TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Report of the Independent Procurement Integrity Monitor

January 2013



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EXHIBIT LIST

- 1. 23 CFR § 636.101 et seq.
- 2. New York State Procurement Guidelines, State Procurement Council, dated July 2009
- 3. ITP, dated September 7, 2012 (Section 5)
- 4. Evaluation & Selection Plan for Design-Build Proposals, dated August 15, 2012
- 5. Procurement Management Team Guidelines, July 27, 2012
- 6. Blue Ribbon Selection Committee Guidelines, dated August 31, 2012
- 7. Training & Evaluation Package, dated July 25, 2012
- 8. Golden Rules, dated July 29, 2012
- 9. Platinum Rules, dated August 3, 2012
- 10. Titanium Rules, dated August 13, 2012
- 11. BRSC Ranking Sheet Niagara
- 12. BRSC Ranking Sheet Oneida
- 13. BRSC Ranking Sheet Catskills
- 14. Blue Ribbon Selection Committee Report, dated November 30, 2012
- 15. PowerPoint presentation to BRSC of Limited Negotiations

I. INTRODUCTION

This report is provided in response to a request from Governor Andrew Cuomo, the New York State Thruway Authority and the New York State Department of Transportation that Thacher Associates, LLC ("Thacher") provide a third-party independent assessment of the procurement process by which a contractor was selected for the Hudson River Crossing Project. From the point that the proposals were submitted, Thacher Associates (i) monitored the selection process to ensure that the procurement process incorporated best practices to achieve process transparency, auditability, integrity, confidentiality, competitiveness, fairness and security; (ii) made recommendations for enhancement to improve the process as necessary; and (iii) monitored implementation of process controls to ensure compliance therewith.

We are pleased to report that we found that the procurement process was conducted with high levels of integrity and that it followed procedures that incorporated best practices. Keeping in mind that no set of protocols can ever envision all of the problematic scenarios that can arise in a process as lengthy and complex as this procurement, the important conclusion that our observations lead us to is that the New York State Thruway Authority ("NYSTA" or "Authority") and other personnel involved in this endeavor were strongly motivated by a desire to do the job right, to treat each proposer fairly, and to get the best product for the best price that they could for the State of New York. We determined that the NYSTA generally complied with its established procedures and only departed from the policies when required do so as a result of a change of circumstance. Even then, the deviations from its written procedures were done only after internal and/or external discussions that were monitored by Thacher Associates. In some instances, deviations were taken on the advice of counsel.

II. BACKGROUND

A. History of the Tappan Zee Hudson River Crossing Project

Replacement of the Governor Malcolm Wilson Tappan Zee Bridge has been in the planning stages for more than 12 years. The existing bridge is well past its original designed life span and is in need of frequent and costly maintenance, with over \$750 million spent on maintenance over the past decade and another \$3-4 billion projected over the next 20 years. It is crossed by more than 138,000 vehicles daily, far more than it was designed to carry, and has an accident rate double that of any other stretch of the New York Thruway, but has no lanes or shoulders for accident or emergency vehicles. Traffic jams and delays are regular occurrences.

The Cuomo Administration has moved forward with plans to replace the bridge, taking advantage of the federal Transportation Infrastructure Finance and Innovation Act ("TIFIA"). In

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August, 2012 Governor Cuomo, having received the unanimous endorsement of the New York Metropolitan Transportation Council, wrote to the U.S. Secretary of Transportation seeking up to \$2.8 billion in TIFIA funds, towards the estimated \$5.2 billion cost of the project.

B. Design-Build

In a first for the New York State Thruway Authority, the project has been undertaken as a Design-Build procurement. The Design-Build procurement model, which required new authorizing legislation in New York, provides that the "Owner," in this case NYSTA, must develop the basic requirements for the project, and then top engineering and construction firms, using their own ingenuity and creativity, will design and build a bridge to meet or exceed those requirements. The contract is awarded to the proposal which, in the owner's opinion, provides the "Best Value," after taking into account the technical and aesthetic achievements of the design, as well as the price.

Design-Build must be distinguished from the more traditional "Design-Bid-Build" model, also known as "low bid." In the traditional Design-Bid-Build process, the owner, or its agent, designs the project (e.g., a highway, a building, a bridge, etc.) and construction firms then submit bids to build the project as designed, with all parties anticipating that the contract will go to the builder who submits the lowest bid.

According to the American Association of State Highway and Transportation Officials ("AASHTO") Report of the Joint Technical Committee on Design-Build:

Design-build is a project delivery method under which a project owner, having defined its initial expectations to a certain extent, executes a single contract for both architectural/engineering services and construction. The design-build entity may be a single firm, a consortium, joint venture, or other organization. However, the fundamental element of design-build delivery remains that one entity assumes primary responsibility for design and construction of the project.

Design-build has long been used by some project owners (including the U.S. Department of Defense and the power industry) as a project delivery method. Starting in the late 20th century, private sector use of design-build, primarily for vertical buildings, expanded rapidly. Interest in design-build delivery

¹ The New York Infrastructure Investment Act, signed into law by Governor Cuomo on December 9, 2011.

spread more gradually within the public sector, and was primarily used for vertical projects but also included horizontal transportation projects.

A number of factors have led owners to consider the design-build approach. Design-build delivery provides owners with the benefit of a single point of responsibility for the majority of project development, which can streamline coordination between the design and construction teams. It can reduce the owner's administrative burdens by eliminating the need to coordinate or arbitrate between separate design and construction entities. With the primary designer and the contractor working as a team, scheduling considerations can be addressed up front, often leading to more efficient implementation. Together with these efficiencies, the fact that design and construction activities can proceed concurrently also creates the potential for time savings and, ideally, will lower implementation costs.

Design-build can also promote innovation by utilizing the designers' and builders' separate strengths to develop new design and construction techniques. The innovations can be included in proposals in order to gain a competitive advantage in the selection process, or as part of the project implementation phase in order to cut costs, speed implementation, or gain maximum benefit from any incentive programs. Because of these factors, design-build delivery is often chosen for complex projects or when fast track implementation is a priority. Design-build contracts are frequently on a fixed-price basis, thus providing cost certainty at a relatively early stage of project planning. This is particularly beneficial for projects facing budget limitations and can be a key factor in obtaining project financing.

According to AASHTO, the Federal Highway Administration ("FHWA") utilized Design-Build on a Federal Lands Highway project, and reported that Design-Build provided the following benefits:

- Single point responsibility for design and construction to mitigate conflicts between the contractor and the designer;
- The ability to fast-track the delivery of a completed project;
- Potential to lower overall costs;

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- Earlier use of the completed facility; and
- Reduction in contract growth potential by shifting risk and partial control to contractor.

III. THACHER ASSOCIATES' ROLE AS AN INDEPENDENT PROCUREMENT INTEGRITY MONITOR

A. Selection of an Independent Procurement Integrity Monitor

Because Design-Build procurements involve the evaluation of factors other than price, they have sometimes been criticized as being too subjective, and difficult to later review, evaluate and justify. These concerns may be heightened and criticisms may be exacerbated by the need to keep so many parts of the evaluative process confidential, so as not to hamper the owner's ability to negotiate for the best product at the best price. Still, the decisions and processes surrounding the expenditure of billions of dollars of public funds must be as transparent to the public, and to those vying for the contract, as possible. The tension between these competing interests led to, in part, the decision to retain an Independent Procurement Integrity Monitor ("Integrity Monitor" or "Thacher Associates") for this procurement.

The Governor's office and the NYSTA determined to address the tension between the need, on the one hand, for confidentiality in the evaluation of the proposals and negotiations with the proposers versus, on the other hand, the need for transparency in the decisions surrounding the expenditure of public funds, by having an independent firm, outside of the procurement process itself, monitor compliance with the controls governing that process. The participation of the Integrity Monitor, as it worked to confirm the fairness of the process, was intended to benefit all of the stakeholders in the procurement.

On or about July 25, 2012, Thacher Associates was contacted about performing the duties of an Integrity Monitor for this first-of-its-kind Design-Build procurement for the Authority. Based on its proposal, Thacher Associates was selected for the undertaking, and was instructed to commence work immediately in order to monitor the intake and opening of the proposals on July 27, 2012.

B. Thacher Associates' Experience

Thacher Associates was selected as the Integrity Monitor for this project based upon the extensive experience of the firm and of its principals in performing as an integrity monitor for a wide range of large-scale construction projects. Thacher Associates has been performing such monitorships for more than 16 years. Before forming the firm, its principals, Thomas D. "Toby" Thacher and Joseph A. DeLuca, previously worked in the field of integrity compliance at the

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School Construction Authority, Office of the Inspector General, where Thacher was the first Inspector General and DeLuca was the Chief of Operations. Indeed, it was over 20 years ago that Thacher first proposed the use of integrity monitors in <u>Corruption and Racketeering in the New York City Construction Industry</u> (New York University Press 1990), a report to Governor Mario Cuomo, later published as a book, co-authored by Thacher during his time as Executive Director of the Construction Industry Strike Force.

Thacher Associates' experience includes Integrity Monitorships at: the two billion dollar interior renovation of the United Nations Headquarters; the one billion dollar World Trade Center Ground Zero clean-up; the one and a half billion dollar construction of the new Yankee Stadium; the construction of the Port Authority's World Trade Center Transportation Hub and the National September 11th Memorial and Museum, with a combined value of five billion dollars; the two billion dollar construction of the Croton Water Treatment Facility; the construction of the MTA's Second Avenue Subway, Fulton Street and East Side Access projects, with a combined value of ten billion dollars; the one billion dollar construction of the Bank of America Headquarters for the Durst Organization; the 200 million dollar project to construct the new Moynihan Station (Phase One); and many other mega-construction projects in the greater New York area. All totaled, the contract value of projects built under the watchful eye of Thacher Associates integrity monitoring program well exceeds 20 billion dollars. No other firm has close to the number of such engagements as has Thacher Associates.

Another key reason for the selection of Thacher for this engagement is the firm's deep bench of in-house staff comprising all of the necessary disciplines, including attorneys, engineers, auditors, investigators and loss prevention analysts with experience in large procurements. Most other monitor firms outsource or contract for some or all of these required skill sets. Not so Thacher, where all of the required expertise is on-staff. Thacher's personnel have garnered such respect in this field that one large public agency will not open any bids on the projects where it has Thacher as the integrity monitor unless a representative of Thacher is present at the opening.

Fundamentally, it is the approach that Thacher takes to being an integrity monitor that both sets it apart and made it the right choice for this engagement. Other project integrity monitors too often view their role as being the construction cop on a project. A "project cop" will almost never succeed. Thacher, on the other hand, has built its reputation as a problem identifier/problem solver. Thacher functions to prevent problems or detect them real time and then facilitate their remediation before they become scandals that impact budgets and schedules. This is the precise approach needed for a lengthy and complex procurement process, where no set of pre-established protocols can fully anticipate all of the problematic scenarios that will inevitably arise. In the end, what really mattered is not that problems arose,

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but rather how quickly those problems were discovered and whether they were adequately addressed, so that all of the stakeholders could in the future be assured that the procurement process, while not error-free, was conducted on a level playing field, free of bias in favor of or against any party.

C. Thacher Associates' Scope of Work

Thacher's Scope of Work for this engagement was set out in a document entitled "Thacher Associates: Independent Process Integrity Monitor for Tappan Zee Hudson River Crossing Design-Build Procurement," which was provided to Thacher personnel on July 27, 2012. That document sets out both objectives and activities for the Integrity Monitor. The objectives included:

- 1. Process Evaluation: Ensure that procurement process incorporates best practices to achieve process transparency, auditability, integrity, confidentiality, competitiveness, fairness and security;
- 2. Process Enhancements: Make recommendations for enhancement to improve process as necessary; and
- 3. Compliance Monitoring: Monitor implementation of process controls to ensure compliance therewith.

The Scope of Activities, through which Thacher would achieve the above objectives, as set forth in the document, were to:

- 1. Obtain and review selected documentation relating to integrity and security of the procurement process.
- 2. Make recommendations for enhancements of the process to appropriate personnel.
- 3. Perform monitoring through: unannounced attendance at meetings selected on a random basis; review of documents produced by the procurement process; interviews with those involved in process; physical observation of compliance with all critical security/integrity-related controls (e.g., chain of custody, distribution of documents and information, document security, confidentiality, document duplication/destruction/retention); communication with appropriate personnel as to any issues found so as to facilitate immediate remediation.
- 4. Prepare a final report to Governor Andrew M. Cuomo and the Chairman of the Thruway Authority Board of Directors, Howard M. Milstein, and/or individuals selected by such individuals to receive said report, and the preparation of interim reports as necessary.

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As part of Thacher 's approach, we: (i) collected and evaluated all relevant policies and procedures; (ii) interviewed those charged with managing and executing this design-build procurement process; and (iii) monitored critical aspects of this procurement process to test compliance.

The collection of policies and procedures was ongoing throughout the procurement, as policies, procedures and controls were being developed even as the process unfolded. Some of the areas or practices on which Thacher Associates' personnel focused particular attention included verifying that:

- All participants in the procurement process were aware of the need for confidentiality regarding the ongoing evaluations of the design-build proposals;
- Confidential information and documents were appropriately safeguarded;
- The technical evaluation of the design-build proposals was not influenced by any consideration of the price of the various proposals;
- The Selection Committee's decision was made based upon the strengths and weaknesses of the design-build proposals, and was not influenced by any other consideration.

Thacher Associates also interviewed key individuals involved in this procurement process. One of the objectives of these interviews was to determine the degree to which personnel were aware of all relevant policies and procedures, what those individuals thought of those policies and procedures, and the commitment of those individuals to actually abide by them. Another objective was to establish a working relationship between our personnel and the procurement team members. The goal was to create a spirit of cooperation between Thacher's personnel and the procurement team members in the protocol-assessment process, for in the end, the team members were more likely to accept and quickly implement the advice resulting from Thacher's review of policies and procedures if they were invested in the integrity review process. It was imperative that resulting reforms or enhancements be seen as working for the management of the procurement process - not against their ability to effectively manage and execute the procurement.

Thacher Associates also monitored critical aspects of the selection process to test compliance with the controls governing those transactions. Our efforts included, but were not limited to, having a daily presence during the initial review and evaluation of the proposals; observing that security protocols were followed; observing that all participants in the procurement process executed confidentiality and non-disclosure agreements; monitoring both preparations for and the actual presentations to the Blue Ribbon Selection Committee; observing the opening and

review of pricing information; monitoring discussions with the proposers; observing the presentation to the Selection Executives; and monitoring the limited negotiations with the "Best Value" proposer.

IV. PROCUREMENT REQUIREMENTS

A. Federal Design-Build Procurement Rules

FHWA has established rules governing Design-Build procurements, which suggest a two-step process for those procurements.² The first step is to pre-qualify firms that have the capability of performing the project to be built, based upon their size, experience and expertise. This can be done through a Request for Qualifications process. The second step is to issue a Request for Proposals to each of the pre-qualified firms.

Those proposals are then evaluated on both technical criteria and price. FHWA regulations require that cost be considered in the award of Design-Build contracts, though in contrast to "low-bid" procurements, price is not necessarily determinative. Specifically, 23 CFR §636.211 provides the following direction to contracting agencies:

636.211 When and how should tradeoffs be used?

- (a) At your discretion, you may consider the tradeoff technique when it is desirable to award to other than the lowest priced offeror or other than the highest technically rated offeror.
- (b) If you use a tradeoff technique, the following apply:
 - (1) All evaluation factors and significant subfactors that will affect contract award and their relative importance must be clearly stated in the solicitation; and
 - (2) The solicitation must also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are
 - (i) Significantly more important than cost or price; or
 - (ii) Approximately equal to cost or price; or

² A copy of 23 CFR §636.101 et seg. is attached as Exhibit 1.

(iii) Significantly less important than cost or price.

The instant procurement was designed to use the tradeoff technique, pursuant to section 636.211 (b) (2) (ii); that is, technical evaluation factors and cost were of approximately equal importance.

