



**REQUEST FOR QUALIFICATIONS
FOR THE I-35 NORTHEAST EXPANSION (NEX) SOUTH PROJECT
THROUGH A
DESIGN-BUILD CONTRACT AND
CAPITAL MAINTENANCE CONTRACT**

**TEXAS DEPARTMENT OF TRANSPORTATION
ISSUED APRIL 15, 2022
ADDENDUM #1 ISSUED MAY 12, 2022
ADDENDUM #2 ISSUED JUNE 2, 2022
ADDENDUM #3 ISSUED JUNE 16, 2022**

**Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701**

DBC Documents and CMC Documents and the objective methodology for determining the overall best value Proposal.

Following receipt and evaluation of Proposals, based on a determination of apparent best value, the Commission may select a Proposer for negotiations, and authorize TxDOT to finalize the DBC Documents and CMC Documents for award and execution. If negotiations are not successful with the apparent best value Proposer, TxDOT may negotiate with the next highest rated Proposer. Alternatively, the procurement may be terminated.

The Commission has given TxDOT broad direction on the content and methodology for the solicitation of Proposals from shortlisted Proposers, the selection of a Proposer whose Proposal offers the apparent best value to TxDOT and the terms and conditions the DBC Documents and CMC Documents must contain to be deemed satisfactory. Proposers are advised that the evaluation criteria and weightings for the scoring of the Proposals may differ from the criteria set forth herein to evaluate QSSs.

Award of the DBC and CMC by the Commission will be conditioned upon finalization and execution of the DBC Documents and CMC Documents, and the satisfaction of other conditions that will be set forth in the RFP and Minute Order adopted by the Commission.

3.2. Payment for Work Product

As contemplated by Section 223.249 of the Code, TxDOT intends to pay each unsuccessful Proposer that submits a Proposal responsive to the RFP a payment for work product up to a maximum stipulated amount authorized by the Commission and set forth in the RFP, and not exceeding the value of the work product contained in its Proposal that TxDOT determines can be used in performance of its functions. Specific provisions regarding payment of the stipulated amounts will be included in the RFP. There will be no payment to Proposers who are not shortlisted.

3.3 Procurement Schedule

TxDOT anticipates carrying out the first phase of the procurement process contemplated hereby in accordance with the following schedule:

Issue RFQ	April 15, 2022
Deadline for questions regarding the RFQ	April 29, 2022 at 12:00 noon
Issue Addendum #1 to the RFQ	May 12, 2022
Deadline for questions regarding Addendum #1 to the RFQ	May 19, 2022
Issue Addendum #2 to the RFQ	June 2, 2022
Deadline for questions regarding Addendum #2 to the RFQ	June 8, 2022 at 12:00 noon
<u>Issue Addendum #3 to the RFQ</u>	<u>June 16, 2022</u>
Questions relating to any Addendum issued after June 2, 2022	Three business days after the Addendum is issued (but no later than the QS Due Date)
QS Due Date	July 8, 2022 at 12:00 noon
Oral Presentations (if held)	August 11-12, 2022

This schedule is subject to modification at the sole discretion of TxDOT. Proposers will be notified of any change by an Addendum to this RFQ. TxDOT intends to issue the RFP shortly after selection of the shortlisted Proposers and to prosecute the procurement to a DBC and CMC award thereafter. TxDOT anticipates conditionally awarding a DBC and CMC for the Project in spring, 2023 and executing the contracts in late summer, 2023.

All times set forth herein shall be local Central Time in Austin, Texas.

3.4 Questions and Requests for Clarification; Addenda

In order to facilitate receipt, processing and response, Proposers must submit all questions and requests for clarification regarding this procurement in writing to the Authorized Representatives via email to: TXDOT-SAT-ALTD-I35NEXSouth@txdot.gov.

Proposers are responsible for ensuring that any written communications clearly indicate on the first page or in the subject line, as applicable, that the material relates to the Project. TxDOT may make edits in Addenda to this RFQ in response to clarification requests. Alternatively, TxDOT may respond to those questions that TxDOT deems to be material and not adequately addressed through potential Addenda to the RFQ. TxDOT will post any such responses and Addenda to this RFQ on the Project Webpage.

financial interest in any of the foregoing entities with respect to the Project, then the firm (including, as applicable, any of its subconsultants) should submit to TxDOT all work product prepared by the firm (including, as applicable, any of its subconsultants) for the Project and any other information and data provided to the firm (including, as applicable, any of its subconsultants) by TxDOT in the performance of its work on the Project. TxDOT will decide, in its sole discretion, whether to make those materials available to all Proposers prior to the issuance of the final RFP for the Project. If TxDOT decides to make the materials available, TxDOT will inform the firm of its eligibility to be on a Proposer team.

