

# **STATE OF LOUISIANA**

## **I-10: CALCASIEU RIVER BRIDGE PUBLIC-PRIVATE PARTNERSHIP PROJECT**

**CALCASIEU PARISH**

**STATE PROJECT NO. H.003931  
FEDERAL AID PROJECT NO. 0.101212**

## **PUBLIC-PRIVATE PARTNERSHIP PROCUREMENT GUIDELINES**



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## **1.0 Introduction**

The Louisiana Department of Transportation and Development (“LA DOTD”) establishes these Public-Private Partnership Procurement Guidelines (the “Guidelines”) for a Public-Private Partnership (“PPP”), pursuant to its authority under La. R.S. 48:250.4 and La. R.S. 48:2084 *et seq.*, for the I-10: Calcasieu River Bridge Public-Private Partnership Project (the “Project”).

The LA DOTD is dedicated to conducting the PPP procurement in a transparent manner that protects taxpayers, without hindering competition and interest from Private Entities.

These Guidelines take into consideration the following factors identified in La. R.S. 48:2084.13(B), as documented in the Project report transmitted to the House and Senate Transportation, Highways, and Public Works Committees (the “Joint Committee”) on December 16, 2020:

- A) Scope;
- B) Complexity;
- C) Priority of the Project;
- D) Risk sharing;
- E) Added value;
- F) Debt;
- G) Equity investments by the Proposer; and
- H) Increased funding, dedicated revenue source, or other economic benefits that would otherwise be unavailable.

The purpose of these Guidelines is to provide a general overview of the procurement requirements for the Project. Specific procedures to be followed during the procurement, including the submission of Statements of Qualifications (“SOQ”) and Proposals, will be set forth in more detail in the Request for Qualifications (“RFQ”) and Request for Proposals (“RFP”), respectively.

## **1.2 Project**

The Project includes the Development and Operation of a Transportation Facility to replace the existing Interstate-10 (“I-10”) bridge over the Calcasieu River in Lake Charles, Calcasieu Parish, Louisiana.

The Project may also include an option for integrated tolling and back office systems for the LA DOTD’s other tolled and user fee facilities, including, but not limited to, the following:

- A) Cameron Ferry;
- B) High Occupancy Vehicle/managed lanes; and
- C) Tolled highways.

The LA DOTD is currently exploring other opportunities for the operations and maintenance of tolling and back office systems of certain of its facilities, but reserves the right to include any or all of these options under this procurement.

### 1.3 Applicability

These Guidelines apply to the proposed PPP for the Project for the Development and Operation of a Transportation Facility to replace the existing I-10 bridge over the Calcasieu River in Lake Charles, Calcasieu Parish, Louisiana, and, if included, the option for integrated tolling and back office systems.

### 2.0 Definitions

The terms listed in this Section 2.0 are defined as follows, unless the context clearly indicates otherwise.

**Affected Local Jurisdiction:** Any parish or municipality in which all or a portion of the Transportation Facility is located.

**Comprehensive Agreement:** An agreement between the LA DOTD and one or more Private Entities for the Development and/or Operation of all or part of a Transportation Facility or multiple Transportation Facilities.

**Develop or Development:** To plan, design, develop, finance, lease, acquire, install, construct, or expand any portion of a project approved according to the provisions of La. R.S. 48:2084 *et seq.*

**Developer:** The successful Proposer with which the LA DOTD executes either a Comprehensive Agreement or a Pre-Development Agreement (“PDA”).

**Equity Member:** A member of the Proposer team that will contribute equity to the Developer as part of the financing plan for the Project.

**Letter of Interest or LOI:** The response submitted by a Proposer in response to a Notice of Intent (“NOI”).

**Louisiana Department of Transportation and Development or LA DOTD:** The LA DOTD or its representatives.

**Notice of Intent or NOI:** A public announcement inviting prospective Proposers to obtain an RFQ and submit a SOQ.

**Operate or Operation:** To finance, maintain, improve, equip, modify, repair, or operate a Qualifying Transportation Facility.

