

**STATE OF LOUISIANA**  
**INTERSTATE 12 WIDENING**  
**DESIGN-BUILD PROJECT**

**AMITE RIVER BRIDGE TO JUBAN ROAD (WB)**  
**AND**  
**PETE'S HIGHWAY TO JUBAN ROAD (EB)**  
**INTERSTATE 12**  
**LIVINGSTON PARISH**  
**STATE PROJECT NO. 454-02-0071**  
**FEDERAL AID PROJECT NO. ARR-3209 (505)**

**REQUEST FOR QUALIFICATIONS**



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## **1.0 INTRODUCTION AND GENERAL INFORMATION**

The purpose of this Request for Qualifications (RFQ) is to seek Statements of Qualifications (SOQ) from qualified Proposers for the design, construction, and other identified activities for the Interstate-12 (I-12) Widening, Amite River Bridge to Juban Road (WB) and Pete's Highway to Juban Road (EB), Design-Build (DB) Project (Project).

Statements of Qualifications will only be accepted from Proposers intending to provide services required under the Contract. Responses from individual engineering, construction, or consultant firms not offering to provide all required services will not be considered for the short-list.

This RFQ is being issued concurrently with development of the environmental documentation and acquisition of all environmental permits that may determine particular items within the final scope of services as well as many Project requirements. Any Work described herein is subject to adjustment as a result of the environmental documentation/permits and by other decision of the Louisiana Department of Transportation and Development (LA DOTD).

## **1.1 ABBREVIATIONS AND DEFINITIONS**

This Request for Qualifications includes abbreviations and specific defined terms as indicated below.

### **1.1.1 Abbreviations**

ARRA	American Recovery and Reinvestment Act
CPA	Certified Public Accountant
CFO	Chief Financial Officer
DB	Design-Build
FHWA	Federal Highway Administration
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
IA	Independent Assurance
ISO	International Organization for Standardization
ITP	Instructions To Proposers
JV	Joint Venture
LOI	Letter Of Interest
LLC	Limited Liability Company
LA DOTD	Louisiana Department of Transportation and Development
MOU	Memorandum Of Understanding
NOI	Notice Of Intent
NTP	Notice To Proceed
PE	Preliminary Engineering
PI	Public Information
QA	Quality Assurance
QC	Quality Control
RFP	Request For Proposals
RFQ	Request For Qualifications
ROW	Right(s)-Of-Way
SEC	Securities and Exchange Commission
US	United States

### 1.1.2 Definitions

**“Addenda/Addendum”** means supplemental additions, deletions, and modifications to the provisions of the RFQ after the Advertisement date of the RFQ.

**“Advertisement”** means a public announcement in the form of the Notice Of Intent (NOI) inviting qualified Proposers to obtain an RFQ and submit an SOQ. The Advertisement includes a brief description of the Work proposed to be the subject of the procurement with an announcement of where the RFQ may be obtained, the terms and conditions under which SOQs will be received, and such other matters as the LA DOTD may deem advisable to include therein. The Advertisement for this Project was published on July 29, 2009.

**“Affiliate”** means any of the following:

- A) A Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:
  - 1) The Proposer; or
  - 2) Any other Principal Participant; or
- B) An Affiliate may also be any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
  - 1) The Proposer;
  - 2) Any Principal Participant; or
  - 3) Any Affiliate of the Proposer under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

**“Clarifications”** means a written exchange of information initiated by LA DOTD that takes place between a Proposer and the LA DOTD after the receipt of all SOQs during the evaluation process. The purpose of Clarifications is to address ambiguities, omissions, errors or mistakes, and clerical revisions in an SOQ.

**“Construction Subcontractor”** means a subcontractor retained by the Proposer that will be involved in the actual construction of the Project.

**“Constructor”** means a Principal Participant or Construction Subcontractor retained by the Proposer that is involved in the actual construction of the Project.

**“Contract”** means the written agreement between the LA DOTD and the successful Proposer setting forth the rights and obligations of the parties thereunder, including, but not limited to, the performance of the Work, the furnishing of labor and material, and the basis of payment. The Contract includes the Contract Documents identified in the Request For Proposals and any amendments, supplemental agreements, and change orders that are required to complete the design and construction of the Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

**“Contract Documents”** means the Agreement, Design-Build (DB) Section 100 Specifications, Standard and Supplemental Specifications, Special Provisions, the successful Proposer’s Technical Proposal to the extent that it meets or exceeds the Contract requirements, the successful Proposer’s Price Proposal, and

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all provisions required by law to be inserted in the Contract whether actually inserted or not. Whenever separate publications and the LA DOTD's Standard Specifications are referenced in the Contract Documents, it is understood to mean the publication and Specifications, as amended, which are current on the date of Proposal submittal, unless otherwise noted.

**"Deficiency"** means a material failure of an SOQ to meet the LA DOTD's requirements or a combination of significant Weaknesses in an SOQ that increases the risk of unsuccessful Contract performance to an unacceptable level.

**"Department"** means the Louisiana Department of Transportation and Development.

**"Design-Build"** means a project delivery methodology by which the LA DOTD contracts with a Person that has responsibility for the design and construction of a project under a single contract with the LA DOTD.

**"Design-Builder"** means the Person selected pursuant to the Request For Proposals that enters into the Contract with the LA DOTD to design and construct the Project (also referred to as the "DB Team").

**"Designer"** means a Principal Participant, Specialty Subcontractor, or in-house designer that leads the team furnishing or performing the design of the Project.

**"Independent Assurance"** means activities that are an unbiased and independent (of the Design-Builder or Project staff) evaluation of all the design, sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Builder's or LA DOTD's) used in the acceptance program, including the Design-Builder's Quality Control (QC). The LA DOTD, or the designated Quality Assurance (QA) Consultant retained by the LA DOTD, will perform Independent Assurance (IA).

**"Instructions To Proposers"** means those documents containing directions for the preparation and submittal of information by the Proposers in response to the Request For Proposals.

**"Lead Principal Participant"** means the Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Proposer's organization.

**"Louisiana Department of Transportation and Development"** means the Department or its representatives.

**"Louisiana Department of Transportation and Development's Project Manager"** means the engineer representing the LA DOTD and having direct supervision of the administration and execution of the Contract.

**"Person"** means any individual, firm, corporation, company, Limited Liability Company (LLC), Joint Venture (JV), or partnership.

**"Principal Participant"** means any of the following entities:

- A) The Proposer;
- B) Individual firms, all general partners, or Joint Venture members of the Proposer; and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Proposer.

**“Project”** means the improvements to be designed and constructed by the Design-Builder and all other Work to be performed by the Design-Builder in accordance with the Contract Documents.

**“Proposal”** means the offer (in response to the Request For Proposals) of the Proposer for the Work, when executed and submitted in the prescribed format and on the prescribed forms and including any clarifications.

**“Proposer”** means a Person submitting an SOQ for the Project in response to this RFQ, and, if selected for the Short-List, an entity submitting a Proposal.

