be maintained in the contract or letting file.

(2) Verify the prospective bidder has the available capacity (current capacity) with the Department to cover the budget amount, the prospective bidder has reported its work underway within 30 calendar days, and the prospective bidder's **Certificate of Qualification** will not expire before the letting, in accordance with **Rule 14-22.008, F.A.C.** This will be primarily accomplished using the CPP System.

**Note:** *If the contract is not in the CPP System, use the **Prequalified Contractor Inquiry Menu** in addition to the **Vendor Capacity Report** posted on the Contracts Administration Office's SharePoint Site <https://fldot.sharepoint.com/sites/CO-CAO/SitePages/Home.aspx> to verify the prospective bidder has the available capacity to cover the budget amount. If this verification indicates that the prospective bidder does not have sufficient available capacity to cover the budget amount, send an e-mail to the Contracts Administration Office (CO-CPPHOLD) stating the advertised budget amount and asking for Verification via "Reply" e-mail that the bidder has available capacity for the contract.*

## **4.5 Addenda and Amendments**

### **4.5.1 Standard Addenda**

- When plan revisions, pay item changes, supplements, or clarifications to a bid package are required, Contracts Administration Office staff will produce an addendum memo explaining the changes to the bidders.
- An amendment file is produced from AASHTOWare Project.
- All addenda and any amendments are uploaded to the CPP System.
- Proposal Holders and/or Plan Holders are notified through the CPP System Addenda process.
- The addendum memorandum and amendment file are posted on the website.
- The amendment file is uploaded to Bid Express.

### **4.5.2 Major Revisions with changes to the advertised budget amount**

- A.** Prospective bidders should be notified of a change in the advertised budget amount under the following circumstances:
- The budget increases/decreases resulting in changes to the prequalification requirements,

- The budget increases/decreases by 15%, or
  - Management determines that the amount is significant enough to notify prospective bidders.
- B.** The following process is to be used when increasing/decreasing the budget amount:
- Process an update to the advertisement encumbrance with the Office of Comptroller.
  - The Work Program Office increases/decreases the budget.
  - AASHTOWare Project is updated automatically overnight with the new budget amount.
  - Contracts Administration Office Staff runs a new BSN to ensure that AASHTOWare Project has been updated.
  - Contracts Administration Office Staff creates a “Correction to the Advertisement” that is sent to bidders through Contact Mailer and is published on the website.
  - Contracts Administration Office Staff or the CPP Functional Application Coordinator must be notified that the budget amount needs to be updated in the CPP System.
  - The CPP Functional Application Coordinator requests the budget update to the CPP System.
  - The CPP Functional Application Coordinator verifies the class/capacity of the current proposal holders.
  - The CPP Functional Application Coordinator notifies the bidders who are no longer eligible.

## 5.0 LETTING

### 5.1 Moving a contract or letting

A contract or entire letting may be moved to a new letting date under the following circumstances:

- A. Major plan or specifications revisions needed within 48 hours of the bid opening
- B. Permits have not been issued as per **Section 2.4** of this **Procedure**
- C. The following circumstances or events which would hinder contractors’ ability to submit bids:
  - 1. Inclement weather that may affect utility services or driving conditions
  - 2. FDOT Office closures
  - 3. FDOT or Bid Express computer related failure on the day of the letting
  - 4. Circumstances or events under the control of the Department
  - 5. Circumstances or events in a geographical area

### 5.2 Publishing Proposal Holders and Plan & Specification Holders lists on the website

The Proposal Holders and Plan Holders lists should be updated and published on the Contracts Administration Office website daily. However, the lists should not be updated within two calendar days, excluding Saturdays, Sundays, and state holidays, prior to the deadline to obtain proposal documents or plans and specifications as identified in the Advertisement in accordance with **Section 337.168(2), F.S.** Immediately after the letting occurs, the Proposal Holders and Plan and Specification Holders lists should be updated and published on the Contracts Administration Office website.

### **5.3 Opening and Downloading Bids**

#### **5.3.1 Bid Express Bids**

- After the bid submittal period closes, download the electronic bids from Bid Express.
- Load the bid totals for the received bids to the Bid Letting application using the automatic load feature.

