

**SH 249 Extension
RFQ Q&A Matrix No. 3
July 8, 2015**

No.	Document	Section and Reference	Question/Comment	Response
1	RFQ	Part A, Section 5 Section 5.1, Responsiveness	As per Section 5.1, if an entity uses a parent company guarantor, key personnel may be directly employed by that parent company guarantor. If that parent company guarantor has a controlled subsidiary, are employees of that controlled subsidiary also eligible to fill key personnel roles?	No.
2	RFQ	Part A, Section 5 Section 5.1, Responsiveness and Section 5.2(g), Pass/Fail Review	<p>The original RFQ criteria and the added criteria in Addendum #1 for the Lead Maintenance Manager has created a situation that will significantly limit competition and unnecessarily prevents many Texas and US based general contractors from becoming a qualified firm for this procurement. This limitation is caused by two main issues within the RFQ criteria.</p> <p>The first issue is the addition of the Maintenance Manager's qualifications to Section 5.2 Pass/Fail Review in Addendum #1. This is the first RFQ in which TxDOT has made meeting the requirements of any Key Personnel a "Pass/Fail" requirement. The requirements for the Key Personnel are currently evaluated and scored by TxDOT in accordance with Section 5.3.1 of the RFQ. This allows TxDOT to weigh the strength and depth of the individual qualifications for each of the Proposer's Key Personnel and assign a score that reflects that individual's strength and depth of qualifications. The weighting of a Proposers Key Personnel is already a significant component, representing 30 points, of the Proposers overall score. Placing this criteria within the Pass/Fail review has the potential to unnecessarily limit or disqualify firms based on a single position.</p> <p>The second issue is the requirement, per Section 5.1 of the RFQ, that the Lead Maintenance Manager be employed by either the Equity Member, Lead Engineering Firm or Lead Contractor itself or a controlled subsidiary of such firms or a parent company of such Equity Member.</p>	Please see revisions in Addendum #2 to the RFQ removing the requirement for the Lead Maintenance Manager to have Design-Build/Public-Private-Partnership experience. No other change will be made.

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2			<p>In addition the requirements for the Lead Maintenance Manager in Part B, Volume 1, Section H, state that the this individual must be a Professional Engineer and this must have a minimum three years of experience on maintenance projects and two years of managerial experience on any Design-Build or Public-Private-Partnership Projects. The criteria for performing comprehensive maintenance (COMA) is relatively new and to our knowledge TxDOT does not have any Projects to date that have been performing comprehensive maintenance for more than three years and only one that has performed capital maintenance for more than three years. Many Texas and/or United States based general contractors that have completed multiple Design-Build or PPP projects do not have the Key Personnel that will meet the requirements. On all previous TxDOT design-build/CDA procurements the Proposer has been allowed to provide the Lead Maintenance Manager from a Lead Maintenance subcontractor that is working under the Equity Members or Lead Contractor. The performance of these subcontractors under the COMA is guaranteed by the Equity Members of the Proposer and thus the Proposer should be allowed to use Key Personnel from these firms much like using Key Personnel from the Lead Engineering firm performing design services.</p> <p>Will TxDOT please allow the Lead Maintenance Manager to be an employee of the Lead Maintenance firm who is a subcontractor to the Proposer and also remove the Lead Maintenance Managers qualifications from the Pass/Fail criteria Section 5.2 (g)?</p>	

