

# Alternative Technical Concepts (ATC) and Process

## October 2018

### Overview

An ATC is a confidential pre-proposal submission by an Offeror to modify a requirement contained in an RFP Document that is related to an Offeror's unique design concept (e.g. significant changes to the alignment, profile, interchange configuration etc.). The purpose of the ATC process is to allow for technical innovation, creativity, and flexibility to achieve the project's goals and objectives which are equal to or better than the RFP requirements. A proposed alternative concept does not meet the definition of an ATC if the concept is already contemplated by the requirements of the RFP. VDOT shall not consider proposed ATCs that include, but not limited to, the following: (a) reduce scope, long term performance, quality or reliability; (b) modify VDOT's programmatic risk allocation procedures, such as responsibility for utility relocation, responsibility for ROW acquisition, QA/QC program requirements and minimum pavement section requirements; and (c) impose an additional burden on VDOT for maintenance (i.e. purchase of specialized equipment). Additionally, VDOT shall not consider proposed changes to VDOT design standards and practices, such as those solely proposed for the purpose of relaxing a more stringent standard, unless VDOT determines that such proposed changes are directly associated with, and required to implement, an ATC for a unique design concept. Further considerations related to VDOT's ATC process include the following:

1. VDOT will determine whether to make modifications to the RFP Documents as a result of any approved ATC. In most cases, the RFP Documents will not be modified when approved ATC(s) include acceptable location-specific design exceptions, acceptable design waivers, and acceptable deviations from VDOT Standards. However, where an ATC approval contemplates a significant scope change or widespread inclusions of design exception(s) and/or waiver(s), VDOT may amend the RFP.
2. Prior to approving any ATCs which would result in the issuance of an Addendum, the Offeror submitting the ATC will be given the option to withdraw the proposed ATC.
3. VDOT may outline certain items or elements that will not be accepted as ATCs in the RFP and are non-negotiable during procurement.
4. For SMART SCALE projects, ATCs that create a scope or budget change that would necessitate a re-evaluation of the SMART SCALE scoring may not be considered. The RFP will provide guidance on these limitations.
5. VDOT may determine to limit the number of ATC submittals as they deem necessary.
6. Offerors are required to submit each alternative concept as a separate ATC. A concept may include multiple interrelated parts, but an ATC with multiple unrelated parts may be rejected.

## ATC Submittal Process and Proprietary Meetings

(See flowchart attached as Exhibit A)

Generally each Offeror will participate in two (2) Proprietary meetings with VDOT and its representatives or consultants. The purpose of the Proprietary meetings is to give each Offeror, in a confidential setting, an opportunity to ask questions and discuss concerns related to the Project, details of the Project scope, and administrative procedures, and for the Offeror to present and discuss conceptual ATCs. The meetings are also intended to enable VDOT to express, among other things, whether the Offeror is pursuing an approach that is unacceptable to VDOT and, when possible, to establish whether a proposed concept meets the definition of an ATC thereby requiring a formal ATC submittal.

While the discussions in these Proprietary meetings are intended to be confidential, nothing shall preclude VDOT from exercising its right to issue a clarification or revision of the RFP, or an Addendum, as a result of what is discussed in such meetings.

### Proprietary Meeting #1:

Each Offeror will meet separately and confidentially with VDOT. Offerors will discuss general issues and questions related to the Project including any potential ATCs, with VDOT Personnel, and collect initial feedback to determine the feasibility of a proposed ATC and how best to formulate each formal ATC submission document. Offerors will be required to submit topics to be discussed including ATCs in advance of the meeting.

### Proprietary Meeting #2:

Proprietary Meeting #2 will be utilized for the Offeror to provide a presentation of their ATCs the Offeror is considering to submit as Formal ATCs. The number of proposed ATC presentations the Offeror is permitted at Proprietary Meeting #2 will be stipulated in the RFP. Offerors will be required to submit a Preliminary ATC Submission form in advance of the meeting for each ATC the Offeror is presenting during the meeting.

### Formal Submission of ATCs:

If an Offeror desires to submit a formal ATC proposal, it shall do so by completing and submitting the ATC Submittal Form for each proposed ATC. The Offeror will only be permitted to submit ATC proposals for ATCs presented at Proprietary Meeting #2.

If at any time after the formal ATC submission it is determined that clarifications or additional information is needed, VDOT will request the information from the Offeror prior to completing the ATC review. During the ATC review period, VDOT will make a determination and notify the Offeror if an RFP Addendum will be required related to an Offeror's proposed ATC.

At the conclusion of the ATC review process, VDOT will issue an ATC Response Form to the Offeror for each formal ATC submitted. All approved ATCs, either fully or conditionally, will be indicated as such by VDOT on the ATC Response Form.

The Offeror shall identify in the Technical Proposal any approved ATC(s) incorporated in its Proposal and confirm that it is agreeing to all conditions that may have accompanied the ATC approval(s). The Offeror shall include the completed List of Approved ATCs form with their Technical Proposal identifying each approved ATC incorporated into its Proposal.

## Confidentiality of the ATC Process

ATC confidentiality is of the utmost importance to VDOT recognizing that Offerors invest a tremendous amount of effort into developing their ideas. ATC submissions are considered proprietary until the contract is awarded and unsuccessful Offerors have accepted stipends. VDOT understands the importance of maintaining tight restrictions on the review and approval process during procurement and will adhere to the policies outlined in the Design-Build Evaluation Guidelines to ensure confidentiality is maintained.

## Post Award Implementation

Approved ATCs included with the Successful Offeror's Technical Proposal will be included in the final contract for the project. All conditions of an approved ATC such as additional public involvement process, changes to Interchange Justification Report (IJR), changes to Interchange Modifications Report (IMR), adjustments to the NEPA document etc. are solely the responsibility of the Design-Builder. If an ATC for whatever reason: (a) does not comply with one or more of the conditions of the ATC approval; (b) does not obtain required third-party approval for the ATC; or (c) fails to implement the ATC, then the Design-Builder must revert back to providing the requirements included in the original RFP Conceptual Design that would have applied in the absence of any ATC. The Design-Builder will not be entitled to any increase in the Contract Price or extension of the Contract Time(s) as a result of any delay, inability or cost associated with the failure to implement their ATC. VDOT's review, comment and/or approval of an ATC during the procurement phase of the project shall not be deemed as a transfer of liability from the Design-Builder to VDOT.

# Exhibit A – ATC Process

