

STATE OF LOUISIANA
US 90 INTERCHANGE @ LA 85
DESIGN-BUILD PROJECT

NEW INTERCHANGE, US 90 @ LA 85
ROUTES US 90 & LA 85

IBERIA PARISH
STATE PROJECT NO. 424-04-0032
FEDERAL AID PROJECT NO. ARR-1104(011)

SCOPE OF SERVICES PACKAGE

INSTRUCTIONS TO PROPOSERS



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1.0 INTRODUCTION

This Scope of Services Package is issued by the Louisiana Department of Transportation and Development (LA DOTD) to seek competitive Proposals for the US 90 Interchange @ La. 85 Design-Build (DB) Project (Project). Proposals will only be considered from those Proposers that have been notified of their inclusion on the Short-List.

In the preparation of the Proposals, Proposers should address and/or consider the Project goals identified in Instructions to Proposers (ITP) Section 1.1.

See also Contract Documents, Part 1 – Agreement, Appendix A.

1.1 PROJECT GOALS

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

- A) Contract execution and Notice to Proceed (NTP) for the Contract in January 2010;
- B) Compliance with all LA DOTD 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.

1.2 THE PROPOSAL

1.2.1 Documents in the Scope of Services Package

The documents issued as part of this Scope of Services Package consist of the following:

- A) Instructions to Proposers;
- B) Additional documents issued by Addenda to this Scope of Services Package;
- C) Contract Documents Parts 1 through 6, inclusive:
 - Part 1 – Design-Build Agreement
 - Part 2 – Design-Build Section 100
 - Part 3 – Design Requirements and Performance Specifications
 - Part 4 – Scope of Services Packages Plans
 - Part 5 – Engineering Data
 - Part 6 – Design-Builder’s Proposal; and

D) Reference Documents

The components of the Scope of Services Package are intended to be complementary and to describe and provide for a fair and competitive procurement process. Prior to execution of the Contract, the following components of the Scope of Services Package complement one another in the descending order of precedence stated above. Within the Contract Documents Parts 1 through 6, the order of precedence is governed by Contract Documents, Part 2 – DB Section 100, DB Section 102-1.

1.2.2 Technical Proposal

The Technical Proposal must be submitted as specified in Appendix A to this ITP, which is entitled “Technical Proposal Instructions.”

1.2.3 Lump Sum Price Proposal

The lump sum Price Proposal must be submitted as specified in Appendix B – Lump Sum Price Proposal Instructions to this ITP.

1.2.4 Inclusion in Contract

The Technical Proposal and the lump sum Price Proposal submitted by the successful Proposer will be included with and bound into the Contract as Part 6 – Design-Builder’s Proposal at execution.

1.2.5 Required Forms

Failure to provide all the information and all completed forms (*see* Appendix C – Proposal Forms to this ITP) in the format specified in Appendix A – Technical Proposal Instructions and Appendix B – Lump Sum Price Proposal Instructions of this ITP may result in the LA DOTD’s rejection of the Proposal or giving it a lower rating. All blank spaces in the Proposal forms must be filled in as noted and no change will be made in the phraseology of the Scope of Services Package or in the items mentioned therein.

1.2.6 Language in Proposal

The verbiage used in each Proposal will be interpreted and evaluated based on the level of commitment provided by the Proposer. Tentative commitments will be given no consideration. For example, phrases such as “we may” or “we are considering” will be given no consideration in the evaluation process since they do not indicate a firm commitment.

1.2.7 Property of the Louisiana Department of Transportation and Development

All documents submitted by the Proposer in response to this Scope of Services Package will become the property of the LA DOTD, except for any documents that have been properly identified as containing confidential proprietary or trade secret information in accordance with Section 2.5. Documents will not be returned to the Proposer.

1.2.8 Errors

If any mistake, error, or ambiguity is identified by the Proposer at any time during the Proposal process in any of the documents supplied by the LA DOTD, the Proposer shall notify the LA DOTD of the alleged mistake error, or ambiguity and the recommended correction in writing in accordance with Section 2.2. Failure to do so will be deemed a waiver of any claim for additional compensation associated therewith.

1.3 ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
ATCs	Alternative Technical Concepts
DB	Design-Build
ITP	Instructions to Proposers
JV	Joint Venture
LA DOTD	Louisiana Department of Transportation and Development
LLC	Limited Liability Company
LOI	Letter of Interest
NOI	Notice of Intent
NTP	Notice to Proceed
RFQ	Request for Qualifications
SOQ	Statement of Qualifications
US	United States

1.4 DEFINITIONS

“Addenda/Addendum” means supplemental additions, deletions, and modifications to the provisions of the Scope of Services Package after the release date of the Scope of Services Package.

“Advertisement” means the public announcement in the form of the Notice of Intent (NOI) inviting qualified Proposers to obtain a Request for Qualifications (RFQ) and submit a Statement of Qualifications (SOQ). The Advertisement included 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 deemed advisable to include therein. The Advertisement for this Project was published on January 13, 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.
- 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 Proposals during the evaluation process.

The purpose of Clarifications is to address ambiguities, omissions, errors or mistakes, and clerical revisions in Proposals

“Deficiency” means a material failure of a Proposal to meet the LA DOTD’s requirements or a combination of significant Weaknesses in a Proposal that increases the risk of unsuccessful Contract performance to an unacceptable level.

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

“Instructions to Proposers” means those documents included in the Scope of Services Package containing directions for the preparation and submittal of information by the Proposers in response to the Scope of Services Package.

“Louisiana Department of Transportation and Development” means the LA DOTD or its representatives.

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

“Price Reasonableness” means a price, in its nature and amount, that does not exceed that which would be incurred by a prudent person in the conduct of competitive business. What is reasonable depends upon a variety of consideration and circumstances, including the following:

- A) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the Proposer’s business or the Contract performance;
- B) Generally accepted sound business practices and federal and state laws and regulations;
- C) The Proposer’s responsibilities to the LA DOTD, other customers, the owners of the business, its employees, and the public at large;
- D) Any significant deviations from the Proposer’s established practices;
- E) Comparisons of price information to the engineer’s estimate and to the LA DOTD’s historic costs for similar Work; and
- F) Comparisons of price information submitted by other Proposers.

“Principal Participant” means any of the following entities: A) The Proposer; B) If the Proposer is a JV, partnership, or LLC any joint venturer, partner, or member 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 product to be provided by the Design-Builder in accordance with the Contract Documents.

“Proposal” means the offer (in response to the Scope of Services Package) 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 an entity submitting a Proposal for the Project in response to this Scope of Services Package.

“Request for Qualifications” – The LA DOTD’s Request for Qualifications (RFQ) issued on May 11, 2009, as amended.

“Scope of Services Package” – The document identifying the Project and its Work to be performed and Materials to be furnished in response to which a Proposal may be submitted by a Proposer. The Scope of Services Package includes the ITP, Contract Documents, and Reference Documents. The Scope of Services Package is issued only to Proposers that are on the Short-List.

“Specialty Subcontractor” means those consultants or subconsultants identifies 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, FHWA, local city and Parish governments, permitting agencies, utility companies, etc. and the associated staff members of these entities.

“Statement of Qualifications” means the submission made by a Proposer in response to the RFQ, including all clarifications thereto submitted in response to requests by the LA DOTD.

“Weakness” means a flaw in the Proposal that is determined by the LA DOTD to increase the risk of unsuccessful Contract performance. A significant Weakness in the Proposal is a flaw that is determined by the LA DOTD to appreciably increases the risk of unsuccessful Contract performance.