#### **5.3.2 Hard Copy Bids (Prior Approval Required)**

- A. Each Contracts Administration Office will ensure that the function of physically accepting bids, evaluating them for completeness, and loading them into AASHTOWare Project will be separate from the function of evaluating the bids and recommending award. Bid packages shall not be considered unless received no later than the date, time, and in the place noted in the advertisement.
- B. The bids must be opened on the letting date and time specified in the advertisement.
- C. Bids submitted late should not be returned, considered, or opened. Upon written request by the bidder, the bid can be opened to return a check or money order submitted as the Proposal Guaranty. These bids should be marked "Late Bid" on the outside envelope and stored securely until sent to records storage with the non-winning bids for that letting. Hard copy versions of the Proposal Guaranty for Bid Express bids that are received late should be marked "Late Proposal Guaranty" on the outside envelope and handled the same as "Late Bids."
- D. The bid total amounts for hard copy bids should be input into the Bid Letting application.

### **5.4 Announce Results of the Letting**

- Use the Bid Letting application, the Bid Summary Report, or the Bid Download Report to announce the letting results, and to serve as minutes of the meeting.
- The letting results do not need to be read aloud if only Department personnel are in attendance.

- Printed letting results may be distributed to attendees in lieu of reading the letting results aloud, however the letting results will be read aloud upon attendee request.

## 5.5 Bid Review:

- A. Any bid in excess of \$150,000 shall be accompanied by a Proposal Guaranty in the amount of five percent (5%) of the total bid amount. A Proposal Guaranty may be in the form of ***Bid or Proposal Bond (Form No. 375-020-09)***, electronic bond submitted through Surety2000 or SurePath, or a Cashier's Check. If an electronic Proposal Guaranty is not submitted, the bidder must submit an original Proposal Guaranty. A fax or copy sent as an attachment will not be accepted. A cash Proposal Guaranty will be handled in accordance with ***Procedure No. 350-080-300, Securing, Transmitting, Depositing, Recording, and Refunding Receipts***. A Proposal Guaranty will not be required on indefinite quantity contracts, such as work document driven contracts, with an advertised budget amount of \$150,000 or less regardless of the bid amount.
- B. The Proposal Guaranty, if required, must be accompanied by a Power-of-Attorney, listing the Attorney-in-Fact and having the same certification date as the date on the Proposal Guaranty.
- C. The Surety Company must be approved by the Florida Office of Insurance Regulation (<http://www.floir.com/companysearch/>).
- D. The Bidder must submit the AASHTOWare Project Bids via Bid Express or in the manner identified in the project specific advertisement.
- E. The bidder must submit a bid on all required line items.
- F. The bidder must be listed as "Active" with the Florida Division of Corporations as a corporation or fictitious company name ([www.sunbiz.org](http://www.sunbiz.org)).
- G. Any exceptions listed on the "Proposal Of" form must be presented to the Technical and Awards Committee.
- H. All advertised special requirements, such as experience form, BDI (Business Development Initiative) Reference Sheet, etc., must be included
- I. Addenda and Amendments must be acknowledged and all amendments must be applied when preparing the bid in the AASHTOWare Project Bid applications.
- J. Trench safety information must be acknowledged.

**Note:** *A bid not submitted timely or a bid not accompanied with the required Proposal Guaranty will result in the bid automatically being deemed nonresponsive/irregular.*

**5.6 Load all bids to AASHTOWare Project and populate the Letting Status, Status Date, each Bid Type, and Status of each Bid.**

**5.7 The Proposal Guaranty of all but the two lowest responsible bidders should be released after the bid opening.**

**5.8 The Bid Tabulations for all responsive bids should be produced and checked for accuracy.**

**5.9 Review the bids, as applicable, per *Procedure No. 600-010-001, Preparation of the Authorization/Official Construction Cost Estimate & Contract Bid Review Package.***

**6.0 PRIOR TO AWARD**

**6.1 Suspension/Debarment Lists-** Verify and document in the contract or letting file that the low bidder is not suspended or debarred by checking each of the following:

- A. Florida Department of Transportation:  
<http://webapp02.dot.state.fl.us/CARS/suspension/Construction/Contractor.aspx>
- B. State of Florida:  
[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/convicted\\_suspended\\_discriminatory\\_complaints\\_vendor\\_lists](http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists)
- C. Federal: [www.sam.gov](http://www.sam.gov)

***Note:** If the bidder is suspended/debarred, do not award the contract and notify the Central Office Contracts Administration Office.*

**6.2 Scrutinized Companies List** - Verify and document in the contract or letting file that the bidder is not on the following list per **Section 287.135, F.S.**, as applicable:

<http://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/PFIA/tabid/1478/ItemId/3351/Default.aspx>

***Note:** If the bidder is on the Scrutinized Companies List, do not award the contract and notify the Central Office Contracts Administration Office.*

**6.3 DBE/Affirmative Action (DBE/AA) Plan** – Verify and document in the contract or letting file, the following:

- A. The bidder has an approved **DBE/AA Plan** prior to the department posting the notice of intent to award.
- B. The bidder has a current approved **DBE/AA Plan** on file with the Equal Opportunity Office.
- C. If the bidder is not included on the list of companies having an approved **DBE/AA Plan** on file with the Equal Opportunity Office and is one of the two lowest bidders, immediately contact the bidder to provide a **DBE/AA Plan** prior to posting the notice of intent to award. The bidder has forty-eight (48) hours after the opening of bids to submit the company's **DBE/AA Plan**. If this does not occur, then the bidder

may be declared nonresponsive and the next low bidder should be considered for award.

#### 6.4 Verify Capacity

Prior to the Technical Review Committee meeting, on contracts requiring prequalification, verify that the responsive low bidder has the available capacity to cover the amount of the contract. District Contracts Administration Offices must use the **Vendor Capacity Report** posted on the Contracts Administration Office's SharePoint Site <https://fldot.sharepoint.com/sites/CO-CAO/SitePages/Home.aspx> to verify the low bidder has the available capacity to cover the contract amount. If this verification indicates that the low bidder has insufficient available capacity to cover the contract amount, the District Contracts Administration Office must e-mail a notice to the Contracts Administration Office (**CO-CPPHOLD**) requesting a detailed review. The contract should not be awarded to a low bidder who has insufficient available capacity. If the bidder is unable to obtain sufficient available capacity, consider award to the next lowest bidder. If a bidder is the low bidder on more than one proposal and does not have or is unable to obtain sufficient available capacity to cover all contracts, the award priority should be given to the proposal(s) that serve(s) the best interest of the Department.

#### 6.5 If the bidder is prequalified, verify:

- A. That the Work Underway report has been submitted within 30 calendar days of the letting. If a submittal is not on file, contact the bidder and inform them that the work underway must be updated within three calendar days after the letting.
- B. That the bidder does not have an affiliate bidding on the same contract.

#### 6.6 Technical Review and Awards Committees

The recommendation to award and concurrence to award or reject must be made by the Technical/Awards Committee (refer to **Procedure Nos. 600-010-001, Preparation of the Authorization / Official Construction Cost Estimate and Contract Bid Review Package, 600-010-004, Technical Review Committee** and **600-010-006, Contract Awards Committee**, as applicable).

Maintain documentation of these decisions in the appropriate contract or letting file.

**6.7** If the low bidder requests to withdraw a bid for any reason, obtain the request in writing. Notify the Manager, Contracts Administration Office by forwarding the written request and the preliminary bid tabulation for the contract. The Manager, Contracts Administration Office will send the information to the Director, Office of Construction or the Director, Office of Maintenance for a determination of action.

## 7.0 INTENT TO AWARD/REJECT

7.1 The Department will give notice of its intended decision to award or to reject all bids within the time allowed in the bid proposal in an action known as "Posting." If all bids are rejected, the advertisement encumbrance shall be voided or a negative encumbrance processed.