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3	RFQ	Part B, Section 2 Section 2, Organization	Please consider allowing an additional two pages for Volume 1, sections D and F so we can provide a more easily understood document that responds to the specific requests of the RFQ.	No change will be made.
4	RFQ	Part B, Volume 1 Section H, Form G - Personnel Qualifications	<p>The RFQ currently requires the Lead QC Manager (LQCM) to have a Professional Engineer's (PE) License, even though a PE license is not required for them to perform their duties. TxDOT's Design-Build Quality Assurance Program Implementation Guide, identifies the qualifications needed by the LQCM and QC staff as it states in Section 3.4.1, "The QC staff does not necessarily need to be qualified in construction inspection or certified in specific test methods, thus, these employees do not fall under the purview of the IA program; however they should be knowledgeable in construction and testing methods and procedures."</p> <p>TxDOT's DB QAP Implementation Guide also states in Section 3.5.2.1 that, "The developer must staff an on-site Construction Quality Acceptance Manager (CQAM) who is a Licensed Professional Engineer in the State of Texas and is responsible for the QA aspect of the CQMP. Unlike the QC staff requirements the QA staff is required to be qualified in the applicable inspection methods and certified in material sampling and testing procedures." There are many quality control professionals that are very knowledgeable in construction and testing methods and procedures and have the experience to be the LQCM. However, since this position has historically not required a PE License when performing QC for construction companies, many of these experienced professionals do not have a PE License.</p>	The Lead Quality Control Manager will oversee quality control of both design and construction. A PE license is required.

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4			<p>With the Quality Assurance/Acceptance being done by an independent CQAM who is a Licensed PE and has QA staff with the applicable certifications, it is unnecessary to require the LQCM to be a Licensed PE. This requirement for the LQCM to be a licensed PE, will unnecessarily and significantly limit competition for this procurement. On past design-build/CDA procurements TxDOT has not required this position to have a PE License and TxDOT's own Design-Build Quality Assurance Program Implementation Guide recognizes the difference in certification and license requirements of the Quality Control staff and Quality Acceptance staff. We believe that the experience and knowledge in construction and testing methods and procedures outweighs the requirements for having a PE License.</p> <p>Will TxDOT please consider removing the PE License requirements for the LQCM as this requirement is unnecessary and will significantly limit competition for this and future procurements?</p>	
5	RFQ	Part B, Volume 1 Section H, Form G - Personnel Qualifications	<p>Current Text:</p> <p>"Lead Maintenance Manager: ..."Must be a Professional Engineer*...Shall be co-located/on-site as needed beginning 90 days prior to Substantial Completion and throughout the term of the COMA....*Professional Engineers must be licensed in the State of Texas, or become licensed in the State of Texas, prior to execution of the DBA and COMA."</p>	No change will be made.

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5			<p>The Lead Maintenance Manager will be involved in the project during the proposal, design and construction phases and will collaborate with the Lead Contractor and the Lead Designer to provide professional maintenance expertise, but will not assume responsibility for the work until 90 days prior to Substantial Completion. We respectfully suggest that the Texas PE requirement for the Lead Maintenance Manager be changed to coincide with actual reporting and managerial duties.</p> <p>We concur that the role will be filled by a Professional Engineer employed by a major team member, as stated on previous Q&A responses.</p> <p>Suggested Revision:</p> <p>Lead Maintenance Manager: "Must be a Professional Engineer licensed in the State of Texas, or become licensed in the State of Texas, 90 days days prior to Substantial Completion."</p>	
6	RFQ	Part B, Volume 1 Section H, Form G - Personnel Qualifications	Section H, From G - Personnel Qualifications only requires us to provide license applications for those individuals who are required to have, but do not have, a Texas P.E. license and any commitment statement regarding obtaining qualification requirements. On past qualifications, TxDOT has requested copies of all certifications and licenses identified on Form G. Does TxDOT want us to provide copies of these certifications and licenses?	Yes. This requirement will be added in Addendum #3 to the RFQ.