For definitions of other initially capitalized terms, *see* Contract Documents, Part 2 – DB Section 100, DB Section 101-3.

1.5 IMPROPER CONDUCT

1.5.1 Prohibited Activities

If the Proposer, or Person(s) representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to the LA DOTD, including its agents or Person(s) representing the LA DOTD at any time during this procurement process, the LA DOTD will immediately disqualify the Proposer; the Proposer shall forfeit its Proposal Security; the Proposer shall not be entitled to any payment; and the LA DOTD may sue the Proposer for damages.

1.5.2 Non-Collusion Form

The Proposer shall provide the Non-Collusion Form (Appendix C – Proposal Forms to this ITP). *See also* Appendix A – Technical Proposal Instructions to this ITP.

1.6 LANGUAGE REQUIREMENTS

All correspondence regarding the Scope of Services Package, Proposal, Alternative Technical Concepts (ATCs) and the Contract must be in the English language. If any original documents required for the Proposal are in any other language, the Proposer shall provide an English translation, which will take precedence in the event of conflict with the original language.

1.7 PROPOSAL SCHEDULE

1.7.1 Anticipated Schedule

The following schedule is anticipated. The Louisiana Department of Transportation and Development reserves the right to alter these dates.

Schedule Event	Date
Dates for one-on-one meetings re ATCs and Technical Issues, if held (<i>see</i> Section 4.2)	September 14-18, 2009
Final date for receipt of Proposers' ATCs	September 30, 2009
Final date for receipt of Proposer questions	September 30, 2009
Issue date for final Addendum and/or answers to Proposer questions and ATCs	October 9, 2009
Proposal due date	October 30, 2009
Proposer Presentations	November 2-6, 2009
Public Opening of Price Proposals	December 7, 2009
Award	January 5, 2010
Contract executed	January 22, 2010
Notice to Proceed	January 25, 2010

1.7.2 Proposal Due Date

The completed Proposal shall be delivered to the addressee at the address specified below, no later than 2:00 p.m. (Central Time), on October 30, 2009, specified in Section 1.7.1:

By Courier:
Louisiana Department of Transportation and Development
Attention: Mr. Ryan Reviere, P.E., Project Manager
Fifth Floor, Room 505A

By Mail:
1201 Capitol Access Road
Baton Rouge, LA 70802-4438
or

P.O. Box 94245
Baton Rouge, LA 70802-4438

1.8 INSURANCE

Refer to Contract Documents, Part 2 – DB Section 100, DB Section 107-2.2 for insurance requirements. Insurance certificates must be submitted with the Contract that has been signed by the Proposer, as a condition to execution by the LA DOTD.

1.9 CHANGES TO THE PROPOSER’S ORGANIZATION

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, a subcontractor responsible for performing more than 15% of the design, a subcontractor responsible for performing more than 20% of the construction, or Specialty Subcontractors will be particularly scrutinized.

If a request is made to add to the organization, other than the addition of subcontractors, the Proposer shall submit with its request that information specified for a Principal Participant or Designer in the RFQ, including legal and financial data as well as the information for quality evaluation. If a Principal Participant or Designer is being deleted, the Proposer shall submit such information as may be required by the LA DOTD to demonstrate that the changed team meets the RFQ criteria (pass/fail and technical). The LA DOTD specifically reserves the right to accept or reject the requested change. A rejection of the requested change by the LA DOTD may result in the disqualification of the Proposer.

If the Proposer wishes to change any of the key personnel presented by the Proposer in its SOQ, the Proposer must submit a request to change its organization in writing not later than 30 working days prior to the Proposal due date identified in Section 1.7.1. If a request is made to change a key personnel, the Proposer shall submit with its request that information specified for that key personnel in the RFQ, including a resume. The LA DOTD specifically reserves the right to accept or reject the requested change. A rejection of the requested change by the LA DOTD may result in the disqualification of the Proposer.

1.10 INELIGIBLE FIRMS

The Proposers’ attention is directed to 23 CFR Part 636 Subpart A and in particular to Subsection 636.116 regarding organizational conflicts of interest. 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 Scope of Services Package, including THE LPA GROUP INCORPORATED and NOSSAMAN, LLP, participate as a Proposer or a member of a Proposer in response to that RFQ/Scope of Services Package. 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 Scope of Services Package and did not include assistance in the development of the ITP or evaluation criteria at either the RFQ or Scope of Services Package 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 Scope of Services Package.

The Proposer shall include a full disclosure of all potential organizational conflicts of interest in their 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 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 due to any state or federal action is ineligible to participate with any Proposer. A Proposer must not submit a Proposal, nor will a Proposal be considered, if the Proposer or any Principal Participant or Designer 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 Proposal; opening of the Price Proposal; or award. If a Subcontractor identified in a Proposer's Proposal is placed 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 the submission of the Proposal; opening of the Price Proposal; or award, the LA DOTD specifically reserves the right to require the affected Proposer to replace the disqualified or debarred Subcontractor prior to that Proposer's Proposal being considered or eligible for award under this procurement.

1.11 SCOPE OF WORK

Refer to Contract Documents, Part 1 – Agreement, Appendix A – Project Scope for a description of the Project's scope.

1.12 DBE REQUIREMENTS

The LA DOTD has determined that Disadvantaged Business Enterprises (“DBE”) requirements apply to design and construction of the Project, and has adopted a DBE Program to provide DBEs opportunities to participate in the business activities of the LA DOTD as service providers, vendors, contractors, subcontractors, advisors, and consultants. The LA DOTD has adopted the definition of DBEs set forth in 49 CFR § 26.5. The Proposer's DBE compliance obligations shall be governed by all applicable federal DBE regulations, including Title 49 CFR Part 26, as well as applicable requirements set forth in the Contract Documents, and the LA DOTD's DBE Program document.

The LA DOTD's DBE requirements applicable to the Contract are set forth in Contract Documents, Part 2 - DB Section 100, DB Section 114, the Required Contract Provisions for DBE Participation in Federal-Aid Design-Build Contracts included in Part 2 – DB Section 100, Appendix 114 - Federal Requirements and LA DOTD's DBE Program adopted pursuant to Title 49 CFR Part 26. The DBE participation goal for the Project is 8% for the Work performed under the Contract. As set forth in Section A2.2(I) of Appendix A – Technical Proposal Instructions, each Proposer shall submit a certification concerning DBE requirements (Form DBEC, *see* Appendix C – Proposal Forms to this ITP) with its Proposal. Failure to provide the required DBE Certification shall be considered a breach of the Proposal requirements and shall render a Proposal non-responsive.

The selected Proposer will also be required to provide DBE commitments in the form required by the LA DOTD as DBE subcontractors are identified, in accordance with the Required Contract Provisions for DBE Participation in Federal-Aid Design-Build Contracts included in Part 2, DB Section 100, Appendix 114 - Federal Requirements and the LA DOTD's DBE Program.

1.13 ENVIRONMENTAL STATUS

A Finding of No Significant Impact (“FONSI”) for the Project was approved on March 20, 2001. The FONSI re-evaluation was approved on April 3, 2009. All proposed work is to be conducted within the existing ROW limits.

2.0 PROCUREMENT PROCESS

2.1 METHOD OF PROCUREMENT

The Contract will be procured through a single DB Contract per Louisiana Revised Statutes 48:250.2 through 48:250.4. The intent of the LA DOTD is to award the Contract to the qualified Proposer with the lowest adjusted score, as per Louisiana Revised Statutes Section 48:250.3(H).

This procurement process has included the following two steps:

- A) Request for Qualifications/Statement of Qualifications (determination of the Short-List); and
- B) Scope of Services Package/Proposals (selection of the Design-Builder from Proposers on Short-List that submit Proposals).