### 7.2 Encumbrance for Award

Prior to posting for award, request funds encumbrance and obtain funds approval in accordance with **Procedure No. 350-020-200, Contract Funds Management Funds Approval**. Funds approval must be retained in the contract or letting file.

### 7.3 Notice of Intended Decision (Posting of Bid Tabulations)

A **Notice of Intent** to award a contract or to reject all bids is given by posting the bid tabulations on the date and place specified in the **BSN** and/or advertisement. The posting includes the date and time the bids were posted. If the low bidder changes after posting the original bid tabulation, a new bid tabulation must be posted and all bidders notified by verifiable means.

The following certification statement shall be signed by the Manager, Contracts Administration Office and included on all bid tabulations posted on the Department's website signifying the **Notice of Intent** to award any federally funded contract:

*"Certified in accordance with Code of Federal Regulations Title 23, Chapter 1, Subchapter G, Subsection 635.113(b)."*

Ensure the Awards Committee has approved award of the contract in accordance with **Section 6.6 of this Procedure** prior to posting the **Notice of Intent** to award.

### 7.4 If the notice of intent to award a contract cannot be posted on one of the advertised posting dates, follow these steps:

- A. Establish a new posting date.
- B. Publish the new posting date on the Contracts Administration Office website under the "Letting & Posting dates" link.
- C. Send an email announcing the new posting date, acknowledgement requested, to all bidders, not including bidders that withdrew their bids.
- D. Track that all bidders have acknowledged receipt of the email.
- E. Post the Intent to Award/Reject as normal on the new posting date.

### 7.5 Bid Protest

- Notices of Intent to Protest or Bid Protest filings are not to be accepted by the Contracts Administration Office. Direct the bidder or representative filing a protest to the Clerk of Agency Proceedings.
- Review the daily notification received from the Clerk of Agency Proceedings after the protest period has ended to verify if a Notice of Intent to Protest or a Bid Protest was filed. If a protest is received, do not award the contract until notification from the General Counsel's Office is received.

## 8.0 AWARD

### 8.1 Create Contract Package

The following information should be included as part of the Awarded Contract package:

- Award Letter
- Bid Blank (**Form No. 375-020-17**)
- Comptroller's Funds Approval/Certification of Funds Availability Memorandum
- Contract (**Form No. 375-020-26**)
- 
- Bid Solicitation Notice (Advertisement)
- Workforce and Employment Opportunities Office Information Document
- Bituminous Material Gasoline and Diesel Fuels and Natural Gas Price Index (<http://www.dot.state.fl.us/construction/fuel&bit/Fuel&bit.shtm>)
- Fuel Allocation Report (if applicable)
- Bid Load Summary page from Bid Express or AASHTOWare Project Bid
- Contract Schedule of Items
- Contract Schedule
- Approximate Quantities
- Addenda (if applicable)
- Questions and Answers from the Departments On-line Prebid Q&A website (if applicable) including any supplementary documents posted to the Q&A website as part of answers provided by the Department
- Supplemental Specification Packages
- Proposal Of (Bidder) – AASHTOWare Project Bid file
  - Bidding Acknowledgment
  - Acknowledgment of Proposal
  - Bidder Declarations
  - Acknowledgment of Amendments, Addenda, and Pre Bid Question and Answer Files.
  - State of Incorporation
  - Posting Notice
  - Proposal Guaranty
- URL Pages, if applicable, including:
  - FHWA Form 1273

- Wage Rate Tables

## 8.2 Award Contract

8.2.1 The following action must be accomplished prior to award:

- Protests, if any, have been resolved

Unless a protest is received, the Department shall endeavor to award the contract within 35 calendar days following the letting date.

8.2.2 Refer to and utilize the **Instructions for Contract Execution** information posted on the Contracts Administration Office's SharePoint Site <https://fldot.sharepoint.com/sites/CO-CAO/SitePages/Home.aspx> when preparing to transmit the awarded contract package to the contractor. Send the awarded contract package to the contractor. Include the estimated completion date of the contract on the award letter.

8.2.3 Provide the Florida Transportation Builders Association (FTBA) a copy of all Award Letters by email to [billing@ftba.com](mailto:billing@ftba.com).