B. Office of General Services Procurement Guidelines

In 2009, the New York State Office of General Services ("OGS") published procurement guidelines drawn up by the State Procurement Council.³ Though these guidelines are not strictly applicable to the NYSTA, they do set forth best practices for procurements conducted pursuant to the Request for Proposals model. The guidelines state:

A Request for Proposals (RFP) is generally used for the procurement of services or technology in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

These OGS guidelines, though not specifically written for Design-Build procurements, address several issues pertinent to the process followed for this procurement. The guidance provided includes:

- The RFP should contain an overview of the procurement process and the procurement must be conducted in conformance with the process described in the RFP;
- The RFP must identify the method of award as "Best Value." This is required by State Finance Law for contracts for services. Best Value takes into consideration cost as well as technical or non-cost factors;
- The evaluation criteria must be identified. The RFP must present the criteria that will be used for the evaluation of proposals. At a minimum, the agency must disclose in the RFP the relative weights that will be applied to the cost and technical components of the proposals; and
- The technical evaluations should proceed separately from the cost evaluations. The technical evaluation team(s) should not be privy to price proposals until after their technical rankings are completed. There are several acceptable ways to score the

³ A copy of the New York State Procurement Guidelines, State Procurement Council, dated July 2009, is attached as Exhibit 2.

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technical evaluations, but whatever method is utilized, the evaluation criteria and the values assigned must be consistent with any information provided in the RFP.

Finally, the OGS guidelines indicate that:

In cases where the RFP has specifically provided for negotiation of terms and conditions, the agency may engage in negotiation with the successful bidder prior to settling on the contract terms. Revisions must not substantially alter the requirements or specifications set out in the RFP.

V. SELECTION OF PROPOSERS

A. RFQ Process

The selection of the Design-Builder was accomplished through a two-step approach. First, a Request for Qualifications ("RFQ") was used to develop a short-list of qualified firms. The complexity and size of building a bridge to meet the requirements deemed essential by the Authority meant that only large, experienced construction firms would be capable to undertake this project, and even then the firms who proposed chose to perform the project as a joint- or multi-venture with other firms. The RFQ was issued on November 28, 2011, and a short-list of four qualified proposers was identified on February 7, 2012. The four qualified joint ventures were:

- i. Tappan Zee Bridge Partners, a Bechtel/Tutor Perini Joint Venture (Bechtel Infrastructure Corporation and Tutor Perini Corporation);
- ii. Hudson River Bridge Constructors (a group including Dragados USA, Inc., Flatiron Constructors, Inc., Samsung C&T, E&C Americas, Inc., and Yonkers Contracting Company, Inc.);
- iii. Tappan Zee Constructors (Fluor Enterprises, Inc., American Bridge Company, Granite Construction Northeast, Inc., and Traylor Bros., Inc.); and
- iv. Kiewit-Skanska-Weeks Joint Venture (Kiewit Infrastructure Co., Skanska USA Civil Northeast Inc., and Weeks Marine, Inc.).

B. RFP Process

The RFQ process was followed by a Request for Proposals ("RFP"), which was issued on March 9, 2012.⁴ Proposals were due at the Thruway Authority headquarters outside of Albany on Friday, July 27, 2012 at 4:00 p.m. ⁵ In the end, only three proposals were submitted. Hudson River Bridge Constructors did not submit a proposal. Each of the submitted proposals was comprised of thousands of pages of geotechnical, structural, security and operations, engineering, drawings and other data.

VI. GUIDELINES FOR THE EVALUATION PROCESS

The NYSTA developed a series of guidelines to govern the entire procurement process. These guidelines met or exceeded the FHWA Design-Build Procurement regulations and New York State procurement requirements. The main guidelines created by the NYSTA included:

- Instructions to Proposers;
- Evaluation & Selection Plan for Design-Build Proposals;
- Procurement Management Team Guidelines;
- Blue Ribbon Selection Committee Guidelines; and
- Training & Evaluation Package.

A. Instructions to Proposers

The Instructions to Proposers ("ITP") were developed as part of the RFP process as guidelines to the proposers to provide an understanding of the procurement process, including how the proposals would be evaluated. ⁶

B. Evaluation & Selection Plan for Design-Build Proposal

The Evaluation & Selection Plan for Design-Build Proposals ("Plan") was developed to provide the "methodology and criteria for evaluation of the Proposals." The Plan seeks to create "a

⁴ Due to the multi-million dollar cost of preparing a design-build proposal for this project, it was determined that competition would be fostered by providing a stipend to each of the prequalified firms that did submit a proposal. This was in accordance with the FHWA's regulations governing Design-Build procurements. See 23 CFR §636.112. The stipend in this matter was \$2.5 million, with Federal aid participation.

⁵ The RFP was amended eleven times before the proposal due date.

⁶ A copy of the selected portions of the ITP, dated September 7, 2012 (Section 5) are attached as Exhibit 3.

⁷ A copy of the Evaluation & Selection Plan for Design-Build Proposals, dated August 15, 2012, is attached as Exhibit 4.

structured process and a fair and uniform basis for the evaluation of Design-Build Proposals in accordance with Project objects and goals." The Plan is essentially the regulations created for the overall management of the entire procurement process. In contrast to the ITP, the Plan was considered confidential and was, therefore, not provided to the proposers.

C. Procurement Management Team Guidelines

The Procurement Management Team Guidelines outlines the organization, scope and assignments for the PMT.⁸ In addition, these guidelines set out the proposed schedule for the procurement process.

D. Blue Ribbon Selection Committee Guidelines

The Blue Ribbon Selection Committee Guidelines ("BRSC Guidelines") were developed to provide the Blue Ribbon Selection Committee with guidance throughout its process.⁹

E. Training & Evaluation Package

A manual was created by the NYSTA, entitled the Training & Evaluation Package, to guide the Blue Ribbon Selection Committee. ¹⁰ In addition to stating the project goals, this manual provided detailed instructions to the Blue Ribbon Selection Committee as to their role in the selection process.

F. Other Guidelines

In addition to the guidelines described above, the NYSTA created other protocols, including:

- The Golden Rules;¹¹
- The Platinum Rules; 12 and
- The Titanium Rules.¹³

These rules primarily established security and confidentiality protocols at various stages of the procurement process.

⁸ A copy of the Procurement Management Team Guidelines, dated July 27, 2012, is attached as Exhibit 5.

⁹ A copy of the Blue Ribbon Selection Committee Guidelines, dated August 31, 2012, is attached as Exhibit 6.

¹⁰ A copy of the Training & Evaluation Package, dated July 25, 2012, is attached as Exhibit 7.

¹¹ A copy of the Golden Rules, dated July 29, 2012, is attached as Exhibit 8.

¹² A copy of the Platinum Rules, dated August 3, 2012, is attached as Exhibit 9.

¹³ A copy of the Titanium Rules, dated August 13, 2012, is attached as Exhibit 9.

VII. OVERVIEW OF SELECTION PROCESS TEAMS

In addition to establishing the protocols for the procurement process, the guidelines created by the NYSTA established teams and committees to determine the proposal that represented Best Value. Below is a brief overview of the key teams and committees established for this procurement process.

A. Procurement Management Team

The procurement process was managed by a team of public and private employees, designated as the Procurement Management Team ("PMT"). The PMT was responsible for directing the overall evaluation and selection process. The PMT staff included: six members from the Thruway Authority, including the PMT Chairman, William Ringwood, Assistant Director, Office of Contracts Management for the NYSTA; three members from the New York State Department of Transportation; eleven members from Arup Group Limited ("Arup"), an international engineering and consulting firm; two members, including Robert Brownstein, from AECOM Technology Corp. ("AECOM"), an international engineering and consulting firm: one from Mueser Rutledge Consulting Engineers; and one from Howard/Stein-Hudson Associates, a transportation engineering, planning and consulting firm.

B. Legal Team

The NYSTA assembled a team of legal advisors, both public and private, including Nossaman LLP, to conduct a legal pass/fail analysis of aspects of the proposals and provide guidance throughout the procurement process. An additional member of the Legal Team, Steven M. Polan, a partner at Manatt, Phelps & Phillips, LLP, also served as counsel to the PMT and the Blue Ribbon Selection Committee.

C. Financial Team

The Financial Team, lead by Jeffrey A. Parker & Associates, Inc., was established to perform a financial pass/fail review and a net present value analysis of the price proposals. Jeffrey A. Parker & Associates, Inc.

D. Price Reasonableness Team

The Price Reasonableness Team, with the assistance of the PMT, conducted reviews of each of the proposals and provided recommendations to the BRSC regarding the reasonableness of the pricing for each of the proposals.

E. Technical Evaluation Teams

The Technical Evaluation Teams were established to evaluate the technical strengths and weaknesses of each proposal. Teams were created for the following nine disciplines:

- 1. Construction;
- 2. Structures;
- 3. Geotechnical;
- 4. Roadway;
- 5. Visual Quality;
- 6. Operations and Security;
- 7. Management;
- 8. Environmental; and
- 9. Public Outreach.

F. Value Assessment Team - Technical

The Value Assessment Team – Technical ("VAT-T") was comprised of engineers and other professionals from both the public and private sectors, who had served on the technical evaluation teams. The work of the VAT-T was to assemble all of the reports for each proposer, and where feasible, use the accumulated reports to quantify the technical strengths and weaknesses of each proposal. The VAT-T then prepared a presentation to the Blue Ribbon Selection Committee on each proposal, high-lighting those perceived strengths and weaknesses.

G. Blue Ribbon Selection Committee

On August 10, 2012, Governor Cuomo wrote to the Thruway Authority's Chairman and Executive Director, Howard Milstein and Thomas Madison, respectively, to recommend that the selection committee for the Hudson River Crossing Project be comprised not just of "the usual technical and structural experts." Instead, the Governor recommended that it include "architects, historians of the river towns, international design experts, as well as local officials from Westchester and Rockland, regular citizens," as well as technical experts. The Authority accepted the Governor's recommendation and formed the Blue Ribbon Selection Committee ("BRSC" or "Selection Committee").

The BRSC consisted of twelve members drawn from across the region and overseas, one of whom was a non-voting chairman. Many had strong credentials in bridge construction or design. It also included persons with strong construction backgrounds in New York, members

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of local planning boards, one member of the Thruway Board and a civic leader from a Rockland County community directly impacted by the new bridge.

The Blue Ribbon Selection Committee was established to present a non-binding recommendation to the Selection Executives. The NYSTA developed a process where the identity of the proposers was not known to the members of the BRSC. This "blind" process was done to avoid any actual bias or even the perception of bias, a precaution that was above and beyond anything mandated by the FHWA or New York State guidelines.

i. Brief Bios of Blue Ribbon Selection Committee Members

a. David Aukland, Tarrytown Planning Board Member

David Aukland is from the Village of Tarrytown. Aukland is a member of the Village's five-person Planning Board, to which he was appointed in 2006. His work for the Village has included reviews of the implications of various Tappan Zee Bridge replacement proposals with Tarrytown's Mayor and other officials, as well as other activities relating to the future development of the Village.

b. Allen Biehler, Former Pennsylvania DOT Secretary

Al Bielher is a Distinguished Service Professor of Transportation Systems and Policy at the H. John Heinz III College at Carnegie Mellon University, Executive Director of the University Transportation Center, and an adjunct professor in the Civil and Environmental Engineering Department in the Engineering College at Carnegie Mellon. He previously served for eight years as Secretary of the Pennsylvania DOT, leading an organization that operated the nation's fifth largest state highway system and administered one of the country's largest grant programs for mass transit, rail freight, and aviation. As Secretary, he launched a program known as Smart Transportation to streamline and stabilize Pennsylvania's transit program. In 2009, Biehler was elected President of the American Association of State Highway and Transportation Officials, where he helped to create the State Smart Transportation Initiative to assist state transportation agencies wishing to accelerate sustainable practices. Prior to his post at DOT, he was a Vice President with the international transportation consulting firm DMJM-Harris, where he was project manager for preliminary engineering of the North Shore LRT Connector project in Pittsburgh, Pennsylvania and Director of Planning and Preliminary Engineering for extension of the Tren Urbano rail system in San Juan, Puerto Rico. Earlier, Biehler was Director of Planning, Engineering and Construction at Port Authority of Allegheny County, in charge of the agency's \$500 million capital improvement program. He received a B.S. in Civil Engineering

from the University of Pittsburgh, and a masters-equivalent Certificate in Highway Transportation from Yale University. He is a registered professional engineer in Pennsylvania.

c. Keith Brownlie, Bridge Architect

Keith Brownlie is a leading international Bridge Architect specializing in the design of major infrastructure and engineering projects worldwide. He has been responsible for shaping numerous landmark bridge structures including the Gateshead Millennium and Twin Sails Bridges in the United Kingdom, the Metsovitikos Crossing in Greece and the Sutong Yangtze River Bridge in China. He has also directed the architectural design of many significant infrastructure projects including High Speed One rail link in the UK and the 18km Fehmarnbelt Tunnel between Germany and Denmark, as well as super high rise buildings such as the 1450ft Guangzhou International Finance Centre in China. Projects with which he has been involved have received the highest international architecture and engineering awards, including the RIBA Stirling Prize in the United Kingdom, the Arthur G. Hayden Medal in the United States and the Balthasar Neumann Prize in Germany. Brownlie graduated from Brighton School of Architecture and the Mackintosh School of Architecture at the Glasgow School of Art, Glasgow University. He is a chartered member of the Royal Institute of British Arch.

d. Edward Buroughs, Westchester County Planning Commissioner

Edward Buroughs is Commission of the Westchester County Department of Planning. Prior to joining the county staff in 1994, Buroughs served as Director of Planning for the towns of Somers and Lewisboro in Westchester and as consulting town planner for the town of Carmel in Putnam County. He earned a Masters of City and Regional Planning from Rutgers University and a B.A. from the University of Delaware.

e. Nuria Fernandez, Chief Operating Office of MTA

Nuria Fernandez is Chief Operating Officer of the Metropolitan Transportation Authority ("MTA"). She previously served as Senior Vice President of CH2M Hill, a firm that provides engineering, construction, and operations services for businesses and governments throughout the world. She has also served in executive positions at the U.S. Department of Transportation ("US DOT"), the Washington Metropolitan Area Transit Authority, and the Chicago Transit Authority.

f. Richard Kohlhausen, South Nyack Civic Leader

Richard L. Kohlhausen is from the Village of South Nyack. Kohlhausen was appointed to the SUNY Rockland Community College Board of Trustees by Governor Pataki and was reappointed by Governor David Paterson. He also serves as President of the Board of Nyack Hospital, and

formerly served as President of the Nyack School Board and as a Member of the Board of the Edwin Gould Academy in Ramapo. Kohlhausen moved to Rockland more than 30 years ago and currently resides in South Nyack. He earned a bachelor's degree in chemical engineering from New York University and an M.B.A. from Iona College, New York.

g. Joan McDonald, Commissioner of NYS DOT

Joan McDonald is Commissioner of the New York State Department of Transportation ("NYS DOT"). Commissioner McDonald previously served as commissioner of the Department of Economic and Community Development for the State of Connecticut, as Senior Vice President of Transportation for the New York City Economic Development Corporation, and as the Vice President in charge of New York and New Jersey at Jacobs Engineering. She began her transportation career as Deputy Commissioner for Planning and Traffic Operations for the New York City DOT and as the Director of Capital and Long Range Planning for the MTA Metro-North Railroad.

h. Gene McGovern, Business and Construction Executive

Gene McGovern co-founded Lehrer McGovern Inc. in 1979. Lehrer McGovern was the construction manager for the mid-1980s restoration of the Statue of Liberty, and worked on other high-profile projects including renovations of Grand Central Station and Ellis Island and the construction of Euro Disney and London's Canary Wharf business district.

i. Karen Rae, NY Deputy Secretary for Transportation

Karen Rae is Deputy Secretary for Transportation in the Executive Chamber. Prior to joining the Cuomo Administration, she served as Deputy Administrator of the Federal Railroad Administration in the Obama Administration, where she managed the federal high speed rail initiative and developed national freight and passenger rail policy. She also served as Director of the Virginia Department of Rail and Public Transportation, including negotiating and executing the multi-billion dollar public-private partnership contract for the Dulles rail project. She was previously General Manager of transit systems in Austin, Texas, Glens Falls and Buffalo. Rae was also Deputy Commissioner of Policy and Planning at the New York State DOT, where she was responsible for finance, planning and policy, and Deputy Secretary of the Pennsylvania DOT, where she led the creation of a streamlined, performance-based funding program for transit.

j. Brandon Sall, NYSTA Board Member, Chairman of the Selection Committee

Brandon Sall is an attorney residing in Westchester County with offices in White Plains, New York, and a member of the Thruway Authority Board of Directors.

k. Thomas B. Vanderbeek, Rockland County Commissioner of Planning

For eight years, Thomas Vanderbeek was a member of the Rockland County Planning Board. He also served as Stony Point Town Engineer and was project manager and engineer in the development of sewer systems in western Ramapo, overseeing environmental impact study, survey and design. Vanderbeek has a B.S. in Civil Engineering from Princeton University and is a member of the state Fire Prevention and Building Codes Council, the Rockland County Parks Commission and the National Society of Professional Engineers.