The Design-Builder will be selected based on both pass/fail evaluation factors and technical evaluation factors that, when combined with time value and price, result in the lowest adjusted score.

2.2 RECEIPT OF THE SCOPE OF SERVICES PACKAGE DOCUMENTS AND OTHER INFORMATION

The Scope of Services Package and other information may be obtained by Proposers that have been notified of their inclusion on the Short-List from the person designated as the LA DOTD point of contact in Section 2.2.1. The LA DOTD will provide the Scope of Services Package on one set of Compact Disc – Read Only Memory (CD-ROM).

2.2.1 Louisiana Department of Transportation and Development Designated Point of Contact

The LA DOTD will only consider questions regarding the Scope of Services Package if submitted in writing by a Proposer on the Short-List. All such requests must be submitted in the Microsoft Word format shown on Form Q (*see* Appendix C – Proposal Forms to this ITP) to Mr. Ryan Reviere, P.E., Project Manager, at ryan.reviere@la.gov.

All questions must be received by the LA DOTD at the E-mail address specified in this Section 2.2.1 no later than the date specified in Section 1.7.1. All requests must be submitted in the Microsoft Word format of Form Q (*see* Appendix C – Proposal Forms to this ITP). Only written requests to the above addressee will be considered. No requests for additional information or clarification to any other LA DOTD office, consultant, or employee will be considered. All responses will be in writing and will be delivered without attribution to all Proposers.

In general, the LA DOTD will not consider any correspondence delivered in any other way except as specified above, except the LA DOTD may convene informational and/or one-on-one meetings with Proposers, as it deems necessary.

2.2.2 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 will apply during Contract procurement for the Project, and commenced on the date of the Advertisement. 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:

- A) A Proposer or any of its team members must not communicate with another Proposer or its team members with regard to the Project, this Scope of Services Package or either Proposer's Proposal, except that Subcontractors that are shared between two or more Proposers may communicate with their respective Proposer team members so long as those Proposers establish a protocol to ensure that the Subcontractor will not act as a conduit of information between Proposers. Contact among Proposer organizations is allowed during LA DOTD sponsored informational meetings and workshops;
- B) The Proposers shall correspond with the LA DOTD regarding this Scope of Services Package only through the LA DOTD's and Proposer's designated representatives;
- C) The Proposers shall not contact any LA DOTD employees, including, department heads; members of the evaluation teams, Primary DB Evaluation Committee, or Technical Review Committee; and any official who will participate in the decision to Award the Contract regarding the Project except through the process identified above. Contact between Proposer organizations and LA DOTD employees is allowed during LA DOTD sponsored one-on-one meetings;
- D) Any communications determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification, at the sole discretion of the LA DOTD;
- E) Any official information regarding the Project will be disseminated from the LA DOTD's designated representative identified in Section 2.2.1 on LA DOTD letterhead. Any official correspondence will be in writing and signed by the LA DOTD's designated representative;
- F) The LA DOTD will not be responsible for any verbal exchange or any other information or exchange that occurs outside the official process specified herein; and
- G) The Proposers shall not contact Stakeholder staff regarding the Project

2.3 ADDENDA AND RESPONSES TO QUESTIONS

2.3.1 Addenda

LA DOTD reserves the right to issue Addenda at any time during the period of the procurement. The LA DOTD is responsible for providing Addenda only to the Proposers on the Short-List. Persons or firms that obtain the Scope of Services Package from sources other than the LA DOTD bear the sole responsibility for obtaining any Addenda issued by the LA DOTD for the Project.

2.3.2 Correspondence and Information

The Proposer shall note that no correspondence or information from the LA DOTD or anyone representing the LA DOTD regarding the Scope of Services Package or the Proposal process in general will have any effect unless it is in compliance with Section 2.2.2.

2.3.3 Responses to Questions

Each Proposer is responsible for reviewing the Scope of Services Package prior to the dates specified for submission of questions in Section 1.7.1 and for requesting interpretation of any discrepancy, deficiency, ambiguity, error, or omission contained therein, or of any provision that the Proposer otherwise fails to understand. Any such question must be submitted in accordance with Section 2.2.1. The LA DOTD will provide written responses to questions received from Proposers as specified in Section 2.2.1. Summaries of the questions and responses will be sent to all Proposers without attribution. The responses will not be considered part of the Contract but may be relevant in interpreting the Contract.

2.3.4 Date for Issuance of Final Addendum and Responses to Questions

The LA DOTD does not anticipate issuing any Addenda and/or responses to questions later than the date specified in Section 1.7.1

2.4 COMPLIANT PROPOSAL

Proposer shall submit a Proposal, consisting of a Technical Proposal as well as a Price Proposal, that provides all the information required by the ITP. The Proposer's Proposal may be rejected if the Proposal, or any portion thereof, does not fully comply with the instructions and rules contained in the ITP, including the appendices.

Each Proposal, consisting of a Technical Proposal as well as a Price Proposal, must be submitted in the official format which is specified by the LA DOTD. The Proposer shall sign each copy of the Proposal submitted to the LA DOTD.

Proposals may be considered non-responsive and may be rejected for any of the following reasons:

- A) If the Proposal is submitted in a format other than that furnished or specified by the LADOTD; if it is not properly signed; if the Form of Proposal (*see* Appendix C – Proposal Forms to this ITP) is altered except as contemplated herein; or if any part of the required format is deleted from the Proposal package;
- B) If the Proposal or any portion thereof is illegible or contains any omission, erasures, alterations, or items not called for in the Scope of Services Package or contains unauthorized additions, conditional or alternate Proposals, or other irregularities of any kind, and if the LA DOTD determines that such irregularities make the Proposal incomplete, indefinite, or ambiguous as to its meaning;
- C) If the Proposer adds any provisions reserving the right to accept or reject an Award or to enter into a Contract following award;
- D) If the Proposer attempts to limit or modify the required form of any required surety bond, if the Proposal Security (*see* Appendix C – Proposal Forms to this ITP) is not provided, and/or if requested information deemed material by the LA DOTD is not provided; and
- E) If for any other reason the Louisiana Department of Transportation and Development determines the Proposal to be non-responsive.

2.5 NON-PUBLIC PROCESS

The LA DOTD will maintain a process to ensure confidentiality for the duration of this procurement. In accordance with Louisiana Revised Statutes Section 48:255.1, the LA DOTD may require each Proposer

to furnish sufficient information that will indicate the financial and other capacities of the Proposer to perform the proposed Work. This information will be subject to audit and must 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 Sections 44:1 through 37.

Further, if the Proposer submits information in its Proposal 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 Proposal at the time the Proposal 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 Proposal justifying the Proposer's determination that certain records are proprietary or trade secret information for each record so defined;
- C) Submit one copy of the Proposal that has all the proprietary or trade secret information deleted from the Proposal and label such copy of the Proposal "Public Copy"; and
- D) Upon notice from the LA DOTD that a request for release of information has been received, the Proposer shall immediately 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 a Proposal, the Proposer agrees that this indemnification and duty to defend survives as long as the confidential business information is in possession of the State.

Proposers and the LA DOTD agree that any records pertaining to this procurement will remain confidential until Contract execution, unless such records are proprietary or trade secret information. Should the LA DOTD receive a request for the release of information, not already protected, prior to Contract execution, the Proposer, whose information is requested, will defend and hold harmless the LA DOTD as set forth in Section 2.6(D).

2.6 PROPOSAL STIPEND

The LA DOTD will not provide a stipend for this Project.