If a firm listed in category (b) above wishes to be a Proposer, or an equity owner, team member, consultant or subconsultant of or to a Proposer for the Project, or to have a financial interest in any of the foregoing entities with respect to the Project, then the firm should submit to the TxDOT Executive Director a request for a determination whether participation in the Project or the performance of particular services with respect to the Project would constitute a conflict of interest, or for approval of an exception to the applicability of the conflict of interest rules, as permitted by 43 T.A.C. § 9.155(c)(9).

Proposers are advised that other TxDOT consultants working on the Project may have an organizational conflict of interest. Proposers are encouraged to review the Rules and discuss potential conflicts of interest with prospective team members. By submitting its QS, each Proposer agrees that it has no organizational conflict of interest or potential organizational conflict of interest, and if an organizational conflict of interest or potential organizational conflict of interest is thereafter discovered, the Proposer must make an immediate and full written disclosure to TxDOT that includes a description of the action that the Proposer has taken, or proposes to take, to avoid or mitigate such conflicts. If an organizational conflict of interest that the Proposer knew, or should have known about, but did not disclose is determined to exist during the procurement process, TxDOT may, at its discretion, disqualify the Proposer or terminate the DBC and CMC. Proposers are also advised that TxDOT's policy is in addition to applicable federal and state law. Such applicable law will also apply to Proposer teams and teaming and may preclude certain firms and their related entities from participating on a Proposer team.

6.4. Potential Conflicts of Interest

If a Proposer's designated IQF or Subcontractor to the IQF is under contract with TxDOT to provide materials inspection services at a fabrication plant that is producing materials for the Project, the designated firm cannot act as the IQF for the Project unless a measure approved by TxDOT is implemented to avoid the conflict. Such measures may include:

- (a) DB Contractor uses another fabrication plant at which the IQF (or Subcontractor to the IQF) is not providing contract inspection services for TxDOT to produce materials for the Project;

- (b) the IQF (or Subcontractor to the IQF) does not ~~serve~~ inspect materials specifically produced for the Project as a TxDOT contract inspector ~~at a fabrication plant that is producing materials for the Project~~;
- (c) the materials inspection services for the Project are performed by another TxDOT contract inspector from another firm, at DB Contractor's cost, dependent upon the availability of another inspector to perform such services; or
- (d) another measure approved by TxDOT.

7. PROTEST PROCEDURES

The Rules sets forth the exclusive protest remedies available with respect to this RFQ and prescribes exclusive procedures for protests regarding:

- (a) allegations that the terms of the RFQ are wholly ambiguous, contrary to legal requirements applicable to the procurement or exceed TxDOT's authority;
- (b) a determination as to whether a QS is responsive to the requirements of the RFQ; and
- (c) shortlisting determinations.

Any Proposer wishing to file a protest must do so in accordance with the Rules.

Protests concerning the issues described in clause (a) above must be filed as soon as the basis for the protest is known, but no later than 20 calendar days prior to the QS Due Date, unless the protest relates to an Addendum to the RFQ, in which case the protest must be filed no later than five business days after the Addendum is issued. Protests concerning the issues in clause (a) may be filed only after the Proposer has informally discussed the nature and basis of the protest with TxDOT, following the procedures prescribed in the Rules. Protests concerning the issue described in clause (b) above must be filed no later than five business days after receipt of the notification of non-responsiveness. Protests concerning the issue described in clause (c) above must be filed no later than 10 business days after the earliest of the notification of the shortlist and the public announcement of the shortlisting determination.

Protests shall be filed by hand-delivery on or before the applicable deadline to TxDOT's Authorized Representatives at the address set forth in Section 1.1 with a copy to the General Counsel Division, Texas Department of Transportation, 125 E. 11th Street, Austin, Texas 78701-2483, as soon as the basis for the protest is known to the Proposer. Except for protests concerning the issues described in clause (a) above, the Proposer filing the protest shall concurrently file a copy of the protest with the other Proposers whose addresses may be obtained from TxDOT's website.