

Ohio Department of Transportation

Prebid Questions

Project No. 103000

Sale Date - 8/5/2010

Question Submitted: 2/10/2010

Question Number: 1

Form C-1 in the Selection Criteria document has a block for the DBT and a block for DB Contractor.1. If the DBT is a joint venture should the block for the DBT contain the primary contact information?2. If the DBT is a joint venture should we add blocks for each one of the DB contractor members of the joint venture?3. There is no block for the IQF. Do we need to add a block for the IQF and provide their contact information?

A 1. Yes. A 2. Yes additional blocks can be added, but the overall maximum number of pages will still be as per the Selection Criteria. A 3. An additional block can be added, or, the information can be added to Form C-2.

Question Submitted: 2/10/2010

Question Number: 2

For the Request For Qualifications for project #103000 Cleveland Innerbelt Bridge CUYAHOGA-90-14.90 WB:In the Design Build Selection Criteria (Revised 2/1/10) on Page SC-5 of SC-34 in section 2.3 Statement of Qualifications (SOQ) Format it states that "Font shall to at least 12 point in Times New Roman...Graphics are allowed, provided they conform to the other format requirements listed." My question is if in the SOQ a DBT wants to include an organizational chart, a project schedule, and/or a schematic or drawings or illustration if there is any text on these types of documents must they be at least 12 point and Times New Roman font? It could be difficult to conform to that requirement on these types of graphics.

Please adhere to the requirements in the Selection Criteria.

Question Submitted: 2/16/2010

Question Number: 3

Please clarify further the requirements for PQC Testing and Inspection by the DBT.Will the PQC testing personnel be present for all site activities requiring testing (examples: compaction testing of embankment, subgrade, aggregate base and backfill; testing of concrete for pavements, structures and incidental items; welding and bolting of structural steel)? Is PQC testing at the project site expected to be a continuous or periodic activity for these and other items? Can you provide a detailed list of testing requirements, frequencies and responsibilities for both the PQC staff and the IQF?

A 1. The frequency of testing, required testing and documentation is to be part of the approved Quality Management Plan (QMP), which will be based on the type of construction required by the approved design. Applicable ODOT standards and manual of procedure requirements are considered to be minimum requirements. A 2. See response to question 1. A 3. No, the frequency of testing, required testing, documentation and responsibilities is a function of the approved design and as stated in the approved QMP.

Question Submitted: 2/18/2010

Question Number: 4

In section 2.3 of the Design Build Selection Criteria page SC-5 it states "If dividers are used and contain project information, they will be counted towards the maximum number of pages." If the tabs contain a photo of the proposed project site, will the tabs be counted as pages?

Yes.

Question Submitted: 2/18/2010

Question Number: 5

Please clarify what information is to be provided on Form C1. The top section asks for DBT while the following sections ask for DB Contractor and DB Designer. Since the DB Contractor and Designer are on the DBT, who should be listed in the section for DBT? If submitting as a Joint Venture, should all contractors be listed under DB Contractor?

See Department response to question submitted on 2/10/2010 at 7:32:31 AM.

Question Submitted: 2/18/2010

Question Number: 6

What level of subconsultant information should be provided on Form C2? Are the IQF and 3rd Tier Sub-Consultants to be included?

The information provided is at the discretion of the DBT. The information provided in the SOQ submittal will be used by the Department in the evaluation and short-listing process.

Question Submitted: 2/18/2010

Question Number: 7

Form D1 states to list projects completed by the DB Contractor and DB Designer. Some of the most representative examples may be on-going projects. In order to best highlight our capabilities, will the Department allow current, on-going projects to be used on this form, provided that the contractor or designer has performed a significant amount of work that allows the Owner's representative to provide an accurate reference?

The projects should be substantially complete.

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Question Submitted: 2/18/2010

Question Number: 8

Will the compaction testing for MSE wall backfill described in SS 840 and SS 878 be performed by the DBT or the IQF?