2.7 SUBMISSION OF PROPOSALS

2.7.1 Submission of a Proposal

The Proposal must be submitted in accordance with this Instructions to Proposers and the following requirements:

- A) The Technical Proposal must be accordingly distinguished in a single sealed container clearly marked as "Technical Proposal – US-90 Interchange DB Project." (*See Appendix A – Technical Proposal Instructions.*) The lump sum Price Proposal, which must include time value, must be accordingly distinguished in a single sealed container and clearly marked as "Lump Sum Price Proposal - US-90 Interchange DB Project" and must

include the Proposer's license number as assigned by the State Licensing Board for Contractors, if any. The Proposal, consisting of the Technical Proposal and lump sum Price Proposal, must be delivered to the designated representative at the address identified in Section 1.7.2;

- B) The State Project Number 424-04-0032 and the fact that this is a Proposal for the US-90 Interchange DB Project must be clearly shown on the cover of the containers. The name and address of the Proposer must be clearly marked on the outside of the containers;
- C) When sent by United States Postal Service (USPS) or private carrier [i.e., FedEx, DHL, or United Parcel Service (UPS)], the sealed containers must be sent in accordance with this ITP to the LA DOTD at the address of and in care of the designated representative specified in Section 2.2.1 and must be received by such designated representative no later than the time specified in Section 1.7.2. In the alternative, a Proposal may be hand-delivered by the Proposer prior to the specified time on the Proposal due date to the designated representative identified in Section 2.2.1; and
- D) Where certified copies are required, the Proposer shall stamp the document or cover with the words "Certified True Copy" and have the stamp oversigned by the Proposer's designated point of contact.

2.7.2 Modifications to a Proposal

A Proposer may modify its Proposal in writing prior to the time and to the person specified in Section 1.7.2 of the ITP on the Proposal due date identified in Section 1.7.1. The modification must conform in all respects to the requirements for submission of a Proposal. Modifications must be clearly delineated as such on the face of the document to prevent confusion with the original Proposal and must specifically state that the modification supercedes the previous Proposal and all previous modifications, if any. If multiple modifications are submitted, they must be sequentially numbered so the LA DOTD can accurately identify the final Proposal. The modification must contain complete Proposal sections, complete pages, or complete forms as described in Appendix A – Technical Proposal Instructions and Appendix B – Lump Sum Price Proposal Instructions of this ITP. Line item changes will not be accepted. Telegraphic, facsimile, or other electronically transmitted modifications will not be considered by the LA DOTD as modifications.

2.7.3 Withdrawal of a Proposal

A Proposer may withdraw its Proposal, consisting of a Technical Proposal as well as a Price Proposal, only by a written and signed request that is received by the LA DOTD prior to the Proposal due date identified in Section 1.7.1 and prior to the time and to the person specified in Section 1.7.2. If a Proposer withdraws any portion of its Proposal, consisting of a Technical Proposal as well as a Price Proposal, then it will be deemed to have withdrawn its Proposal in its entirety.

Following withdrawal of its Proposal, the Proposer may submit a new Proposal, provided that it is received prior to the time designated in Section 1.7.2 on the Proposal due date identified in Section 1.7.1. The Proposer agrees that its Proposal will remain valid for 90 calendar days following the Proposal due date identified in Section 1.7.1. In the event a Proposer withdraws all or any part of its Proposal within 90 calendar days following the Proposal due date identified in Section 1.7.1 without written consent of the LA DOTD, the Proposer shall forfeit its Proposal Security.

2.7.4 Public Opening of Lump Sum Price Proposals

There will be a public opening of the lump sum Price Proposals , at which time the adjusted score for the lump sum Price Proposal will be calculated.

2.7.5 Late Proposals

The LA DOTD will not consider any late Proposals.

2.8 EXAMINATION OF THE SCOPE OF SERVICES PACKAGE AND WORK SITE

The Proposer shall carefully examine the Site of the proposed Work, including Material pits and haul roads, and the complete Scope of Services Package, including Reference Documents, before submitting a Proposal.

The submission of a Proposal will be considered prima facie evidence that the Proposer has made such examination and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract. The Proposer must so certify on the Form of Proposal (*see* Appendix C – Proposal Forms) in order for the Proposal to be valid.

3.0 PROPOSAL REQUIREMENTS

3.1 LICENSING REQUIREMENTS

Proposers shall be licensed as required by applicable federal and state laws, rules, and regulations including, but not limited to, Louisiana Revised Statutes Section 48:250.3(A). Evidence of proper licensing shall be required to be provided prior to Award of the Contract to the apparently successful Proposer.

3.2 CURRENCY

The lump sum Price Proposal must be priced in United States dollars (US\$) currency only.

3.3 PROPOSAL BOND

3.3.1 Requirements

A Proposal Bond (*see* Appendix C – Proposal Forms) must accompany the lump sum Price Proposal that is submitted for the Project.

3.3.2 Return of Proposal Bond

Proposal Bonds will not be returned to the unsuccessful Proposers. All Proposal Bonds will be destroyed after Contract execution.

3.3.3 Surety Requirements

Any Proposal Bond provided in accordance with this Section 3.3 must be issued by a Surety listed on the United States (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 will write a Proposal Security 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 must not write Proposal Bonds

exceeding ten percent of the policyholder's surplus as shown in the A.M. Best's Key Rating Guide. In addition, any Proposal Bond written for the Project must be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

3.3.4 Rights Reserved

Each Proposer understands and agrees, by submitting its Proposal, that the LA DOTD reserves the right to reject any and all Proposals, or part of any Proposal, and that the Proposal may not be withdrawn for a period of 120 calendar days subsequent to the Proposal due date identified in Section 1.7.1 without written consent of the LA DOTD.

Each Proposer further understands and agrees that if it should withdraw any part or all of its Proposal within 120 calendar days after the Proposal due date identified in Section 1.7.1 without the consent of the LA DOTD; should refuse or be unable to enter into the Contract; should refuse or be unable to furnish adequate and acceptable performance and payment bonds; should refuse or be unable to furnish adequate and acceptable insurance, as provided herein; or should refuse or be unable to furnish the information requested in this Scope of Services Package, it must forfeit its Proposal Security.

The Proposer understands that any material alteration of documents specified in this Section 3.3 or any of the material contained on the Proposal Bond (*see* Appendix C – Proposal Forms), other than that requested, will render the Proposal non-responsive and non-compliant.

3.4 SIGNATURES REQUIRED

The Form of Proposal (*see* Appendix C- Proposal Form) and the Price Proposal Cover Sheet (Form PP, Appendix C – Proposal Forms to this ITP) must be signed by all parties or Person(s) constituting the Proposer (i.e., by authorized representatives of all JV or LLC members or general partners, if the Proposer is a JV, LLC, or partnership). If any signatures are provided pursuant to a power of attorney, the original or a certified copy of the power of attorney must be provided, together with evidence of authorization.

3.5 NUMBERS OF DOCUMENTS

3.5.1 Proposal Bond

One original of the Proposal Bond (*see* Appendix C – Proposal Forms) must be provided, with three certified copies.

3.5.2 Technical Proposal

One original and 15 certified copies, and one electronic copy, of the Technical Proposal (*see* Appendix A – Technical Proposal Instructions) must be provided.

3.5.3 Lump Sum Price Proposal

One original and three certified hard copies, and one electronic copy, of each lump sum Price Proposal (*see* Appendix B – Lump Sum Price Proposal Instructions) must be provided.

3.5.4 Cost of Preparing Proposal

The cost of preparing the Proposal and any costs incurred at any time before or during the Proposal process, including costs incurred for any informational or one-on-one meetings, must be borne by the Proposer.

