[Section 5.4.2 of the Design-Build Manual discusses the FHWA Processes for Design-Build. CDOT and FHWA have jointly developed a Stewardship and Oversight Agreement which is sometimes supplemented by a project specific Oversight Roles and Responsibilities document on Design-Build projects. This document is an example Oversight Roles and Responsibilities Documents developed for the I-25 Cimarron Design-Build Project.]

**Introduction**

Although design build projects are procured and administered in a different manner than a design bid build project, all of the provisions in the Colorado Federal-Aid Highway Program Stewardship Agreement are still applicable. The purpose of this section is to describe how the roles and responsibilities of the Stewardship Agreement will be accomplished for design build projects. The document will also describe expectations of project involvement needed to accomplish FHWA oversight responsibilities. The primary focus will be on describing FHWA required approval actions and encouraging an approach that provides for the FHWA Colorado Division Office to stay involved in, and informed of, the project. ***The intention of this process is to accomplish the federal oversight responsibility while maintaining the project delivery goals of CDOT. The result we are seeking is a level of coordination between our agencies that will facilitate effective and efficient processing of required federal approval actions***. The FHWA Operations Engineer should use this document to communicate and coordinate expectations of our Division Office’s involvement. The Operations Engineer should discuss this with CDOT and make any adjustments, based upon project risk, appropriate for the specific project.

As part of the Design-Build procurement and management process and to facilitate efficient decision making, the FHWA Colorado Division Office will actively participate on the Executive Oversight Committee (EOC), the Project Management Team (PMT) and appropriate Technical Teams.

The EOC will meet quarterly and will be responsible for final direction on key aspects of the project such as approval of goals and objectives, Statement of Qualifications, RFP, short list and final selection. The EOC will consist of CDOT, FHWA, the City of Colorado Springs and El Paso County.

The PMT will meet monthly and will be responsible for overall direction on the project and will provide technical guidance and expertise, facilitate decision making and approval processes, and provide effective project oversight. The PMT will include CDOT, FHWA, The City of Colorado Springs, El Paso County, Pikes Peak Area Council of Governments (PPACG) and Representatives of CDOT’s consultant team.

Technical Teams will be created to develop and modify the various sections of the RFP, FHWA will participate on these teams as desired or if requested by CDOT. Technical teams will be focused on development of technical approaches to the project, resolution of technical issues and risk management based on the goals of the project and other considerations.

**Required Approval Actions**

**Program Approval Actions**

Approval actions remain as established in the Colorado Federal-Aid Highway Program Stewardship Agreement, Section 3.4 Design and Construction.

**Project Review and Approval Actions**

In addition to the approval actions identified in the Colorado Federal-Aid Highway Program Stewardship Agreement, FWHA will provide the following approval activities, and review and concurrence activities as, they are related to design-build delivery. The FHWA Colorado Division Office’s active participation in the executive, management and technical teams, as previously discussed will facilitate the expeditious process for FHWA action necessary for successful design-build delivery.

FHWA will:

1. Review and Concur with the issuance of the RFQ for the D/B contractor.
2. Will review and concur with the Project Financial Plan prior to FHWA concurrence in the issuance of the Final RFP.
3. Review and provide comments on the Draft RFP (if CDOT is using a two-step Draft/Final RFP process). No FHWA approval action is required for the issuance of a Draft RFP but it is important to coordinate FHWA involvement in the development of the Draft RFP to ensure any potential issues are resolved at the earliest point in the process.
   * CDOT will provide FHWA a copy of the Draft RFP for review and comment.
4. Approve the Final RFP prior to its release to the short-listed design-build entities. Approval of the Final RFP document in design-build delivery carries the same significance as PS&E approval in traditional design-bid-build delivery.
   * CDOT will provide FHWA a copy of the Final RFP for review and comment.
5. FHWA project approval (obligation authorization) prior to releasing the Final RFP document to the short-listed Design-Builders.
6. Approve all major addenda and proposal revisions prior to its issuance which results in major changes to the RFP. Minor addenda need not receive prior approval.
   * CDOT will request approval from FHWA prior to issuing addenda which result in major changes to the RFP.
7. Per the Stewardship Agreement, request FHWA approval on Findings in the Public Interest (FIPIs) for proprietary or patented items prior to the release of the RFP.
   * FHWA only has to approve FIPI for sole source identification of products when there are acceptable alternatives available, other FIPIs can be approved by CDOT.
8. Review and approve all Alternative Technical Concepts (ATC)
   * Distribute ATC submissions to assigned FHWA personnel for review and approval. To ensure the most expedient formal approval of ATC submissions by FHWA, CDOT and FHWA will closely coordinate for active participation of FHWA assigned personnel in ATC reviews and committee meetings, and FHWA personnel participation in one on one meetings with the proposers to discuss potential ATCs.
9. Review and concur with Project Quality Management Plan

* FHWA will review the processes used to verify and document contractor’s compliance with Quality Control (QC) and Quality Assurance (QA) requirements.