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7	RFQ	Part B, Volume 2 Section A, Financial Statements	<p>TxDOT language: VOLUME 2, Section A Financial Statements</p> <p>“All Proposers, Equity Members, Lead Contractor and Guarantors must provide financial statements for the three most recent completed fiscal years to demonstrate financial capability of the Proposer.</p> <p>In addition, financial statements must meet the following requirements:</p> <p>(f) Guarantor – If financial statements of a parent company or affiliate company (“Guarantor”) are provided to demonstrate financial capability of the Proposer or Equity Members, additional information regarding the Guarantor shall be provided as specified in this RFQ. Proposers shall note that TxDOT may, in its discretion based upon the review of the information provided, specify that an acceptable parent company or other affiliate company act as a Guarantor by providing a guarantee of the Design-Build Contractor’s financial capabilities under the DBA in a form acceptable to TxDOT in its discretion, or that an additional Equity Member be required as a condition of shortlisting. In addition, if the Design-Build Contractor will be a newly formed or limited liability entity, all Equity Members will be required to be Guarantors.”</p> <p>Request for Clarification:</p> <p>(a) Is a Guarantor optional or required for an Equity Member of a joint venture to be newly formed;</p> <p>(b) Can an Equity Member be its own Guarantor if it has a parent company;</p> <p>(c) If an Equity Member does not have a parent, and will be its own Guarantor, is TxDOT expecting redundant financial statements and multiple Forms B & C for the same entity, one as an Equity Member and one as a Guarantor?</p>	<p>(a) If a DB Contractor will be a newly formed joint venture, a Guarantor is not required unless financial statements of a parent company or affiliate company are provided to demonstrate financial capacity of Proposer or Equity Members or TxDOT in its discretion requires a Guarantor as a condition of shortlisting.</p> <p>(b) Yes. If an Equity Member provides the financial statements of a parent or affiliate to demonstrate financial capacity, the parent or affiliate must be a Guarantor. If the Equity Member provides its own financial statement, the Equity Member is not required to be a Guarantor unless the DB Contractor will be a limited liability company.</p> <p>(c) No. A Guarantor is a separate entity to support the obligations of the Equity Member, the JV, and the LLC, as applicable. Financial statements and all RFQ forms are required for each Equity Member and Guarantor.</p>

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8	RFQ	Part C, Forms Form C, Certification and Legal Qualifications	In regards to Forms B and C; If a proposer, or the lead designer, is a yet to be formed JV do we submit a From B and C for each entity of the JV only or do we submit a form B and C for each entity as well as a Form B and C in the name of the JV?	Please submit a Form B and Form C for the Proposer and each entity of the yet to be formed joint venture.
9	RFQ	Part C, Forms Form C, Certification and Legal Qualifications	In the opening paragraph of Form C in Addendum 2, you have inserted the language “With respect to the firm, the term “Affiliates” includes (i) parent companies of the firm, (ii) subsidiary companies of the firm, and (iii) joint venture members or partners in which the firm has more than a 15% financial interest.” We are unclear on your intention with item (iii) because we would not have an interest in other members of a joint venture or partners of a partnership. Please revise item (iii) to read “joint ventures or partnerships in which the firm has more than a 15% financial interest.”	The suggested change will be made in Addendum #3 to the RFQ.
10	RFQ	Part C, Forms Form C, Certification and Legal Qualifications	In the opening paragraph of Form C in Addendum 2, you have inserted the language “With respect to the firm, the term “Affiliates” includes ... joint venture members or partners in which the firm has more than a 15% financial interest.” This seems to require us to certify as to the backgrounds of individuals provided by other equity members in the joint venture or partnership. It is difficult for us to give such an unqualified certification with respect to such individuals given that they are employed by someone other than the Responding Party or its parent companies or subsidiary companies during periods when we are not associated with them. Therefore, please clarify that the certification as to officers, directors, responsible managing officers, or responsible managing employees of the subject joint ventures and partnerships is “to the best of our knowledge.”	The requested change will not be made. Please see the response to Q&A #3 Question 9.

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11	RFQ	Part C, Forms	Please confirm that forms with footers referencing prior addenda can be used provided that the content of the forms have not changed.	No. TxDOT will re-issue the forms with the current addendum number. Please use Addendum #3 forms.
12	RFQ	Part C, Forms	The forms document in Word format issued with Addendum 2 incorporates the RFQ redline's changes in wording to Form C. However, the footer on all of the forms still reads Addendum #1. Will TxDOT reissue the forms in Word format with the current addendum number?	Yes. TxDOT will re-issue the forms with Addendum #3.