3.5.5 Obligation to Award

The LA DOTD is under no obligation to award the Contract to the Proposer submitting the lowest adjusted score Proposal, to award to the apparent successful Proposer, or to award the Contract at all.

4.0 PRE-PROPOSAL MEETINGS AND SUBMITTALS

The LA DOTD reserves the right to hold either joint informational meetings or individual one-on-one meetings with all Proposers at any time prior to the Proposal due date identified in Section 1.7.1.

4.1 JOINT INFORMATIONAL MEETINGS

The LA DOTD may hold joint informational meetings with all Proposers at any time prior to the Proposal due date identified in Section 1.7.1. If the LA DOTD determines that a joint informational meeting is in the best interest of this procurement, an invitation to the joint informational meeting will be sent to each Proposer on the Short-List identifying the specifics of the time, date, and location; attendees; anticipated agenda; and whether or not attendance at the joint informational meeting is mandatory.

Questions asked by any Proposer at any joint informational meeting where any response is expected will be recorded and the question and response will be provided in writing to all Proposers without attribution.

4.2 ONE-ON-ONE MEETINGS

The LA DOTD may hold one-on-one meetings with individual Proposers at any time prior to the Proposal due date specified in Section 1.7.1. If one-on-one meetings are offered to one or more Proposers on the Short-List, they will be offered to all Proposers on the Short-List.

If the LA DOTD determines that one-on-one meetings are in the best interest of this procurement, an invitation to a one-on-one meeting will be sent to each Proposer on the Short-List identifying the specifics of the time, date, and location; attendees; and whether or not attendance at the joint informational meeting is mandatory.

Any information and documents necessary for the preparation of Proposals that are disclosed by the LA DOTD during the course of a one-on-one meeting will be made available to all Proposers as soon as practicable, provided that the LA DOTD will not disclose such information if doing so would reveal a Proposer's confidential business strategy. All Proposers and the LA DOTD agree that any other communications exchanged during the course of a one-on-one meeting will remain confidential until Contract execution, unless records are exchanged that are proprietary or trade secret information. Should the LA DOTD receive a request for the release of information, not already protected, prior to Contract execution, the Proposer, whose information is requested, will defend and hold harmless the LA DOTD as set forth in Section 2.6(D).

4.3 ALTERNATIVE TECHNICAL CONCEPT SUBMITTALS

4.3.1 Alternative Technical Concepts

Sections 4.3.1 through 4.3.5 set forth a process for pre-Proposal review of ATCs conflicting with the requirements for design and construction of the Project, or otherwise requiring a modification of the Contract Documents. This process is intended to allow Proposers to incorporate innovation and creativity into the Proposals, in turn allowing the LA DOTD to consider Proposer ATCs in making the selection decision, to avoid delays and potential conflicts in the design associated with deferring of reviews of ATCs to the post-award period, and, ultimately, to obtain the best value for the public.

ATCs eligible for consideration hereunder shall be limited to those deviations from the requirements of the as-issued Contract Documents that result in performance and quality of the end product that is equal

to or better than the performance and quality of the end product absent the deviation, as determined by the LA DOTD in its sole discretion. A concept is not eligible for consideration as an ATC if, in the LA DOTD's sole judgment, it is premised upon or would require (a) a reduction in Project scope; performance or reliability; (b) the addition of a separate project to the Contract (such as expansion of the scope of the Project to include additional roadways); (c) an increase in the amount of time required for Final Acceptance; or (d) further environmental evaluation of the Project.

Any ATC that has been pre-approved may be included in the Proposal, subject to the conditions set forth herein.

If a Proposer is unsure whether a concept is consistent with the requirements of the RFP or if that concept would be considered an ATC by the LA DOTD, the LA DOTD recommends that Proposer submit such concept for review as an ATC.

4.3.2 Pre-Proposal Submission of ATCs

A Proposer may submit ATCs for review to the LA DOTD at the address specified in Section 1.7.2, until the applicable last date and time for submittal of ATCs identified in Section 1.7.1. All ATCs shall be submitted in writing, with a cover sheet identifying Proposer and stating "US-90 Interchange DB Project- Confidential ATCs." Proposer shall clearly identify the submittal as a request for review of an ATC under this ITP. If Proposer does not clearly designate its submittal as an ATC, the submission will not be treated as an ATC by the LA DOTD. ATC submittals shall include five copies of a narrative description of the ATC and technical information, including drawings, as described below.

Pre-Proposal ATC submissions shall include:

- (a) a sequential ATC number identifying Proposer and the ATC number (multi-part or multi-option ATCs shall be submitted as separate individual ATCs with unique sequential numbers);
- (b) a description and conceptual drawings of the configuration of the ATC or other appropriate descriptive information if appropriate;
- (c) the locations where, and an explanation of how, the ATC will be used on the Project;
- (d) any changes in roadway requirements, including traffic maintenance, associated with the ATC;
- (e) any changes in the anticipated life of the item(s) comprising the ATC;
- (f) any reduction in the time period necessary to design and construct the Project resulting from implementing the ATC, including, as appropriate, a description of method and commitments;
- (g) references to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations;
- (h) the analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed;
- (i) a preliminary analysis and quantitative discussion of potential impacts on vehicular traffic (both during and after construction), environmental permitting, community impact, safety, and life-cycle Project and infrastructure costs, including impacts on the cost of repair, maintenance and operation;

- (j) a description of other projects where the ATC has been used, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements;
- (k) a description of added risks to the LA DOTD or third parties associated with implementing the ATC;
- (l) an estimate of any additional LA DOTD, Design-Builder and third-party costs associated with implementation of the ATC;
- (m) an estimate of the adjustment to the lump sum Price Proposal should the ATC be approved and implemented; and
- (n) an analysis of how the ATC is equal or better in quality and performance than the requirements of the Contract Documents.

Proposer shall not make any public announcement or disclosure to third parties concerning any ATC until after pre-approval (including conditional pre-approval) has been obtained. Following pre-approval (including conditional pre-approval), if a Proposer wishes to make any such announcement or disclosure, it must first notify the LA DOTD in writing of its intent to take such action, including details as to date and participants, and obtain the LA DOTD's prior written consent, in its sole discretion, to do so.

If the LA DOTD determines, based on a proposed ATC or otherwise, that the RFP contains an error, ambiguity or mistake, the LA DOTD reserves the right to modify the RFP to correct the error, ambiguity or mistake, regardless of any impact on a proposed ATC.

4.3.3 The LA DOTD Review of Pre-Proposal Submission of ATCs

The LA DOTD may request additional information regarding proposed ATCs at any time and will, in each case, return responses to each Proposer regarding its ATC on or before the applicable last date set forth in Section 1.7.1, provided that the LA DOTD has received all required and requested information regarding such ATC.

The LA DOTD will make a preliminary determination on whether to approve an ATC for submission. However, Proposer will be responsible for ensuring that the final submittal complies with the requirements of the RFP. After submission of final ATCs, the LA DOTD will make a final determination on whether to approve; conditionally approve, provided certain conditions are met; or reject an ATC.

Approval of an ATC will constitute a change in the specific requirements of the Contract Documents associated with the approved ATC for that specific Proposer. Each Proposer, by submittal of its Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers, and waives any right to object to the LA DOTD's determinations regarding acceptability of ATCs.

The LA DOTD's rejection of a pre-Proposal submission of an ATC will not entitle Proposer to an extension of the Proposal due date or the date that the ATCs are due; provided, however, that the foregoing shall not limit the LA DOTD's absolute and sole right to modify the Proposal due date or any other date in connection with this procurement.