## 9.0 CONTRACT EXECUTION

9.1 Document the date the signed contract and all required contract documents are received from the contractor. If corrections to documents are required by the contractor, the date that the final documents are received should also be documented.

The Department shall execute the contract within 5 calendar days, excluding Saturdays, Sundays, and state holidays following receipt of all required contract documents in proper form in accordance with **Standard Specification for Road and Bridge Construction Section 3-6**, unless otherwise amended by the governing specifications.

9.2 Review the contract to determine that the following documents are complete and in compliance with rules and procedures:

**A. Contract (*Form No. 375-020-26*)**

**B. Contract Bond**

1. The requirement for a Contract Bond may be waived all or in part by the Department in accordance with **Section 337.18, F.S.** and the governing specifications. A memo must be placed in the contract file stating the reason(s) for waiving all or part of the Contract Bond requirement.
2. For Maintenance Improvement, Demolition, or Removal contracts of \$25,000 or less, the Contract Bond may be in the form of a cashier's check, certified check, or bank or postal money order. These types of Contract Bonds will be handled

in accordance with **Procedure No. 350-080-300, Securing, Transmitting, Depositing, Recording, and Refunding Receipts**.

3. A Contract Bond in the form of a cashier's check, certified check, or bank or postal money order must be sent to the FDOT Comptroller's Office (refer to **Procedure No. 350-080-300, Securing, Transmitting, Depositing, Recording, and Refunding Receipts**). Refunds of these types of Contract Bonds are obtained in accordance with **Procedure No. 350-080-300**.
- C. Contract Affidavit (**Form No. 375-020-30**)
- D. Power of Attorney
- E. Insurance
1. Insurance coverage requirements shall be as detailed in **Section 7-13, Standard Specifications for Road and Bridge Construction** or as amended by the governing specifications.
  2. Workers' compensation coverage per requirements of Florida Law. Policy must be found on the Division of Workers' Compensation Compliance Proof of Coverage Search Page <https://apps8.fldfs.com/proofofcoverage/Search.aspx>.
  3. The Certificate of Insurance must be accompanied by an endorsement page that indicates the policy number and names the Florida Department of Transportation as Additional Named Insured.
  4. On contracts awarded to a Joint Venture, the Joint Venture must be listed as the insured on the Certificate of Insurance for liability insurance. Worker's Compensation Insurance can be in the name of the Joint Venture or in the name of each of the parties of the Joint Venture.

**9.3** If the contract documents are not received in proper form for contract execution within the specified time described in **Specification Section 3-6**, the contract documents will be executed when received in proper form, with the associated reduction in Contract Time, as required in **Specification Section 3-6**.

If the Department is notified that the Contractor is experiencing difficulty obtaining the required documentation for a proper contract execution and requests an extension, the Department should inform the Contractor an extension to the original timeframe allowed by **Specification 3-6** will not be granted, the contractor is expected to provide the proper documentation within the original time frame in **Specification Section 3-6**, and the Department will enforce the provision relative to the reduction of Contract Time.

The requirements of **Specification Section 3-6** shall not be extended or waived unless prior approval is obtained from the Director, Office of Construction or Maintenance, as appropriate by submitting a request to the Manager, Contracts Administration Office.

**9.4** In the event the contractor fails to return all required contract documents in proper form for contract execution, the Department may elect to annul the original contract award and award the contract to the next lowest responsible bidder, or reject all bids and re-advertise the contract in accordance with **Specification 3-7**. These actions would require review and concurrence by the Technical Review Committee and approval by the Contract Awards Committee as required

by Section 6.6 of this **Procedure**, as applicable, and require a **Notice of Intent** be posted to the Department's website. If the contractor is unable to return all required contract documents in proper form for contract execution, notify the Manager, Contracts Administration Office of the action taken by the Contract Awards Committee. The Manager, Contracts Administration Office, will forward the information to the Director of Construction or the Director of Maintenance.