**“Quality Assurance”** means all planned and systematic actions by the LA DOTD and/or its designated Quality Assurance Consultant necessary to provide confidence that the DB QC Team is effectively insuring that all Work complies with the Contract requirements and that all material incorporated in the Work and all elements of the Work will perform satisfactorily for the purpose intended. Actions include, but are not limited to: design audits, checks, and reviews; construction audits, including, specification compliance reviews, document control, and working plan review; review of material Sampling and Testing results at production sites and the Project site; Fabrication audit of manufacturing/processing facilities and equipment; calibration of test equipment, and independent verification of materials if determined to be necessary.-

Quality Assurance (QA) activities will be documented. Quality Assurance also includes issuance and tracking NCR reports; assisting in the evaluation of Change Order requests; research and evaluation of items as assigned by the DOTD Project manager.-

**“Quality Control”** means the total of all activities performed by the QC Engineering Firm, Design-Builder, Designer, subcontractors, producers, or manufacturers to ensure that a product meets Contract requirements. Quality Control includes design reviews and checks; inspection of material handling and construction; calibration and maintenance of sampling and testing equipment; working plan review; document control; production process control; and any inspection, sampling, and testing done for these purposes. Quality Control also includes documentation of QC efforts.

**“Quality Control Engineering Firm”** means an independent engineering/testing firm employed by the Design-Builder responsible for administering and managing the construction QC inspection, sampling, and testing and verification. The QC Engineering Firm and any subcontractors or subconsultants thereto must not be owned or controlled by the Design-Builder, any Principal Participant of the Design-Builder, and any Affiliate of any Principal Participant, any Construction Subcontractor, the Designer, a firm associated with or subsidiary to the Designer, or any design subcontractor or subconsultant of any tier to the Design-Builder.

**“Quality Control Manager”** means the individual employed by the QC Engineering Firm who is responsible for the overall QC program for the Project, including the quality of management, design, and construction.

**“Quality Program”** means the overall quality program and associated activities including the LA DOTD’s QA and/or its designated QA Consultant, the Design-Builder’s and/or the QC Engineering Firm’s QC, the Contract quality requirements, and the Design-Builder’s quality plan.

**“Reference Documents”** means the documents provided with and so designated in the Request For Proposals. The Reference Documents, including plans contained therein and/or so designated, are not Contract Documents and are provided to the Proposers for informational purposes and for use in the Proposer's Proposal preparation, at the Proposer's discretion.

**“Request For Qualifications”** means the written solicitation issued by the LA DOTD seeking SOQs to be used to identify and short-list the most highly qualified Proposers to receive the RFP for the Project.

**“Request For Proposals”** means a written solicitation issued by the LA DOTD seeking Proposals to be used to identify the Proposer offering the best value to the LA DOTD. The Request For Proposals includes the Instructions To Proposers (ITP), Contract Documents, and Reference Documents. This document is issued only to Proposers that are on the Short-List.

**“Secretary”** means the Secretary of the Louisiana Department of Transportation and Development.

**“Short-List”** means the list of those Proposers that have submitted SOQs that the LA DOTD determines, through evaluation of the SOQs, are the most highly qualified Proposers and that will be invited to submit Proposals in response to a Request For Proposals.

**“Specialty Subcontractor”** means those consultants or subcontractors identified by the Proposer to perform Work critical to the success of the Project, such as, the Designer, or any subcontractors for bridges, structures, pavement, or other specialty Work.

**“Stakeholder”** means any party that has a vested interest in the Project or authority to approve or control specific aspects of the Project or elements that will impact the outcome of the Project. This includes but is not limited to the LA DOTD, local city and Parish governments, permitting agencies, utility companies, etc. and the associated staff members of these entities.

**“Statement Of Qualifications”** means the information prepared and submitted by a Proposer in response to this RFQ.

**“Verification Sampling and Testing”** means sampling and testing performed to validate the quality of the product. The LA DOTD, the designated QA Consultant or a firm retained by the LA DOTD, will perform Verification Sampling and Testing.

**“Weakness”** means a flaw in the SOQ that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ is a flaw that appreciably increases the risk of unsuccessful Contract performance.

**“Work”** means the furnishing of all labor, material, equipment, and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of all the duties and obligations imposed on the Design-Builder by the Contract.

## **1.2 PROJECT GOALS**

The Louisiana Department of Transportation and Development’s goals for the Project are as follows:

- A) Notice To Proceed for the Contract during the second quarter of 2010;
- B) Compliance with all Louisiana Department of Transportation and Development and American Association of State Highway and Transportation Officials (AASHTO) standards and specifications;
- C) Quality design and construction producing a durable product;



- D) Minimization of life cycle costs;
- E) Maximization of lane openings and minimization of queuing;
- F) No major injury or loss of life to the public or workforce;
- G) Positive public perception of the Project;
- H) No claims; and
- I) The Project completed before 2012.

**1.3 ROLE OF THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

In the context of the Project, the Louisiana Department of Transportation and Development is responsible for the following activities:

- A) Obtaining the appropriate environmental clearances and permits except those specifically assigned to the Design-Builder;
- B) Preparation of the RFQ and Request For Proposals, evaluation of SOQs and Proposals, determination of the Short-List, and selection of the Design-Builder;
- C) Contract procurement and administration;
- D) Quality Assurance oversight and audit of the Design-Builder's design and construction, including QA and Independent Assurance Sampling and Testing;
- E) Providing due diligence information and data included in the Request For Proposals; and
- F) Approval and acceptance of Work and payment for Work.

**1.4 PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES, AND PROJECT STATUS**

*See Appendix A.*

**1.5 PROJECT SCHEDULE**

The anticipated time of Contract award is May 2010. The Project goal for completion is before 2012.

*See Section 2.2 for the procurement schedule.*

**1.6 CONTRACT TYPE**

The Contract will be a fixed price, lump sum Design-Build Contract.

**1.7 PAYMENT AND STIPULATED AND/OR GENERAL DAMAGES**

The Design-Builder shall provide a retainage bond in the amount of five percent of the Contract amount. *See Louisiana Revised Statutes 48:256.1 for further information regarding retainage.*

The Contract will provide for stipulated damages relating to failure to meet the specified completion dates.

## **1.8 GOVERNING LAW**

The laws of the State of Louisiana will govern the Request For Qualifications, Request For Proposals, and Contract.

## **1.9 QUALITY CONTROL**

The Design-Builder shall produce a quality Project that meets or exceeds the requirements of the Contract.

A QC program will be developed for the Project by the Design-Builder and the QC Engineering Firm. This QC program will be developed using ISO 9001 standards and the requirements of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, including addenda, special provisions, supplemental specifications, S-items, and other applicable engineering codes and standards, including those of any relevant federal, state, and local jurisdictions. The QC program will be executed and administered by the QC Engineering Firm. The QC program will include separate processes and procedures to accomplish the QC objectives of the Project. The Design-Builder shall maintain sole responsibility for the quality and workmanship of the Work.

