

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

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March 11, 2010

RT3/10-357261

Mr. Leslie T. Rogers, Regional Administrator
Federal Transit Administration, Region IX
U. S. Department of Transportation
201 Mission Street, Suite 1650
San Francisco, California 94105-1838

Dear Mr. Rogers:

Subject: Kiewit Design-Build Contract Activities

I have received your letter of March 11th and immediately issued our NTP #1A for the West Oahu/Farrington Highway Design-Build (D-B) Contract. I am writing to you to address "the third category of activities." In your letter, you stated that we "have not described [... these design activities...] in sufficient detail to demonstrate that they would remain within the bounds set by the applicable Federal Register (FR) notice." We are uncertain as to why our February 12th e-mail submittal to members of your staff with the additional information below did not satisfy the "sufficient detail you are seeking. Thus, we request your concurrence in proceeding with these Category Three activities as an addendum to NTP #1A.

The January 19, 2007 referenced Federal Register announcement states specifically that with respect to design build elements of a procurement, the project sponsor may "*(E) Issue notice to proceed with preliminary engineering pursuant to a design-build contract that has been awarded prior to the completion of the NEPA process*" and further along with a number of other requirements that "*The design-build contract must include appropriate provisions preventing the design-builder from proceeding with final design activities and physical construction prior to the completion of the NEPA process (e.g., contract hold points or another method of issuing multi-step approvals must be used).*"

On May 12, 2006 a Federal Register announcement described the role of PE in the FTA New Starts process. The purpose of this was to ensure that "*the products of PE should include the final project scope and a highly accurate and conservative cost estimate that addresses all major project uncertainties.*"

The work we intend to authorize meets all of the requirements of these Federal Register notices. On February 12, 2010, we provided FTA with the following further definitions of design levels which are directly extracted from the Kiewit DB contract:

SP 4.7 (h)

Design Review Plan. The Design Review Plan shall be part of the Quality Plan and be submitted for City Review and Comment prior to the start of design. The Design Review Plan shall include both the quality responsibilities of the Design Manager and the independent responsibilities of the Design Quality Manager. The Design Review Plan shall be specific to each stage of design development. Design-

Builder shall make a single comprehensive design check and Design Review for developed plans and specifications for each of the five (5) stages of design development:

- (1) Definitive Design;
- (2) Interim Designs;
- (3) Final Design;
- (4) Working Plans; and
- (5) As-Constructed Plans and Specifications

SP 4.7 (m)

(1) Definitive Design Review shall be the first design review requiring participation of the City, and is intended to verify that the concepts proposed by the Design-Builder meet Concept Documents provided by the City or provide substantiated reason for change and that the Definitive Design complies with the Contract requirements. The Quality Manager shall verify in writing the compliance and completeness of the design submittal prior to presenting the Definitive Design to the City for review. The following issues shall be discussed:

- (A) All contract requirements applicable to the proposed concept documents, including all applicable standards and legal requirements and environmental permit conditions, have been identified, and the proposed designs are in compliance.
- (B) The proposed concepts are substantiated and justified by adequate site investigation and analysis.
- (C) Right of Way requirements have been identified.
- (D) The proposed concepts are constructible.
- (E) Required materials and equipment are available.
- (F) The proposed concepts meet all quality requirements, and all required Quality Plan procedures have been followed including for site maps and concept drawings and draft specifications for any materials or methods that are not industry standard.
- (G) That proposed concepts comply with permits and environmental compliance plan requirements.

(2) The Design-Builder's Responsible Engineer shall provide a Draft Basis of Design Memo with Definitive Design plans that documents the issues above as well as provides a report that describes, at a minimum, the design alternatives considered, material choices, and construction means and methods that leads to the solution proposed.

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(3) Interim Design Reviews are optional and intended to resolve conflicts and unresolved comments from the Definitive Design and prior to Final Design. The Design-Builder should use Interim Design Reviews to remedy conflicts, account for exceptions, and incorporate betterments. Design-Builder shall notify the City if Interim Design reviews are necessary and shall schedule the necessary design reviews following independent review by the Quality Manager. Workshops, meetings and "over-the-shoulder" reviews are means to facilitate interim design reviews by the City.

The definitive design steps and the interim design steps are preliminary engineering activities and do not involve the contractor progressing into final design which is clearly shown above as the third stage of design development. In our authorization to permit them to undertake the work, we will explicitly state that they are not permitted to enter into any final design activities.

Continuation of preliminary engineering has been assigned to the design-builder in our program and is a normal progression of project development which we do not wish to defer.

Sincerely,


Kenneth T. Hamayasu
Chief, Rapid Transit Division