**Pre-Development Agreement or PDA:** An agreement between the LA DOTD and one or more Private Entities permitting the Private Entity(ies) to begin preliminary activities, including project planning and Development, advance right-of-way acquisition, preliminary design, transportation and revenue studies, and obtain financing. If used, a PDA precedes a Comprehensive Agreement.

**Private Entity:** A corporation, limited partnership, general partnership, Limited Liability Company (“LLC”), Joint Venture (“JV”), business trust, or other business entity.

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**Project:** The I-10: Calcasieu River Bridge Public-Private Partnership Project, extending from the I-10/I-210 west interchange to the Ryan Street exit ramp on the east side of the bridge.

**Proposal:** The offer submitted by a Proposer in response to an RFP.

**Proposer:** A Private Entity, including any division or affiliate of the Private Entity, which has submitted an LOI, SOQ, or Proposal in connection with a procurement of a PPP.

**Public-Private Partnership or PPP:** A contractual relationship between the LA DOTD and one or more Private Entities that requires the Private Entity to Develop and/or Operate all or part of a Transportation Facility or multiple Transportation Facilities.

**Qualifying Transportation Facility:** The portion of the Transportation Facility to be Developed and Operated by the Private Entity under the Comprehensive Agreement.

**Request for Proposals or RFP:** A request for submittal of a Proposal from Private Entities for a PPP.

**Request for Qualifications or RFQ:** A request for submittal of an SOQ.

**Short-List:** The list of Proposers that submitted an SOQ and are selected by the LA DOTD as qualified to submit Proposals in response to the RFP.

**Statement of Qualifications or SOQ:** The information prepared and submitted by a Proposer in response to an RFQ.

**Transportation Facility:** The I-10 bridge over the Calcasieu River in Lake Charles, Calcasieu Parish, Louisiana, together with any buildings, structures, parking areas, appurtenances, and other features necessary to operate such facility or associated with its purposes.

### 3.0 Legislative Approval

In accordance with La. R.S. 48:250.4(A), prior to receiving approval from the Joint Committees of the Louisiana State Legislature, the Secretary of the LA DOTD (the “Secretary”) is required to determine that a PPP is in the best interest of the taxpayers. The Secretary transmitted this determination to the Joint Committees on December 11, 2020, and met with the Joint Committees on December 16, 2020, to obtain approval for the solicitation of and award of a Comprehensive Agreement for the Project.

### 4.0 Communications

Once a Letter of Interest (“LOI”) is submitted in response to the NOI, potential Proposers shall comply with the following prohibitions related to communications about the Project and procurement. Communication includes face-to-face, telephone, facsimile, electronic-mail (“E-mail”), or formal written communications.

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The rules are designed to promote a fair, unbiased, legally defensible procurement process. The LA DOTD is the single source of information regarding the Project and procurement. The specific rules are as follows:

- A) Contact between the Proposers and the LA DOTD must only be through I-10CalcasieuBridgeP3@la.gov. Until issuance of the RFQ, the only communication considered by the LA DOTD will be E-mail submitted in accordance with this Section 4.0(A);
- B) The Proposers shall not contact LA DOTD employees, including, but not limited to, department heads, members of the evaluation and short-list committee, evaluation and selection committees, and/or members of the procurement management team, and any other LA DOTD official regarding the Project, except as stated in Section 4.0(A);
- C) The Proposers shall not contact stakeholder staff or any official regarding the Project or procurement, unless explicitly authorized by the LA DOTD;
- D) Any communication determined to be improper under this Section 4.0, at the sole discretion of the LA DOTD, may result in disqualification;
- E) Any official contact regarding the Project and procurement will be disseminated from the e-mail address identified in Section 4.0(A); 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.

### **5.0 Procurement Process**

The LA DOTD will use a two-step solicitation process for this PPP. The first step commences with the issuance of an RFQ and ends with the identification of a Short-List. The second step commences with the issuance of an RFP to the entities included on the Short-List and ends with the selection of a successful Proposer to enter into a Comprehensive Agreement or PDA, as appropriate, with the LA DOTD.