The DBT is responsible for QC, the IQF is responsible for QV, based on the approved QMP.

Question Submitted: 2/19/2010

Question Number: 9

With the large volume of prebid questions anticipated on this project, we request that the Department establish a more effective tracking and response method. There are four answers provided in Addendum #1 (A(I) thru A(IV)) that are very confusing because the corresponding question was not published. Can the Department number the questions posted on the website sequentially as they are received and also provide the questions along with the answers in the addendums?

Question Submitted: 2/23/2010

Question Number: 10

Regarding the question of page count for the cover letter and table of contents submitted on 2/4/10 6:50:27 PM: The Department answered that these items will be counted towards the official page count. The Selection Criteria has specific requirements of what must be included in Part A, Approach and also limits this section to 2 pages. Therefore, there will not be enough room to include the cover letter and table of contents in the count for Part A. Please confirm that these items will instead be counted towards the 10 pages allowed for Supplemental Information.

Question Submitted: 2/25/2010

Question Number: 11

Two days ago we requested clarification that the SOQ cover letter and table of contents could be counted towards the 10 pages of Supplemental Information rather than Part A, Introduction since the limitations on page SC-5 do not allow enough room in Part A to include these. In order to meet printing deadlines, we need this question answered. Provided that they meet the formatting requirements of the RFQ, and that the total document does not exceed 50 pages, can the cover letter and table of contents be counted towards the Supplemental Information?

Per the Selection Criteria, Part A of the SOQ is titled "Introduction" and has a 2 page maximum. Part B is titled "Project Understanding and Approach" and has a 38 page maximum. As noted in Part E "Supplemental Information", the DBT has total discretion as to the content of this section.

Question Submitted: 2/3/2010

Question Number: 12

1. The notice states that the proposal is available on ODOT's website. We can not find it under the links provided, please post it. 2. There are multiple versions of the Project Scope, Selection Criteria, and Document Inventories posted on the ftp site provided in the notice. Please clarify which documents the DBT's should use.

A 1: The Office of Contracts (Tina Collins) is working on the proposal link. A 2: Tina Collins deleted the older versions of these documents this morning. Use the documents on the FTP site now.

Question Submitted: 2/4/2010

Question Number: 13

Where can we find the modified supplemental specifications listed in Section 1.17 of the Project Scope?

Section 1.18 of the Project Scope discusses supplemental specifications, not section 1.17. The lead-in paragraph states that, "Supplemental Specifications modified specifically for this contract have been included in Appendices." Specifically, modified SS832 is in Appendix EC-03. Modified SS898 is in Appendix ST-01.

Question Submitted: 2/4/2010

Question Number: 14

The ABCD/ASHE presentation addressed project specific programmatic selections in April for construction inspection and material inspection, but these are not listed in the Future Programmatic document released 2/2/10. Will there definitely be programmatic selections for these services? If so, will the selections be used to provide for Department Quality Assurance Inspection or Department Quality Assurance Testing as described in the Project Scope? If a consultant is named in an SOQ as a supporting member of an IQF or as a DBT Process Quality Control staff member does that exclude him from selection through the programmatic process?

A 1. Yes. Please see ODOT Consultant Services Announcement dated 2-15-2010. <http://www.dot.state.oh.us/Divisions/ProdMgt/Consultant/Pages/default.aspx> A 2. Yes A 3. It depends on the consultant contract. Please see ODOT Consultant Services Announcement dated 2-15-2010. <http://www.dot.state.oh.us/Divisions/ProdMgt/Consultant/Pages/default.aspx>

Question Submitted: 2/4/2010

Question Number: 15

In the Statement of Qualifications submittal, please clarify that a cover letter and table of contents will not be counted towards the official page count.

Project Cover sheet as described in the "Pre-Bid Questions, Project Communications and Project Submissions" Proposal Note does not count toward the official page count. A cover letter and table of contents would count toward the official page count.

