

STATE OF LOUISIANA

**LA 3241: I-12 TO BUSH
PUBLIC-PRIVATE PARTNERSHIP
PROJECT**

ST. TAMMANY PARISH

STATE PROJECT NO. H.004985

**PUBLIC-PRIVATE PARTNERSHIP
PROCUREMENT GUIDELINES**



Louisiana Department of Transportation and Development

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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 L.R.S. 48:250.4 and L.R.S. 48:2084 *et seq.*, for the LA 3241: I-12 to Bush 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, as documented in writing in the Project report presented to the House and Senate Transportation, Highways, and Public Works Committees on May 30, 2019:

- 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) The increase in funding, dedicated revenue source, or other economic benefit otherwise 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 in the submission of a Statement 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 ultimate Project is an urban and rural four-lane roadway from I-12 to Bush, Louisiana, with an initial two-lane facility for the full length of the Project required at a minimum. The phasing and timing of the ultimate build-out is dependent upon the timing and availability of funding, including funding that has been or will be applied for under federal discretionary grant programs.

The proposed Project provides an alternative to the existing older, two-lane, rural roadway system. The majority of the Project is on new alignment, with a maximum right-of-way (“ROW”) width of 250 feet; however, the initial section near I-12 would expand an existing two-lane highway, LA 434, to four lanes. Other than the initial section, the facility will be full control-of-access with the exception of two at-grade intersections with major east-west routes which can be grade-separated in the future.

1.3 Applicability

These Guidelines apply to the proposed PPP for the Project for the acquisition, planning, design, development, financing, construction, extension, and expansion of a new high-speed highway between I-12 north of Lacombe and Bush in St. Tammany Parish, Louisiana.

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 acquisition, planning, design, development, financing, construction, reconstruction, extension, expansion, maintenance, or operation of all or part of a transportation facility or multiple transportation facilities.

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 an SOQ.

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 ROW acquisition, preliminary design, transportation and revenue studies, and obtaining financing. If used, a PDA precedes a Comprehensive Agreement.

Project: The LA 3241: I-12 to Bush Public-Private Partnership Project.

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 order to participate in 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 acquire, plan, design, develop, finance,

construct, reconstruct, extend, expand, maintain, or operate all or part of a transportation facility or multiple transportation facilities.

Request for Information/Interest or RFI: A request to determine if there is sufficient interest to develop the Transportation Facility through a PPP and to assess under what conditions the Transportation Facility may be of interest to private entities.

Request for Proposals or RFP: A request for submittal of a proposal from private entities on the Short-List 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: All phases of a new high-speed, four-lane highway between I-12 north of Lacombe and Bush developed by a private entity pursuant to L.R.S. 48:250.4 and L.R.S. 48:2084 *et seq.*

3.0 Legislative Approval

In accordance with L.R.S. 48:250.4(A), prior to receiving approval from the House and Senate Transportation, Highways, and Public Works Committees of the Louisiana State Legislature, the Secretary is required to determine that a PPP is in the best interest of the taxpayers. The Secretary transmitted this determination to the House and Senate Transportation, Highways, and Public Works Committees on May 30, 2019, and met with the committees in order to obtain approval for the solicitation of a PPP for the Project.

4.0 Communications

Once a Letter of Interest (“LOI”) is submitted in response to the Notice of Intent (“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.

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 P3LA3241I-12toBush@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, department heads, members of the evaluation and short-list and/or evaluation and selection

organization, and any 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;
- 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 PPPs. The first step commences with the publishing of the NOI and subsequent 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 Short-List and ends with the selection of the 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 how the RFQ may be obtained, 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 RFQ directly to private entities that the LA DOTD believe may be interested in participating in the PPP.

5.2 Request for Qualifications

The LA DOTD will issue an RFQ as a part of 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 factors 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 to submit an SOQ.

At its sole discretion, the LA DOTD may also include 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 factors 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 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 and their relative importance, including, but not limited to the evaluation factors listed in Section 5.3.4;
- D) The proposed terms of the Comprehensive Agreement or PDA, as appropriate;
- E) The deadline for submission of Proposals;
- F) Procedures for any competitive dialogue between the LA DOTD and Proposers, whether written or verbal;
- G) Procedures for an Alternative Technical Concept (“ATC”) process;
- H) The amount and terms of a payment for work product (stipend), if offered;
- I) List of firms with a conflict of interest;
- J) Price and/or financial proposal requirements; and
- K) Other information necessary to submit a Proposal.