**9.5** The contract should be reviewed by appropriate staff prior to execution.

**9.6** Upon execution by the Department, the following information should be included as part of the Executed Contract package:

- Award Letter
- Bid Blank (**Form No. 375-020-17**)
- Comptroller's Funds Approval/Certification of Funds Availability Memorandum
- Contract (**Form No. 375-020-26**)
- Bid Solicitation Notice (Advertisement)
- Workforce and Employment Opportunities Office Information Document
- Bituminous Material Gasoline and Diesel Fuels and Natural Gas Price Index (<http://www.dot.state.fl.us/construction/fuel&bit/Fuel&bit.shtm>)
- Fuel Allocation Report (if applicable)
- Bid Load Summary page from Bid Express or AASHTOWare Project Bid
- Contract Schedule of Items
- Contract Schedule
- Approximate Quantities
- Addenda (if applicable)
- Questions and Answers from the Departments On-line Prebid Q&A website (if applicable) including any supplementary documents posted to the Q&A website as part of answers provided by the Department
- Supplemental Specification Packages
- Proposal Of (Bidder) – AASHTOWare Project Bid file
  - Bidding Acknowledgment
  - Acknowledgment of Proposal
  - Bidder Declarations
  - Acknowledgment of Amendments, Addenda, and Pre Bid Question and Answer Files
  - State of Incorporation
  - Posting Notice
  - Proposal Guaranty
- URL Pages, if applicable, including:
  - FHWA Form 1273
  - Wage Rate Tables
- Insurance Information, including, but not limited to the following:
  - Acord Certificate
  - Additional Insured
- Contract Bond

- Contract Affidavit (**Form No. 375-020-30**)
- Power of Attorney
- Contract Execution Checklist
- Contract Execution Letter

9.6.1 Once the Executed Contract Package is prepared, the package should be distributed in the following manner:

- A. Send an electronic version of the Executed Contract Package to the contractor.
- B. Maintain an electronic version of the Executed Contract Package in the contract or letting file and upload an electronic version to EDMS.
- C. Send an electronic version of the Executed Contract Package to the Financial Services Office, State Materials Office, and the District Construction or Maintenance Office; or post an electronic version of the Executed Contract Package to SharePoint and notify the appropriate offices that the Executed Contract Package is available on SharePoint.
- D. Upload an electronic version of the Executed Contract Package to FACTS within 30 calendar days after execution of the contract.

9.8 The Proposal Guaranty of the two lowest bidders shall be released upon execution of the contract.

## 10.0 EMERGENCY CONTRACTS

Emergencies requiring waivers of normal contracting procedures shall comply with **Procedure No. 850-005-001, Reporting Incidents and Management of Damage Repair** and **Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies**, when the emergency situation requires commodities and/or services.

Contractors on emergency contracts must meet prequalification requirements of **Rule Chapter 14-22, F.A.C.**

## 11.0 FAST RESPONSE STATE FUNDED CONTRACTS

11.1 Fast Response contracts are used to address situations requiring immediate attention when circumstances dictate rapid completion of the work including repair, maintenance, or construction of transportation features. Fast Response contracts should be used for work that is urgent, and for which timely completion is important. The contract work shall be underway within 30 calendar days from the date the Director of Operations has granted approval or the plans and specifications package is complete, whichever occurs last. A State Funded Fast Response contract may be utilized if provisions of **Section 337.11(6) (c), F.S.** are met. The contract amount shall not exceed the fiscal limits of **Section 337.11(6) (c), F.S.** and a determination must be made that the work is necessary for one of the following reasons:

- A. To ensure timely completion of projects or avoidance of undue delay for other projects,
- B. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur, or
- C. To accomplish non-emergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

**11.2** When a Fast Response Contract is needed, the following shall be given to the Contracts Administration Office for processing and maintained in the contract or letting file:

- A. Justification for need of a Fast Response Contract.
- B. Justification to waive the performance bond, if waived pursuant to **Section 337.18, F.S.**
- C. Documentation of consideration of DBE participation.
- D. Statement of work or scope of services.
- E. Required completion time lines.
- F. Other information (including plans or a written scope of services, specifications, and estimates information).
- G. Approval by the Director of Operations.