## **1.10 INSURANCE, BONDING, LICENSING, AND SECURITIES**

The Design-Builder may be required to provide specified insurance, including, but not necessarily limited to, professional liability insurance covering design as well as Commercial General Liability (CGL), property (including builder's risk), umbrella/excess liability, environmental liability, public liability, automobile liability, owner's protective liability, employer's liability, and workers' compensation. The Design-Builder may use multiple insurance providers to provide the various types of insurance identified in the Request For Proposals; however, the Design-Builder shall use one single insurance provider for each type of insurance (i.e., the Design-Builder may have a one insurance provider for professional liability and a different insurance provide for CGL, but the Design-Builder may not have two different insurance providers for professional liability insurance). The types of insurance, insurance limits, and named insured will be commensurate with this Project and its level of risk. Details of the insurance requirements will be provided in the Request For Proposals.

Proposers on the Short-List submitting a Proposal shall provide Proposal bonds in the amount shown on Table 4.4. The Design-Builder shall provide performance and payment bonds in the amount of 100% and 100%, respectively, of the Contract amount.

Prior to award of the Contract, all Persons participating in this procurement and/or the Contract must obtain all licenses and permits and take all necessary steps to conduct business in the State of Louisiana and perform the Work required under the Contract, including proposing and carrying out contracts consistent with the laws of the State of Louisiana.

Please note that under Louisiana state law, all of the Principal Participants of the Proposer with which the LA DOTD will contract for services and the Designer if not a Principal Participant must be licensed, as appropriate, with the Louisiana Professional Engineering and Land Surveying Board and/or the State Licensing Board for Contractors as applicable prior to award of the Contract. Interested firms are advised that the licensing application processes for the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors will take a minimum of 75 days. Interested firms are further advised that award of the Contract is anticipated to occur within one month of determination of the lowest adjusted score.

Please note that in accordance with the laws of the State of Louisiana, if a Proposer is not licensed appropriately prior to award of the Contract, the Contract will not be executed with that Proposer and the LA DOTD reserves the right to award the Contract to the Proposer with the next lowest adjusted score.

The Design-Builder may be required to provide a number of other commitments including the following, where applicable:

- A) Parent company and other guaranties;
- B) Statements of joint and several liability by Principal Participants [*see* Section 4.4.2.1(B)(5)(c)];
- C) Parent company securities; and
- D) Warranties.

### **1.11 RULES OF CONTACT**

The rules are designed to promote a fair, unbiased, legally defensible procurement process. The LA DOTD is the single source of information regarding the Contract procurement. The following rules of contact shall apply during Contract procurement for the Project. Contact includes face-to-face, telephone, facsimile, Electronic-mail (E-mail), or formal written communications. Any contact determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification

The selection process began on July 29, 2009, with the publication of the NOI, and is anticipated to be completed with the award of the Contract. These rules of contact are now in effect. The specific rules are as follows:

- A) After submittal of SOQs, no Proposer nor any of its members may communicate with another Proposer or members of another Proposer with regard to the Project or the SOQs, except that a Proposer may communicate with a subcontractor that is on both its team and another Proposer's team, so long as those Proposers establish a protocol to ensure that the subcontractor will not act as a conduit of information between the Proposers. (Communications among Proposers and their members is allowed during LA DOTD sponsored workshops and meetings);
- B) Contact between the Proposers and the LA DOTD (comments, questions and responses to questions) must only be through the LA DOTD's designated point of contact and the Proposer's designated representative;
- C) The Proposers shall not contact LA DOTD employees, including, department heads, members of the Primary DB Evaluation Committee, members of the Technical Review Committee, and any official regarding the Project except through the process identified above;
- D) The Proposers shall not contact Stakeholder staff regarding the Project; ;
- E) Any official contact regarding the Project will be disseminated from the LA DOTD on LA DOTD letterhead. Any official contact will be in writing and signed by the LA DOTD's designated point of contact; and
- F) The LA DOTD will not be responsible for any verbal communication or any other information or contact that occurs outside the official communication process specified herein.

**1.12 PROPOSER QUESTIONS**

The LA DOTD will only consider questions submitted in writing by Proposers regarding the RFQ, including requests for clarification and requests to correct errors. All such requests must be submitted in writing in the format shown on Form Q (Appendix C) to the LA DOTD's designated point of contact, Mr. Jeff Burst at [Jeffrey.Burst@LA.gov](mailto:Jeffrey.Burst@LA.gov).

No questions of any nature pertaining to this Project to any other LA DOTD office, consultant, or employee will be considered. All responses shall be in writing and shall be delivered without attribution to all Proposers.

Only questions received by 2:00 p.m. (Central Time) on the date specified in Section 2.2 will be addressed. Questions will not be accepted by telephone. Only E-mailed inquiries will be accepted.

Questions must include the requestor's name, address, E-mail address, and telephone and facsimile numbers and the Proposer he/she represents.

A response to questions will be issued without attribution and sent to all recipients of this RFQ not later than ten working days prior to the SOQ due date specified in Section 2.2.

**1.13 REQUEST FOR QUALIFICATIONS ADDENDA**

If necessary, the LA DOTD will issue Addenda to modify conditions or requirements of this RFQ to recipients of this RFQ not later than the date identified in Section 2.2. Addenda will only be issued to those Persons that submit an LOI to the LA DOTD.

**1.14 NOTIFICATION OF FIRMS ON THE SHORT-LIST**

Each Proposer will be notified in writing whether or not it has been selected for the Short-List. Notifications may be expected not later than the date specified in Section 2.2.

**1.15 COSTS**

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, attending briefing(s), providing supplemental information, and all subsequent costs and expenses (if selected for the Short-List).

**1.16 INELIGIBLE FIRMS**

The Proposer is responsible to disclose all potential organizational conflicts of interest in its SOQ. A potential organizational conflict of interest may occur where consultants and/or subcontractors that assisted the LA DOTD in the preparations of this RFQ or the Request For Proposals, including THE LPA GROUP INCORPORATED and NOSSAMAN, LLP, will not be allowed to participate as a Proposer or a member of a Proposer in response to that RFQ/Request For Proposals. However, the LA DOTD may determine that there is not an organizational conflict of interest for a consultant or subcontractor under the following circumstances:

- A) Where the role of the consultant or subcontractor was limited to provision of preliminary design, reports, or similar "low level" documents that will be incorporated into the Request For Proposals and did not include assistance in the development of the ITP or evaluation criteria at either the RFQ or Request For Proposals phase; or

- B) Where all documents and reports that were delivered to LA DOTD by the consultant or subcontractor are made available to all the Proposers through the RFQ or the Request For Proposals.

The Proposer is required to provide information concerning potential organizational conflicts of interest in its Proposal. The successful Proposer and its Principal Participants must disclose all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest. The successful Proposer and its Principal Participants must state how their interests, or those of their chief executives, directors, key Project personnel, or any proposed subcontractor may result, or could be viewed as, an organizational conflict of interest.

In addition, any firm that is rendered ineligible through any state or federal action is ineligible to participate with any Proposer/Proposal. A Proposer must not submit an SOQ or Proposal, nor will an SOQ or Proposal be considered, if the Proposer or any Principal Participant, including those entities identified in Section 1.17(A) through (D), is on the LA DOTD's list of Disqualified Contractors or Consultants or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of submission of the SOQ; submission or the Proposal; opening of the Price Proposal; or award.

### **1.17 ORGANIZATIONAL AND CONFIDENTIALITY REQUIREMENTS**

Only prospective Proposers that are capable of completing this Project in its entirety will be eligible for the Short-List.