The LA DOTD anticipates that its comments provided to a Proposer will be sufficient to enable Proposer to make any necessary changes to its ATCs. However, if a Proposer wishes additional clarifications regarding necessary changes, Proposer may provide a written request for clarifications under Section 2.2.1.

4.3.4 Incorporation of ATCs in the Contract Documents

Following award of the Contract, the ATCs that were pre-approved by the LA DOTD and incorporated in the Proposal by the successful Proposer shall be included in the Contract Documents. If the LA DOTD responded to any ATC by stating that it would be acceptable if certain conditions were met, those conditions will become part of the Contract Documents. Notwithstanding anything to the contrary herein, if Design-Builder does not comply with one or more LA DOTD conditions of pre-approval for an ATC or Design-Builder fails to obtain a required third party approval for an ATC, Design-Builder will be required to comply with the original requirements of the RFP without additional cost or extension of time as set forth in the Contract.

4.3.5 Confidentiality

The ATCs and all communications regarding ATCs submitted by the Proposer and all subsequent communications regarding that ATC will be considered confidential in accordance with Section 2.5.

5.0 CONTRACT AWARD AND EXECUTION

5.1 CONTRACT AWARD

Unless all Proposals are rejected or this procurement is cancelled, after evaluation of the pass/fail and technical evaluation factors, the lowest adjusted score will be calculated. The Secretary will solely make the determination of award to the lowest adjusted score.

Within 15 working days after the LA DOTD notifies the selected Proposer that the LA DOTD will award the Contract to the Proposer, the selected Proposer shall deliver to the LA DOTD one original and three certified copies of the following:

- A) Required Payment and Performance Bonds. (Appendix C to this ITP);
- B) Insurance certificates;
- C) Full details of who will sign the Contract, if executed, and evidence as to the authority, power, and capacity of said individuals to bind the Proposer to a Contract; and
- D) Evidence that the Design-Builder (including its Principal Participants, if relevant), Designer, and any Subcontractors performing design and/or construction Work are properly licensed, if not previously provided.

Failure to comply with the above may result in cancellation of the notice of award and forfeiture of the Proposal Bond.

The Contract with the selected Proposer will not be effective until both the Design-Builder and the LA DOTD have signed it.

Refer to Contract Documents Part 1 – Design-Build Agreement for a sample of the Agreement that the selected Proposer will be required to sign. The selected Proposer shall not make any additions to, deletions from, or changes in the required Agreement, but shall submit a letter providing the information necessary to complete the appropriate blanks in the form. After receiving the completed Contract from the LA DOTD, the selected Proposer shall sign the Agreement.

At the time of the return of the executed Contract, the successful Proposer shall furnish a Payment Bond and a Performance Bond. The surety and form of the bonds must be acceptable to the LA DOTD, and may be rejected by the LA DOTD in its sole discretion.

5.2 EXECUTION OF CONTRACT

The successful Proposer will be required to execute four originals of the Contract and to comply in all respects with the statutory provisions relating to the Contract within 15 working days of the date of the delivery of the Contract Documents by the LA DOTD. In case of failure or refusal on the part of the successful Proposer to deliver the duly executed Contract to the LA DOTD within the 15 working day period herein mentioned, the amount of the Proposal Bond may be forfeited and paid to the LA DOTD.

The selected Proposer shall, with its executed Contract, provide the LA DOTD, the Proposer's Federal Internal Revenue Service Employer Identification Number, or, if the Proposer is an individual with no employer identification number, the Proposer's Social Security Number.

If the Contract is not executed by the LA DOTD within 20 working days following receipt from the successful Proposer of the signed Contract and all appropriate and satisfactory documents identified in Section 5.1(A) through (E), the Proposer shall have the right to withdraw the Proposal without penalty.

If the LA DOTD and the successful Proposer fail to execute the Contract within the time periods identified above, award of the Contract may be made to the apparent "next" successful Proposer, or the Work may be re-advertised and completed under a different contract or otherwise, as the LA DOTD may decide.

The Contract will not be effective until it has been fully executed by all of the parties thereto.

6.0 PROPOSAL EVALUATIONS

The Proposals must be submitted in two separate parts as per the ITP, the written Technical Proposal and the lump sum Price Proposal. Other than announcements made at the lump sum Price Proposal public opening, the information contained in the Proposal will not be disclosed to the public or any Proposer until after Contract execution.

The written Technical Proposal will be evaluated on the pass/fail and technical factors identified in the ITP. The Technical Review Committee will determine the pass/fail status and final total technical score of each Proposal before the public opening of the lump sum Price Proposals. The lowest adjusted score will be determined by the following formula:

$$\text{Adjusted Score} = [(\text{Price Proposal}) + (\text{Time Value})] \div \text{Technical Score}$$

For purposes of the above formula:

Price Proposal = the Lump Sum Proposal Price on Form SP of the Proposal

Time Value = \$10,000 x (the number of days from NTP to Final Acceptance on Form SP of the Proposal)

Technical Score = final total technical score determined by LA DOTD in accordance with Section 6.2

The LA DOTD reserves the right to award a Contract, to reject any or all Proposals, or to advertise for new Proposals, if in the judgment of the LA DOTD the best interests of the public will be promoted thereby.

Proposers are encouraged to keep in mind and address the Project goals identified in Section 1.1 in their Proposals.

6.1 EVALUATION FACTORS AND CRITERIA

Legal and Financial evaluation factors and elements will be evaluated on a pass/fail basis.

Management Approach, Key Personnel and Experience, Technical Solutions, and Project Support evaluation factors, subfactors, and elements will be rated on a qualitative basis.

A Proposal must receive a pass on all pass/fail evaluation factors listed in Section 6.1.2 for the Proposal to be further evaluated and rated based on the technical evaluation factors identified in Section 6.1.3.

6.1.1 Proposal Responsiveness

An initial responsiveness review of the Proposal will be performed prior to any evaluation in order to determine that all information requested in this Scope of Services Package is provided and in the format specified in Appendix A – Technical Proposal Instructions. In addition, a responsiveness review of the lump sum Price Proposals will be performed after opening of the lump sum Price Proposals (*see* Section 6.1.4).

6.1.2 Pass/Fail Evaluation Factors

Each Proposal must achieve a rating of pass on any pass/fail evaluation factor listed in Sections 6.1.2.1 through 6.1.2.2 to receive further consideration. Failure to achieve a pass rating on any pass/fail evaluation factor after any clarifications, if utilized, (*see* Section 6.2.3) will result in the Proposal being declared non-responsive and the Proposer being disqualified.

6.1.2.1 Legal

The Legal evaluation factor includes the following elements:

- A) A properly executed Form of Proposal, (Appendix C – Proposal Forms of this ITP);
- B) Evidence of the Designer’s or any Subcontractor’s performing design or surveying license to practice engineering and surveying within the State of Louisiana or a commitment to obtain the license prior to Contract award;
- C) For any Subcontractor performing construction Work, evidence of that Subcontractor’s license to perform such Work within the State of Louisiana or a commitment to obtain the license prior to Contract award;
- D) Completion and submittal of specified forms and documents; and
- E) Compliance with Instructions to Proposers legal requirements.

The specific information to be submitted is identified in Appendix A – Technical Proposal Instructions, Sections A3.2 and A3.3, to this Instruction to Proposers.

6.1.2.2 Financial

Financial evidence must show updated evidence or reaffirmation of the Proposer’s continuing capability to secure performance and payment bonds covering the specific terms of the Contract. (*See* Section A3.4 of Appendix A – Technical Proposal Instructions to this ITP and Contract Documents, Part 2 – DB Section 100, DB Section 103-3 and Appendix 103A, Payment, Performance, and Retainage Bonds Form.)

