



COMMITTEE TRANSMITTAL

**October 27, 2014**

**To:** Members of the Board of Directors

*WK*

**From:** Wendy Knowles, Clerk of the Board

**Subject:** Design-Build Procurement Plan and Potential Early Property Acquisition for the Interstate 405 Improvement Project Between State Route 55 and Interstate 605

Regional Planning and Highways Committee Meeting of October 6, 2014

**Present:** Directors Bates, Donchak, Harper, Lalloway, Miller, Murray, Nelson, and Spitzer

**Absent:** None

**Committee Vote**

Following discussion of this item, no action was taken on this receive and file item.

**Staff Recommendation**

Receive and file as an information item.



**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**Design-Build Procurement Plan and Potential Early  
Property Acquisition for the Interstate 405 Improvement  
Project Between State Route 55 and Interstate 605**

**Staff Report**



**October 6, 2014**

**To:** Regional Planning and Highways Committee

**From:** Darrell Johnson, Chief Executive Officer

A handwritten signature in blue ink, appearing to read "Darrell Johnson", is written over the "From:" line of the memo.

**Subject:** Design-Build Procurement Plan and Potential Early Property Acquisition for the Interstate 405 Improvement Project Between State Route 55 and Interstate 605

**Overview**

On October 22, 2012, the Orange County Transportation Authority Board of Directors authorized the implementation of proposed improvements to Interstate 405 using the design-build delivery approach. A two-step best value procurement plan has been developed in accordance with the provisions authorized by the California Legislature in Public Contract Code, Sections 6820 to 6829, and Streets and Highways Code, Section 91.2. Staff provides a summary of the procurement plan to implement the project.

**Recommendation**

Receive and file as an information item.

**Discussion**

Environmental studies for the Interstate 405 (I-405) improvements between State Route 55 and Interstate 605 (I-605) (Project) were initiated in early 2007. As part of the Project environmental clearance process, three build alternatives, in addition to a no-build alternative, were evaluated and included in the draft environmental impact report/environmental impact statement (DEIR/EIS) circulated for comment in mid-2012 and the supplemental DEIR/EIS circulated for comment in mid-2013.

On October 22, 2012, the Board of Directors (Board) recommended Alternative 1, which adds a general purpose (GP) lane in each direction, as the locally preferred alternative (LPA) to the California Department of Transportation (Caltrans). On December 9, 2013, the Board reaffirmed the recommendation of Alternative 1 as the LPA to Caltrans and directed that Alternative 1 be built in a manner that does not preclude additional freeway capacity in the future. On July 25, 2014, Caltrans informed the Orange County

Transportation Authority (OCTA) that Alternative 3, in a phased approach, would be the recommended Project preferred alternative. In addition to the GP lanes previously recommended by OCTA, Alternative 3 adds an additional lane of capacity to be combined with existing high-occupancy vehicle (HOV) lanes on I-405 between State Route 73 (SR-73) and I-605. Under this phased approach, OCTA would construct one GP lane in each direction from Euclid Street to I-605, consistent with Measure M2 (M2) Project K, as the first phase of the Project. Caltrans intends to pursue funding to implement the second phase, which entails Caltrans constructing an additional lane in each direction that would combine with the existing HOV lane to provide dual express lanes in each direction on I-405 from SR-73 to I-605. The proposed second phase is currently unfunded and Caltrans' timing of implementation is unknown. On September 22, 2014, the Board reasserted its position and directed staff to proceed with implementing the first phase, which is the M2 commitment of one additional GP lane in each direction.

A project of this size and complexity typically lends itself to the potential of being constructed using design-build (DB) delivery methodology. This methodology is used to expedite the completion of the Project, minimize cost escalation by taking advantage of the existing competitive bidding market, and share the risk associated with the design and construction with private contractors. With the DB delivery methodology, it is estimated that the Project can be completed two years sooner than with the traditional design-bid-build methodology. Based on these important factors, on October 22, 2012, the Board authorized staff to seek legislative authority to implement the Project using a DB delivery methodology.