Each of the following circumstances shall be deemed an organizational conflict of interest disqualifying the affected Proposers.

Participation by any of the following Persons on more than one Proposer's team:

- A) A Principal Participant;
- B) A Designer; or
- C) A subcontractor responsible for performing more than 15% of the design or subcontractor responsible for performing more than 20% of the construction; or
- D) Participation of an Affiliate of any Person identified in Section 1.17(A) through (C) on another Proposer's team.

All Proposers affected by the conflict of interest will be disqualified, even if the Person or Affiliate causing the conflict is intended to have a different or lesser role than that described above. Firms serving solely as an environmental coordinator or public involvement/community relations coordinator may be on multiple teams.

**It is a requirement of the LA DOTD that the Proposer's organization, including, Principal Participants, Specialty Subcontractors, and key management personnel, identified in the SOQ remain intact for the duration of the procurement process including the subsequent Contract. A Proposer may propose substitutions for participants after the SOQ submittal. However, such changes will require written approval by the LA DOTD, which approval may be granted or withheld in the LA DOTD's sole discretion. Requests for changes must be made in writing no later than 30 working days prior to the due date for submittal of the Proposals. Requests for changes in any of the Principal Participants, the Designer, other firms meeting criteria listed in Section 1.17, or Specialty Subcontractors will be particularly scrutinized.**

The Proposer may be given access to records which are confidential under state laws solely for the purpose of performing the required services under the Contract. The Proposer shall be required to sign a nondisclosure statement prior to its receipt of such documents obligating each employee, agent, or subcontractor of the Proposer not to make inappropriate use of or improperly disclose any of the contents of such documents.

### **1.18 PROPOSAL STIPEND**

The LA DOTD will not provide a stipend to the unsuccessful Proposers for this Project.

### **1.19 FEDERAL REQUIREMENTS**

The Project will be funded in part using funds authorized under the American Recovery and Reinvestment Act of 2009. Therefore, the procurement documents and the Contract must conform to requirements of applicable federal law, regulations and policies, including Buy America requirements (49 Code of Federal Regulations Part 661), Davis-Bacon wage rates and DBE requirements. The Request For Proposals will include DBE requirements, including DBE participation goals for the Project.

## **2.0 PROCUREMENT PROCESS**

### **2.1 OVERALL PROCUREMENT PROCESS**

The process for procurement of the Contract will be in accordance with Louisiana Revised Statutes Title 48 Sections 250.2 and 250.3. An adjusted score approach will be used by the LA DOTD. The adjusted score will be determined using the methodology as provided in Louisiana Revised Statutes Title 48 Section 250.3 as follows:

- A) The technical score will be determined for each Proposal using the technical evaluation and weighting factors as stipulated in the Request For Proposals. During the scoring process, the Price Proposals will not be disclosed;
- B) Prior to determining the adjusted scores, each Proposer will be notified confidentially of its respective final total technical score, and the Proposer will have five business days to request a review of its final technical score; and
- C) Following any review of the Proposers' technical scores, the technical scores will be finalized and the Price Proposals will be opened. The adjusted score for each Proposal will be determined by the Price Proposal plus number of days proposed at the value per day as fixed in the RFP divided by the technical score. The award of the Contract will be made in accordance with Louisiana Revised Statutes Title 48 Section 250.3.

The procurement process will include the following two phases:

- 1) Request For Qualifications (determination of the Short-List); and
- 2) Final Request For Proposals (selection of the Design-Builder from the Proposers on the Short-List that submit Proposals). The Final Request For Proposals Phase may be preceded by a draft Request For Proposals issued to the Short-Listed Proposers.

Evaluation of the SOQs and Proposals will be based on information submitted in the SOQs and Proposals or otherwise available to the LA DOTD.

Pass/fail and technical evaluation factors will be present in both the RFQ and Requests For Proposals phases.

The selection of the Design-Builder for the Contract will be based on both pass/fail evaluation factors and a combined evaluation of technical evaluation factors and price.

**2.1.1 Request For Qualifications Phase**

Statements of Qualifications submitted in response to this RFQ must include a response to each pass/fail and technical evaluation factor. The Short-List of Proposers that will be invited to submit Proposals will be determined based on evaluation of the pass/fail and technical factors set forth herein. This RFQ sets forth what is required to be included in the SOQ (*see* Section 4.0 for SOQ submittal requirements).

At the end of the SOQ evaluations, the LA DOTD will determine the Short-List. Proposers on the Short-List will then be invited to provide Proposals.

**2.1.2 Request For Proposals Phase**

The Request For Proposals will provide further specific instructions on what to submit, the evaluation factors, the objectives and requirements for evaluation, and the evaluation rating and scoring guidelines for the Request For Proposals phase of the procurement.

In addition to a responsiveness review of the Proposal, the evaluation factors for the Request For Proposals will include, but not be limited to, the following:

- A) Pass/Fail
  - 1) Legal (including compliance or intended compliance prior to award with state licensing requirements); and
  - 2) Financial;
- B) Technical (these factors may also include subfactors)
  - 1) Technical Solutions;
  - 2) Key Personnel and Experience; and
  - 3) Management Approach.

While price is an important factor in the Request For Proposals phase of the procurement, technical evaluation factors (including time) are also significant in determining the success of the Project. The LA DOTD will perform an assessment of the technical factors and, once combined with price, select the Design-Builder with the lowest adjusted score.

The weighting of technical evaluation factors in the selection will be set forth in the Request For Proposals.

**2.2 PROCUREMENT SCHEDULE**

The following represents the current schedule for the Project. The schedule is subject to change at the discretion of the LA DOTD.

<u>Activity</u>	<u>Due Date</u>
Issue Request for Qualifications (RFQ)	September 1, 2009

Final Date for Receipt of Proposer's Questions	September 7, 2009
Issue Date for Final Addendum and/or Answers to Proposer's Questions	September 14, 2009
Statement of Qualifications Due Date	September 25, 2009
Short-List Announced	October 9, 2009
Issue Request For Proposal (RFP)	November 6, 2009
Proposal Due Date	January 29, 2010
Open Price Proposal	March 15, 2010
Award	March 22, 2010
Contract Execution	April 5, 2010
Notice to Proceed	April 5, 2010

### **3.0 EVALUTATION PROCESS FOR THE STATEMENT OF QUALIFICATIONS**

#### **3.1 EVALUATION OBJECTIVE**

The objective of the RFQ phase of the procurement is to create a Short-List of up to, but not to exceed, nine (9) of the highest rated Proposers with the general capability (technical, financial, and management), capacity, and experience necessary to successfully undertake and complete the Work. The Design-Builder will have primary responsibility to plan, design, manage, and control the Project and to complete the Project on or ahead of schedule. The LA DOTD has set high responsibility standards for the Design-Builder that are reflected in the technical evaluation factors of this RFQ and will be reflected in the RFP and the Contract. Specific objectives relating to each of the technical evaluation factors listed in Section 3.3 are included in Sections 4.4.2.1 through 4.4.2.6 of this RFQ.