I. Robert Yaro, President of Regional Plan Association

Robert Yaro is President of Regional Plan Association ("RPA"), the nation's oldest independent metropolitan policy, research, and advocacy group. He led development of and co-authored RPA's Third Regional Plan, A Region at Risk, and has authored and co-authored numerous papers and articles on planning and infrastructure for the five boroughs of New York City and the metropolitan region. He founded and co-chairs America 2050, RPA's initiative to create a national development and infrastructure plan. He is co-chair of the Empire State Transportation Alliance, on the board of the Forum for Urban Design, and an honorary member of the Royal Town Planning Institute. Yaro holds a Masters in City and Regional Planning from Harvard University and a B.A. in Urban Studies from Wesleyan University. In addition to leading RPA, Yaro is a professor of practice at the University of Pennsylvania and has consulted on city and regional planning issues across the United States and in Europe, China, Japan, Turkey, and North Africa.

H. Bridge Design Aesthetic Team

In addition to the BRSC, the Governor also announced a Bridge Design Aesthetic Team ("BDAT"), consisting of artists and architects, to review the proposed bridge designs and assist in the evaluation process.

i. Brief Bios of Team Members

a. Jeffrey Koons, Artist

Jeffrey Koons is an internationally recognized artist who has received numerous awards and honors in recognition of his cultural achievements. Most recently, the Royal Academy of Arts presented Koons with the John Singleton Copley Award, former Pennsylvania Governor Ed Rendell presented Koons with The Governor's Awards for the Arts - Distinguished Arts Award, and President Jacques Chirac promoted Koons to Officier de la Legion d'Honneur.

b. Richard Meier, Architect

Richard Meier received his architectural training at Cornell University and established his own office in New York City in 1963. Since that time his international practice has encompassed major cultural and civic commissions as well as private residences and corporate and academic facilities. He has received the Pritzker Prize for Architecture, the Gold Medals of the American Institute of Architects and the Royal Institute of British Architects as well as the Praemium Imperiale from the Japan Art Association. His best known works include the Getty Center in Los Angeles; the Barcelona Museum of Contemporary Art; and the Jubilee Church in Rome.

c. Thomas P. Campbell, Director and CEO of The Metropolitan Museum of Art

Campbell has held the position of Director of The Metropolitan Museum of Art since 2009. Prior to his appointment, Campbell was a curator in the Metropolitan's Department of European Sculpture and Decorative Arts for 14 years, where he organized two major exhibitions on Renaissance and Baroque tapestry.

d. Alison Spear AIA, LEED AP, Architect

Alison Spear is a local and LEED certified architect licensed to work in New York as well as other states and is presently a Senior Designer with Ennead Architects. Spear was formerly the principal of her architectural and design firm, Alison Spear AIA in Wappingers Falls, New York City and Miami, Florida. She has taught at several universities including University of Miami School of Architecture, Parson's School of Design and as a visiting critic at Syracuse University School of Architecture and University of Toronto. She has received several awards including the Design Star Award from the Design Center of the Americas and was named the 2005 Interior Architect of the Year by the American Institute of Architects. Spear is a resident of the Hudson Valley.

e. Thomas Wermuth, Director, Hudson River Valley Institute & Vice President of Academic Affairs and Dean of Faculty, Marist College

Thomas Wermuth is a published expert on the social and economic history of the Hudson Valley. He is editor of the book series, "The Hudson River Valley: An American Region," which focuses on the history, culture, literature and tourism of the Valley. He was an associate editor of the Encyclopedia of New York State and author of Rip Van Winkle's Neighbors: The Transformation of Rural Society in the Hudson River Valley and edited America's First River: The Hudson, published by the State University of New York Press. He serves on the Executive Board of the New York Academy of History and is chair of the editorial board of the Hudson River Valley Review. He resides in Harrison, Westchester County.

Keith Brownlie, a member of the BRSC, also served on the BDAT.

I. Selection Executives

The Selection Executives was comprised of the members of the Major Projects Committee of the Thruway Authority's Board. The Selection Executives reviewed the selection and findings of the BRSC and concurred with its decision. Importantly, the Selection Executives was also "blind" as to the identity of which contractor had submitted which proposal. Like the BRSC, the Selection Executives knew the proposals only by code names.

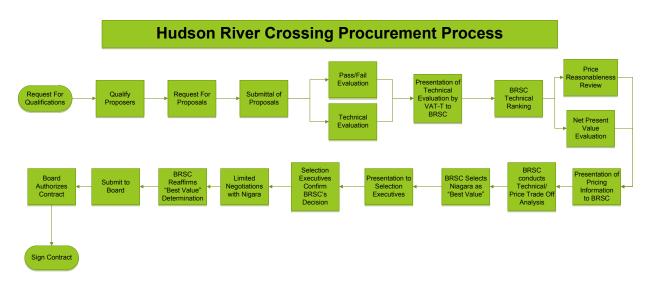
J. New York State Thruway Authority Board

The ultimate determination whether to award a contract was made by the full New York State Thruway Authority Board.

VIII. SELECTION PROCESS

A. Overview of the Selection Process

As described above, the procurement process for this project was governed by the specific guidelines created by the NYSTA, which met or exceeded the FHWA Design-Build Procurement guidelines, as set forth in the Code of Federal Regulations, and by New York State requirements. Below is an overview of some of the key steps that the procurement process followed.



i. Pass/Fail Review

The Request for Proposals specified five pass/fail criteria that each proposer must satisfy. These criteria were categorized as (i) Legal; (ii) Administrative; (iii) DBE/EEO; (iv) Financial Information; and (v) Price Proposal. If the proposal was determined to be non-compliant with the RFP requirements in these areas, the proposal would be assigned a "fail" rating and would not be further evaluated.

All of the proposals passed each of the pass/fail categories.

ii. Technical Evaluation

Concurrent with the Pass/Fail review, the Technical Evaluation Teams, consisting of more than 80 engineers and other professionals, were assembled to conduct technical reviews of the proposals. Their review focused on the following nine areas:

- 1. Construction;
- 2. Structures;
- 3. Geotechnical;
- 4. Roadway;
- 5. Visual Quality;
- 6. Operations and Security;
- 7. Management;
- 8. Environmental; and
- 9. Public Outreach.

Each of the teams prepared a report within their area of expertise for each proposal.

iii. Preparation of Summary Reports of Technical Evaluation

The VAT-T assembled each of the Technical Evaluation Teams' reports for each proposer to produce a summary report for each of the proposers. Each of these summary reports highlighted the technical strengths and weaknesses of each proposer.

iv. Presentation of Technical Information to the BRSC

In an effort to prevent any possibility of bias for or against any particular proposal directed toward any joint venture or member thereof, the work of the BRSC was "blind" to the identity of the contractors associated with any proposal. Instead, each proposal was assigned one of the following code names: Niagara, Oneida or Catskills.

Tappan Zee Constructors	Niagara
Tappan Zee Bridge Partners	Oneida
Kiewit-Skanska-Weeks Joint Venture	Catskills

The PMT and VAT-T went to great lengths to ensure that identities of proposers were concealed from the BRSC and Selection Executives. As noted above, having a blind evaluation of the proposals is above and beyond the requirements of FHWA and New York State.

The guidelines created for this procurement set out the factors and sub-factors for the evaluation of each proposal. Below is a chart of the Factors and Sub-Factors established for the Hudson River Crossing Project procurement.

FACTOR	SUB-FACTOR	
	Construction Approach	
	Service Life of the Crossing	
	Maximizing the Public Investment	
Design and Construction Solution	Bridge, Structures and Aesthetic Design Concepts	
	Geotechnical	
	Roadway Design Concepts	
	NYSTA Operations and Security	
	Schedule	
Management Approach	Organization and General Management	
	Design Management	
	Construction Management	
	Key Personnel	
Key Personnel and Experience	Experience of the Firms	
	Past Performance	
Environmental Compliance		
Public Outreach and Coordination with Stakeholders		

v. Technical Ranking of Proposers by BRSC

The NYSTA developed an adjectival rating system for the BRSC to grade and rank the proposals. After hearing the presentations and reviewing the reports, the BRSC assigned one of the adjectival ratings from the chart below to each Factor and Sub-Factor.

Exceptional -	Good -	Acceptable -	
Exceptional	Good	Acceptable	Unacceptable
Exceptional +	Good +	Acceptable +	

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According to the guidelines created by the NYSTA, all proposals were required to have at least an "Acceptable" rating for each of the five Factors in order to remain in consideration for award. However, an "Unacceptable" in any of the Sub-Factors would not disqualify the proposal.

As stated above, the identities of the proposers were not known to the BRSC during the selection process. Instead, code names were used to present the information to the BRSC. After presentations and reviewing the reports for the proposals, the Selection Committee assigned their adjectival ratings to each of the proposals.¹⁴

After the proposals were assigned adjectival ratings, the BRSC deliberated and ranked the proposals technically. The BRSC ranked the proposers as follows:

- 1. Oneida;
- 2. Catskills; and
- 3. Niagara.

vi. Evaluation of Pricing Information

On September 4, 2012, at the Thruway Headquarters Building outside of Albany and in the presence of a member of the Integrity Monitor, the proposers' price submissions were opened. This pricing information had been stored unopened in a vault at the Thruway Authority since being received on July 27, 2012. Opening the price proposals on September 4, 2012 was necessitated by the need to complete the financial "pass/fail" analysis for each of the proposers, and in preparation for its use by the BRSC. The pricing information was shared only on a strict "need-to-know" basis. It was stressed to all that were made privy to this information that it must be held in strict confidence, as unauthorized, premature disclosure of the pricing information could seriously and negatively impact the work of the BRSC, and the ability of the State to negotiate with the proposers over price, were that to become necessary.

vii. Presentation of Pricing Information to BRSC

When the technical ranking process was completed, the BRSC, for the first time, was provided the pricing information for the three proposals. On September 12 and 13, the VAT made its technical presentations to the BRSC. The BRSC then made an initial ranking of the three proposals on technical grounds.

¹⁴ A copy of the BRSC ranking sheets for Niagara, Oneida, and Catskills are attached as Exhibit 11, 12, and 13, respectively.

Pursuant to the Request for Proposals, the price evaluation for each proposal was to be based on Net Present Value of the proposer's bid amount distributed over the duration of the contract. The real and net present value determinations of the base proposal prices, presented to the BRSC, are summarized in the chart below.

Bid Costs (millions)	Catskills	Oneida	Niagara
Contract Amount	\$4,059	\$3,990	\$3,142
Difference from Low Bid	\$917	\$848	-
Net Present Value	\$3,837	\$3,705	\$2,959
Difference from Low Bid	\$878	\$746	-

Only after the BRSC ranked the proposers technically, was the pricing information provided to them.

After being presented the pricing information, the BRSC ranked the proposals financially. The financial rankings assigned were:

- 1. Niagara;
- 2. Oneida; and
- 3. Catskills.

viii. BRSC's "Best Value" Determination

Once the pricing information was presented to the BRSC, the committee determined that it needed additional technical information from the proposers before it could reach a determination as to which proposal provided the "Best Value." The first step in gathering the needed clarifications was to submit written questions to the three proposers. These questions were vetted and approved by FHWA before they were sent to the proposers. The questions were provided to the proposers on September 17, and responses were received on September 21.

After analyzing the responses, the PMT reported to the BRSC in a conference call on September 24, 2012 that all of the responses had been thorough (varying in length from 30 to 70 pages) and that the responses had been helpful. Pursuant to a memorandum of that date from William Ringwood, Chair of the PMT, to all members of the BRSC, which memorandum sets out and documents the reasons for entering into "Discussions" with the proposers, the BRSC concurred that all of the proposals were responsive to the RFP and determined that they were

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in a "competitive range."¹⁵ The BRSC authorized the PMT to have "Discussions" with each of the proposers. "Discussions" per the applicable FHWA regulations are equivalent to negotiations, that is, "Discussions" may include bargaining.¹⁶

Discussions with the three proposers took place October 1, 2 and 3; one day was allotted for each proposer. Each proposer was provided written notification of the issues for discussion. The order of the discussions with the proposers was the same order as the earliest meetings with the proposers, which had been determined by chance. The PMT reported the results of these discussions back to the BRSC, who were advised by counsel that, taking into account all of the information they had received to date, they could either proceed to a best value determination, or they could authorize the PMT to seek revised proposals. The committee deliberated and determined that it had all the information it needed to determine which proposal represented the "Best Value," and it proceeded to make that determination. Ultimately, the BRSC selected Niagara as representing "Best Value." A summary of the BRSC's process and selection was recorded in the Blue Ribbon Selection Committee Report. 17

ix. Concurrence by Selection Executives

The decision of the BRSC as to the Best Value proposal was sent forward on October 11, 2012 to the Selection Executives. As mentioned above, the Selection Executives were comprised of the members of the Major Projects Committee of the Thruway Authority Board. The Selection Executives could accept or reject the decision of the BRSC, but it could not substitute its judgment as to the Best Value proposal. The Selection Executives had questions of the PMT about both the procurement process and certain aspects of the Best Value proposal, which were answered in a meeting that took place on October 15, 2012.

Thacher Associates attended this meeting, which was held in Manhattan at 633 Third Avenue. Members of the Selection Executives who were not physically present participated via videoconference or by teleconference. The non-voting chairman of the BRSC reported on the process which had been followed during the procurement, and various members of the PMT answered the technical questions propounded by the Selection Executives. The Selection Executives were polled and all announced that their questions had been satisfactorily answered. The Selection Executives were advised by counsel that they had sufficient information to fulfill their fiduciary responsibilities and proceed to either ratify or reject the Best Value decision of the BRSC. The Selection Executives then voted, without dissent, to ratify

¹⁶ 23 CFR §636.501

¹⁵ 23 CFR §636.505

¹⁷ A copy of the Blue Ribbon Selection Committee Report, dated November 30, 2012, is attached as Exhibit 14.

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the Best Value decision, and in a second vote, again without dissent, to authorize the PMT to engage in limited negotiations with the Best Value proposer.

x. Limited Negotiations with Niagara

Those limited negotiations commenced on October 29, 2012 with the following goals: 1) assuring that clarifications and no-cost enhancements of the proposal regarding scope and schedule were accurately memorialized in the contract; 2) addressing possible incorporation of an ATC from another proposer; 3) incorporating revised contract terms solely to the Authority's benefit regarding key personnel, integrity monitoring and community benefits: 4) clarifying environmental permitting responsibilities and scheduling, and 5) incorporating options for certain potential technical enhancements that would be considered by the Authority post contract award based upon firm fixed pricing to be offered by the proposer, but subject to not-to-exceed amounts set forth in the contract.

The limited negotiations only allowed for the negotiation of clarifications and the introduction of terms that were to the benefit of the Authority and without any change in the contractor's price or schedule, and no improvement in terms to the benefit of the proposer. In addition the limited negotiations allowed for the incorporation of certain additional optional enhancements (as well as credit deletions) that the Authority might wish to consider in the future and which might have adverse cost or schedule impacts. However, for all of these potential changes it is the Authority's decision, in its sole discretion, as to whether or not to exercise the option once a firm fixed price is established. The import of incorporating these enhancement options (and deletions) in the contract at this time (rather than potentially using the Authority's change order rights post award for the same purpose) was to limit the rights of the contractor to seek additional compensation and schedule adjustment in excess of the capped amounts specified for each option. In other words, even in the case of the options, these contract features represented improvements in the contract to the benefit of the Authority.

The options negotiated ran the gamut, dealing with structural, maintenance and aesthetic aspects of the proposal. The limited negotiations were adjourned on October 31, 2012 to allow the proposer to calculate the costs of various options which fell into the category of items for which there would be an additional cost.