**11.2.1** If the work is within the physical limits of an existing contract, a good-faith effort shall be made to negotiate and enter into a contract with the prime contractor on the existing contract. If contracting with the prime contractor is not possible, such good faith effort must be documented. The Contracts Administration Office managing the contract procurement should then make a good faith effort to obtain at least two quotes. Ensure that documentation is on file that the Department made a good faith effort to obtain at least two quotes from qualified bidders. Consideration shall be given to DBE participation and such consideration must be documented.

**11.3** No contingency Pay Item will be included on a Fast Response contract.

**11.4** Fast Response contracts will follow all of the requirements for standard low bid contracts with the following exceptions:

- A. An advertisement encumbrance is not required.
- B. A public advertisement is not required.
- C. A Technical Review Committee or Awards Committee meeting is not required.
- D. The **Notice of Intent** to Award/Reject is not posted.

**11.5** Fast Response contracts may not be used when time and circumstances allow for the work to be contracted under the normal advertisement and low bid process.

## **12.0 PRE-EVENT CONTRACTS**

Pre-Event contracts competitively bid under the contracting authority of **Section 337.11, F.S.** must follow the steps contained in the **Pre-Event Contract Checklists** available via the

Contracts Administration Office's SharePoint Site <https://fldot.sharepoint.com/sites/CO-CAO/SitePages/Home.aspx> ), in addition to the direction provided by **Procedure Nos. 350-020-200, Contract Funds Management Funds Approval** and **375-040130 Emergency Procurement During Governor Declared Emergencies** relative to **Pre-Event Contracts**.

Pre-Event contracts bid under the contracting authority of **Chapter 287, F.S.**, must follow the direction of **Procedure Nos. 350-020-200, Contract Funds Management Funds Approval; 375-040-020, Procurement of Commodities and Contractual Services;** and **375-040-130, Emergency Procurement During Governor Declared Emergencies**.

## 13.0 SPECIAL PROJECT REQUIREMENTS

### 13.1 Business Development Initiative (BDI) Contracts

- Follow the **Business Development Initiative Small Business Program Guidance For Reserving Contracts** from the Equal Opportunity Office.
- The advertisement should state the contract is included as part of the Department's BDI program and include information per the "Special Advertisement Requirements Guide" located on the Contracts Administration Office's Infonet site.
- Bidders must submit the **Small Business Affidavit Certification (Form No. 275-00001)** prior to receiving the bidding/proposal documents. The Equal Opportunity Office maintains a database of approved BDI bidders on its website.
- Bidders must submit the **BDI Reference Sheet (Form No. 275-000-02)** with their bid.
- For BDI Contracts over \$150,000, **Bid or Proposal Bond (Form 375-020-09), BDI Bid or Proposal Bond (Form 375-020-16)**, Certified Check, Cashier's Check, Trust Company Treasurer's Check, or Bank Draft of any national or state bank can be accepted as the Proposal Guaranty, in accordance with Section 2-7 of the governing specifications.

### 13.2 General Contractor's (GC) License/Builders License

- The advertisement should clearly state that a GC License or Builder's License is required for the contract, and include the specific language as provided in the "Special Advertisement Requirements Guide" located on the Contracts Administration Infonet site.
- For buildings three (3) stories or less in height, a Builder's License or General Contractor's License can be accepted. Buildings more than 3 stories require a General Contractor's License.
- A copy of the license must be received prior to Award of the contract or per the requirements of the governing specifications.

### 13.3 Joint Venture

- Bidders seeking to bid as a Joint Venture must complete and submit the ***Declaration of Joint Venture and Power of Attorney for Bidding on Specified Project(s) (Form No. 375-020-18)***.
- A separate form must be submitted for each contract that the Joint Venture wishes to bid.
- The Joint Venture must be approved by the Manager, Contracts Administration or designee prior to the bid date.
- The Manager, Contracts Administration or designee will notify the Joint Venture and the appropriate office when the Joint Venture has been approved.
- The Joint Venture firm must be listed as the insured on the Certificate of Insurance for liability insurance. Worker's Compensation Insurance may be submitted in the name of the Joint Venture or in the name of each of the parties of the Joint Venture.
- The approved Joint Venture form is to be included in the executed contract.