In late 2013, the California state legislature adopted Assembly Bill (AB) 401 (Chapter 586, Statutes of 2013) which provided authority to regional agencies, such as OCTA, to use DB delivery methodology to implement improvements on the State Highway System. AB 401, which codified DB delivery in Sections 6820 through Section 6829 of the California Public Contract Code and Section 91.2 of the Streets and Highways Code, became effective January 1, 2014, and remains effective until January 1, 2024. This enacted legislation allows OCTA to build the Project using a DB delivery approach.

Currently, OCTA is anticipating environmental clearance with a notice of determination under the California Environmental Quality Act and a record of decision under the National Environmental Protection Agency's documentation process in early 2015. Additionally, in March 2014, Parsons Transportation Group (Parsons) was given a notice-to-proceed, as the program management consultant, to initiate the development of the request for qualifications (RFQ) and

request for proposal (RFP) documents, and provide necessary contract support elements for the Project.

#### Procurement Plan

OCTA staff, general counsel, and Parsons reviewed legal statutes and the advantages and disadvantages of the methods by which OCTA can award a DB contract. This team of individuals examined potential approaches for contract award on the basis of either “lowest responsive and responsible bid” or “best value”. The team concluded that the two-step best value award process, allowed by the Federal Highway Administration (FHWA) and described in detail in AB 401, for selecting a DB team is the overall best method for the procurement and award of the DB contract. This is similar to the DB method OCTA employed on the State Route 22 widening, and with the method being utilized by the Riverside County Transportation Commission to widen State Route 91.

The first step consists of issuance of an RFQ, receipt of statements of qualifications (SOQ) from DB joint ventures, and development of a short-list based on defined pass/fail requirements, which include legal, financial, safety program, and overall DB experience. The second step consists of the issuance of the RFP document to the short-listed teams and the receipt and evaluation of price and technical proposals submitted in response to the RFP. This “best value” selection process allows OCTA to select a DB contractor based on objective criteria, including price, features, functionality, life-cycle costs, technical design and construction experience, construction time, and other factors as deemed applicable by OCTA. This combination of qualifications and price allows for the short-listing and selection to be made based on an overall best value.

Though the lowest responsive and responsible bid approach may be simpler than the best value one, OCTA’s objectives of completing the Project sooner, at a higher quality with fewer impacts to traffic, are more attainable with the best value approach. Therefore, staff is proceeding with the procurement and award of the DB contract using this two-step best value approach.

The procurement plan as proposed for this Project will strictly follow the requirements of AB 401. Under this procurement plan, an RFQ for qualified bidders will be solicited by OCTA through a competitive process. The proposals received will be short-listed based on AB 401 requirements and OCTA’s procedures and policies. Short-listing teams is an industry-recommended process which provides for timeliness in evaluation of proposals, cost efficiency in the procurement to both owners and contractors, and the limiting of

participation in the final RFP to teams that are most prepared to perform the work anticipated for the project. OCTA will short-list the most highly qualified DB teams based on the SOQ received in response to the RFQ and the criteria established in the RFQ. Only the short-listed DB teams will be eligible for the second step, which is to submit proposals in response to the RFP.

Each short-listed team will be provided a copy of the draft RFP for the Project. OCTA anticipates receipt of valuable industry input on the draft RFP, which may be considered for inclusion in the final RFP.

The final RFP for the Project will be released after the RFQ process is complete and the industry has provided input on the draft RFP. This final RFP will detail the Project's main design requirements and considerations, and provide all the Project's technical provisions.

When evaluation of the DB proposals is completed by the evaluation panel, the top proposers will be ranked sequentially based on best value. AB 401 requires award to be made to the team whose proposal is determined by OCTA to have offered the best value to the public.

#### Additional Procurement Requirements

There are several requirements that are placed on this procurement by AB 401, Caltrans, and FHWA. The following summarizes these requirements:

- This Project is subject to the requirements of the United States Department of Transportation's Disadvantaged Business Enterprise (DBE) program. OCTA has set an initial DBE goal of 13 percent for the Project which will be closely evaluated and confirmed as part of the final RFP requirements.
- In accordance with the requirements of AB 401, the California Department of Industrial Relations (DIR) will be responsible for performing prevailing wage monitoring and enforcement for the Project, and OCTA will be responsible for payment of fees to DIR in connection with this monitoring. Such costs are included within the Project's overall budget.
- OCTA is required to submit a progress report to the California Legislative Analyst's office not later than two years after the DB contract is awarded, and each year thereafter for the term of the contract, identifying compliance with AB 401 DB legislation, Section 6821 (f)(1).