6.1.3 Technical Evaluation Factors and Subfactors and Their Relative Importance

The following are the technical evaluation factors :

- A) Technical Solutions;
- B) Key Personnel and Experience; and
- C) Management Approach.

The technical evaluation factors listed in Section 6.1.3(A) through (C) are listed in descending order of importance.

6.1.3.1 Technical Solutions

The following are the Technical Solutions technical evaluation subfactors :

- A) Design concepts for US 90 overpass structures crossing LA 85;
- B) Pavement design;
- C) Roadway geometry and drainage;
- D) Maintenance of traffic and traffic control;
- E) Utility coordination;
- F) Added value; and
- G) Miscellaneous Project elements.

The subfactors listed in Section 6.1.3.1(A) and (B) will be of equal importance and will be significantly more important than the other subfactors listed in Section 6.1.3.1(C) through (G). The subfactors listed in Sections 6.1.3.1(C) through (E) will be of equal importance and more important than the subfactors listed in Section 6.1.3.1(F) and (G).

Specific information to be submitted is identified in Section A4.0 of Appendix A – Technical Proposal Instructions to this Instructions to Proposers.

6.1.3.2 Key Personnel and Experience

The Key Personnel and Experience technical evaluation factor will include information on Key Personnel and Resumes.

Specific information to be submitted is identified in Section A5.0 of Appendix A – Technical Proposal Instructions to this Instructions to Proposers.

6.1.3.3 Management Approach

The following are the Management Approach technical evaluation subfactors :

- A) Project Management Plan;
- B) Project Controls; and

C) Organization.

The subfactors listed in this Section 6.1.3.3 are in descending order of importance.

Specific information to be submitted is identified in Section A6.0 of Appendix A – Technical Proposal Instructions to this Instructions to Proposers.

6.1.4 Lump Sum Contract Price

The Proposer shall submit a Lump Sum Contract Price for all services in fulfillment of the requirements and within the constraints of this Scope of Services Package. The lump sum Price Proposal must be submitted in accordance with Appendix B – Lump Sum Price Proposal Instructions to this ITP. The total Lump Sum Proposal Price shall not exceed \$32,000,000. Proposers are advised that any Proposal that includes a total Lump Sum Proposal Price on Form SP that exceeds \$32,000,000 will be deemed non-responsive and will not be eligible for award. The total Lump Sum Contract Price shown in the lump sum Price Proposal will be the Lump Sum Contract Price if the Contract is Awarded.

Specific information to be submitted is identified in Appendix B – Lump Sum Price Proposal Instructions to this ITP. The following elements will be considered in the lump sum Price Proposal evaluations.

- A) Lump Sum Proposal Price;
- B) Consistency of the Proposal Periodic Payment Schedule with the Proposed Baseline Progress Schedule; and
- C) Price Reasonableness (Form SP, Appendix C to this Instructions to Proposers).

Each Proposal must specify the sum for which the Work will be performed according to the Scope of Services Package. The lowest adjusted score will be determined by the LA DOTD by evaluating both pass/fail and technical evaluation factors and combining the final total technical score with the Lump Sum Contract Price using the formula identified in Section 6.0.

The price must be indicated in words. For example, “\$1,234,567.89” indicated in words is “one million two hundred thirty-four thousand five hundred sixty-seven dollars and eighty-nine cents.”

The Proposer’s price must not include any fraction of a cent.

Any Proposal may be deemed nonresponsive which in any manner fails to conform to the conditions of the Scope of Services Package.

The LA DOTD may determine that the lump sum Price Proposal is non-responsive if the LA DOTD determines, in its sole discretion, that any of the following are applicable:

- 1) The lump sum Price Proposal does not provide all information in conformance with the Instructions to Proposers;
- 2) The lump sum Price Proposal contains a Proposal Periodic Payment Schedule that is significantly inconsistent with the Proposed Baseline Progress Schedule;
- 3) The Price Proposal contains unreasonable prices on Form SP (*see* Appendix C – Proposal Forms to this ITP); and/or

- 4) The total Lump Sum Proposal Price on Form SP (*see* Appendix C – Proposal Forms to this ITP) exceeds \$32,000,000.

6.2 EVALUATION GUIDELINES

6.2.1 Technical Solutions, Key Personnel and Experience, and Management Approach

Using the evaluation factors and relative importance of Section 6.1.3, the technical evaluation factors and subfactors and elements thereof will be evaluated in accordance with the guidelines provided in this Section 6.2.1.

The technical evaluation factors, subfactors, and the overall technical Proposal will be rated by consensus of the Technical Review Committee using a qualitative/descriptive (adjectival) method. The following qualitative/descriptive ratings will be used in the rating of each technical evaluation factor and the rating of the overall technical Proposal, which will then be converted into a single final total technical score for the Technical Proposal.

EXCEPTIONAL ~ The Proposer has demonstrated an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the LA DOTD. This rating indicates a consistently outstanding level of quality with very little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no Weaknesses.

GOOD ~ The Proposer has demonstrated an approach that is considered to exceed stated criteria. This rating indicates a generally better than acceptable quality with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE ~ The Proposer has demonstrated an approach that is considered to meet the stated criteria. This rating indicates an acceptable level of quality. The Technical Proposal demonstrates a reasonable probability of success. Weaknesses are minor and can be readily corrected.

UNACCEPTABLE ~ The Proposer has demonstrated an approach that indicates significant Weaknesses/Deficiencies and/or unacceptable quality. The Technical Proposal fails to meet the stated criteria and/or lacks essential information and is conflicting and/or unproductive. There is no reasonable likelihood of success; Weaknesses/Deficiencies are so major and/or extensive that a major revision to the Technical Proposal would be necessary.

In assigning ratings the LA DOTD may assign “+” or “-” (such as, “exceptional -,” “good +,” and “acceptable +”) to the ratings to better differentiate within a rating in order to more clearly differentiate between the Proposers.

6.2.2 Rating/Scoring Conversion Table

After the Technical Review Committee assigns a consensus overall technical rating for each Technical Proposal, a final total technical score will be determined for each Proposal using Table 6-2, Rating/Scoring Conversion Table.

Table 6-2 Rating/Scoring Conversion Table

Overall Technical Proposal Rating	Final Total Technical Score
Exceptional +	1200
Exceptional	1,150

Exceptional -	1,100
Good +	1,050
Good	1,000
Good -	975
Acceptable +	950
Acceptable	850
Acceptable -	700

6.2.3 Clarifications

The Proposer shall provide accurate and complete information to the LA DOTD. If information is not complete, the LA DOTD will either declare the Proposal non-responsive or notify the Proposer that it will not be allowed to participate further in the procurement of this Project until all information requested is provided. Insufficient or omitted information may be brought to the attention of the Proposer by the LA DOTD, in its sole discretion, through a request for Clarifications and/or submittal of corrected, additional, or missing documents. If a response is not provided prior to the deadline for submission of the response, the Proposal may be declared non-responsive.

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

In the event a material error is discovered in the Scope of Services Package during the Proposal evaluation process, the LA DOTD will issue an Addendum to all Proposers that have submitted Proposals requesting revised Proposals based upon the corrected Scope of Services Package.

6.3 ORAL PRESENTATIONS

6.3.1 General

The LA DOTD will require Proposers to make formal oral presentations with regard to their Technical Proposals. The purpose of oral presentations is to afford each Proposer an opportunity to:

- Highlight the most significant aspects of its Technical Proposal.
- Communicate its understanding of the ITP requirements and other documents included in the Scope of Services Package .
- Respond to LA DOTD questions.