## 14.0 MAINTENANCE CONTRACT RENEWALS

**14.1** For the first year of a renewable, performance based Maintenance contract, the Contract Bond shall be provided on ***Performance Based Bond – (Year One) (Form 375-02059)***.

**14.2** Contracts containing a renewal option may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer. Contracts are to be renewed as provided in the contract provisions subject to the same unit bid prices and associated quantities as well as all the other terms and conditions set forth in the initial contract. When unit prices change, the contract can be renewed at the initial amount plus any supplemented amount. Time extended contracts may be renewed up to the period allowed by law.

**14.3** Contract renewal is contingent on the availability of funds. The following steps must be taken:

- Clearly identify payment of any one particular year of a contract. (Example: This is payment for the first, second, or third year of the contract; this contract has two optional one-year renewal periods.)
- Before the end of the final contract year, request funds approval in accordance with ***Procedure No. 350-020-200, Contract Funds Management Funds Approval***. Retain the approval in the contract or letting file.

**14.4** Upon receipt of the funds approval, the contract may be renewed. The renewal shall require execution of a **Contract Renewal (Form No. 375-020-23)** by the contractor and an authorized Department designee. Distribution should be the same as the original contract.

**14.5** A new Contract Bond using **Performance Based Bond – (Subsequent Years) (Form 375-020-61)** on performance based, Maintenance contracts, applicable insurance certificates, and all other required information must be signed and provided by the contractor, surety, and insurance provider prior to each renewal of the contract.

**14.6** Work orders are generated from the encumbrance unless the encumbrance is split funded. However, authorization in the Work Program needs to be performed before encumbering funds.

**14.7** The **Funds Approval, Bond, Surety Power of Attorney, Contract Affidavit**, and the **Contract Renewal** forms should be transmitted to the appropriate District Financial Services Office or post the executed contract renewal to the appropriate site and notify the appropriate offices that the contract renewal is available to be downloaded.

## **15.0 STORAGE AND MAINTENANCE OF CONTRACT RECORDS**

- A.** Each office is responsible for maintaining complete records of its contracts.
- B.** Store records in a well-protected area.
- C.** For paper records, box and label completed and inactive contract records with the same retention time provided in **Procedure No. 050-020-025, Records Management**.

## **16.0 SAMPLE LETTERS**

The following sample letters are on the Contracts Administration Office SharePoint site:

- Addendum Letter
- Award Letter
- Delayed Award Letter
- Contract Annulment Letter
- Execution Letter

## **17.0 TRAINING**

No mandatory training is required by this procedure. Periodically, training sessions will be held on a voluntary basis.

## **18.0 FORMS**

The following forms are available from the Department's Forms Library:

<b>NUMBER</b>	<b>FORM NAME</b>
275-000-01	Small Business Affidavit Certification
275-000-02	BDI Reference Sheet
375-000-24	Pre-Bid Sign in Sheet
375-020-08	Proposal Of
375-020-09	Bid or Proposal Bond
375-020-16	Business Development Initiative Bid or Proposal Bond
375-020-17	Bid Blank (types): <ul style="list-style-type: none"><li>• <i>Federal Aid Job</i></li><li>• <i>State Job</i></li><li>• <i>Federal Aid Job Bid Average Method</i></li><li>• <i>State Job Bid Average Method</i></li><li>• <i>Federal Aid Job A+B</i></li><li>• <i>State Job A+B</i></li><li>• <i>Federal Aid Job Lane Rental</i></li><li>• <i>State Job Lane Rental</i></li><li>• <i>Pre-Event Project</i></li></ul>
375-020-18	Declaration of Joint Venture and Power of Attorney for Bidding on Specified Projects(s)
375-020-23	Contract Renewal
375-020-26	Contract
375-020-27	Contract Bond
375-020-30	Contract Affidavit
375-020-59	Performance Based Bond – (Year One)
375-020-61	Performance Based Bond – (Subsequent Years)