In addition, the RFP may require the submission of additional information relating to a Proposer’s qualifications and experience, the feasibility of developing 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.

During the evaluation, the LA DOTD may enter into discussions with one or more Proposers in order to clarify and, potentially, receive Proposal revisions from those Proposers.

5.3.4 Basis of Selection

The basis of selection will be best value, based on the price/financial proposal and other factors, including but not limited to the following:

- A) 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) Other factors deemed appropriate by the LA DOTD.

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 select Proposer(s) to enter into negotiations for the Comprehensive Agreement or PDA. The LA DOTD may, in its sole discretion, reject all Proposals or re-procure the PPP.

6.0 Negotiations and Approval

After selection of the best value Proposer, the LA DOTD may enter into negotiations with the successful Proposer, and will approve 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 discretion.

6.2 Approval and Execution

After the 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, Affected Local Jurisdictions and the public will have the opportunity to comment on the successful Proposer's Proposal.

7.1 Committee Meeting

Prior to execution of the Comprehensive Agreement or PDA, the LA DOTD will submit the selected Proposal to the House and Senate Transportation, Highways, and Public Works 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 written comments regarding the proposed PPP indicating whether the PPP is compatible with local comprehensive transportation plans.

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 in Section 8.2 and updated in the RFQ and RFP that it determines to have a conflict of interest.

8.1 Participation on More than One Proposer Team

To ensure a fair procurement process, Equity Members of a Proposer team are not permitted to participate, in any capacity, on another Proposer team during the course of the procurement. Any Equity Members of a Proposer team that submitted an SOQ but is not identified on the Short-List may participate on another Proposer team identified on the Short-List. Any Equity Members of a Proposer team that submitted a Proposal but is not the successful Proposer may

participate on the successful Proposer team after execution of the Comprehensive Agreement or PDA, as appropriate.

Failure to comply with this prohibition of Equity Member participation on more than one Proposer 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 preparations of any procurement documents will not be allowed to participate as a Proposer or a member of a Proposer. The following firms are determined to have a potential organizational conflict of interest for this Project:

- A) Nossaman LLP;
- B) APS Design and Testing, LLC;
- C) Ardaman & Associates, Inc.;
- D) Cardno, Inc.;
- E) Evans-Graves Engineers, Inc.;
- F) Fugro USA Land, Inc.;
- G) GOTECH, Inc.;
- H) Hartman Engineering, Inc.;
- I) Shread-Kuyrkendall & Associates, Inc.;
- J) T. Baker Smith, LLC;
- K) Vectura Consulting Services, LLC; and
- L) Volkert, Inc.

The LA DOTD may determine that there is not an organizational conflict of interest for a consultant or subcontractor under the following circumstances:

- 1) 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 at either the RFQ or RFP phase; and
- 2) 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 RFP.

Any firm with an active contract with the LA DOTD for any work related to the Project is ineligible until the contract work is completed, at the sole discretion of the LA DOTD.

8.3 Other Ineligible Firms

In addition, any firm that is rendered ineligible through any state or federal action is ineligible to participate with any Proposer. A Proposer must not submit an SOQ or Proposal, nor will an SOQ or 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; submission of the Proposal; or award.

9.0 Confidentiality

Until execution of a Comprehensive Agreement or a determination that a Comprehensive Agreement will not be executed, the procurement records will remain confidential. After execution of the Comprehensive Agreement or a determination that a Comprehensive Agreement will not be executed, the LA DOTD will make available, upon request, procurement records in accordance with the Public Records Law (L.R.S. 44:32 *et seq.*), unless the LA DOTD has entered into a confidentiality agreement pursuant to L.R.S. 48:2084(F). (*See also*, Section 9.3.)

9.1 Ownership of Documents

All written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to the LA DOTD during the procurement, including any part of SOQs or Proposals, are upon their receipt by the LA DOTD the property of the State of Louisiana, may not be returned to the submitting parties, and are subject to the Public Records Law.

The LA DOTD and its agents, representatives, consultants, officers, or employers will not be liable to a Proposer or one of its team members for the disclosure of all or a portion of a document or information submitted during the course of a procurement.

9.2 Information Release

No information regarding the contents of a Proposer's 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 L.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 Public Records Law. To this end, the LA DOTD may enter into confidentiality agreements in connection with any Proposal or Comprehensive Agreement.