By conducting the limited negotiations in this manner, the PMT sought to maximize its bargaining leverage. In negotiating before a final contract was in place, it was believed that with a proposer eager to finalize the deal, more of the enhancements would be included at no additional cost. Similarly, the PMT reasoned that it would get the best price for those items for

which the proposer would seek additional compensation before the contract was finally awarded.

The limited negotiations resumed on the morning of November 12, 2012 and proceeded through November 14, 2012. Several items were finalized in the proposed contract as no-cost clarifications, while options were included with "not to exceed" prices, that is, the maximum price was agreed to, with an understanding on both sides that the actual price could be lower. The impact on completion schedule for each option was also included in the estimate.

xi. Reaffirmation by BRSC of "Best Value" Determination

On November 15, 2012, the results of the limited negotiations were presented to the BRSC.¹⁸ Each clarification was explained, as was each option, with its associated cost and impact on completion schedule. Armed with this information, the BRSC, with none opposed,¹⁹ re-affirmed its decision that the proposal code-named Niagara represented the Best Value. The committee also passed a resolution recommending that the Thruway Authority consider exercising the options for enhancements to the proposal, as described in the presentation, though many felt further price reductions to the not-to-exceed prices could be obtained.

xii. Authorization to enter into the Contract by the Thruway Authority Board

On December 17, 2012, the contract described above was presented to the New York State Thruway Authority Board of Directors. The Board authorized the NYSTA Executive Director to enter into the contract and the result was announced publicly that day.

IX. FINDINGS AND OBSERVATIONS

Our findings are divided into two broad categories (i) integrity of the process and (ii) compliance with the applicable rules and regulations.

A. Integrity of the Procurement

Our examination of the FHWA's guidelines for conducting a Design-Build procurement revealed that the process utilized for this procurement, as described above, meets or exceeds each of the steps outlined in those guidelines. In particular, the "blind" nature of the BRSC's work, to avoid any actual bias or even the perception of bias, is a precaution above and beyond anything mandated by the FHWA guidelines. The New York State Procurement Guidelines, issued in

¹⁸ PowerPoint slides for this presentation are attached as Exhibit 15.

¹⁹ The BRSC member who had participated in the limited negotiations abstained from this vote.

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2009 by the State Procurement Council, while not applicable to the NYSTA, do provide best practice guidance for procurements utilizing the RFP approach. Again, the process followed in this procurement met or exceeded the strictures set out in those guidelines.

Keeping in mind that no set of protocols can ever envision all of the problematic scenarios that can arise in a process as lengthy and complex as this procurement, our conclusion that this procurement process was infused with integrity in its design and implementation was in large part based on our findings that the personnel involved in this endeavor were strongly motivated by a desire to do the job right, to treat each proposer fairly, and to get the best product for the best price that they could for the State of New York. From our observations, the effort on the part of the PMT to devise stringent protocols to protect the confidentiality and fairness of this process was unrelenting and uncompromised. The inevitable technical deviations from established protocols were minimal, and were addressed adequately and immediately upon their discovery, whether that discovery was by Thacher personnel or by the PMT themselves. Our ultimate conclusion is that the Best Value determination was made in compliance with the evaluation criteria set out in the RFP, without bias for or against any proposer.

B. Compliance with Guidelines

It is important to note that because of the extremely ambitious timetable for completing this procurement, some of the protocols governing this procurement process were works in progress, even as the procurement was proceeding. Coupled with the complexity of unpacking, analyzing and evaluating the multitude of technical, financial and aesthetic factors in three separate design-build conceptualizations for a miles long bridge across the Hudson River, this meant there would inevitably be unanticipated events during the procurement process. While we found no deviations from the ITP, we did, as noted above, observe departures from the internal guidelines and protocols that were developed and provided to us by the PMT. While we can report that none of those departures actually compromised the integrity of the Best Value determination, we have chosen to discuss some of those departures below so that the reader will better understand the nature of these issues, and so that future procurements will be informed by this experience.

These departures from the prescribed procedure can be placed loosely into categories depending on the purpose of the governing protocol: some of the protocols were designed to protect the security of documents and information from disclosure to persons outside the procurement; some were designed to control the flow of information within the procurement process; and some were designed to eliminate any actual or perceived bias from infecting the Best Value decision that is the result of the process.

i. Document and Information Security

The protocol governing the copying of the drawings for each proposal is an example of a protocol designed to protect information from disclosure to persons outside of the procurement process. On the evening of July 27, 2012, the electronic versions of the proposers' drawings were transmitted via Arup's secure network by an Arup employee in Rensselaerville to Arup's employee in charge of the copying process in New York City. Thacher personnel subsequently interviewed the NYC employee and she described the process that took place in New York City. Thacher also had an employee physically present to observe this process.

Arup's NYC employee stated that she logged into Arup's secure network from home. She opened the email from her colleague in Rensselaerville and copied the electronic files with the drawings onto a USB drive. The next morning she took the USB drive to a print shop in New York City, arriving at approximately 10:30 a.m. (Saturday, July 28, 2012). This print shop had been used by Arup many times in the past without any security breach. She had all print shop employees execute the required Confidentiality and Conflict of Interest documents, as well as the member of Thacher Associates' staff who was dispatched to observe the reproduction of the drawings.

Though the protocol governing the copying of the drawings required that the files not be placed on the printer's server, she permitted this to be done, because the print job was so big it was necessary to use multiple printers. However, as a safe guard she was shown and provided with a copy of the file path for the drawings on the server, so that these files could later be located and deleted. Due to the size of the files and a printer breaking down, the print job took until 6:15 a.m. the next day (Sunday, July 29, 2012). When the print job was complete, she watched as the files were deleted from the print shop's network and from all printers' memories. She also took all of the poor quality or otherwise defective prints with her when she left, and later shredded those papers at her office.

The truck arrived to transport the printed drawings to Rensselaerville at 8:00 a.m. In total, 40 copies of each proposer's drawings were placed on the truck, comprising 18 sealed boxes of materials. The Confidentiality and Conflict of Interest paperwork was affixed to the outside of box number 18. The driver and one helper, having signed Confidentiality Agreements, were then dispatched with chain of custody documentation to Rensselaerville, with instructions not to stop or deviate from their route.

She then took the papers to be shredded and the USB drive containing the drawing files back to her office. The papers she placed under her desk and later shredded. The protocol in place required that the USB drive be placed in a "locked box" but none was available, so she placed

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the USB drive in an envelope which she slid under the separately locked door of Arup's IT department. She considered this room as the most secure within Arup's office space, all of which space is locked during non-office hours, with an alarm system in place. On Monday morning she was present when the first IT employee arrived for work and, when he unlocked the IT room, she immediately retrieved the envelope with the USB drive. She then deleted all the files from the USB drive and copied other material onto the drive to make it impossible to retrieve the drawings files. An electronic chain of custody was kept for the USB drive, a copy of which was provided to Thacher Associates.

On Sunday, July 29, 2012, the drawings arrived at the Carey Conference Center ("CCC") in Rensselaerville at 11:30 a.m. Arup's Document Security Officer on site obtained the chain of custody documents from the driver (Thacher Associates was provided with a copy). Eighteen boxes were unloaded from the print shop truck and moved into the Master Seminar room. (Thacher documented this process with photos.) The 18 boxes were opened and found to contain 40 copies of each proposer's drawings. The document security officer placed the correct number of copies of the drawings in each evaluation team's group of documents, and with the oversight and assistance of Thacher personnel, each team's documents were then delivered to each team's work room in the various buildings of the CCC campus, so that the materials would be in place and the teams could begin work immediately upon their arrival on Monday morning. Thacher documented this activity with photographs. Each room was locked securely. Some of the team meeting rooms were improvised and did not have doors that could be locked. The doors to these rooms were fitted with hasps so that they could be padlocked. The keys for these locks were in the document security officer's custody.

As detailed above, actual and prescribed practice diverged in at least two respects: the electronic drawings files were transferred to the printer's servers, and the USB with the electronic drawings files was placed in a locked room, but not in a locked box. In both instances, the actions taken were reasonable responses to changing circumstances (though arguably the need for a lock-box should have been anticipated), and did in fact safeguard confidential documents and information without losing sight of the fact that a time sensitive assignment had to be completed. From our review of the decisions described above, both in real-time, on-site at the print shop and after the fact as events were dissected, we conclude that the actions taken were more than reasonable "work arounds" necessitated by unanticipated events, and did in fact protect the security of confidential documents and information.

ii. Information Control

One example of a protocol designed to control the flow of information within the procurement process would be the sequestration of the proposals' pricing information while the technical evaluations were proceeding. The goal was to make sure that the technical evaluation teams, the Value Assessment Team, and the Blue Ribbon Selection Committee all made their initial decisions concerning the proposals' technical merits without regard to cost. To this end, the protocol in place required that the pricing information be clearly marked as such when the multi-volume proposals were submitted. The pricing information for each proposal was then separated from the rest of the proposal and placed, unopened, into a vault at the Thruway Authority Headquarters, while the rest of the proposal was shipped to Rensselaerville for analysis by the Technical Evaluation teams. The pricing information was not to be opened until after the Blue Ribbon Selection Committee had completed its technical rankings.

In fact, this protocol was deviated from in two respects: (i) some pricing information was discovered to have apparently made its way to Rensselaerville; and (ii) the pricing information was opened before the BRSC had made its technical rankings.

In the first mentioned deviation, it was noted when the proposals arrived at Rensselaerville that one proposer had exercised the option to provide a "FOIL" copy of its proposal. As the multiple boxes of the proposals were being inventoried and broken apart for use by the Technical Evaluation Teams, this box was set aside, unopened, by the PMT. Several days later, the Document Security Officer on site opened the box to verify its contents. She discovered files, which she did not open, but whose labels indicated the possibility that they contained the proposer's pricing information. She immediately brought this to the attention of Thacher Associates personnel on site, who advised that the box should be re-sealed and transported to the Thruway Authority's headquarters to be stored with the other pricing information. The Chairman of the PMT agreed with this advice and the re-sealed "FOIL" box was in fact delivered to the vault located at the Thruway Authority's headquarters.²¹

Thacher Associates' personnel were present at the Thruway Authority's headquarters when the pricing information was retrieved from the vault on September 4, 2012 and observed that the pricing information was still sealed, as was the FOIL box. As of the writing of this report, the FOIL box has not been un-sealed, so the PMT's actions taken regarding that material effectively

²⁰ A "FOIL" copy is a copy with redactions that the proposer deemed necessary and allowable under the Freedom of Information Law, to be provided in case a FOIL request were subsequently made.

²¹ The PMT had no one who could be spared on this occasion to transport this box to the Thruway Authority's headquarters. In spite of the fact that we were there to monitor and not participate in the procurement process, we deemed this matter so important that a Thacher Associates employee took custody of the material and transported it personally to the Thruway Authority's vault.

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removed any concern that the pricing information for that proposer might have been compromised.

However, the second deviation from the prescribed protocol occurred at that time, as the pricing information was opened so that the Price Reasonableness Review and the Net Present Value Evaluation could commence, even though the BRSC had not performed its technical rankings. This was a decision taken by the PMT, who had authored the protocol they were now consciously setting aside, and again it was a rational response to unanticipated events that occurred during the procurement process.

Specifically, due to delays in naming the BRSC and due to scheduling conflicts of the BRSC members once they were selected, the procurement process had fallen behind schedule. To recapture some of that lost time, it was decided that examination of the pricing information should go ahead as originally scheduled. Also, there were scheduling issues concerning the availability of members of the teams conducting the price reviews which made it difficult to further delay opening the proposers' prices. So, the needed financial analysis was readied, though it was not provided to the BRSC until <u>after</u> the BRSC had completed its technical rankings.

The risk attendant to this change in the order of events is apparent: Once the pricing information was opened, the universe of people with knowledge of the price proposals was expanded and thus it was more possible that this information could be shared inappropriately. However, this universe was still quite small, and was comprised of people -- all members of the PMT-- who had already demonstrated a high-level of trustworthiness in handling the most sensitive of information involving this procurement. Even as to the members of the PMT, the pricing information was shared on a "need-to-know" basis. So again, we conclude that this deviation from the established protocol was a reasonable response to unanticipated developments that arose during the procurement process. Even though the protocol was deviated from, based our observations of the procurement process, we saw no evidence to suggest that the confidential pricing information was compromised or shared inappropriately with anyone inside or outside of the procurement process.

iii. Bias Elimination

The final category of integrity related protocols were those designed to eliminate any actual or perceived bias from infecting the Best Value decision. Examples of such protocols were those designed to make the work of the BRSC and Selection Executives "blind" to the identity of the proposers associated with any proposal. As noted earlier in this report, this is a precaution over and above anything required by the FHWA Design-Build guidelines or by the New York State Procurement Guidelines for the RFP procurement process.

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The effort that the PMT put into developing and implementing the necessary protocols to effectuate this strategy was remarkable. In particular the VAT-T, which was the "highest" level within the process for whom the process was not blind, had to painstakingly prepare its presentations to the BRSC in a manner that gave each proposer credit for any significant technical or supply-chain advantages it might possess, while not revealing so much about those advantages that the BRSC members would be able to positively discern the identity of the proposer. In the same vein, the VAT-T had to fairly present to the BRSC information about the experience and achievements of the significant personnel that each proposer intended to assign to the project, without revealing the actual identities of those personnel. This was necessitated by the possibility that, had the actual identities of key personnel been disclosed, some members of the BRSC would have immediately known the identity of the contractors associated with a particular proposal.

In one instance the PMT departed from the blind nature of the selection process. The PMT had a member of the BRSC participate during the limited negotiations with Niagara, which of course revealed the identity of Niagara to that member of the BRSC. The rationale for this decision was that this member of the BRSC had shown himself to be particularly insightful into the way a contractor would approach the limited negotiations and the PMT thought it would be valuable to them to have the benefit of those insights "real time" during the negotiations with the contractor. To preserve the blind nature of the selection process, this member of the BRSC then recused himself from further votes of the committee. He also was strictly instructed that he could have no communications with other members of the BRSC (indeed, nor with anyone else) about the identity of the proposer. Our observations of the reaction of the other members of the BRSC when this arrangement was divulged to them, at the time of said recusal, leads us to believe that these instructions were adhered to. We further conclude that this departure from the pre-established protocol was reasonable, that reasonable steps were taken to mitigate any adverse impact from said departure, that those steps did in fact mitigate any such impact, and that the blind structure of the procurement was preserved.

iv. Other Issues

We observed other developments throughout this lengthy procurement process which deserve clarification. One involves the decision to include the Deputy Secretary for Transportation on the BRSC. The issues this presented reduce themselves to one central question: Did she possess such particularized knowledge of the proposals that her inclusion on the BRSC compromised the effort to conduct a blind selection process? We conclude that it did not.

Obviously the identity of the proposers was a matter of public record. The four joint ventures that had been pre-qualified had been announced publicly, as had been the identities of the

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three joint ventures that actually submitted proposals on July 27, 2012. However, the protocols in place governing the next step in the procurement process, the technical evaluations that took place in Rensselaerville, provided that "No information is provided at this time to the [BRSC] or the [Selection Executives]."

Clearly this protocol was complied with to the letter, since those two committees had not even been named at that point in time. Thus no information, technically, could be shared with those committees. However, the spirit and intent of the protocol, to protect the work of those two committees from being infected with preliminary information being developed during the initial technical rankings, which could have served later to identify a particular proposer's proposal and thus defeat the blind nature of the selection process, must be recognized. This concern was most sharply focused by the fact that the PMT provided regular telephonic updates to the Deputy Secretary as the work at Rensselaerville proceeded.

At the outset, we must acknowledge that we did not monitor these phone calls. We have been informed, however, and we have no reason to dispute, that these updates were in the nature of status reports regarding the process, and did not involve discussions of the specifics of any proposals. Indeed, in our interviews with members of the PMT who participated in these phone calls, we were informed that the PMT had anticipated the possibility that the Deputy Secretary could be appointed to the BRSC or to the Selection Executives, and had thus been careful not to disclose anything that would compromise the process if that eventuality took place. The Deputy Secretary, when interviewed, confirmed that these phone calls had provided her with a status update on the process, but had provided her with no specifics regarding any proposal. Based upon our interviews of both the PMT staff and of the Deputy Secretary, and our observations of the work of the Deputy Secretary as a member of the BRSC, we find these assertions credible, and conclude that the spirit of the protocol was not compromised in any fashion.