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Question Submitted: 2/4/2010

Question Number: 16

In the Statement of Qualifications submittal, please clarify that Standard Forms C1, C2, and D1 will not be counted towards the official page count.

Per Section 2.3 of the Selection Criteria, Forms C1, C2, and D1 are included in the official page count.

Question Submitted: 2/4/2010

Question Number: 17

In the Statement of Qualifications submittal, please clarify if the Department will allow resumes of key staff to be included as a separate appendix which does not count towards the 50 page maximum total.

Per Section 2.3 of the Selection Criteria, resumes of key staff are included in the official page count.

Question Submitted: 2/4/2010

Question Number: 18

Please clarify if the Statement of Qualification submittals will be kept confidential and not part of public record during the entire bidding process of this project.

It is the Department's intent to keep the SOQ submittals confidential until after award of the project. The Department will announce the names all short-listed and non-short-listed DBTs. See Proposal page 68.

Question Submitted: 2/5/2010

Question Number: 19

We request clarification of several items in the document Selection Criteria (SC) section 2.3. Is it permissible to have a font size of less than 12 pt. Times New Roman in tables and figures? To adequately depict the correct level of detail, could 11x17 foldout pages be granted for use on the organization chart and schedule? In regards to the 1" margins, are headers and footers permitted to be placed within the margins? If so, is 12 pt. Times New Roman also required in this space? Do Forms C1, C2, and D1 count toward the page limits in each section; also do the same font requirements apply? On Form D1, the instructions indicate to provide a brief description of the project, however there is not a column designated for this information.

A 1. No. Please adhere to the requirements in the Selection Criteria. A 2. No. Per the Selection Criteria, fold out pages are not allowed. A 3. Please adhere to the requirements in the Selection Criteria. The margins are to be 1" clear. Header and footer fonts are to comply with the size requirements. A 4. Per Section 2.3 of the Selection Criteria, Forms C1, C2, and D1 are included in the official page count. Yes, font requirements are in effect. A 5. A brief description of the project can be entered into the "Project Name and Location" column or included with the "Nature of Firm's Responsibility" column.

Question Submitted: 2/5/2010

Question Number: 20

In regards to the Selection Criteria Page SC-6, the section titled, "PART C - DESIGN BUILD TEAM PERSONNEL", please clarify the following statement: ...Describe the business experience of the firms that are part of the DBT. Focus on experience that relates to carrying out the proposed project. Distinguish between past experience on DB projects and experience on Design Bid Build projects. Part D requests similar project experience for the DBT. Is the intent of Part C to be a high-level introduction of each company or should there also be discussion on each firm's project experience?

Part C is focused on the DBT personnel. Part D is focused on DBT Capabilities, including Past Projects, Resources, and Project Management Methodologies.

Question Submitted: 2/5/2010

Question Number: 21

Proposal page 70 provides wording revising section 104.02.B of ODOT C&MS that dramatically shifts the cost risk of a differing site condition onto the contractor. A prudent contractor would need to evaluate the potential for a differing site condition than add \$500,000 plus 50% of the anticipated cost of that differing site condition to his bid to cover the risk. Wouldn't this be a risk that the owner should shoulder so that the contractor's bid may be reduced giving 100% of the benefit to the owner if a differing site condition never materialized?

The Department considered the assignment of risk for differing site conditions, and will not be changing the proposal requirements as stated. Bid per the requirements of the proposal.

Question Submitted: 2/5/2010

Question Number: 22

If a Statement of Qualifications is submitted by a joint venture of contractors who are pre-qualified with ODOT, does the Joint Venture Design Build Team need to follow the procedure for "Joint Venture Application for Certificate of Qualification" prior to submitting the Statement of Qualifications?

A Joint Venture Application for Certificate of Qualification does not need to be submitted for the Statement of Qualifications. If applicable, the form must be submitted within the time frames noted on the form. For this project, the bid opening date is considered to be the DBT submission of the Technical and Price Proposals. Due to the extended nature of this project's procurement process, prospective Joint Ventures are cautioned to ensure that the Joint Venture Application reflects up-to-date qualification certificates as of the Technical and Price Proposal submission date.