#### **3.2 REVIEW AND EVALUTATION OF THE STATEMENT OF QUALIFICATIONS**

The information submitted in accordance with Section 4.0 will be evaluated in accordance with the pass/fail evaluation factors listed in Section 3.3.2 and the technical evaluation factors provided in Section 3.3.3.

#### **3.3 EVALUATION FACTORS FOR THE REQUEST FOR QUALIFICATIONS/STATEMENT OF QUALIFICATIONS**

This Section 3.3 outlines the evaluation factors for the RFQ phase of the procurement. The tentative evaluation factors for RFP phase of the procurement are listed in Section 2.1.2.

The LA DOTD has identified for this Project the following evaluation factors that are of particular importance to the LA DOTD. This information is provided here to assist Proposers in organizing their teams and preparing their SOQs.



### 3.3.1 Statement of Qualifications Responsiveness

An initial responsiveness review of the SOQ will be performed prior to any evaluation in order to determine that all information requested in this RFQ is provided and in the format specified in Appendix B.

### 3.3.2 Pass/Fail Evaluation Factors

The pass/fail evaluation factors are as follows:

- A) Legal; and
- B) Financial.

If a Proposer passes all pass/fail evaluation factors, its SOQ will be further evaluated using the factors for technical rating in Section 3.3.3. If a Proposer fails any single pass/fail requirement resulting in a Deficiency, the SOQ will be rated a fail and the Proposer will not be included on the Short-List

### 3.3.3 Technical Evaluation Factors

The technical evaluation factors are as follows:

- A) Organization and Key Managers;
- B) Experience of the Firms;
- C) Past Performance; and
- D) Project Understanding.

The technical evaluation factors of Organization and Key Managers, Experience of the Firms, and Past Performance are of equal importance and are more important than the technical evaluation factor of Project Understanding.

The ratings assigned to the technical evaluation factors will be compiled to determine an overall technical rating for the SOQ. The ratings of each of the technical evaluation factors and the overall technical rating for the SOQ will be arrived at through a consensus process. Numerical scores will not be assigned.

Ratings for each technical evaluation factor and the overall technical rating for the SOQ will be based on the following adjectival rating criteria:

**ACCEPTABLE**: The Proposer has presented information relative to its qualifications which is considered to meet the stated objectives/requirements and has an acceptable level of quality. Weaknesses are minor and can be readily corrected.

**UNACCEPTABLE**: The Proposer has presented information relative to its qualifications that contains significant Weaknesses and/or Deficiencies and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive. Weaknesses/Deficiencies are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

Any SOQ that receives a consensus rating of unacceptable in one or more technical evaluation factors shall receive an overall SOQ technical rating of unacceptable and shall not be included on the Short-List.

### **3.4 REQUESTS FOR CLARIFICATION**

The Proposer shall provide accurate and complete information to the LA DOTD. If information is not complete, the LA DOTD shall either declare the SOQ non-responsive or notify the Proposer through a request for Clarification that it will not be allowed to participate further in the procurement of this Project until all information required is provided. Any insufficient statements or incomplete affidavits will be identified by the LA DOTD with a request for Clarifications, and which may include a request for submittal of corrected, supplemental, or missing documents. If a Clarification is not provided prior to the deadline for submission of the Clarification, the SOQ may be declared non-responsive. Proposers should take special notice of the fact that the LA DOTD is not obligated to request any Clarifications from any Proposer not submitting accurate and complete information, nor is the LA DOTD obligated to conduct multiple rounds of requests for Clarifications with any Proposer.

The LA DOTD may waive technical irregularities in an SOQ of the Proposer that do not alter the quality or quantity of the information provided.

The LA DOTD may, at its sole discretion, request Clarifications and/or supplemental information from Proposers during the SOQ evaluation and Short-List process.

All requests for Clarifications and responses thereto must be in writing via E-mail. Clarifications are limited to answering the specific information requested by the LA DOTD.

The LA DOTD does not anticipate conducting interviews during the RFQ phase, but reserves the right to do so. If the LA DOTD elects to conduct interviews, the Proposers shall be notified in writing.

In the event a material error is discovered in the RFQ during the SOQ evaluation process, the LA DOTD will issue an Addendum to all Proposers that have submitted SOQs requesting revised SOQs based upon the corrected RFQ.

### **3.5 DETERMINATION OF THE SHORT-LIST**

The LA DOTD will establish a Short-List of an appropriate number (as determined by the LA DOTD) of the highest rated Proposers in order to ensure adequate competition. Neither the overall technical ratings nor the ranking of the Proposers on the Short-List will be disclosed to Proposers during the procurement process.

### **3.6 CHALLENGE**

The decision of the LA DOTD on the Short-List and the subsequent award of the Contract shall be final and shall not be appealable, reviewable, or reopened in any way, except as provided in Section 5.0 of this RFQ (for challenges to the Short-List) or as provided in the Request For Proposals (for the award of the Contract). Parties participating in the RFQ phase of this procurement shall be deemed to have accepted this condition and the other requirements of this RFQ.

Subject to applicable Louisiana state law, contents of SOQs, less proprietary information, to the extent protected under applicable Louisiana state law, will remain confidential until execution of the Contract.

#### **4.0 STATEMENT OF QUALIFICATIONS SUBMITTAL REQUIREMENTS**

##### **4.1 DATE AND TIME OF RECEIPT**

All SOQs must be received no later than 2:00 p.m. (Central Time) on the SOQ due date specified in Section 2.2. The SOQs must be clearly identified as such and be enclosed in sealed containers. Late submittals will not be considered and will be returned unopened to the address indicated on the cover of the package.

##### **4.2 SUBMITTAL ADDRESS**

The Statements of Qualifications shall be submitted to the following address:

Louisiana Department of Transportation & Development  
Attention: Mr. Jeff Burst, P.E. Project Manager  
Room 505A  
1201 Capitol Access Road  
Baton Rouge, LA 70802  
Phone: 225.379.1356

Each Proposer shall be responsible for obtaining a written receipt appropriate to the means of delivery from the LA DOTD office specified in this Section 4.2 at time of delivery of its SOQ. It is the Proposer's sole responsibility to ensure delivery of its SOQ to the LA DOTD at the time and place specified herein and the LA DOTD will have no liability or responsibility therefore.

##### **4.3 PAGE LIMIT, FORMAT, AND QUANTITIES**

The SOQ must be limited to no more than 60 pages in Sections 2 through 7 of the SOQ (*see* Appendix B), including required forms but exclusive of dividers and appendices. One original and six copies of the SOQs and appendices shall be provided. The signed original copy must be identified as the "Original" on the cover(s) and all subsequent copies must be marked as "Copy \_\_\_\_ of 8 Copies." All copies shall be provided in loose-leaf binders. Bound copies will not be accepted. The document must be organized to correspond with the outline presented in Appendix B.

##### **4.4 CONTENT OF THE STATEMENT OF QUALIFICATIONS**

This section describes the specific information that must be included in the SOQ. An outline of the required format for the SOQ is provided in Appendix B. Required forms for the SOQ are contained in Appendix C. Any material modification to the forms may result in the SOQ being declared nonresponsive.

Proposers should provide brief, concise information that addresses the objectives and the requirements of the Project consistent with the evaluation factors described in Section 4.4.2. Lengthy narratives containing extraneous information are discouraged.