Procurement Timeline

A procurement plan and schedule have been developed for the selection and award of the DB contract on a best value basis which meets the requirements of AB 401.

OCTA is currently finalizing the terms and conditions of a cooperative agreement with Caltrans which will identify roles, responsibilities, and funding terms for the DB phase of the Project.

The Board will be updated periodically and provided further detail of each phase of the procurement process and schedule. This will provide the Board the opportunity to review and approve release of the RFQ, the short-listing of firms, release of the final RFP and evaluation methods, and any necessary schedule revisions. The procurement process is shown on Attachment A. Following is the anticipated schedule for this procurement:

<b>Activity/Milestone</b>	<b>Proposed Completion Date</b>
Release Request for Letter of Interest	October 7, 2014
Board authorizes release of the RFQ	October 27, 2014
Execute cooperative agreement with Caltrans for Project	November 2014
Release RFQ	November 2014
Board approves short-listed teams	First Quarter 2015
Distribute draft RFP to short-listed teams	First Quarter 2015
Board approves release of final RFP	Third Quarter 2015
Proposals due date	First Quarter 2016
Board approves selection of DB team and contract	Second Quarter 2016
Issue notice-to-proceed to DB contractor	Second Quarter 2016

Staff will request Board approval to award the DB contract to the team offering the best value and the most advantageous proposal.

#### Early Property Acquisition

The procurement schedule for the Project is very condensed and requires the expedited delivery of property necessary for the Project construction. OCTA's general counsel has advised staff that, currently, legislative authority is in place for OCTA to acquire property on the State Highway System for the Project based on the current phased Project implementation approach. Initiating required property acquisition as early as possible is critical to facilitate DB Project delivery. The readiness and availability of the property for construction is a key factor for the DB contractors as bids are prepared. Environmental regulations limit an agency from acquiring property on a project prior to securing environmental approval unless certain criteria are met, including the properties being acquired being common to all environmental alternatives and the property owner being a willing seller of land necessary for the project. OCTA staff is in the process of evaluating the impacts on property for all alternatives and will initiate discussions with Caltrans and FHWA to take the necessary steps to begin the acquisition process based on these early acquisition constraints. Caltrans and FHWA approval for early property acquisition is required. Prior to any early property acquisition, staff will return to the Board for approval of authority to acquire.

#### ***Summary***

A two-step best value procurement plan has been developed which follows the provisions authorized by the California Legislature in the Public Contract Code for the Interstate 405 Improvement Project. Under this plan, it is anticipated that a request for qualifications for the procurement of a design-build contractor will be released in late 2014, allowing for a final request for proposals in mid-2015. Orange County Transportation Authority staff is in the process of evaluating impacts to properties as a result of the project and plans to enter into discussions with the California Department of Transportation and Federal Highway Administration for potential early property acquisition. The design-build project schedule anticipates project award to a contractor in the second quarter of 2016.



***Attachment***

- A. Interstate 405 Improvement Project Design-Build Best Value Procurement Process

**Prepared by:**



Jeff Mills, P.E.  
Program Manager  
(714) 560-5925

**Approved by:**



Jim Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646



Virginia Abadessa  
Director, Contracts Administration and  
Materials Management  
(714) 560-5623

