

*Proposal modification* means a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

*Proposal revision* means a change to a proposal made after the solicitation closing date, at the request of or as allowed by a contracting officer, as the result of negotiations.

*Public-private agreement* means an agreement between a public agency and a private party involving design and construction of transportation improvements by the private party to be paid for in whole or in part by Federal-aid highway funds. The agreement may also provide for project financing, at-risk equity investment, operations, or maintenance of the project.

*Qualified project* means any design-build project (including intermodal projects) funded under Title 23, United States Code, which meets the requirements of this part and for which the contracting agency deems to be appropriate on the basis of project delivery time, cost, construction schedule, or quality.

*Request for Proposals (RFP)* means the document that describes the procurement process, forms the basis for the final proposals and may potentially become an element in the contract.

*Request for Qualification (RFQ)* means the document issued by the owner in Phase I of the two-phased selection process. It typically describes the project in enough detail to let potential offerors determine if they wish to compete and forms the basis for requesting qualifications submissions from which the most highly qualified offerors can be identified.

*Short listing* means the narrowing of the field of offerors through the selection of the most qualified offerors who have responded to an RFQ.

*Single-phase selection process* means a procurement process where price and/or technical proposals are submitted in response to an RFP. Short listing is not used.

*Solicitation* means a public notification of an owner's need for information, qualifications, or proposals related to identified services.

*Stipend* means a monetary amount sometimes paid to unsuccessful offerors.

*Technical proposal* means that portion of a design-build proposal which contains design solutions and other qualitative factors that are provided in response to the RFP document.

*Tradeoff* means an analysis technique involving a comparison of price and non-price factors to determine the best value when considering the selection of other than the lowest priced proposal.

*Two-phase selection process* means a procurement process in which the first phase consists of short listing (based on qualifications submitted in response to an RFQ) and the second phase consists of the submission of price and technical proposals in response to an RFP.

*Weakness* means a flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

*Weighted criteria process* means a form of best value selection in which maximum point values are pre-established for qualitative and price components, and award is based upon high total points earned by the offerors.

[67 FR 75926, Dec. 10, 2002, as amended at 72 FR 45336, Aug. 14, 2007]

**§ 636.104 Does this part apply to all Federal-aid design-build projects?**

The provisions of this part apply to all Federal-aid design-build projects within the highway right-of-way or linked to a Federal-aid highway project (*i.e.*, the project would not exist without another Federal-aid highway project). Projects that are not located within the highway right-of-way, and not linked to a Federal-aid highway project may utilize State-approved procedures.

**§ 636.105 Is the FHWA requiring the use of design-build?**

No, the FHWA is neither requiring nor promoting the use of the design-build contracting method. The design-build contracting technique is optional.