LA DOTD will maintain a confidential process for the duration of this procurement. In accordance with Louisiana Revised Statutes 48:255.1, the LA DOTD may require each Proposer to furnish sufficient information that shall indicate the financial and other capacities of the Proposer to perform the proposed Work. This information shall be subject to audit and shall be submitted by the Proposer in a format clearly marked "confidential," and the information contained therein will be treated as confidential and will be exempted from the provisions of Louisiana Revised Statutes 44:1 through 37.

The LA DOTD will maintain a confidential process for the duration of this procurement. In accordance with Louisiana Revised Statutes 48:255.1, the LA DOTD may require each Proposer to furnish sufficient information that shall indicate the financial and other capacities of the Proposer to perform the proposed Work. This information shall be subject to audit and shall be submitted by the Proposer in a format clearly marked "confidential," and the information contained therein will be treated as confidential and will be exempted from the provisions of Louisiana Revised Statutes 44:1 through 37.

Further, if the Proposer submits information in its SOQ that it wishes to protect from disclosure, the Proposer must do the following:

- A) Clearly mark all proprietary or trade secret information as such in its SOQ at the time the SOQ is submitted and include a cover sheet stating "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION" and identifying each section and page which has been so marked;
- B) Include a statement with its SOQ justifying the Proposer's determination that certain records are proprietary or trade secret information for each record so defined;
- C) Submit one full copy of the SOQ that has all the proprietary or trade secret information deleted from the SOQ and label such copy of the SOQ "Public Copy"; and
- D) Defend any action seeking release of the records it believes to be proprietary or trade secret information and indemnify, defend, and hold harmless the LA DOTD and the State of Louisiana and its agents and employees from any judgments awarded against the LA DOTD and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the LA DOTD's cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting an SOQ, the Proposer agrees that this indemnification survives as long as the confidential business information is in possession of the State.

All records pertaining to this procurement will become public information after execution of the Contract, unless such records are proprietary or trade secret information.

#### **4.4.1 Cover Letter**

The Proposer shall provide a one-page letter indicating its desire to be considered for the Project and stating the official names and roles of all Principal Participants and the Designer, subconsultants and subcontractors meeting the criteria in Section 1.17, and Specialty Subcontractors. The Proposer shall identify any potential organizational conflicts of interest (see Section 1.16) or include a representation that, to the best of the Proposer's knowledge, there exists no potential organizational conflict of interest. The Proposer shall identify a single point of contact for the Proposer and the address, E-mail address, and telephone and facsimile numbers where questions should be directed. Authorized representatives of the Proposer's organization must sign the letter. If the Proposer is not yet a legal entity or is a JV, LLC, or general partnership, authorized representatives of all proposed Principal Participants shall sign the letter. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in Section 4.4.2.1(B) 6 and 7.

The Proposer shall attach the Acknowledgment of Receipt (Appendix C) acknowledging receipt of the RFQ and any Addenda and/or responses to questions issued by the LA DOTD.

#### **4.4.2 Evaluation Factor Objectives and Requirements**

In providing the SOQ, Proposers should be guided by the Project goals in Section 1.2 and the objectives listed in Sections 4.4.2.1 through 4.4.2.6. An objective is stated for each evaluation factor to provide Proposers the expectations of the LA DOTD. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The SOQ evaluation ratings will be based on how well the SOQ responds to the requirements and meets or exceeds the Project goals and the objectives for each of the evaluation factors.

##### **4.4.2.1 Legal**

A) Objective

To identify Proposers able to or that will become able to submit Proposals and enter into the Contract and complete the Work and that have obtained or will obtain all required licenses.

B) Requirements and information to be provided in Section 1 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)

- 1) Form L-1 (Appendix C), Proposer's Organization Information, for the Proposer's organization;
- 2) Form L-2 (Appendix C), Principal Participant and Designer Certification, for each Principal Participant and the Designer covering the last five years;
- 3) Evidence of the Proposer's and its Principal Participants', if it is a JV, LLC, or partnership, registration with the Louisiana Secretary of State indicating that the Proposer is registered to do business in the State of Louisiana or a commitment signed by authorized representatives of the Proposer and its Principal Participants, if relevant, to become registered prior to award of the Contract. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in Section 4.4.2.1(B) 6 and 7. Additionally, if the Proposer is a JV, LLC, or partnership, which has not yet been legally formed, the Proposer's registration with the Louisiana Secretary of State is not required at this time, however, if the Proposer is a JV, LLC, or partnership which has not yet been legally formed, the registration of the Proposer's Principal Participants with the Louisiana Secretary of State is nonetheless required;
- 4) Evidence that one or more Principal Participants of the Proposer, or the Proposer itself, holds the appropriate licenses from the Louisiana Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors or a commitment signed by authorized representatives of the Proposer and its Principal Participants, if relevant, to become licensed prior to award of the Contract. "Authorized representatives" are those representatives that possess notarized Powers of Attorney as set forth in Section 4.4.2.1(B) 6 and 7;
- 5) If a Joint Venture, Limited Liability Company, or partnership, include the following:
  - a) Identity of the Lead Principal Participant of the entity, if any (Form L1, Appendix C);
  - b) Percent equity share held by each member (Lead Principal Participant

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column of Form L-1, Appendix C). Each member of a JV, LLC, or partnership must be an equity partner in the organization; and

- c) An express statement from each of the equity members of the entity as to their joint and several liability in accordance with Section 1.10(B);
- 6) Notarized Power(s) of Attorney for each Principal Participant indicating the authority of the Principal Participant’s representative to sign for that Principal Participant; and
- 7) Notarized Power(s) of Attorney from each Principal Participant indicating the authority of the Proposer’s designated point of contact to sign documents for and on behalf of the Proposer’s organization.

**4.4.2.2 Financial**

A) Objective

To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the Project, including bonding.

B) Requirements and information to be submitted in Section 2 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)

The Proposer shall submit a letter from a single surety or co-sureties indicating that the Proposer is capable of obtaining Proposal, performance, and payment bonds covering the Contract. The bonding/security capacity levels in Table 4.4 represent minimum levels necessary to pass the pass/fail criteria of Section 3.3.2(B). The surety submitting such letter must be listed on the US Department of Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register or by a Louisiana domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best's Key Rating Guide. No surety or insurance company shall write a bond which is in excess of the amount indicated as approved for it by the US Department of the Treasury Financial Management Service list of approved bonding companies and a Louisiana-domiciled insurance company not on the US Department of Treasury Financial Management Service list of approved bonding companies shall not write bonds exceeding ten percent of policyholder's surplus as shown in the A.M. Best's Key Rating Guide. In addition, any surety bond written for the Project shall be written by a surety or insurance company that is licensed to do business in the state of Louisiana. The letter must specifically state that the surety/insurance company has evaluated the Proposer’s and each Principal Participant’s backlog and work-in-progress in determining its bonding capacity. If the letter is submitted by co-sureties or a joint venture of sureties, the letter must clearly state that the sureties making up the co-surety or the joint venture are bound in solido for the full amount of the bond. **Letters indicating “unlimited” bonding/security capability are not acceptable.**

**Table 4.4**

<b>Proposal Bond/Security</b>	<b>Payment Bond/Security</b>	<b>Performance Bond/Security</b>
Five Percent of Proposal	100% of Contract	100% of Contract Amount

The Contract amount is anticipated to be in the range of \$20 million and \$40 million.

