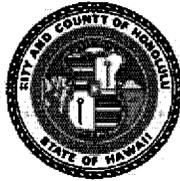


DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

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January 21, 2009

RT1/09-295898

Mr. Leslie T. Rogers, Regional Administrator
Federal Transit Administration, Region IX
U. S. Department of Transportation
201 Mission Street, Suite 1650
San Francisco, California 94105

Attention: Ms. Catherine Luu, General Engineer

Dear Mr. Rogers:

Subject: Honolulu High-Capacity Transit Corridor Project
Waiver from FTA Interim Guidance on Design-Build Project Delivery

The City and County of Honolulu (City) requests the Federal Transit Administration (FTA) to waive the timing restriction on issuance of a request for technical and price proposals contained in the *Interim Guidance on Design-Build Project Delivery and the FFGA Process (9/20/00)* ("*Interim Guidance*") for the City's solicitation and award of a design-build (DB) contract for the West Oahu/Farrington Highway segment of the Honolulu High-Capacity Transit Corridor Project. The West Oahu/Farrington Highway segment is approximately seven miles long and runs from the East Kapolei Station to the Pearl Highlands Station. A map (attached) is provided for your information.

The City intends to construct this section of guideway using the DB method and procure a DB contractor using the competitive sealed proposal, best value, procurement method, as allowed by Section 3-122-45 of the Hawaii Administrative Rules governing procurement. The RFP will consist of two parts. RFP Part 1 will request information that will determine a priority-list of qualified offerors who will then be requested to submit technical and price proposals in RFP Part 2. RFP Part 1 is scheduled to be released on or about February 4, 2009. No waiver is requested for issuing RFP Part 1. The *Interim Guidance* states:

"As soon as a grantee decides to use the DB/DBOM method, the grantee could begin the solicitation process of advertising for letters of interest and requesting qualifications from DB/DBOM firms."

In order to maximize potential benefits of the DB method, RFP Part 2, the request for technical and price proposals, is scheduled to be released in early April 2009. As issuance of the RFP Part 2 is scheduled to occur prior to the anticipated date of FTA's issuance of the environmental record of decision (ROD), a limited waiver of the *Interim Guidance* is required. Issuance of the RFP Part 2 would not constitute an obligation. Additionally, issuance of a notice-to-proceed for Final Design or construction work, or other commitment to any build or no build alternative will not precede issuance of the ROD.

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Although FTA has not formally updated the Interim Guidance *per se* since it was issued in the year 2000, FTA has substantially augmented the guidance, particularly in the detailed discussion included in the December 2007 Report to Congress on the Costs, Benefits, and Efficiencies of Public-Private Partnerships for Fixed Guideway Capital Projects. The Report to Congress states, in part:

"In its PPP Pilot Program Notice, FTA states that it will permit a Pilot Program project sponsor to issue procurement documents (RFQs and RFPs) prior to conclusion of the NEPA process provided the procurement documents do not commit the project sponsor to any of the alternatives being evaluated, or exclude any of the alternatives (including the no-build alternative). Furthermore, both contract award and issuance of a notice to proceed with preliminary engineering may occur prior to the issuance of final NEPA approval if the contract includes appropriate provisions preventing the contractor from proceeding with 'final design' activities and physical construction prior to completion of the NEPA process. The Notice does not address the approach that FTA will take for non-Pilot Program projects, although the Notice states that these procedures are 'substantially the same as FTA's existing approach.'"

The City is fully committed to ensuring that no action is taken that would compromise the integrity of the environmental review process. It should be noted that the West Oahu/Farrington Highway segment under each of the build alternatives under consideration for the Honolulu High-Capacity Transit Corridor Project is the same, except for the possible location of the maintenance and storage facility. By issuing the RFP as proposed with appropriate language on the status of the environmental review and making no commitment to any alternative under consideration prior to FTA's ROD, the City will save valuable time and expense in project delivery.

We look forward to your early response to our request and to working with you and your staff in advancing the City's project in 2009. If you have any questions, please contact Toru Hamayasu at (808) 768-8344 or thamayasu@honolulu.gov.

Very truly yours,



Wayne Y. Yoshioka
Acting Director

Attachment