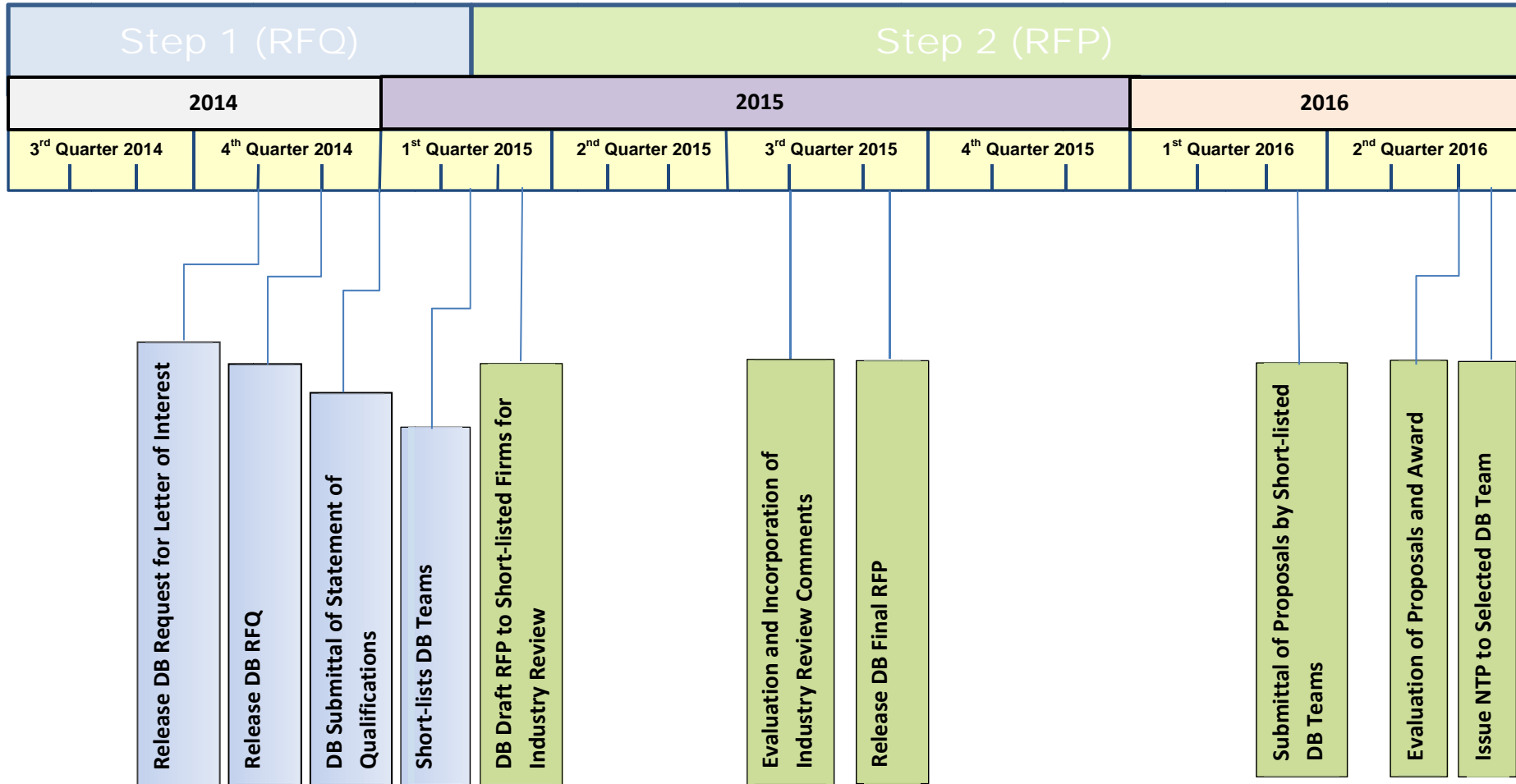


**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**Design-Build Procurement Plan and Potential Early  
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Project Between State Route 55 and Interstate 605**

**Attachment A**

**Interstate 405 Improvement Project  
Design-Build Best Value Procurement Process**



DB = Design-Build  
 RFQ = Request for Qualifications  
 RFP = Request for Proposals  
 NTP = Notice to Proceed



**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**Design-Build Procurement Plan and Potential Early  
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**PowerPoint**



# Design-Build Procurement Plan for the Interstate 405 Improvement Project





# Enabling Legislation

- ❖ In late 2013, California State Legislature adopted Assembly Bill 401 (AB 401)
- ❖ Assembly Bill 401 Summary
  - Sections 6820 – 6829 of California Public Contract Code
  - Section 91.2 of the Streets and Highways Code
  - Provides OCTA authority to use design-build delivery method on the Interstate 405 Improvement Project (and other projects)
  - Outlines the procurement process requirements