All prospective bidders, subcontractors, suppliers, materialmen and all others who have an interest in these prebid questions and answers are advised that these items are being provided for informational purposes only and are not part of the bidding documents. If a question warrants a clarification, the Department will issue an addenda addressing the request for clarification to all plan holders. If the Department believes that the bidding documents adequately address the request, the contractor will be advised accordingly.

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Question Submitted: 2/5/2010

Question Number: 23

Proposal note on page 24 "DB Designer Prequalification" requires that "The DBT must include at least one design consultant firm that meets each required ODOT consultant category..." Must the DBT submit the name of the design consultant and the appropriate categories through the ODOT Office of Contracts webpage link entitled "Design Build - Contractors Consultant Information" or any other method prior to submitting the Statement of Qualifications?

DBTs do not need to enter consultant prequalification into this website. This site is used for ODOT's one-step design-build process. Follow the requirements of this value based selection process.

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Prebid Questions

Question Submitted: 2/8/2010

Question Number: 24

Some of the consulting engineering firms looking at providing the Independent Quality Firm (IQF) services have expressed concern regarding some of the broad language to describe the duties and responsibilities of the IQF. The objection is to the broad language, as opposed to the described services, which can expose firms to lawsuits, which are very expensive to defend and, on occasion, settle although they have either little or no control over the incident leading to the claim. The issues of concern include: (1) Authority to Stop Work; (2) Responsibility for the Quality of Construction or Design; (3) Language Implying Guarantees or Warranties; (4) Lack of Definition of "Over the Shoulder" Design Review. **AUTHORITY TO STOP WORK** The Scope of Work gives the IQF the authority to stop work in the following sections: Sec. 2.2 Independent Quality Firm (page PS-29) "The IQF will: . . . B. . . . "The IQF will have the authority to stop all design work and construction work if all quality requirements are not being met, exclusive of schedule or cost;" Sec. 2.4.2 (page PS-32) "The IQF will have the authority from the DBT to reject design work, "stop construction work," and "reject material" if quality requirements are not being met, exclusive of schedule or cost." Reason for Concern: The language in the Quality Management Scope of Work, which gives the authority to stop work to the IQF firm creates substantial legal exposure to the IQF. Having the right to stop work can be and is often construed as the having the duty to stop work. If the IQF has the duty to stop work because of a quality issue, courts have also found that they have a duty to stop the work if jobsite safety is in question. Juries have imposed million dollar verdicts against engineer/inspectors for jobsite injuries when there is contract language that is used to impose responsibility for safety on on-site engineers even though others created the unsafe conditions. Additionally, the Secretary of Labor, through OSHA, seeks to impose substantial and uninsurable fines on engineers providing on-site services for construction site injuries using the right to stop work as a rationale. Jobsite safety normally – and rightly – is the primary responsibility of the general contractor, who has the actual physical control of its employees and of the site. The Scope of Work for the IQF should not include language that can unintentionally broaden the duties and exposure of the IQF to liability when the intended result can be achieved by amending the language. Additionally, we seek clarification of the intent of the phrase "exclusive of schedule or cost." It appears that this language seeks to emphasize the independence of the IQF and that the owner, design builder or designer would not have recourse to seek costs or damages for delay against the IQF in the event the IQF stops design or construction for quality reasons, however, this concept could be presented in a much clearer manner. Suggested Revision:

B. . . . The IQF will have the authority to reject (or recommend rejection to the Engineer) any design or construction work if, in the judgment of the IQF, the quality requirements in the Quality Management Plan are not being met. Neither this authority nor the IQF's good faith judgment to reject or not reject any work shall subject the IQF to any liability or cause of action to any third party, including any entity or person performing work on the Project. **II. RESPONSIBILITY FOR THE QUALITY OF CONSTRUCTION OR DESIGN** The Scope of Work makes the IQF responsible for the quality of the design and/or construction in the following sections: Sec. 2.2 Independent Quality Firm (page PS-29) The IQF will be responsible for providing qualified personnel and ensuring that the Project quality requirements are met." Sec. 2.6.1.2 (page PS-37) Independent Construction Quality Manager. "The QMP will name the Independent Construction Quality Manager, who will be responsible for the quality of the construction elements of the Project." Sec. 2.6.1.3 (page PS-37) Independent Design Quality Manager. "The QMP will name the Independent Design Quality Manager, who will be responsible for the quality of the design elements of the Project." Sec. 2.6.1.7 (page PS-39) Other IQF Staff Responsibilities. "The QMF inspection staff and geotechnical and environmental monitors will check for compliance with all permits, environmental monitoring and construction operations." Reason for Concern: The duties of the Design Build Team are generally defined well in the Scope of Work, including that the Designer are responsible for the design, the Contractor is responsible for construction and the IQF is responsible for observing, auditing and verifying the designer and contractor's compliance with the Quality Management Plan. By making broad statements like the IQF will be responsible for the quality of the construction elements, the lines of responsibility are blurred and can be used by third parties to seek compensation from the IQF for issues that are not their responsibility. Suggested Revision: Sec. 2.6.1.2 (page PS-37) Independent Construction Quality Manager. "The QMP will name the Independent Construction Quality Manager, who will be responsible for monitoring (or auditing) the quality of the construction elements of the Project." Sec. 2.6.1.2 (page PS-37) Independent Design Quality Manager. "The QMP will name the Independent Design Quality Manager, who will be responsible for monitoring (or auditing) the quality of the design elements of the Project." Sec. 2.6.1.7 (page PS-39) Other IQF Staff Responsibilities. "The QMF inspection staff and geotechnical and environmental monitors will check for compliance with all permits, environmental monitoring and construction operations in accordance with the Quality Management Plan." **III. LANGUAGE IMPLYING GUARANTEES OR WARRANTIES** The Scope of Work includes statements that imply that the IQF is guaranteeing the quality of all the design services and/or construction work in the following sections: Sec. 2.6.2 (page PS-41) QMP Section 2 – Administration Requirements. "In general, QMP Section 2 (Administration) will describe the procedures for coordinating and ensuring the consistency and quality of all Work performed or provided for the Project by all participants." Sec. 2.6.2.8.13 (page PS-47) Acceptance. Second paragraph ". . . The IQF Manager will ensure that each deficiency has been corrected before the agreed completion date." Sec. 2.6.4.6 (page PS-49) DBT's IQF review. "The Independent Design Quality Manager will review all designs to ensure that development of the Plans and Specifications are in accordance with the requirements of the Contract." Sec. 2.6.4.9 (page PS-50) Interim and Final Reviews. Second Paragraph ". . . In addition, the Independent Design Quality Manager will ensure that there are no conflicts between the buildable units being reviewed and any previously approved designs."

Reason for Concern: By using "language of guaranty or warranty," such as "ensure," "insure," "certify" or "assure," the Scope of Work can create the basis for a guarantee claim against an engineer, meaning that the engineer is guaranteeing that something is perfect or unequivocally true. Each design and construction project is one of a kind and it is too expensive for all parties involved in design to create and test prototypes of all the design and construction elements to guarantee that a design is perfect. Although the IQF will diligently follow and enforce the quality requirements in accordance with the QMP, there can be no guarantee that each and every coordination issue or defect can be detected. Although engineers carry professional liability