Finally, we note two matters which involve interpretations of the written protocols which merit inclusion in this report. The first involves the BRSC's adjectival ratings of the proposals. The Instructions to Proposers, section 5.0, states that:

Each Technical Proposal will be evaluated on the pass/fail and technical evaluation factors identified herein. In order to be considered for award of the Contract, the Proposal must receive a "pass" rating on all pass/fail factors and receive a technical rating

²² The members of the Major Projects Committee of the Thruway Authority were in place, but it had not been decided that the Major Projects Committee of the Thruway Authority would function as the Selection Executives. The BRSC members had not been decided upon.

of at least "Acceptable" on each technical evaluation factor. A Technical Evaluation Team appointed by the Agencies will determine the overall technical strengths and weaknesses of each Proposal before the Price Proposals are opened and evaluated by a Selection Committee appointed by the Agencies. The Selection Committee will evaluate the technical findings and pricing information contained in the Price Proposals and prepare a recommendation to the Selection Official(s) appointed by the Agencies indicating which Proposal represents the "best value" to the State and the Agencies.

This concise description of the evaluation process requires that a proposal must receive a technical rating of at least "Acceptable" on each technical evaluation factor. The ITP at section 5.2.1 lists and describes, in descending order, possible adjectival ratings of Exceptional, Good, Acceptable and Unacceptable. It then goes on to provide:

In assigning ratings the Agencies may assign "+" or "-" (such as, "Exceptional -", "Good +", and "Acceptable +") to the ratings to better differentiate within a rating in order to more clearly differentiate between the technical evaluation factors and the overall Proposals.

Also, the Blue Ribbon Selection Committee Guidelines, dated August 31, 2012, at page 8, after describing the four possible adjectival ratings, states:

ADDITIONAL USE OF PLUS/MINUS SUFFIXES:

In developing the adjectival ratings, the Committee may additionally assign **PLUS** or **MINUS** suffixes (such as "Exceptional minus", "Good plus" and "Acceptable plus") to the Acceptable, Good, and Exceptional ratings to better differentiate within these adjectival levels.

The interplay between the requirement of "at least 'Acceptable' " in the ITP and the provision allowing PLUS and MINUS values to be assigned becomes relevant because the Niagara proposal received a technical rating in one category of "Acceptable minus." Thus, at first blush, one might conclude that the proposal did not meet the requirements as stated in the ITP that a proposal must be rated at least as "Acceptable" in order to be eligible for further consideration.

However, this is not our conclusion. First, a ranking of "Acceptable minus" is a form of "Acceptable," the same way a grade of "C-" on a term paper is a form of the grade of "C." It is

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clearly not a "B" but also clearly not a "D." It is a form of "C." But more exactly, the clear language in the instructions to the Blue Ribbon Selection Committee is that the Committee can "additionally assign PLUS or MINUS suffixes...to the Acceptable, Good and Exceptional ratings...." Thus the "minus" is an additional ranking. As such, the BRSC must first have found the proposal's technical value "Acceptable" before assigning the MINUS suffix.

This argument is strengthened by the ITP's description of the rating "Unacceptable," the rating listed below the other three, which provides: "UNACCEPTABLE: The Proposal does not meet any of the rating standards listed above and/or is non-responsive." Thus, if the evaluation did not meet the rating of at least "Acceptable," it would have been rated "Unacceptable" per the terms of the ITP. This clearly did not happen.

Given all of the above, we conclude that the BRSC was acting within its authority and in compliance with the ITP when it assigned a ranking of "Acceptable minus" to a factor in Niagara's proposal without disqualifying the proposal.

The second interpretational issue involves the work of the Selection Executives, particularly the protocol governing the possible actions of that Committee. That protocol is section 4.2.8 of the Evaluation and Selection Plan for Design Build Proposals, dated August 15, 2012. The Selection Executives have three options prescribed in that protocol: (i) they may concur in the Best Value decision of the BRSC; (ii) they may fail to concur, after which limited negotiations with each of the proposers may take place; or (iii) they may recommend that the PMT seek revised proposals from the proposers. In fact, the Selection Executives concurred with the BRSC's Best Value decision, and voted to authorize limited negotiations with that single proposer, a combination of decisions not specifically authorized by the protocol.

Of course it is also not specifically prohibited by the protocol, and in fact it defies both common sense and best practice to prohibit the State from negotiating with the Best Value proposer to try to get an even better contract for the State. When we pointed out the fact that the decisions of the Selection Executives were not a combination specifically authorized by the protocol governing the work of that body, the Chairman of the PMT stated, in sum and substance, that it had always been the intention of the PMT to conduct limited negotiations with the selected proposer in an effort to improve the final contract between the proposer and the State. In the Chairman's view, ratification of the BRSC's Best Value choice by the Selection Executives carried with it the authority to conduct those limited negotiations. In support of this position, the PMT referred us to an e-mail from a member of the PMT to the Chairman of the Thruway Authority, setting out the anticipated procurement schedule as of August 15,

2012, which reads:

Mr. Chairman,

As per your request, attached is the schedule for the completion of the selection of the design build team for the Tappan Zee Bridge replacement. Please contact me with any questions.

Begin	End	Description	
08/10/12	08/24/12	Value Assessment Team prepares Technical	
		Summaries and Presentations for the	
		Selection Committee	
08/27/12	09/05/12	Value Assessment Team presents the	
		results of the Technical Evaluations to the	
/ /		Selection Committee	
08/27/12	09/05/12	Financial Team opens Price Proposal and	
00/27/42	00/05/43	conducts Net Present Value (NPV) analysis	
08/27/12	09/05/12	Price Reasonableness Team analyzes	
00/06/12	09/07/12	reasonableness and price balancing Selection Committee deliberates and	
09/06/12	09/07/12	Selection Committee deliberates and assigns ratings and rankings	
09/10/12	09/10/12	Financial Team presents Price/NPV analysis	
03/10/12	03/10/12	to the Selection Committee	
09/11/12	09/13/12	Selection Committee conducts the best	
		value trade-off deliberations	
09/14/12	09/14/12	Selection Committee makes the Selection	
		Recommendation	
09/17/12	09/19/12	Procurement Management Team reviews	
		and verifies the record	
09/20/12	09/20/12	Selection Executives (possibly the NYSTA	
		Board) reviews, deliberates, and concurs	
09/20/12	09/20/12	Selection is completed with no public	
		announcement	
09/20/12	09/20/12	Notification to the selected proposer and	
00/20/42	00/24/42	limited negotiations are initiated	
09/20/12	09/24/12	Review of detailed pricing escrowed	
09/20/12	10/03/12	documents Conduct limited negotiations with the	
09/20/12	10/03/12	selected team	
10/04/12	10/04/12	Finalize contract documents	
10/04/12	10/11/12	FHWA review and concurrence	
10/04/12	10/09/12	NYSTA review and approval with public	
		announcement	
10/11/12	10/26/12	Contract execution and award	
10/29/11		Notice to Proceed	
(Emphasis Added)			

Obviously the schedule set out in the e-mail above was aspirational, and assumed a simplicity of process that was not achieved. Still, this e-mail clearly shows that as far back as the middle of August, the PMT believed that AFTER the Best Value decision of the BRSC had been ratified

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by the Selection Executives, limited negotiations would be conducted with the selected proposer.

X. CONCLUSION

Thacher Associates personnel closely observed the key events in Tappan Zee Hudson River Crossing Design-Build Procurement process, from the receipt of the proposals on July 27, 2012, through the ratification of the decision of the Blue Ribbon Selection Committee by the Selection Executives on October 15, 2012, and to the subsequent approval of the contract with the identified Best Value Proposer on December 17, 2012. From all of those observations as described above, we conclude that the procurement process was conducted with integrity and that it followed procedures that incorporated best practices. We further conclude that there were no deviations from the process prescribed in the ITP.

Keeping in mind that no set of protocols can ever envision all of the problematic scenarios that can arise in a process as lengthy and complex as this procurement, it is clear that the NYSTA and other personnel involved in this endeavor generally complied with their established internal procedures and only departed from those procedures when required do so as a result of a change of circumstance. Even then, the departures from the internal procedures were only done after internal and/or external discussions and, in some instances, on the advice of counsel. At each step in the procurement process, those responsible for shepherding the process were strongly motivated by a desire to do the job right, to treat each proposer fairly, and to get the best product for the best price that they could for the State of New York.

Exhibit 1

23 C.F.R. § 636.101 Page 1

C

Effective:[See Text Amendments]

Code of Federal Regulations <u>Currentness</u>
Title 23. Highways
Chapter I. Federal Highway Administration,
Department of Transportation
Subchapter G. Engineering and Traffic Operations

<u>Name Part 636</u>. Design—Build Contracting (<u>Refs</u>)

<u>^\leq Part 636</u>. Design—Build Contracting (<u>Refs</u> <u>& Annos</u>)

<u>Subpart A</u>. General

 \rightarrow § 636.101 What does this part do?

This part describes the FHWA's policies and procedures for approving design-build projects financed under title 23, United States Code (U.S.C.). This part satisfies the requirement of section 1307(c) of the Transportation Equity Act for the 21st Century (TEA–21), enacted on June 9, 1998. The contracting procedures of this part apply to all design-build project funded under title 23, U.S.C.



$C \rightarrow \S 636.102$ Does this part apply to me?

- (a) This part uses a plain language format to make the rule easier for the general public and business community to use. The section headings and text, often in the form of questions and answers, must be read together.
- (b) Unless otherwise noted, the pronoun "you" means the primary recipient of Federal-aid highway funds, the State Transportation Department (STD). Where the STD has an agreement with a local public agency (or other governmental agency) to administer a Federal-aid design-build project, the term "you" will also apply to that contracting agency.



$^{\text{C}} \rightarrow \S$ 636.103 What are the definitions of terms used in this part?

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. Also, the following definitions are used:

Adjusted low bid means a form of best value selection in which qualitative aspects are scored on a 0 to 100 scale expressed as a decimal; price is then divided by qualitative score to yield an "adjusted bid" or "price per quality point." Award is made to offeror with the lowest adjusted bid.

Best value selection means any selection process in which proposals contain both price and qualitative components and award is based upon a combination of price and qualitative considerations.

Clarifications means a written or oral exchange of information which takes place after the receipt of proposals when award without discussions is contemplated. The purpose of clarifications is to address minor or clerical revisions in a proposal.

Communications are exchanges, between the contracting agency and offerors, after receipt of proposals, which lead to the establishment of the competitive range.

Competitive acquisition means an acquisition process which is designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to the selection of the proposal representing the best value to the contracting agency.

Competitive range means a list of the most highly rated proposals based on the initial proposal rankings. It is based on the rating of each proposal against all evaluation criteria.

Contracting agency means the public agency awarding and administering a design-build contract. The contracting agency may be the STD or another State or local public agency. Deficiency means a material failure of a proposal to meet a contracting agency requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

Design-bid-build means the traditional project delivery method where design and construction are sequential steps in the project development process.

Design-build contract means an agreement that provides for design and construction of improvements by a contractor or private developer. The term encompasses design-build-maintain, design-build-operate, design-build-finance and other contracts that include services in addition to design and construction. Franchise and concession agreements are included in the term if they provide for the franchisee or concessionaire to develop the project which is the subject of the agreement.

Design-builder means the entity contractually responsible for delivering the project design and construction.

Discussions mean written or oral exchanges that take place after the establishment of the competitive range with the intent of allowing the offerors to revise their proposals.

Final design means any design activities following preliminary design and expressly includes the preparation of final construction plans and detailed specifications for the performance of construction work.

Fixed price/best design means a form of best value selection in which contract price is established by the owner and stated in the Request for Proposals document. Design solutions and other qualitative factors are evaluated and rated, with award going to the firm offering the best qualitative proposal for the established price.

Intelligent Transportation System (ITS) services means services which provide for the acquisition of technologies or systems of technologies (e.g., com-

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puter hardware or software, traffic control devices, communications link, fare payment system, automatic vehicle location system, etc.) that provide or contribute to the provision of one or more ITS user services as defined in the National ITS Architecture.

Modified design-build means a variation of design-build in which the contracting agency furnishes offerors with partially complete plans. The design-builders role is generally limited to the completion of the design and construction of the project.

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

Preliminary design defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. Prior to completion of the NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process.

Prequalification means the contracting agency's process for determining whether a firm is fundamentally qualified to compete for a certain project or class of projects. The prequalification process may be based on financial, management and other types of qualitative data. Prequalification should be distinguished from short listing.

Price proposal means the price submitted by the offeror to provide the required design and construction services.

Price reasonableness means the determination that the price of the work for any project or series of projects is not excessive and is a fair and reasonable price for the services to be performed.

Proposal modification means a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

Proposal revision means a change to a proposal made after the solicitation closing date, at the request of or as allowed by a contracting officer, as the result of negotiations.

Public-private agreement means an agreement between a public agency and a private party involving design and construction of transportation improvements by the private party to be paid for in whole or in part by Federal-aid highway funds. The agreement may also provide for project financing, at-risk equity investment, operations, or maintenance of the project.

Qualified project means any design-build project (including intermodal projects) funded under Title 23, United States Code, which meets the requirements of this part and for which the contracting agency deems to be appropriate on the basis of project delivery time, cost, construction schedule, or quality.

Request for Proposals (RFP) means the document that describes the procurement process, forms the basis for the final proposals and may potentially become an element in the contract.

Request for Qualification (RFQ) means the document issued by the owner in Phase I of the two-phased selection process. It typically describes the project in enough detail to let potential offerors determine if they wish to compete and forms the basis for requesting qualifications submissions from which the most highly qualified offerors can be identified.

Short listing means the narrowing of the field of offerors through the selection of the most qualified offerors who have responded to an RFQ.

Single-phase selection process means a procurement process where price and/or technical proposals are submitted in response to an RFP. Short listing is not used

Solicitation means a public notification of an owner's

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need for information, qualifications, or proposals related to identified services.

Stipend means a monetary amount sometimes paid to unsuccessful offerors.

Technical proposal means that portion of a design-build proposal which contains design solutions and other qualitative factors that are provided in response to the RFP document.

Tradeoff means an analysis technique involving a comparison of price and non-price factors to determine the best value when considering the selection of other than the lowest priced proposal.

Two-phase selection process means a procurement process in which the first phase consists of short listing (based on qualifications submitted in response to an RFQ) and the second phase consists of the submission of price and technical proposals in response to an RFP.

Weakness means a flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

Weighted criteria process means a form of best value selection in which maximum point values are pre-established for qualitative and price components, and award is based upon high total points earned by the offerors.



C → § 636.104 Does this part apply to all Federal-aid design-build projects?

The provisions of this part apply to all Federal-aid design-build projects within the highway right-of-way or linked to a Federal-aid highway project (i.e., the project would not exist without another Federal-aid highway project). Projects that are not located within the highway right-of-way, and not linked to a Federal-aid highway project may utilize State-approved procedures.



$^{\text{C}} \rightarrow \S$ 636.105 Is the FHWA requiring the use of design-build?

No, the FHWA is neither requiring nor promoting the use of the design-build contracting method. The design-build contracting technique is optional.



C § 636.106 [Reserved by <u>72 FR 45336</u>]

[<u>72 FR 45336</u>, Aug. 14, 2007]



C → § 636.107 May contracting agencies use geographic preference in Federal-aid design-build or public-private partnership projects?

No. Contracting agencies must not use geographic preferences (including contractual provisions, preferences or incentives for hiring, contracting, proposing, or bidding) on Federal-aid highway projects, even though the contracting agency may be subject to statutorily or administratively imposed in–State or local geographical preferences in the evaluation and award of such projects.

[72 FR 45336, Aug. 14, 2007]



C § 636.108 [Reserved by <u>72 FR 45337</u>]

[<u>72 FR 45337</u>, Aug. 14, 2007]



C → § 636.109 How does the NEPA process relate to the design-build procurement process?