#### **5.1 Notice of Intent**

Prior to issuing an RFQ, the LA DOTD will issue an NOI, which will include a brief description of the Project, an announcement regarding how to obtain the RFQ, and such other matters as the LA DOTD may deem advisable to include therein.

The LA DOTD will post the NOI on its web site, and may elect to furnish the RFP directly to Private Entities that the LA DOTD believes may be interested in participating in the PPP.

#### **5.2 Request for Qualifications**

The LA DOTD will issue an RFQ as the first step of the two-step procurement process.

### **5.2.1 Content**

The RFQ will include the following information:

- A) A description of the Project;
- B) The evaluation criteria that will be used to determine Proposer qualifications and their relative importance;
- C) The deadline for submission of SOQs;
- D) Procedures for any competitive dialogue between the LA DOTD and Proposers, whether written or verbal;
- E) The number of Proposers that may be identified on the Short-List;
- F) Whether or not a stipend will be provided or a fee required; and
- G) Other information necessary for submission of an SOQ.

At its sole discretion, the LA DOTD may also include in the RFQ conceptual designs, technical or feasibility studies and reports, or other information related to the Transportation Facility.

### **5.2.2 Evaluation and Short-List**

The LA DOTD will evaluate the SOQs based on the evaluation criteria identified in the RFQ. The evaluation committee members will be identified in the RFQ.

Upon completion of SOQ evaluations, the LA DOTD will identify a Short-List of those entities that are considered the most qualified to submit Proposals for the PPP. If only one responsive SOQ is received by the LA DOTD in response to an RFQ, the LA DOTD may elect to cancel the procurement or to proceed with negotiations for a Comprehensive Agreement or PDA, as appropriate.

Upon identification of the Short-List, the LA DOTD will notify Proposers that submitted SOQs of their inclusion on or exclusion from the Short-List.

## **5.3 Request for Proposals**

After identification of the Short-List, the LA DOTD will issue an RFP to the entities included on the Short-List as the second step of the two-step procurement process.

### **5.3.1 Content**

The RFP will contain the following information:

- A) Technical information and documentation related to the Transportation Facility and Project;
- B) The requirements for Proposal submission;
- C) The evaluation factors that will be used to determine the successful Proposer, including the relative importance/weight of each factor. These factors will include, but not necessarily be limited to, the evaluation factors listed in Section 5.3.4;

- D) The reservation of the right to hold oral presentations with Proposers and, if needed, interviews with key personnel;
- E) The proposed terms of the Comprehensive Agreement or PDA, as appropriate;
- F) The deadline for submission of Proposals;
- G) Procedures for any competitive dialogue between the LA DOTD and Proposers, whether written or verbal;
- H) Procedures for an Alternative Technical Concept (“ATC”) process;
- I) The amount and terms of a payment for work product (stipend), if offered;
- J) List of firms with a conflict of interest;
- K) Price and/or financial proposal requirements; and
- L) Other information necessary to submit a Proposal.

In addition, the RFP may require Proposals to address the feasibility of Developing and Operating the Project, conceptual or preliminary design and engineering, and schedule information.

### **5.3.2 Draft Request for Proposals**

At its sole discretion, the LA DOTD may issue a Draft RFP to the Short-List for review and comment prior to release of the final RFP. If a Draft RFP is issued, Proposers on the Short-List will be permitted to provide comments and questions related to the Draft RFP in writing to the LA DOTD. In addition, the LA DOTD may opt to schedule individual meetings with each Proposer on the Short-List to verbally discuss comments and questions related to the Draft RFP.

### **5.3.3 Evaluation Process**

The LA DOTD will evaluate Proposals based on the evaluation factors and in accordance with the procedures set forth in the RFP. The evaluation committee members will be identified in the RFP.

During the evaluation, the LA DOTD may enter into discussions with one or more Proposers in order to request clarifications and/or revisions to the Proposal being evaluated.