1. FHWA Concurrence in Award.
   * As part of the request for Concurrence in Award, CDOT shall submit to FHWA a post-award summary and basis of proposer's evaluation scores. To facilitate formal concurrence of the Award, FHWA will participate as an observer in the proposal evaluation process.
2. Review and approve design exception requests.
   * If any revisions to approved design exceptions, or any new exceptions result from accepting ATCs, CDOT shall coordinate with the FHWA Operations Engineer as soon as practical after proposer selection.
3. Review and concur with traffic analysis methods and assumptions documents as may be required for the project design and, or modifications to Interstate Access Requests (IARs).
4. Review and Approve modifications to Interstate Access Requests (if applicable)
   * If ATCs or change orders result in modifications to access to the interstate or any modifications to approved Interstate Access Requests (IAR), FHWA is required to review and approve the modifications.
5. Review and concur with certain plan submittals prior to its release for construction.
   * The Colorado Division Office will conduct a project specific risk assessment. Based upon this assessment the FHWA Operations Engineer will coordinate with the CDOT project team to communicate which plan approvals will be required.
6. Review and approve major Contract Change Orders. (in accordance with the process described in the CDOT Construction Bulletin. (See attached).
   * To facilitate more efficient review and approval of change orders, CDOT and the FHWA Operations Engineer shall establish a regularly scheduled meeting to go over proposed and pending change orders. This will be helpful in determining the change orders that will need FHWA approval as well as reduce the FHWA review time.
7. When the RFP is approved by FHWA prior to the completion of the NEPA process:
   * The RFP approval will only constitute the FHWA's approval of the request to release the RFP. This approval will be done via a letter and not in FMIS.
   * FHWA will concur with the Contract Award.
   * FHWA will concur with issuance of Notice to Proceed for preliminary design services only (no final design or construction).
   * Once the NEPA process is completed, FHWA will review the preliminary design to ensure that any decision and commitment reached on the NEPA documents are implemented in the preliminary plans. FHWA approval will be needed if modifications are required on the preliminary plans.
   * After the completion of the NEPA process, FHWA authorization will be required to proceed with final design and construction. This will happen via FMIS.
8. Approval of any re-evaluations of NEPA decision documents.
   * CDOT shall coordinate with the FHWA Operations Engineer as soon as practical after proposer’s selection to determine if any revisions to the project scope would require a re-evaluation (ATCs or other changes)
9. Review Approve Buy America Waiver Requests
   * This process can take a long time and it is not recommended unless it is absolutely necessary to do so.
10. Review and concur with the Project Transportation Management Plan (TMP)

In addition to the above list of actions, depending upon the outcome of the FHWA project’s risk assessment, there may be other areas that FHWA will require involvement. (such as final inspections, final acceptance, etc.)

**Expectations of Project Involvement**

**Colorado Division Office:**

1. FHWA may participate in the Statement of Qualification Review as an observer to provide assistance on federal regulations during the process.
2. FHWA will participate in the development of the Request for Proposal (RFP).
3. FHWA will participate in ATC reviews and ATC committee meetings during the process, and will provide CDOT with appropriate conditions necessary for approval of ATCs.
4. FHWA will participate, as an observer, in the technical proposal review process. This is to provide timely assistance on federal regulations and to provide an opportunity to observe the selection process so that we can more efficiently review and approve the subsequent concurrence in award submittal.
5. FHWA will provide a confidentiality letter to CDOT instead of signing the project confidentiality agreement. See appendix for an example FHWA letter used on an HPTE project (file is also inserted just below):

**CDOT/ Project Team:**

1. Will involve FHWA assigned personnel early and continuously during the development of the RFQ and RFP.
2. Will include the FHWA assigned personnel to the Proposal Review Committee.
3. In cooperation with the FHWA Operations Engineer, CDOT and FHWA have determined an efficient and effective way to keep FHWA informed of the project’s status is through FHWA’s active participation in the EOC, PMT and technical committee through the procurement and implementation of the project. This involvement is expected to most efficiently utilize FHWA staff to help guide the project and provide timely decisions.

**Business Standards**

The FHWA assigned engineer and the CDOT project team have met and agreed on the level and frequency of involvement to accomplish FHWA’s responsibilities while maintaining the efficient delivery of the project, as is outlined in this document. Generally, early coordination during the RFQ and RFP development is strongly encouraged and will provide the best opportunity for success in meeting project delivery goals. As a result of a strong integrated process it is anticipated that FHWA review times can be expedited. The following review times are anticipated for key activities.

1. Allow FWHA 5 business days, from receipt date, to review and concur with the issuance of the RFQ.
2. Allow FHWA 5 business days, from receipt date, to review, comment and/or approve the RFP.

Note: It is recognized that formal FHWA project approval (obligation authorization) necessary prior to releasing the Final RFP is separate process involving the Office of Management and Budget (OFMB) that must be closely coordinated between CDOT and FHWA.

1. Upon receiving ATCs submit to the FHWA assigned personnel for review. Allow FHWA 5 business days from receipt date, to review, comment and/or approve ATCs.
2. Allow FHWA 5 business days, from receipt date, to review, comment and/or approve major addenda.
3. Allow FHWA 5 business days, from receipt date, to review, comment and/or concur in award.
4. It is anticipated the modifications to the previously approved IAR for the project will be necessary, and that the modified IAR will be approved at the divisional (local) level. Allow 10 business days for draft IAR review and comments and, or final IAR review and approval at the divisional level.
5. It is anticipated that an environmental assessment re-evaluation may be required for the project. Allow 5 business days for draft re-evaluation review and comments and, or final re-evaluation review and approval.
6. Allow FHWA 3-5\* business days, from receipt date, to review, comment and/or approve the submitted plans.

\*For item No. 6 the number of days should be mutually established to avoid delaying the design builder when possible

CDOT and the FHWA Colorado Division Office enter into this Project oversight agreement and agree to carry out their respective responsibilities in a true spirit of cooperation. Nothing in this agreement is intended to preclude CDOT from requesting Project related assistance regardless of the oversight status.

We concur with the above

For the Colorado Department of Transportation for the Federal Highway Administration

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David Watt, P.E. Dahir Egal, P.E.

Program Director Operations Engineer