The purpose of this section is to ensure that there is an objective NEPA process, that public officials and citizens have the necessary environmental impact information for federally funded actions before actions are taken, and that design-build proposers do not assume an unnecessary amount of risk in the event the NEPA process results in a significant change in the proposal, and that the amount payable by the contracting agency to the design-builder does not include significant contingency as the result of risk placed on the design-builder associated with significant changes in the project definition arising out of the NEPA process. Therefore, with respect to the design-build procurement process:

- (a) The contracting agency may:
 - (1) Issue an RFQ prior to the conclusion of the NEPA process as long as the RFQ informs proposers of the general status of NEPA review;
 - (2) Issue an RFP after the conclusion of the NEPA process;
 - (3) Issue an RFP prior to the conclusion of the NEPA process as long as the RFP informs proposers of the general status of the NEPA process and that no commitment will be made as to any alternative under evaluation in the NEPA process, including the no-build alternative;
 - (4) Proceed with the award of a design-build contract prior to the conclusion of the NEPA process;
 - (5) Issue notice to proceed with preliminary design pursuant to a design-build contract that has been awarded prior to the completion of the NEPA process; and
 - (6) Allow a design-builder to proceed with final design and construction for any projects, or portions thereof, for which the NEPA process has

been completed.

- (b) If the contracting agency proceeds to award a design-build contract prior to the conclusion of the NEPA process, then:
 - (1) The contracting agency may permit the design-builder to proceed with preliminary design;
 - (2) The contracting agency may permit any design and engineering activities to be undertaken for the purposes of defining the project alternatives and completing the NEPA alternatives analysis and review process; complying with other related environmental laws and regulations; supporting agency coordination, public involvement, permit applications, or development of mitigation plans; or developing the design of the preferred alternative to a higher level of detail when the lead agencies agree that it is warranted in accordance with 23 U.S.C. 139(f)(4)(D);
 - (3) The design-build contract must include appropriate provisions preventing the design-builder from proceeding with final design activities and physical construction prior to the completion of the NEPA process (contract hold points or another method of issuing multi-step approvals must be used);
 - (4) The design-build contract must include appropriate provisions ensuring that no commitments are made to any alternative being evaluated in the NEPA process and that the comparative merits of all alternatives presented in the NEPA document, including the no-build alternative, will be evaluated and fairly considered;
 - (5) The design-build contract must include appropriate provisions ensuring that all environmental and mitigation measures identified in the NEPA document will be implemented;
 - (6) The design-builder must not prepare the NEPA document or have any decisionmaking responsibility with respect to the NEPA process;

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- (7) Any consultants who prepare the NEPA document must be selected by and subject to the exclusive direction and control of the contracting agency;
- (8) The design-builder may be requested to provide information about the project and possible mitigation actions, and its work product may be considered in the NEPA analysis and included in the record; and
- (9) The design-build contract must include termination provisions in the event that the no-build alternative is selected.
- (c) The contracting agency must receive prior FHWA concurrence before issuing the RFP, awarding a design-build contract and proceeding with preliminary design work under the design-build contract. Should the contracting agency proceed with any of the activities specified in this section before the completion of the NEPA process (with the exception of preliminary design, as provided in paragraph (d) of this section), the FHWA's concurrence merely constitutes the FHWA approval that any such activities complies with Federal requirements and does not constitute project authorization or obligate Federal funds.
- (d) The FHWA's authorization and obligation of preliminary engineering and other preconstruction funds prior to the completion of the NEPA process is limited to preliminary design and such additional activities as may be necessary to complete the NEPA process. After the completion of the NEPA process, the FHWA may issue an authorization to proceed with final design and construction and obligate Federal funds for such purposes.

[72 FR 45337, Aug. 14, 2007]



C → § 636.110 What procedures may be used for solicitations and receipt of proposals?

You may use your own procedures for the solicitation and receipt of proposals and information including the following:

- (a) Exchanges with industry before receipt of proposals;
- (b) RFQ, RFP and contract format;
- (c) Solicitation schedules;
- (d) Lists of forms, documents, exhibits, and other attachments;
- (e) Representations and instructions;
- (f) Advertisement and amendments;
- (g) Handling proposals and information; and
- (h) Submission, modification, revisions and withdrawal of proposals.



© § 636.111 Can oral presentations be used during the procurement process?

- (a) Yes, the use of oral presentations as a substitute for portions of a written proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, however, you must comply with the appropriate State procurement integrity standards.
- (b) Oral presentations may substitute for, or augment, written information. You must maintain a record of oral presentations to document what information you relied upon in making the source selection decision. You may decide the appropriate method and level of detail for the record (e.g., videotaping, audio tape recording, written record, contracting agency notes, copies of offeror briefing slides or presentation notes). A copy of the record should be placed in the contract file and may be provided to offerors upon request.



C → § 636.112 May stipends be used?

At your discretion, you may elect to pay a stipend to unsuccessful offerors who have submitted responsive proposals. The decision to do so should be based on your analysis of the estimated proposal development costs and the anticipated degree of competition during the procurement process.



C → § 636.113 Is the stipend amount eligible for Federal participation?

- (a) Yes, stipends are eligible for Federal-aid participation. Stipends are recommended on large projects where there is substantial opportunity for innovation and the cost of submitting a proposal is significant. On such projects, stipends are used to:
 - (1) Encourage competition;
 - (2) Compensate unsuccessful offerors for a portion of their costs (usually one-third to one-half of the estimated proposal development cost); and
 - (3) Ensure that smaller companies are not put at a competitive disadvantage.
- (b) Unless prohibited by State law, you may retain the right to use ideas from unsuccessful offerors if they accept stipends. If stipends are used, the RFP should describe the process for distributing the stipend to qualifying offerors. The acceptance of any stipend must be optional on the part of the unsuccessful offeror to the design-build proposal.
- (c) If you intend to incorporate the ideas from unsuccessful offerors into the same contract on which they unsuccessfully submitted a proposal, you must clearly provide notice of your intent to do so in the RFP.



C → § 636.114 What factors should be considered in risk allocation?

- (a) You may consider, identify, and allocate the risks in the RFP document and define these risks in the contract. Risk should be allocated with consideration given to the party who is in the best position to manage and control a given risk or the impact of a given risk.
- (b) Risk allocation will vary according to the type of project and location, however, the following factors should be considered:
 - (1) Governmental risks, including the potential for delays, modifications, withdrawal, scope changes, or additions that result from multi-level Federal, State, and local participation and sponsorship;
 - (2) Regulatory compliance risks, including environmental and third-party issues, such as permitting, railroad, and utility company risks;
 - (3) Construction phase risks, including differing site conditions, traffic control, interim drainage, public access, weather issues, and schedule;
 - (4) Post-construction risks, including public liability and meeting stipulated performance standards; and
 - (5) Right-of-way risks including acquisition costs, appraisals, relocation delays, condemnation proceedings, including court costs and others.





C → § 636.115 May I meet with industry to gather information concerning the appropriate risk allocation strategies?

- (a) Yes, information exchange at an early project stage is encouraged if it facilitates your understanding of the capabilities of potential offerors. However, any exchange of information must be consistent with State procurement integrity requirements. Interested parties include potential offerors, end users, acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.
- (b) The purpose of exchanging information is to improve the understanding of your requirements and industry capabilities, thereby allowing potential offerors to judge whether or how they can satisfy your requirements, and enhancing your ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.
- (c) An early exchange of information can identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and acquisition planning schedules. This also includes the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques to promote early exchanges of information are as follows:
 - (1) Industry or small business conferences;
 - (2) Public hearings;
 - (3) Market research;
 - (4) One-on-one meetings with potential offerors (any meetings that are substantially involved with potential contract terms and conditions should include the contracting officer; also see paragraph (e) of this section regarding restrictions on disclosure of information);
 - (5) Presolicitation notices;
 - (6) Draft RFPs;
 - (7) Request for Information (RFI);
 - (8) Presolicitation or preproposal conferences; and
 - (9) Site visits.
- (d) RFIs may be used when you do not intend to award a contract, but want to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted to form a binding contract. There is no required format for an RFI.
- (e) When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information shall be made available to all potential offerors as soon as



practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a particular offeror in response to that offeror's request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy. When a presolicitation or preproposal conference is conducted, materials distributed at the conference should be made available to all potential offerors, upon request.



23 C.F.R. § 636.116

C → § 636.116 What organizational conflict of interest requirements apply to design-build projects?

- (a) State statutes or policies concerning organizational conflict of interest should be specified or referenced in the design-build RFQ or RFP document as well as any contract for engineering services, inspection or technical support in the administration of the design-build contract. All design-build solicitations should address the following situations as appropriate:
 - (1) Consultants and/or sub-consultants who assist the owner in the preparation of a RFP document will not be allowed to participate as an offeror or join a team submitting a proposal in response to the RFP. However, a contracting agency may determine there is not an organizational conflict of interest for a consultant or sub-consultant where:
 - (i) The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the RFP, and did not include assistance in development of instructions to offerors or evaluation criteria, or
 - (ii) Where all documents and reports delivered to the agency by the consultant or sub-consultant are made available to all offerors.
 - (2) All solicitations for design-build contracts, including related contracts for inspection, administration or auditing services, must include a provision which:
 - (i) Directs offerors attention to this subpart;
 - (ii) States the nature of the potential conflict as seen by the owner;
 - (iii) States the nature of the proposed restraint or restrictions (and duration) upon future contracting activities, if appropriate;

- (iv) Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation; and
- (v) Requires offerors to provide information concerning potential organizational conflicts of interest in their proposals. The apparent successful offerors must disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest. Such firms must state how their interests, or those of their chief executives, directors, key project personnel, or any proposed consultant, contractor or subcontractor may result, or could be viewed as, an organizational conflict of interest. The information may be in the form of a disclosure statement or a certification.
- (3) Based upon a review of the information submitted, the owner should make a written determination of whether the offeror's interests create an actual or potential organizational conflict of interest and identify any actions that must be taken to avoid, neutralize, or mitigate such conflict. The owner should award the contract to the apparent successful offeror unless an organizational conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated.
- (b) The organizational conflict of interest provisions in this subpart provide minimum standards for STDs to identify, mitigate or eliminate apparent or actual organizational conflicts of interest. To the extent that State-developed organizational conflict of interest standards are more stringent than that contained in this subpart, the State standards prevail.
- (c) If the NEPA process has been completed prior to issuing the RFP, the contracting agency may allow a consultant or subconsultant who prepared the NEPA document to submit a proposal in response to the RFP.
- (d) If the NEPA process has not been completed prior to issuing the RFP, the contracting agency may allow a subconsultant to the preparer of the NEPA document

23 C.F.R. § 636.117 Page 4

to participate as an offeror or join a team submitting a proposal in response to the RFP only if the contracting agency releases such subconsultant from further responsibilities with respect to the preparation of the NEPA document.

[72 FR 45337, Aug. 14, 2007]

23 C.F.R. § 636.117 Page 5

C § 636.117 What conflict of interest standards apply to individuals who serve as selection team members for the owner?

State laws and procedures governing improper business practices and personal conflicts of interest will apply to the owner's selection team members. In the absence of such State provisions, the requirements of 48 CFR Part 3, Improper Business Practices and Personal Conflicts of Interest, will apply to selection team members.



C → § 636.118 Is team switching allowed after contract award?

Where the offeror's qualifications are a major factor in the selection of the successful design-builder, team member switching (adding or switching team members) is discouraged after contract award. However, the owner may use its discretion in reviewing team changes or team enhancement requests on a case-by-case basis. Specific project rules related to changes in team members or changes in personnel within teams should be explicitly stated by the STD in all project solicitations.



C → § 636.119 How does this part apply to a project developed under a public-private partnership?

- (a) In order for a project being developed under a public-private agreement to be eligible for Federal-aid funding (including traditional Federal-aid funds, direct loans, loan guarantees, lines of credit, or some other form of credit assistance), the contracting agency must have awarded the contract to the public-private entity through a competitive process that complies with applicable State and local laws.
- (b) If a contracting agency wishes to utilize traditional Federal-aid funds in a project under a public-private agreement, the applicability of Federal-aid procurement procedures will depend on the nature of the public-private agreement.
 - (1) If the public-private agreement establishes price, then all subsequent contracts executed by the developer are considered to be subcontracts and are not subject to Federal-aid procurement requirements.
 - (2) If the public-private agreement does not establish price, the developer is considered to be an agent of the owner, and the developer must follow the appropriate Federal-aid procurement requirements (23 CFR part 172 for engineering service contracts, 23 CFR part 635 for construction contracts and the requirements of this part for design-build contracts) for all prime contracts (not subcontracts).
- (c) The STD must ensure such public-private projects comply with all non-procurement requirements of 23 U. S. Code, regardless of the form of the FHWA funding (traditional Federal-aid funding or credit assistance). This includes compliance with all FHWA policies such as environmental and right-of-way requirements and compliance with such construction contracting requirements as Buy America, Davis—Bacon minimum wage rate requirements, for federally funded construction or design-build contracts under the public-private agreement.

[72 FR 45337, Aug. 14, 2007]

23 C.F.R. § 636.201 Page 1

C → § 636.201 What selection procedures and award criteria may be used?

your project (based on the criteria in § 636.202), you may use a single phase selection procedure or the modified-design-build contracting method. The following procedures are available:

You should consider using two-phase selection procedures for all design-build projects. However, if you do not believe two-phase selection procedures are appropriate for

Selection procedure	Criteria for using a selection procedure	Award criteria options
(a) Two-Phase Selection Procedures (RFQ followed by RFP)	§ 636.202	Lowest price, Adjusted low-bid (price per quality point), meets criteria/low bid, weighted criteria process, fixed price/best design, best value.
(b) Single Phase (RFP)	Project not meeting the criteria in § 636.202	All of the award criteria in item (a) of this table.
(c) Modified Design-Build (may be one or two phases)	Any project	Lowest price technically acceptable.



C → § 636.202 When are two-phase design-build selection procedures appropriate?

You may consider the following criteria in deciding whether two-phase selection procedures are appropriate. A negative response may indicate that two-phase selection procedures are not appropriate.

- (a) Are three or more offers anticipated?
- (b) Will offerors be expected to perform substantial design work before developing price proposals?
- (c) Will offerors incur a substantial expense in preparing proposals?
- (d) Have you identified and analyzed other contributing factors, including:
 - (1) The extent to which you have defined the project requirements?
 - (2) The time constraints for delivery of the project?
 - (3) The capability and experience of potential contractors?
 - (4) Your capability to manage the two-phase selection process?
 - (5) Other criteria that you may consider appropriate?



C → § 636.203 What are the elements of two-phase selection procedures for competitive proposals?

The first phase consists of short listing based on a RFQ. The second phase consists of the receipt and evaluation of price and technical proposals in response to a RFP.



C → § 636.204 What items may be included in a phase-one solicitation?

You may consider including the following items in any phase-one solicitation:

- (a) The scope of work;
- (b) The phase-one evaluation factors and their relative weights, including:
 - (1) Technical approach (but not detailed design or technical information);
 - (2) Technical qualifications, such as--
 - (i) Specialized experience and technical competence;
 - (ii) Capability to perform (including key personnel); and
 - (iii) Past performance of the members of the offeror's team (including the architect-engineer and construction members);
 - (3) Other appropriate factors (excluding cost or price related factors, which are not permitted in phase-one);
- (c) Phase-two evaluation factors; and
- (d) A statement of the maximum number of offerors that will be short listed to submit phase-two proposals.



C → § 636.205 Can past performance be used as an evaluation criteria?

- (a) Yes, past performance information is one indicator of an offeror's ability to perform the contract successfully. Past performance information may be used as an evaluation criteria in either phase-one or phase-two solicitations. If you elect to use past performance criteria, the currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance may be considered.
- (b) Describe your approach for evaluating past performance in the solicitation, including your policy for evaluating offerors with no relevant performance history. You should provide offerors an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the current solicitation.
- (c) If you elect to request past performance information, the solicitation should also authorize offerors to provide information on problems encountered on the identified contracts and the offeror's corrective actions. You may consider this information, as well as information obtained from any other sources, when evaluating the offeror's past performance. You may use your discretion in determining the relevance of similar past performance information.
- (d) The evaluation should take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the current acquisition.



C → § 636.206 How do I evaluate offerors who do not have a record of relevant past performance?

In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.



C → § 636.207 Is there a limit on short listed firms?

Normally, three to five firms are short listed, however, the maximum number specified shall not exceed five unless you determine, for that particular solicitation, that a number greater than five is in your interest and is consistent with the purposes and objectives of two-phase design-build contracting.