#### 4.4.2.3 Organization and Key Managers

- A) Objective
  - 1) To identify Proposers that will effectively manage all aspects of the Contract in a quality, timely, and effective manner and will integrate the different parts of its organization collectively and with the LA DOTD in a cohesive and seamless manner; and
  - 2) To identify the best personnel for key management positions with demonstrated experience and expertise in and record of producing quality work on projects of a similar nature to this Project. The key management positions for the purposes of this RFQ are the Principal-in-Charge, the Design-Builder's Project Manager, the Construction Manager, and the Design Manager.
- B) Requirements and information to be submitted in Section 3 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)
  - 1) Organization and communication structure among the Proposer, its Principal Participants, and its Designer; and
  - 2) Resumes of key managers.

#### 4.4.2.4 Experience of the Firms

- A) Objective
  - 1) To identify the best design and construction firms available with demonstrated experience, expertise, and capacity in and record of producing quality Work on projects similar in nature to the Project.
  - 2) To identify Proposers which have the following attributes:
    - a) Experience in successfully managing, designing, and constructing Interstate highway and bridge projects on Interstates in current operation of the size and complexity of this Project;
    - b) A superior record of completing contracts on time and within budget;
    - c) A superior record of managing contracts to minimize delays, claims, dispute proceedings, litigation, and arbitration; and
    - d) Good safety records.
  - 3) To identify Proposers that have the technical and management experience and expertise to plan, organize, and execute the design and construction and assure the quality and safety of the Project.
- B) Requirements and information to be submitted in Section 4 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)
  - 1) Firm Experience

Using Form E-1 (Appendix C), Past Project Description, the Proposer shall provide no more than ten and a minimum of two descriptions of past projects per each Principal Participant, Designer, other team members meeting the criteria

listed in Section 1.17, and Specialty Subcontractors highlighting experience in the last five years relevant to the Project. The Proposer shall describe those projects having a scope comparable to that anticipated for the Project.

Using Form E-2 (Appendix C), Subcontractor Information, except for the designated Designer and Quality Control Engineer (which have already been included in Forms L-1 and E-1, Appendix C), the Proposer shall identify subcontractors (including consultants) the Proposer plans to use, to the extent they are known, indicating what portion of the Work such subcontractor is anticipated to undertake. The Proposer shall submit a maximum one-page summary of experience for each listed subcontractor, including consultants.

#### 4.4.2.5 Past Performance

- A) Objective
  - 1) To avoid Proposers with firms or personnel with a history of legal and financial problems that could adversely impact the Project generally; and
  - 2) To obtain the commitment of the Proposer, Principal Participants, and Designer regarding representations made in the SOQ.
- B) Requirements and information to be submitted in Section 5 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)
  - 1) Using Form PP (Appendix C), Past Performance, the Proposer shall provide the information requested in Section 4.4.2.5(B)(1) (a) through (c). If a Proposer has no record of relevant past performance or if the information relative to a category is not available the Proposer shall enter a declarative statement to that effect on Form PP. If the record of relevant past performance does not exist and/or is not available, the Proposer shall receive a technical rating of acceptable for this factor. The Proposer shall attach additional sheets to Form PP as necessary. For each instance of litigation, arbitration, or termination for cause or default, the Proposer shall provide the owner's name and the name of its current representative (and current telephone and facsimile numbers) who can be contacted for additional information. With respect to the information solicited in this Section 4.4.2.5, failure to provide this information, conditional or qualified submissions to requests or questions posed (i.e., "to our knowledge," "to the extent of available information," "such information is not readily available," or "such information is not maintained in the manner requested,"), incomplete or inaccurate submissions, or non-responsive submissions may, in the sole discretion of the LA DOTD, lead to a lower evaluation rating for this technical evaluation factor or result in a Deficiency that would cause the LA DOTD to declare the SOQ non-responsive.
    - a) Litigation and Arbitration Proceedings

The Proposer shall provide a list of all litigation and arbitration proceedings involving amounts in excess of \$1 million and related to performance in which any Principal Participant, Designer, or other firms meeting criteria in Section 1.17(A) through (D) has been involved during the past five years. The Proposer shall include all litigation and arbitration proceedings initiated by owners and federal, state, and local regulatory agencies against the Proposer and all litigation and arbitration



proceedings initiated against owners and federal, state, and local regulatory agencies by the Proposer or by third parties and in which the Proposer was involved. The Proposer shall indicate whether the litigation or arbitration proceeding was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to the participant. The Proposer shall indicate any unresolved, outstanding litigation and arbitration proceedings;

b) Termination for Cause or Default

The Proposer shall describe the conditions surrounding any contract (or portion thereof) entered into by the Proposer or by any Principal Participant, Designer, or other firm meeting criteria listed in Section 1.17(A) through (D) over the past five years that has been terminated for cause or default or which required completion by another party. The Proposer shall describe the reasons for termination and the amounts involved; and

c) Disciplinary Action

The Proposer shall indicate any disciplinary action taken against the Proposer or any Principal Participant, Designer, or other firm meeting the criteria in Section 1.17(A) through (D) within the past five years by any governmental agency or licensing board, including suspension from the right to propose/bid or removal from any Proposer/bid list; and

2) Safety

Submit Form S (Appendix C), Safety Questionnaire, for each Principal Participant and Construction Subcontractor meeting criteria listed in Section 1.17.

#### 4.4.2.6 Project Understanding

A) Objective

- 1) To identify those Proposers demonstrating an understanding of the management issues, technical issues, and risks associated with the Project; and
- 2) To identify those Proposers demonstrating an understanding of how the DB process and the Proposer's organization will contribute to the success of the Project and meet the LA DOTD's Project goals; and
- 3) To identify those Proposers which understand the risk sharing and the teaming relationship between the Design-Builder and the LA DOTD.

B) Requirements and information to be submitted in Section 7 of the Statement of Qualifications (*see* Appendix B to this RFQ for SOQ format and section organization)

- 1) The Proposer shall list and briefly describe the significant issues and risks facing the selected Proposer and/or the LA DOTD; and
- 2) The Proposer shall briefly describe how the Proposer will use its organization and the DB process to ensure a successful Project considering the LA DOTD's Project goals listed in Section 1.2.

## **5.0 PROTESTS**

This Section 5.0 sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, will be final and conclusive. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies set forth in this RFQ, it shall indemnify, defend, and hold the LA DOTD and its directors, officers, officials, employees, agents, representatives, and consultants harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees, and damages incurred or suffered as a result of such Proposer's actions. The submission of an SOQ by a Proposer shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

### **5.1 WRITTEN PROTESTS ONLY**

All protests must be in writing. Protests shall be submitted to Mr. Steven L. Cumbaa (Protest Official). Any protest not set forth in writing within the time limits specified in these procedures is null and void and shall not be considered. Protests regarding this RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the LA DOTD in an effort to remove the grounds for protest.