### **5.3.4 Basis of Selection**

The basis of selection will be best value, including evaluation of a price/financial proposal and other factors, which may include, but are not limited to, the following:

- A) The proposed price;
- B) General reputation, industry experience, and financial capacity of the Proposer;
- C) Proposed design of the Qualifying Transportation Facility;
- D) Eligibility of the facility for accelerated selection, review, and documentation time lines under the Guidelines;
- E) Local citizen and government concerns;
- F) Benefits to the public;
- G) Compliance with a Disadvantaged Business Enterprise (“DBE”) participation plan or good faith effort to comply with the goals of such a plan;
- H) Plans to employ local contractors and residents; and

- I) Such other factors as the LA DOTD deems appropriate.

Upon completion of the evaluation, the LA DOTD may select a Proposer to enter into the Comprehensive Agreement or PDA, as appropriate, without negotiations; or request one or more Proposers to enter into discussions and, if requested, submit Proposal revisions based on those discussions; or select a Proposer to enter into negotiations for the Comprehensive Agreement or PDA. The LA DOTD may at any time, in its sole discretion, reject all Proposals and re-start the procurement process, reject all Proposals and terminate this procurement, suspend the procurement for a period of time as determined by the LA DOTD, or terminate the procurement and re-procure the Project, whether as a PPP or otherwise. Termination of this procurement prior to award of a Comprehensive Agreement or PDA, as appropriate, shall in no way limit LA DOTD's rights to re-procure the Project.

## **6.0 Negotiations and Approval**

After selection of the Proposer offering the best value, the LA DOTD may enter into negotiations with the selected Proposer, approve the proposed Comprehensive Agreement in accordance with Section 6.2, and execute the Comprehensive Agreement or PDA, as appropriate, with the successful Proposer.

### **6.1 Negotiations**

If the LA DOTD selects a Proposer to enter into negotiations for the Comprehensive Agreement or PDA, as appropriate, the parties will enter into limited negotiations. If the parties are unable to conclude negotiations, negotiations with the selected Proposer will be terminated, and the LA DOTD may then undertake negotiations with the second ranked Proposer. If the LA DOTD and second ranked Proposer are unable to conclude negotiations, the LA DOTD will terminate negotiations with that Proposer and undertake negotiations with other Proposers in the order of their rankings until an agreement is reached or cancel the procurement, at the LA DOTD's sole discretion.

### **6.2 Approval and Execution**

After completion of negotiations and the public hearing discussed in Section 7.1, the LA DOTD will approve the selected Proposal and execute the Comprehensive Agreement or PDA, as appropriate, with the successful Proposer. If the LA DOTD opts to forego negotiations with the successful Proposer, the LA DOTD will approve the Comprehensive Agreement or PDA, as appropriate, with the successful Proposer solely determined on the evaluation of Proposals and after the completion of the public hearing discussed in Section 7.1.

## **7.0 Proposal Comment Period**

Prior to execution of the Comprehensive Agreement or PDA, as appropriate, certain affected jurisdictions and the public will have the opportunity to comment on the successful Proposer's Proposal.

### **7.1 Joint Committees Meeting**

Prior to execution of the Comprehensive Agreement or PDA, as appropriate, the LA DOTD will submit the selected Proposal to the Joint Committees to conduct a public hearing.

### **7.2 Affected Local Jurisdictions**

Prior to execution of the Comprehensive Agreement or PDA, as appropriate, the successful Proposer is required to submit a copy of its Proposal to each Affected Local Jurisdiction for consideration of the PPP's compatibility with local comprehensive transportation plans. The Affected Local Jurisdiction will submit written comments regarding the proposed PPP's compatibility directly to the LA DOTD.

### **7.3 Port Facilities**

In accordance with La. R.S. 48:2084.15, the mutual written agreement of any port authority; port, harbor and terminal district; and/or offshore terminal authority having jurisdiction within the Project's location must be obtained prior to execution of a Comprehensive Agreement or PDA for the Project.

### **8.0 Conflicts of Interest**

It is the intent of the LA DOTD to maximize competition on PPPs while ensuring open and fair competition. To accomplish this, the LA DOTD will include a list of firms identified as having potential conflicts of interest in the RFQ and the RFP, respectively.