 $^{\text{C}} \rightarrow \S$ 636.208 May I use my existing prequalification procedures with design-build contracts?

Yes, you may use your existing prequalification procedures for either construction or engineering design firms as a supplement to the procedures in this part.



→ § 636.209 What items must be included in a phase-two solicitation?

- (a) You must include the requirements for technical proposals and price proposals in the phase-two solicitation. All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation. Use your own procedures for the solicitation as long as it complies the requirements of this part.
- (b) At your discretion, you may allow proposers to submit alternate technical concepts in their proposals as long as these alternate concepts do not conflict with criteria agreed upon in the environmental decision making process. Alternate technical concept proposals may supplement, but not substitute for base proposals that respond to the RFP requirements.



© § 636.210 What requirements apply to projects which use the modified design-build procedure?

- (a) Modified design-build selection procedures (lowest price technically acceptable source selection process) may be used for any project.
- (b) The solicitation must clearly state the following:
 - (1) The identification of evaluation factors and significant subfactors that establish the requirements of acceptability.
 - (2) That award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.
- (c) The contracting agency may forgo a short listing process and advertise for the receipt of proposals from all responsible offerors. The contract is then awarded to the lowest responsive bidder.
- (d) Tradeoffs are not permitted, however, you may incorporate cost-plus-time bidding procedures (A+B bidding), lane rental, or other cost-based provisions in such contracts.
- (e) Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.
- (f) Exchanges may occur (see subpart D of this part).



$C \rightarrow \S$ 636.211 When and how should tradeoffs be used?

- (a) At your discretion, you may consider the tradeoff technique when it is desirable to award to other than the lowest priced offeror or other than the highest technically rated offeror.
- (b) If you use a tradeoff technique, the following apply:
 - (1) All evaluation factors and significant subfactors that will affect contract award and their relative importance must be clearly stated in the solicitation; and
 - (2) The solicitation must also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are--
 - (i) Significantly more important than cost or price; or
 - (ii) Approximately equal to cost or price; or
 - (iii) Significantly less important than cost or price.

[68 FR 7922, Feb. 19, 2003]



C → § 636.212 To what extent must tradeoff decisions be documented?

When tradeoffs are performed, the source selection records must include the following:

- (a) An assessment of each offeror's ability to accomplish the technical requirements; and
- (b) A summary, matrix, or quantitative ranking, along with appropriate supporting narrative, of each technical proposal using the evaluation factors.



C → § 636.301 How should proposal evaluation factors be selected?

- (a) The proposal evaluation factors and significant subfactors should be tailored to the acquisition.
- (b) Evaluation factors and significant subfactors should:
 - (1) Represent the key areas of importance and emphasis to be considered in the source selection decision; and
 - (2) Support meaningful comparison and discrimination between and among competing proposals.





C → § 636.302 Are there any limitations on the selection and use of proposal evaluation factors?

- (a) The selection of the evaluation factors, significant subfactors and their relative importance are within your broad discretion subject to the following requirements:
 - (1) You must evaluate price in every source selection where construction is a significant component of the scope of work. However, where the contracting agency elects to release the final RFP and award the design-build contract before the conclusion of the NEPA process (see § 636.109), then the following requirements apply:
 - (i) It is not necessary to evaluate the total contract price;
 - (ii) Price must be considered to the extent the contract requires the contracting agency to make any payments to the design-builder for any work performed prior to the completion of the NEPA process and the contracting agency wishes to use Federal-aid highway funds for those activities;
 - (iii) The evaluation of proposals and award of the contract may be based on qualitative considerations;
 - (iv) If the contracting agency wishes to use Federal-aid highway funds for final design and construction, the subsequent approval of final design and construction activities will be contingent upon a finding of price reasonableness by the contracting agency;
 - (v) The determination of price reasonableness for any design-build project funded with Federal-aid highway funds shall be based on at least one of the following methods:
 - (A) Compliance with the applicable procurement requirements for part 172, 635, or 636, where the contractor providing the final design or construction services, or both, is a person or entity other than the design-builder;
 - (B) A negotiated price determined on an open-book basis by both the design-builder and contracting agency; or
 - (C) An independent estimate by the contracting agency based on the price of similar work;
 - (vi) The contracting agency's finding of price reasonableness is subject to FHWA concurrence.
 - (2) You must evaluate the quality of the product or service through consideration of one or more non-price evaluation factors. These factors may include (but are not limited to) such criteria as:
 - (i) Compliance with solicitation requirements:
 - (ii) Completion schedule (contractual incentives and disincentives for early completion may be used where appropriate); or
 - (iii) Technical solutions.
 - (3) At your discretion, you may evaluate past performance, technical experience and management experience



(subject to § 636.303(b)).

(b) All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation.

[72 FR 45338, Aug. 14, 2007]



C → § 636.303 May pre-qualification standards be used as proposal evaluation criteria in the RFP?

- (a) If you use a prequalification procedure or a two-phase selection procedure to develop a short list of qualified offerors, then pre-qualification criteria should not be included as proposal evaluation criteria.
- (b) The proposal evaluation criteria should be limited to the quality, quantity, value and timeliness of the product or service being proposed. However, there may be circumstances where it is appropriate to include prequalification standards as proposal evaluation criteria. Such instances include situations where:
 - (1) The scope of work involves very specialized technical expertise or specialized financial qualifications; or
 - (2) Where prequalification procedures or two-phase selection procedures are not used (short listing is not performed).



C → § 636.304 What process may be used to rate and score proposals?

- (a) Proposal evaluation is an assessment of the offeror's proposal and ability to perform the prospective contract successfully. You must evaluate proposals solely on the factors and subfactors specified in the solicitation.
- (b) You may conduct evaluations using any rating method or combination of methods including color or adjectival ratings, numerical weights, and ordinal rankings. The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation must be documented in the contract file.



C → § 636.305 Can price information be provided to analysts who are reviewing technical proposals?

Normally, technical and price proposals are reviewed independently by separate evaluation teams. However, there may be occasions where the same experts needed to review the technical proposals are also needed in the review of the price proposals. This may occur where a limited amount of technical expertise is available to review proposals. Price information may be provided to such technical experts in accordance with your procedures.



C → § 636.401 What types of information exchange may take place prior to the release of the RFP document?

Verbal or written information exchanges (such as in the first-phase of a two-phase selection procedure) must be consistent with State and/or local procurement integrity requirements. See § 636.115(a) for additional details.



C → § 636.402 What types of information exchange may take place after the release of the RFP document?

following table summarizes the types of communications that will be discussed in this subpart. These communication methods are optional.

Certain types of information exchange may be desirable at different points after the release of the RFP document. The

Type of information exchange	When	Purpose	Parties involved
(a) Clarifications	After receipt of proposals	Used when award without discussions is contemplated. Used to clarify certain aspects of a proposal (resolve minor errors, clerical errors, obtain additional past performance information, etc.).	Any offeror whose proposal is not clear to the contracting agency.
(b) Communications	After receipt of proposals, prior to the establishment of the competitive range	Used to address issues which might prevent a proposal from being placed in the competitive range.	Only those offerors whose exclusion from, or inclusion in, the competitive range is uncertain. All offerors whose past performance information is the determining factor preventing them from being placed in the competitive range.
(c) Discussions (see Subpart E of this part)	f After receipt of proposals and after the determination of the competitive range	Enhance contracting agency understanding of proposals and offerors understanding of scope of work. Facilitate the evaluation process.	Must be held with all offerors in the competitive range.



C → § 636.403 What information may be exchanged with a clarification?

- (a) You may wish to clarify any aspect of proposals which would enhance your understanding of an offeror's proposal. This includes such information as an offeror's past performance or information regarding adverse past performance to which the offeror has not previously had an opportunity to respond. Clarification exchanges are discretionary. They do not have to be held with any specific number of offerors and do not have to address specific issues.
- (b) You may wish to clarify and revise the RFP document through an addenda process in response to questions from potential offerors.



C → § 636.404 Can a competitive range be used to limit competition?

If the solicitation notifies offerors that the competitive range can be limited for purposes of efficiency, you may limit the number of proposals to the greatest number that will permit an efficient competition. However, you must provide written notice to any offeror whose proposal is no longer considered to be included in the competitive range. Offerors excluded or otherwise eliminated from the competitive range may request a debriefing. Debriefings may be conducted in accordance with your procedures as long as you comply with § 636.514.

C → § 636.405 After developing a short list, can I still establish a competitive range?

Yes, if you have developed a short list of firms, you may still establish a competitive range. The short list is based on qualifications criteria. The competitive range is based on the rating of technical and price proposals.

23 C.F.R. § 636.406

C → § 636.406 Are communications allowed prior to establishing the competitive range?

Yes, prior to establishing the competitive range, you may conduct communications to:

- (a) Enhance your understanding of proposals;
- (b) Allow reasonable interpretation of the proposal; or
- (c) Facilitate your evaluation process.



C → § 636.407 Am I limited in holding communications with certain firms?

Yes, if you establish a competitive range, you must do the following:

- (a) Hold communications with offerors whose past performance information is the determining factor preventing them from being placed within the competitive range;
- (b) Address adverse past performance information to which an offeror has not had a prior opportunity to respond; and
- (c) Hold communications only with those offerors whose exclusion from, or inclusion in, the competitive range is uncertain.



C → § 636.408 Can communications be used to cure proposal deficiencies?

- (a) No, communications must not be used to:
 - (1) Cure proposal deficiencies or material omissions;
 - (2) Materially alter the technical or cost elements of the proposal; and/or
 - (3) Otherwise revise the proposal.
- (b) Communications may be considered in rating proposals for the purpose of establishing the competitive range.



C → § 636.409 Can offerors revise their proposals during communications?

- (a) No, communications shall not provide an opportunity for an offeror to revise its proposal, but may address the following:
 - (1) Ambiguities in the proposal or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes); and
 - (2) Information relating to relevant past performance.
- (b) Communications must address adverse past performance information to which the offeror has not previously had an opportunity to comment.



C→ § 636.501 What issues may be addressed in discussions?

In a competitive acquisition, discussions may include bargaining. The term bargaining may include: persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.



$^{\text{C}} \rightarrow \S$ 636.502 Why should I use discussions?

You should use discussions to maximize your ability to obtain the best value, based on the requirements and the evaluation factors set forth in the solicitation.



C → § 636.503 Must I notify offerors of my intent to use/not use discussions?

Yes, in competitive acquisitions, the solicitation must notify offerors of your intent. You should either:

- (a) Notify offerors that discussions may or may not be held depending on the quality of the proposals received (except clarifications may be used as described in § 636.401). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint; or
- (b) Notify offerors of your intent to establish a competitive range and hold discussions.



C → § 636.504 If the solicitation indicated my intent was to award contract without discussions, but circumstances change, may I still hold discussions?

Yes, you may still elect to hold discussions when circumstances dictate, as long as the rationale for doing so is documented in the contract file. Such circumstances might include situations where all proposals received have deficiencies, when fair and reasonable prices are not offered, or when the cost or price offered is not affordable.



C → § 636.505 Must a contracting agency establish a competitive range if it intends to have discussions with offerors?

Yes, if discussions are held, they must be conducted with all offerors in the competitive range. If you wish to hold discussions and do not formally establish a competitive range, then you must hold discussions with all responsive offerors.



C → § 636.506 What issues must be covered in discussions?

- (a) Discussions should be tailored to each offeror's proposal. Discussions must cover significant weaknesses, deficiencies, and other aspects of a proposal (such as cost or price, technical approach, past performance, and terms and conditions) that could be altered or explained to enhance materially the proposal's potential for award. You may use your judgment in setting limits for the scope and extent of discussions.
- (b) In situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, you may hold discussions regarding increased performance beyond any mandatory minimums, and you may suggest to offerors that have exceeded any mandatory minimums (in ways that are not integral to the design), that their proposals would be more competitive if the excesses were removed and the offered price decreased.



C → § 636.507 What subjects are prohibited in discussions, communications and clarifications with offerors?

You may not engage in conduct that:

- (a) Favors one offeror over another;
- (b) Reveals an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror;
- (c) Reveals an offerors price without that offeror's permission;
- (d) Reveals the names of individuals providing reference information about an offeror's past performance; or
- (e) Knowingly furnish source selection information which could be in violation of State procurement integrity standards.



C → § 636.508 Can price or cost be an issue in discussions?

You may inform an offeror that its price is considered to be too high, or too low, and reveal the results of the analysis supporting that conclusion. At your discretion, you may indicate to all offerors your estimated cost for the project.



C → § 636.509 Can offerors revise their proposals as a result of discussions?

- (a) Yes, you may request or allow proposal revisions to clarify and document understandings reached during discussions. At the conclusion of discussions, each offeror shall be given an opportunity to submit a final proposal revision.
- (b) You must establish a common cut-off date only for receipt of final proposal revisions. Requests for final proposal revisions shall advise offerors that the final proposal revisions shall be in writing and that the contracting agency intends to make award without obtaining further revisions.



C → § 636.510 Can the competitive range be further defined once discussions have begun?

Yes, you may further narrow the competitive range if an offeror originally in the competitive range is no longer considered to be among the most highly rated offerors being considered for award. That offeror may be eliminated from the competitive range whether or not all material aspects of the proposal have been discussed, or whether or not the offeror has been afforded an opportunity to submit a proposal revision. You must provide an offeror excluded from the competitive range with a written determination and notice that proposal revisions will not be considered.



C → § 636.511 Can there be more than one round of discussions?

Yes, but only at the conclusion of discussions will the offerors be requested to submit a final proposal revision, also called best and final offer (BAFO). Thus, regardless of the length or number of discussions, there will be only one request for a revised proposal (i.e., only one BAFO).



C → § 636.512 What is the basis for the source selection decision?

- (a) You must base the source selection decision on a comparative assessment of proposals against all selection criteria in the solicitation. While you may use reports and analyses prepared by others, the source selection decision shall represent your independent judgment.
- (b) The source selection decision shall be documented, and the documentation shall include the rationale for any business judgments and tradeoffs made or relied on, including benefits associated with additional costs. Although the rationale for the selection decision must be documented, that documentation need not quantify the tradeoffs that led to the decision.



C → § 636.513 Are limited negotiations allowed prior to contract execution?

- (a) Yes, after the source selection but prior to contract execution, you may conduct limited negotiations with the selected design-builder to clarify any remaining issues regarding scope, schedule, financing or any other information provided by that offeror. You must comply with the provisions of § 636.507 in the exchange of this information.
- (b) Limited negotiations conducted under this section may include negotiations necessary to incorporate the ideas and concepts from unsuccessful offerors into the contract if a stipend is offered by the contracting agency and accepted by the unsuccessful offeror and if the requirements of section 636.113 are met.

[73 FR 77502, Dec. 19, 2008]



$^{\text{C}} \rightarrow \S$ 636.514 How may I provide notifications and debriefings?

You may provide pre-award or post-award notifications in accordance with State approved procedures. If an offeror requests a debriefing, you may provide pre-award or post-award debriefings in accordance with State approved procedures.

Exhibit 2









New York State Procurement Guidelines

State Procurement Council
David A. Paterson
Governor

July 2009





NEW YORK STATE PROCUREMENT COUNCIL

As of July 2009

Ex-Officio Members

Carla Chiaro

Office of General Services

Susan Knapp

Division of the Budget

John Moriarty

Office of the State Comptroller

Amy Schoch

Empire State Development

Legislative Appointees

Walter J. Edwards

Senate Minority Leader Appointment

James Haggerty

Assembly Minority Leader Appointment

Richard Healey

Senate Majority Leader Appointment

Timothy J. Holt, Sr.

Senate Majority Leader Appointment

Robert C. Pape

Senate Majority Leader Appointment

Agency Designees

Robert Coyner

Office of Mental Retardation and Developmental Disabilities

David DeMarco

State University of New York

Robert Haggerty

Department of Agriculture & Markets

Marybeth Hefner

Department of Health

Stewart R. Kidder

Department of Correctional Services

David Russo

Office of Mental Health

Rico Singleton

Office for Technology

Non-Voting Observers

George Oros

Senate Majority Leader Appointment

Ronald P. Romano

New York State Industries for the Disabled, Inc.