The Protest Official may, in his/her discretion, discuss the protest with the protestor prior to issuance of the Protest Official's written decision. The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it shall be decided on the basis of the written submissions by the Protest Official or his/her designee whose decision shall be final and conclusive. The Protest Official or his/her designee shall issue a written decision regarding any protest to each Proposer.

### **5.2 PROTEST CONTENTS**

All Protests must include the following information:

- A) The name and address of the Proposer;
- B) The State Project numbers;
- C) A detailed statement of the nature of the protest and the grounds on which the protest is made; and
- D) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury.

The protestor must demonstrate or establish a clear violation of a specific law or regulation.

The Protest Official will not be obligated to postpone the SOQ due date or Short-List announcement in order to allow a protestor an opportunity to correct a deficient protest or appeal unless otherwise required by law or regulation.

If the protest is denied, the protestor shall be liable for the LA DOTD's costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the LA DOTD as a consequence of the protest. If the protest is granted, the LA DOTD shall not be liable for payment of the protestor's costs.

### **5.3 PROTEST PRIOR TO THE STATEMENT OF QUALIFICATIONS DUE DATE**

Not less than seven calendar days prior to the SOQ due date, all protests, including protests based upon alleged restrictive specifications or alleged improprieties in the solicitation, must be filed with the Protest Official.

The Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the RFQ process should be delayed beyond the scheduled SOQ due date. If the Protest Official determines that the scheduled SOQ due date should be delayed, all Proposers will be notified by written Addendum of the delay and the reason thereof.

If the protest is determined to be valid, the Protest Official will respond in writing to the protestor to each material issue raised in the protest in a timely manner prior to the LA DOTD proceeding further with the RFQ. Should a protestor wish to appeal the decision of the Protest Official, the protestor shall follow the procedures as outlined in Section 5.6.

The failure of a Proposer to file a basis for a protest regarding this RFQ will preclude consideration of that ground in any protest regarding the Short-List decision unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests.

### **5.4 PROTEST PRIOR TO ANNOUNCING THE SHORT-LIST**

When a protest or appeal has been timely filed with the Protest Official prior to announcing the Short-List, the LA DOTD will not announce the Short-List, except in the case of emergency as determined by the Secretary, until after the resolution of the protest or appeal.

### **5.5 PROTEST REGARDING SHORT-LIST DECISION**

If the Short-List decision is being protested, a protestor shall protest in writing to the Protest Official as soon as practical, but not later than seven calendar days after the protestor knew or should have known it was not included on the Short-List. If the protest has been timely filed, the Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the procurement should be delayed or the Short-List considered for revision.

If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to the protestor to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement.

The LA DOTD will not proceed with the procurement for seven calendar days after the decision is rendered by the Protest Official unless the protestor waives in writing its right to appeal to the Protest Official.

Should a protestor wish to appeal the decision of the Protest Official concerning any Short-List decision, a protestor shall follow the procedures as outlined in Section 5.6.

### **5.6 RIGHT OF APPEAL**

In the event that a protestor receives an unfavorable decision from the Protest Official to its protest, the protestor shall have the right to appeal the decision of the Protest Official by submitting a written appeal to the Chief Engineer or designee within seven calendar days after receipt of the decision of the Protest Official.

The Chief Engineer will notify the protester in writing in a prompt manner of his decision regarding the protest and the appeal. If the protest and appeal were filed prior to the release of the Short-List, the LA DOTD will not announce the Short-List for seven calendar days after the decision of the Chief Engineer, unless an emergency is determined to exist, in the sole opinion of the Secretary.

If the matter is not resolved after the appeal, the protestor may continue the protest only by appeal to judicial authority.

**6.0 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS AND DISCLAIMERS**

**6.1 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS**

The LA DOTD may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFQ. In addition to the other rights expressly reserved herein, the LA DOTD reserves the right, in its sole and absolute discretion, to any of the following:

- A) Rejection of any or all Statements of Qualifications;
- B) Issuance of a new Request for Qualifications;
- C) Cancellation, modification, or withdrawal of the Request for Qualifications;
- D) Issuance of Addenda, supplements, and modifications to this Request for Qualifications;
- E) Modification of the Request for Qualifications process (with appropriate notice to Proposers);
- F) Appointment of the Primary DB Evaluation Committee and evaluation teams to review SOQs and seek the assistance of outside technical experts in the SOQ evaluation;
- G) Approval or disapproval of the use of particular subcontractors and/or substitutions and/or changes in SOQs;
- H) Revision and modification, at any time before the SOQ due date, of the factors it will consider in evaluating SOQs and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the LA DOTD will circulate an Addendum to all Persons that submitted an LOI setting forth the changes to the evaluation criteria or methodology. The LA DOTD may extend the SOQ due date if such changes are deemed by the LA DOTD, in its sole discretion, to be material and substantive;
- I) Correspondence with the Proposers responding to this SOQ, including holding meetings, to seek Clarifications and an improved understanding and evaluation of the SOQs;
- J) Seeking or obtaining data from any source that has the potential to improve the understanding and evaluation of the SOQs;
- K) Disqualification of any team that changes its SOQ without LA DOTD written approval; and/or
- L) Refusal to issue an RFQ to a prospective Proposer and to refuse to receive or open an SOQ, once submitted, or reject an SOQ if such refusal or rejection is based upon, but not limited to, the following:
  - 1) Failure on the part of the Proposer or a Principal Participant to pay, satisfactorily

settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the LA DOTD (or the State of Louisiana);

- 2) Default (wherein a surety has been notified to assume performance of the contract) on the part of the Proposer, a Principal Participant, or a Designer under previous contracts with the LA DOTD (or the State of Louisiana);
- 3) Unsatisfactory performance by the Proposer, a Principal Participant, and/or a Designer under previous contracts with the LA DOTD (or the State of Louisiana);
- 4) Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant, and/or a Designer;
- 5) Submittal by the Proposer of more than one SOQ for the same Work under the Proposer's own name or under a different name;
- 6) Existence of an organizational conflict of interest under Section 1.17 or evidence of collusion between a prospective Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designers) in the preparation of an SOQ, proposal, or bid for any LA DOTD construction project; and/or
- 7) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Principal Participant is responsible which, in the judgment of the LA DOTD, might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded.

The RFQ does not commit the LA DOTD to enter into a Contract nor does it obligate the LA DOTD to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a Contract. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFQ and any subsequent Request For Proposals is contingent upon sufficient appropriations and authorizations being made by the Louisiana State Legislature for performance of a Contract between the successful Proposer and the LA DOTD.

In no event shall the LA DOTD be bound by or be liable for any obligations with respect to the Work or the Project until such time (if at all) as the Contract, in form and substance satisfactory to the LA DOTD, has been executed and authorized by the LA DOTD and approved by all required parties and then only to the extent set forth therein.

## **6.2 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT DISCLAIMERS**

In issuing this RFQ and undertaking the procurement process contemplated hereby, the LA DOTD specifically disclaims the following:

- A) Any obligation to award or execute a Contract pursuant to this Request for Qualifications; and
- B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement.

In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

**7.0 COMPLIANCE WITH APPLICABLE LAWS**

In connection with this RFQ and the Contract, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of this Project and the performance of the Contract.