# AB 401 Procurement Process Requirements

## ❖ Two Step Process

### ❖ First Step = Request for Qualifications (RFQ)

- Minimum RFQ requirements included in AB 401
- Short-list based on Statement of Qualifications

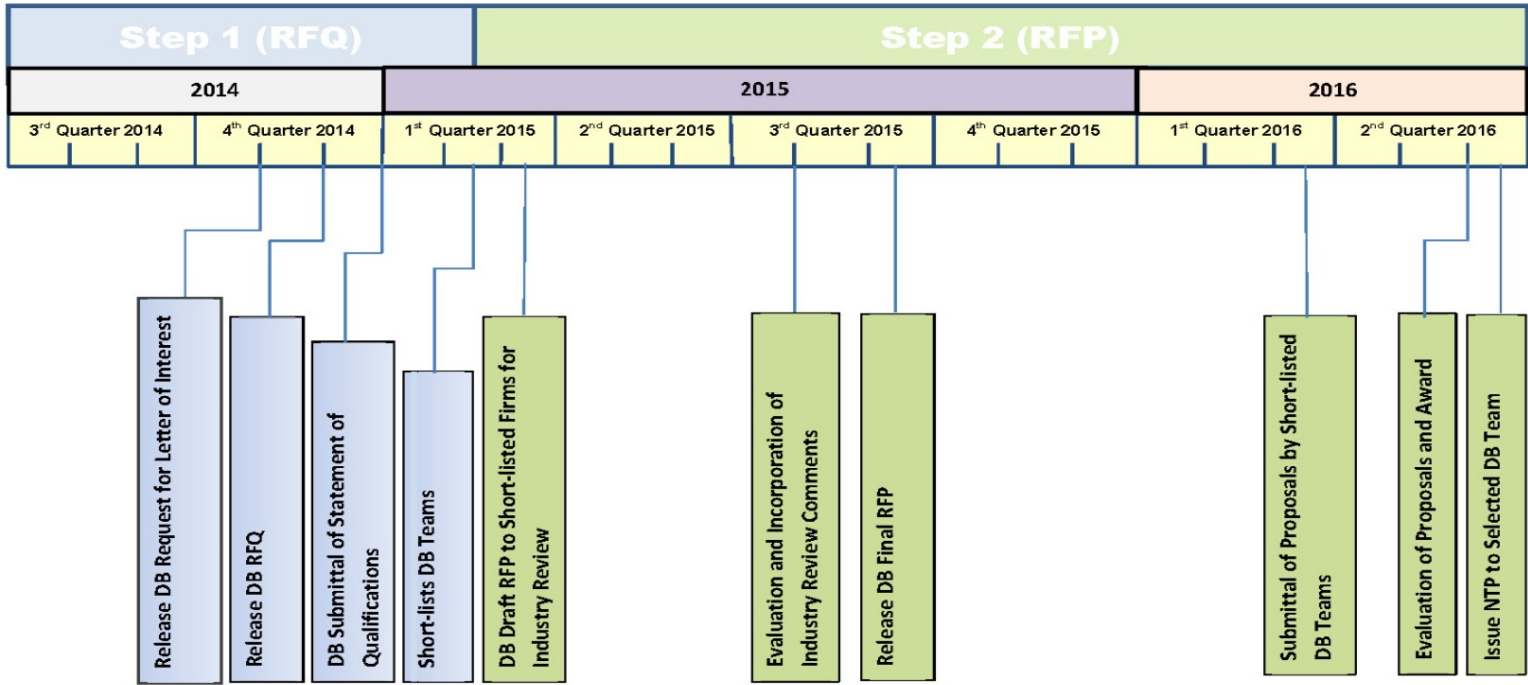
### ❖ Second Step = Request for Proposals (RFP)

- Minimum RFP requirements included in AB 401
- Contract award based on best value
- For best value procurements, AB 401 stipulates minimum factors to be utilized for weighting
  - Price
  - Technical
  - Life-cycle costs



# Procurement Process and Timeline

## Interstate 405 Improvement Project Design-Build Best Value Procurement Process



**DB** = Design-Build  
**RFQ** = Request for Qualifications  
**RFP** = Request for Proposals  
**NTP** = Notice to Proceed