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insurance to cover claims that arise out of their negligent performance, professional liability does not insure claims based on guarantees or warranties, which could result in denial of insurance coverage for some of the activities of the IQF to the detriment of the engineer, its clients, the owner and other parties on the project. Suggested Revisions: Sec. 2.6.2 (page PS-41) QMP Section 2 – Administration Requirements. “In general, QMP Section 2 (Administration) will describe the procedures for coordinating, checking and ensuring documenting the consistency and quality of all Work performed or provided for the Project by all the participants.” Sec. 2.6.2.8.13 (page PS-47) Acceptance. Second paragraph “. . . The IQF Manager will determine and document whether ensure that each deficiency has been corrected in accordance with the QMP before the agreed completion date, . . .” Sec. 2.6.4.6 (page PS-49) DBT’s IQF review. “The Independent Design Quality Manager will review all the design to ensure that during development of the Plans and Specifications for compliance are in accordance with the requirements of the Contract.” Sec. 2.6.4.9 (page PS-50) Interim and Final Reviews. Second Paragraph “. . . In addition, the Independent Design Quality Manager will ensure that there are no conflicts between the buildable units being reviewed and any previously approved designs.” IV. LACK OF DEFINITION OF “OVER THE SHOULDER” REVIEW The Scope of Work requires the IQF (in Sec. 2.6.4.8, et. seq.) to conduct “over-the-shoulder design reviews,” but does not define the purpose, extent, specific design disciplines or expected results of the over-the-shoulder review, all of which should be addressed in the QMP.

A(I). The Department intends that all aspects of site safety are the responsibility of the DBT. A(II). See Addendum for updated Section 2 Scope language. A(III). See Addenda for updated Section 2 Scope language. A(IV). Bid as stated in the contract documents.

Question Submitted: 2/8/2010

Question Number: 25

In the Project Scope document section 2 Quality Management, the roles of the Independent Quality Firm and the DBT’s Quality Control personnel appear to overlap. 1. Is the IQF’s role that of Quality Assurance or Quality Control? Or is their role some of both? 2. Is it the Department’s intent that duplicate Quality Control Inspectors be employed as part of the DBT’s Quality Control program and as part of the IQF? 3. Is the Department’s intent that the IQF employs the Quality Control Inspectors and Quality Control Technicians for periodic verification testing, and that the DBT employs Quality Control Technicians for material testing and provides material certification reporting and source of supply reporting?

A 1. The IQF’s role is Independent Verification. The DBT’s role is Quality Control. Each party has separate independent roles. A 2. Each entity, DBT and IQF, have unique roles in the overall Quality Control Plan. A 3. Yes

Question Submitted: 2/8/2010

Question Number: 26

The Proposal contains a section on ODOT CMS 109.05.D.2.e (1), Field Overhead. The section includes a replacement for Table 109.05-5 of the 2008 ODOT C&MS. The revised table reduces the maximum Home Office Overhead percentage “C” to be used with the original contract amount from 0.05 to 0.025. We request that Table 109.05-5 remain unchanged as it stands in the current C&MS. Our opinion is that the large design-build jobs take more home office effort and involvement than the typical smaller project and the perceived economies of scale of these large design-build projects do not exist. While in the DBT’s that are a joint venture of two or more companies one of the partners will be named the administrative manager, all the team members provide services to the joint venture that require as much or more than a series of two to four typical \$50M projects.

The Department does not believe an appropriate Home Office Overhead percentage for this project should be the same as a an over \$25 million project, bid as per the proposal.

Question Submitted: 2/8/2010

Question Number: 27

Section 16.3.3 and section 16.3.4.4 of the scope both reference a table 16-2. We cannot find any table 16-2 in the scope and think it is intended to reference table 16-1. Please clarify.

Correct. The text should reference Table 16-1. This reference will be fixed in the RFP documents.

Question Submitted: 2/9/2010

Question Number: 28

Question regarding the role of the IQF. Who monitors DBE Goal? Who monitors Prevailing Wages?

Scope Section 2.1 states what the IQF is responsible for. The DBT will be responsible for submitting all necessary compliance reporting documentation including, but not limited to, Prevailing Wage, DBE goal compliance, Equal Employment Opportunity, ARRA. ODOT will retain a Project Controls Consultant that will monitor the DBT’s compliance reporting submissions, on behalf of the Department.