#### **8.1 Participation on More than One Proposer Team**

To ensure a fair procurement process, a Proposer and its Equity Members are not permitted to participate, in any capacity, on another Proposer's team during the course of the procurement. Any Proposer or Equity Member of a Proposer team that submitted an SOQ but not identified on the Short-List may participate on another Proposer team identified on the Short-List. Any Proposer or Equity Member of a Proposer team that submitted a Proposal but is not selected as the successful Proposer may participate on the successful Proposer's team after execution of the Comprehensive Agreement or PDA, as appropriate.

Failure to comply with the prohibition on participation by a Proposer or any Equity Member on more than one Proposer's team may render the Proposer ineligible to participate in the procurement.

#### **8.2 Organizational Conflicts of Interest**

A potential organizational conflict of interest may occur where consultants and/or subcontractors that assisted the LA DOTD in the preparation of any procurement documents participate as a Proposer or on a Proposer team. The firms determined to have a potential organizational conflict of interest for this Project will be identified in the RFQ and the RFP, and will not be allowed to participate as a Proposer or a member of a Proposer team.

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The LA DOTD may determine that there is no 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 and did not include assistance in the development of the procurement procedures or evaluation factors for the RFQ or RFP; and
- B) Where all documents and reports that were delivered to LA DOTD by the consultant or subcontractor are made available to all Proposers in the RFQ or RFP.

Any firm with an active contract with the LA DOTD for any work related to the Project will remain ineligible to participate as a Proposer or member of a Proposer team until all Project-related work under the contract has been completed, at the sole discretion of the LA DOTD.

### 8.3 Other Ineligible Firms

In addition, any firm that is prohibited from participating in state or federal projects as a result of an order, decree, or other governmental action shall be ineligible to participate as a Proposer or member of a Proposer team in the procurement of the PPP. A Proposer must not submit an SOQ or a Proposal, nor will an SOQ or a Proposal be considered, if the Proposer or any Equity Member of the Proposer 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; on the date of submission of the Proposal; or on the date of award.

### 9.0 Confidentiality

Until execution of a Comprehensive Agreement or PDA, as appropriate, or a determination that a Comprehensive Agreement or PDA will not be executed, all procurement records will remain confidential. After execution of the Comprehensive Agreement, or a determination that a Comprehensive Agreement or PDA will not be executed, the LA DOTD will make available, upon request, procurement records in accordance with the Public Records Law (La. R.S. 44:1 *et seq.*) and La. R.S. 48:2084.13(D), unless the LA DOTD has entered into a confidentiality agreement pursuant to La. R.S. 48:2084(F) or the procurement records are exempt from release in accordance with La. R.S. 44:3.2. or La. R.S. 48:255.1. (*See also*, Section 9.3.)

### 9.1 Ownership of Documents

Upon receipt by the LA DOTD, all written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other documents submitted during the procurement, including SOQs, Proposals, and/or any portion thereof, shall become property of the State of Louisiana and made subject to applicable provisions the Louisiana Public Records Law.

Neither the LA DOTD nor any of its agents, representatives, consultants, officers, or employers may be held liable to a Proposer or any member of a Proposer's team for the disclosure of information submitted during the course of a procurement.

**9.2 Information Release**

No information regarding the contents of any SOQ or Proposal or evaluation thereof will be released without the prior written authorization of the Secretary, except in accordance with applicable law.

**9.3 Trade Secrets, Confidential, Privileged, and Proprietary Information**

In accordance with La. R.S. 44:3.2, La. R.S. 255.1, and/or La. R.S. 48:2084(F), the LA DOTD is required to take appropriate action to protect trade secrets and other confidential, privileged, and proprietary information received from a Private Entity, including, but not limited to, information exempt from disclosure under the federal Freedom of Information Act or the Louisiana Public Records Law. To this end, the LA DOTD may enter into confidentiality agreements in connection with any SOQ, Proposal, or Comprehensive Agreement or PDA, as appropriate.