The LA DOTD will use the information gained from the oral presentation to assist in its evaluation of the Technical Proposal.

6.3.2 Ground Rules

- A) No more than four speakers may participate in the oral presentation, but other representatives of a Proposer's team may attend.
- B) Oral presentations shall be limited to one hour in length. The LA DOTD will terminate briefings promptly at the end of the hour.
- C) Presenters may use visual aids to state or illustrate key points and supporting information. One complete copy of complete presentation (including all visual aids) used in the oral presentation shall be left with the LA DOTD at the conclusion of the presentation.

- D) Proposers shall not include or make reference to any price information in the oral presentations.
- E) Oral presentations shall not be used to fill in missing or incomplete information that is required in the written Proposals; topics or issues not addressed in the written Proposal shall not be discussed during the oral presentations.
- F) Upon conclusion of the presentation, the presenters will be asked to recess outside the room while the LA DOTD develops clarification questions. After the recess, the presenters will return to answer the questions. This question-and-answer session will be limited to one hour in length.
- G) The LA DOTD may tape record or videotape all or any part of the oral presentations.

6.3.3 Order of Presentations

The LA DOTD will establish the order of the oral presentations by drawing lots. Oral presentations will be scheduled for the dates specified in Section 1.7 (Proposal Schedule); the established date and time will not be negotiable. The LA DOTD will notify each Proposer by letter of the date, time, and place of the oral presentation, no later than 15 Calendar Days before the established date. Failure to appear within the specified block of time will result in a Proposer's forfeiture of the opportunity to make an oral presentation. If the Proposer arrives late within the specified block of time, the Proposer will be allowed to make a presentation, but the block of time will not be extended.

6.4 SELECTION DETERMINATION

The Secretary will award the Contract based on the lowest adjusted score. The limited time frame to complete the Project and the importance of quality in the completed Project require that the maximum possible flexibility be afforded the Design-Builder to plan, design, construct, and control the Project. The LA DOTD's procedures for the evaluation and selection of Proposals are structured to provide a comprehensive evaluation of quality that when combined with price will result in the selection of the appropriate Design-Builder.

The LA DOTD will rate the Proposals for pass/fail and technical capability. In determining the successful Proposer, the LA DOTD will evaluate the technical evaluation factors and subfactors and assign an overall technical rating and score for each Proposer using the guidelines in Sections 6.2.1 and 6.2.2. The LA DOTD will also determine whether the lump sum Price Proposals are responsive.

LA DOTD will not Award the Contract to any Proposer that receives a fail rating on any pass/fail evaluation factor (Section 6.1.1) or receives a quality rating of "unacceptable" for any technical evaluation factor (Section 6.1.2). The LA DOTD will not award the Contract to any Proposer that the LA DOTD determines has submitted a non-responsive Proposal (Price Proposal or Technical Proposal).

Unless all Proposals are rejected or this procurement is cancelled, the Contract will be awarded to the responsive Proposer offering a fully compliant Proposal that, after evaluation of the pass/fail and technical evaluation factors, results in the lowest adjusted score.

6.5 CONFIRMATION OF TECHNICAL SCORE

Within two days after notification by the LA DOTD of the Proposal's technical score, a Proposer may request a meeting with LA DOTD to confirm the final total technical score for the Technical Proposal it submitted. If a technical score confirmation meeting is timely requested, the LA DOTD will notify the Proposer of the time, place and date for the meeting. No information concerning other Proposals,

including another Proposer's technical score, will be discussed or provided to the requesting Proposer at the meeting. All technical score confirmation meetings shall be held prior to the opening of lump sum Price Proposals.

7.0 PROTESTS

This Section 7.0 sets forth the exclusive protest remedies available with respect to the selection determination of the successful Proposer. Each Proposer, by submitting its Proposal, 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 Scope of Services Package 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 Scope of Services Package, 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 a Proposal by a Proposer will be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

7.1 WRITTEN PROTESTS ONLY

All protests must be in writing. Protests must be submitted delivered to Mr. Steven L. Cumbaa (Protest Official) at the following address.

Louisiana Department of Transportation and Development
Attention: Mr. Steven L. Cumbaa Protest Official
Fifth Floor Room 505-B
By Courier:
1201 Capitol Access Road
Baton Rouge, LA 70802-4438

By Mail:
P.O. Box 94245
Baton Rouge, LA 70804-9245

All protests must be submitted within five calendar days from the Public Opening of Price Proposals. Any protest not set forth in writing within the time limits specified in these procedures is null and void and will not be considered.

7.2 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 shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it will be decided on the basis of the written submissions by the Protest Official or his designee.

7.3 PROTEST DECISION

The Protest Official or his designee will issue a written decision regarding any protest within seven calendar days, at which time the LA DOTD will not proceed with the procurement until after the written decision is issued. The decision issued in writing by the Protest Official or his designee is the final decision of LA DOTD. No further right of appeal is granted herein.

8.0 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S RIGHTS AND DISCLAIMERS

8.1 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S 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 Scope of Services Package. The LA DOTD reserves the right, in its sole and absolute discretion, to do any of the following:

- A) Reject any or all Proposals;
- B) Issue a new Scope of Services Package;
- C) Cancel, modify, or withdraw the entire Scope of Services Package;
- D) Issue addenda, supplements, and modifications to this Scope of Services Package;
- E) Modify the Scope of Services Package process (with appropriate notice to Proposers);
- F) Appoint a Technical Review Committee and evaluation teams to review Proposals and seek the assistance of outside technical experts in Proposal evaluation;
- G) Approve or disapprove the use of subcontractors and/or substitutions and/or changes from the SOQs;
- H) Revise and modify, at any time before the Proposal due date identified in Section 1.7.1, the factors it will consider in evaluating Proposals 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 Proposers on the Short-List setting forth the changes to the evaluation factors or methodology. The LA DOTD may extend the Proposal due date identified in Section 1.7.1 if such changes are deemed by the LA DOTD, in its sole discretion, to be material and substantive;
- I) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals;
- J) Disqualify any Proposer that changes its organization (as represented in its SOQ) without LA DOTD written Approval;

- K) Hold the Proposals under consideration for a maximum of 90 calendar days after the Proposal due date specified in Section 1.7.1; and/or
- L) Refuse to issue a Scope of Services Package to a prospective Proposer and to refuse to consider a Proposal, once submitted, or reject a Proposal if such refusal or rejection is based upon, but not limited to, the following:
 - 1) Failure on the part of 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;
 - 2) Default on the part of a Principal Participant or Designer under previous contracts;
 - 3) Unsatisfactory performance of previous work by the Proposer, a Principal Participant, and/or a Designer;
 - 4) Issuance of a notice of debarment or suspension under LA DOTD or federal regulations to the Proposer, a Principal Participant, and/or a Designer;
 - 5) Submittal by the Proposer of more than one Proposal for the same Work under the Proposer's own name or under a different name;
 - 6) 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 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.

This Scope of Services Package 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 Proposal(s) or in anticipation of a Contract. By submitting a Proposal, a Proposer disclaims any right to be paid for such costs.

8.2 THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT'S DISCLAIMER

In issuing this Scope of Services Package and undertaking the procurement process contemplated herein, the LA DOTD specifically disclaims the following:

- A) Any liability or commitment to provide sales tax or other revenues to assist in carrying out any and all phases of the Project; and
- B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement.

In submitting a Proposal in response to this Scope of Services Package, the Proposer is specifically acknowledging these disclaimers.