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OVERVIEW

A. Introduction and Purpose

State agencies must procure commodities, services, and technology in accordance with Article 11 of the New York State Finance Law.

The Procurement Guidelines presented in this document are established by the State Procurement Council pursuant to State Finance Law §161(2)(d). The Guidelines are designed to assist state agencies in making procurements efficiently and effectively by providing agency program and fiscal staff with a source of basic, systematic guidance about state procurement policies and practices.

State procurement must facilitate each agency's mission while protecting the interests of the state and its taxpayers, on the one hand, and promoting fairness in contracting with the business community, on the other. The Guidelines are intended to advance these goals by encouraging agencies to adopt and implement appropriate procurement practices consistent with state policies.

The state's procurement policies form a framework for conducting procurements and establishing contracts. Policies address such issues as ensuring sufficient competition. preserving fair and open competition, and establishing vendor responsibility. When conducting procurements, each agency may have supplemental policies and requirements that should also be reviewed and followed.

B. Terminology

Becoming familiar with the vocabulary is fundamental to understanding and properly performing *procurements*. In these Guidelines, important terms will appear in blue italicized bold face upon first use (as demonstrated in this paragraph) and are defined in Chapter VII: Glossary.

Some terms are used interchangeably. For example, an entity that provides commodities, services, or technology may be variously, and often interchangeably, referred to as a "vendor," "offerer," "bidder," "proposer," or "contractor." Similarly, the words "service" or "services," when used in these Guidelines, are meant to include both services and technology (as each term is separately defined in the Glossary), unless the context indicates that the meaning is expressly directed at one or the other term.

C. Application and Scope of Guidelines

The Guidelines are designed to apply to a wide range of procurements, from the very routine to the very complex. The applicability of specific chapters, sections, and provisions will vary depending on the nature, objectives, and particular circumstances of each procurement.

The Guidelines presented in this document do not govern the following types of **contracts**, for which different, distinct procurement laws, rules and processes are in place:

• Revenue contracts:

- Printing contracts covered by the New York State Printing and Public Documents Law;
- Construction contracts covered by §8 of the New York State Public Buildings Law, §38 of the New York State Highway Law, and §376 of the New York State Education Law;
- Contracts with not-for-profit organizations covered by Article 11-B of the New York State Finance Law;
- Contracts for architectural, surveying or engineering services covered under §136-a of the New York State Finance Law;
- Transactions that are covered under the New York State Real Property Law; and
- Purchases made under the SUNY Flex legislation (Education Law §§355.5 and 355.16) and CUNY Flex legislation (Education Law §6218).

D. Competition and Maintaining a Fair and Open Process

As mentioned above, the state's procurement process is designed to:

- Ensure fair and open competition;
- Guard against favoritism, improvidence, extravagance, fraud and corruption;
- Ensure that the results meet agency needs;
- Provide for checks and balances to regulate and oversee agency procurement activities; and
- Protect the interests of the state and its taxpayers.

Competition in the procurement process serves both state agencies and potential offerers by ensuring that the procurement process produces an optimal solution at a reasonable *price*; and allowing qualified vendors an opportunity to obtain state business.

The primary responsibility for procurement rests with state agencies. In addition to complying with existing statutory and regulatory requirements, state agencies must conduct procurements in accordance with the following general principles:

- Make reasonable efforts to ensure that vendors are aware of opportunities to compete for state business;
- Define the process by which the procurement is being conducted;
- Disclose the general process to potential offerers;
- Adhere to the process while conducting the procurement; and
- Document the process, including information gathering and decisions made relating to the procurement.

II. PROCUREMENT BASICS

E. Overview of Procurement Tools

State agencies purchase commodities, services, and technology to address needs or solve problems in the performance of agency mission. Needs and problems vary with respect to how well they can be defined. Some are highly standardized and are common among most, if not all, agencies. Others are unique to a given agency and range from simple, routine concerns to complicated problems requiring complex solutions.

To address this array of conditions, a variety of procurement tools and techniques are available. Among the most common are: preferred source offerings; Office of General Services (OGS) centralized contracts; agency or multi-agency established contracts resulting from competitive bids conducted by state agencies; sole source contracts; single source contracts; piggyback contracts; emergency contracts; and discretionary purchases. These and other procurement tools are discussed in greater detail later in this chapter.

F. Choosing a Procurement Vehicle and the Order of Purchasing Priority

As noted, state agencies undertake procurements to address a wide range of needs. To meet their varying needs and their form, function and utility requirements, agencies must follow the following order of precedence when choosing the proper procurement vehicle:

First: Preferred source offerings;

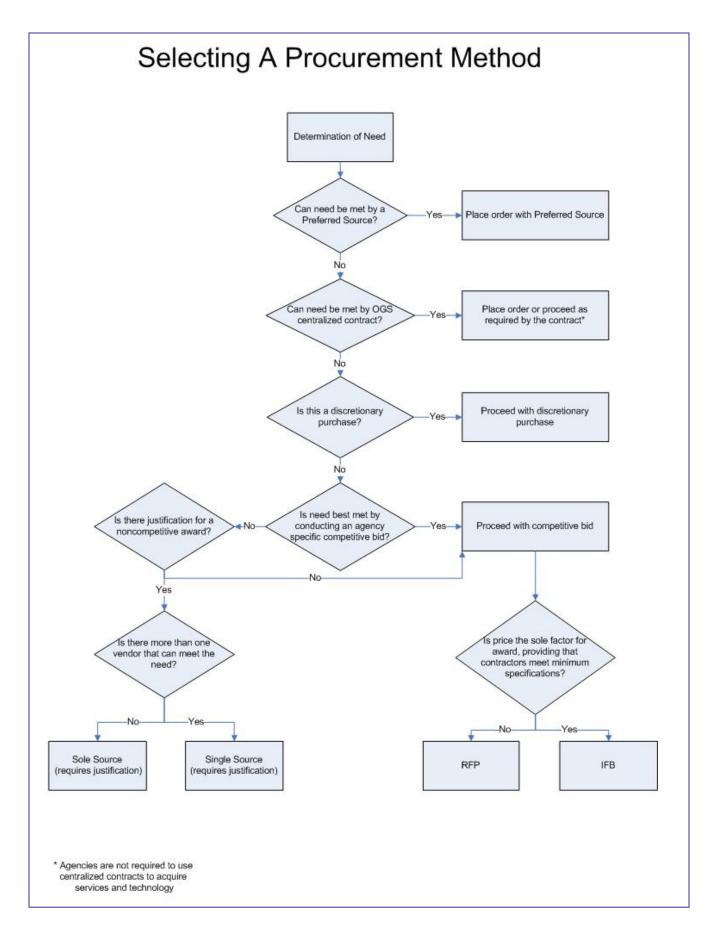
Second: OGS centralized commodity contracts;

Third: Agency or multi-agency established contracts; and

Fourth: OGS centralized service or technology contracts or an "open market"

procurement that can either be discretionary or result from a formal, competitive bidding process based on the total value of the procurement.

A diagram titled "**Selecting a Procurement Method**" follows. When there is no established contract available that would meet an agency's particular need, the agency should use the decision path depicted to choose the proper procurement method.



G. Preferred Source Offerings

When a commodity or service desired by a state agency, political subdivision or public benefit corporation (including most public authorities) is available from a preferred source in the *form, function and utility* required, and the price, as determined by OGS, is no more than 15 percent above the prevailing market rate (or, in the case of Correctional Industries, the price of the commodity does not exceed a reasonable, fair market rate as determined by the Department of Correctional Services), the state agency must purchase that commodity or service from a preferred source. When doing so, agencies must adhere to the priority that has been accorded to the preferred sources in State Finance Law §162, as follows:

With respect to <u>commodities</u>, agencies must purchase from preferred sources in the following prioritized order, if available:

First: From the Department of Correctional Services' Correctional Industries

Program (CORCRAFT);

Second: From the approved, charitable, non-profit making agencies for the blind; and

Third: Equal priority is accorded to approved, charitable, non-profit making agencies

for the severely disabled, qualified special employment programs for mentally

ill persons, and qualified veterans workshops.

With respect to <u>services</u>, if more than one preferred source meets the agency's form, function and utility *requirements*, equal priority shall be accorded to the services rendered and offered for sale among the approved charitable, non-profit making agencies for the blind, other severely disabled persons, qualified special employment programs for mentally ill persons, and qualified veterans workshops. If more than one preferred source meets the agency's requirements, *cost* shall be the determining factor.

NOTE: The Department of Correctional Services' Correctional Industries Program (CORCRAFT) is not a preferred source option for the purchase of services.

Products or services purchased from preferred sources do not require competitive *bids*. For more information and the list of approved preferred sources offerings, see:

www.ogs.state.nv.us/procurecounc/pdfdoc/psquide.pdf

H. Contracts

Contracts are written agreements between a buyer (the state) and a seller (the vendor). These documents specify various terms and conditions to which the parties must adhere. Some examples of these terms and conditions include the following:

- Price:
- Delivery terms;
- Description of the commodity or service being procured;
- Payment terms;
- Duration of the contract; and
- Liability clauses and any other requirements of either the buyer or seller.

Contracts may be issued by the OGS on behalf of all agencies or may be issued by one or more agencies for their unique needs. The following provides a general description of various types of contracts used by state agencies:

OGS Centralized Contracts

OGS creates centralized contracts for commodities or services. There are more than 2,500 such contracts in place. Once these contracts are established and approved, agencies may purchase from them. For the purchase of commodities or services available from an OGS contract (for example, a P-contract, PC-contract, PS-contract or PT-contract), the agency may issue a purchase order directly to the contractor without prior approval by the Office of the State Comptroller (OSC). Agencies are encouraged to attempt to negotiate more favorable prices.

The State Finance Law requires that agencies use an OGS centralized contract (i.e., a P-contract or PC-contract) to purchase commodities that meet the agency's requirements with respect to form, function and utility. Agencies are encouraged but not required to use an OGS centralized contract (e.g., CMS-contract, PT-contract, etc.) to purchase services or technology.

OGS or Less

In addition, pursuant to State Finance Law § 163(3((a)(v), OGS centralized commodities contracts that contain a clause known as "OGS or Less" may allow an agency to obtain needed commodities from a non-contract vendor in order to take advantage of non-contract savings that may develop in the marketplace. "OGS or Less" purchases may not be made if the commodities are available from:

- Legally established preferred sources in the form, function and utility required;
- State contracts based on filed requirements (e.g., fuel, oil, etc.); or
- Agency-specific contracts.

After determining that the needed commodity cannot be obtained from these sources, the agency must determine, and document in the procurement record, that the purchase price. including delivery, warranty and other relevant terms, offered by the non-contract vendor is more economically beneficial than what is offered on OGS centralized contract(s) for a commodity substantially similar in function, form and utility. Agencies must not solicit multiple offers from the same vendor and must not create a bidding war. State contractors must be

allowed a minimum of two business days to match the lower non-contract price. If the state contractor provides written confirmation that it will match the lower price, the agency proceeds with the purchase in accordance with agency purchasing procedures. If the state contractor is unable or unwilling to match the lower price, the agency must document this in the procurement record, and in lieu of purchasing the commodity from the OGS centralized contractor at the OGS centralized contract price, may procure through either a discretionary or competitive procurement, as applicable.

Backdrop Contracts

Additionally, OGS establishes *backdrop contracts* that pregualify vendors for provision of services. These contracts establish standard terms and conditions, set maximum not-toexceed prices, and satisfy many legal requirements associated with state procurements, such as advertisement in the New York State Contract Reporter, vendor responsibility determination, and sales tax certification. [OGS identifies its backdrop contracts as either "CMS" (Central Management - Services), "CMT" (Centralized Management - Technology) or "CMU" (Centralized Management – Unknown).]

Utilization of backdrop contracts may require additional competitive procurement processes at the agency level (e.g., a Mini-Bid) and as applicable, approval of OSC, prior to the purchase of services. An authorized user may conduct a formal mini-bid process by developing a project definition that outlines its specific requirements and solicits bids from qualified backdrop contractors to determine the best value solution. The best value may also be the lowest price. The exact processes to be followed are set forth either in the OGS backdrop contract or the guidelines associated with that contract on the OGS website.

An authorized user and contractor cannot amend the terms and conditions of the backdrop contract, but may, through the mini-bid process, agree to pricing or terms more favorable to the state or the authorized user only (e.g., delivery terms, longer warranty period, no-cost maintenance). Under no circumstances can the authorized user and the contractor trade off terms for pricing. For example, the authorized user cannot agree to a waiver of indemnity or agree to indemnify the contractor in return for better pricing.

Agency or Multi-Agency Established Contracts

These are contracts established by an agency or multiple agencies to procure on an ongoing basis. They enumerate the specific terms and conditions binding both the vendor and the state. These contracts are usually in effect for multiple years. More guidance on establishing a contract is provided in Chapters III, IV and V. An agency may also use an agency or multi-agency established contract to purchase commodities, but typically these items can be obtained through use of a purchase order or a purchase authorization.

- **Competitively Bid Contract** A contract awarded pursuant to an IFB or RFP. More guidance is provided in Chapters IV and V.
- **Sole Source Contract** A sole source procurement is one in which only one vendor can supply the commodities or services required by an agency. The agency must document why the proposed vendor is the only viable source for the commodities and/or services needed by the agency. OSC approval must be

obtained for a sole source contract if the contract's value is over the State Finance Law §112 discretionary threshold. In addition, if the agency is seeking a waiver from advertising in the New York State Contract Reporter, OSC must approve the exemption.

- **Single Source Contract** A single source procurement is one in which, although there are two or more potential offerers, the agency has determined that it is in the best interest of the state to procure from a particular vendor. (A typical example would be where an agency needs maintenance for a particular piece of equipment, and that maintenance must be provided by a particular vendor to maintain the warranty.) OSC approval must be obtained for a single source contract if the contract's value is over the State Finance Law §112 discretionary threshold discretionary threshold. In addition, if the agency is seeking a waiver from advertising in the New York State Contract Reporter, OSC must approve the exemption.
- Piggyback Contract At times, an agency may find it more efficient to establish a contract based on another governmental entity's contract. This is known as "piggybacking" and may be used in accordance with the criteria established in the Procurement Council Guidelines Piggybacking Purchasing Memorandum CL-288, available at:

www.ogs.state.ny.us/procurecounc/pdfdoc/pgbcl288.pdf

The agency must seek approval for the use of a piggyback contract from OGS. Finally, the agency must create a New York State contract and obtain all approvals necessary for the specified contract value.

Emergency Contracts – An emergency procurement is one in which an urgent and unexpected situation occurs where health and public safety or the conservation of public resources is at risk. Where an emergency exists, an agency may issue procurement contracts without complying with formal competitive bidding requirements. However, an agency should make a reasonable attempt to obtain at least three oral guotes. An agency's failure to properly plan in advance – which then results in a situation where normal practices cannot be followed – does not constitute an emergency. OSC approval must be obtained for an emergency contract if the contract's value is over the State Finance Law §112 discretionary threshold discretionary threshold. In addition, if the agency is seeking a waiver from advertising in the New York State Contract Reporter, OSC must approve the exemption.

I. Discretionary Purchases

Discretionary purchases are procurements made below statutorily established monetary levels and at the discretion of the agency, without the need for a formal competitive procurement process. Use of discretionary purchasing streamlines the procurement process. Discretionary purchasing also improves opportunities for *Minority or Women-Owned* Business Enterprise (M/WBE) vendors and New York State Small Businesses to secure business with the state and promotes the use of recycled or remanufactured commodities.

When contemplating a discretionary purchase, the agency must first undertake an analysis to determine whether its needs can best be met by acquiring through the preferred source program. If that is not possible, and if the acquisition is for a <u>commodity</u>, the agency must make the purchase using an OGS centralized commodity contract, if available. The agency must also determine that the purchase falls within their discretionary purchasing authority. A chart setting forth the discretionary buying thresholds is available on the OGS website at:

www.ogs.state.ny.us/purchase/spg/pdfdocs/PnpDiscretionaryThresholds.pdf

In addition, the chart provides information on purchases above certain thresholds which, while not subject to the formal competitive procurement process requirements, may require approval by OSC and/or advertisement in the New York State Contract Reporter.

The agency may proceed to exercise its discretionary purchasing authority only after it has verified that the discretionary purchasing method is appropriate. Further, when making a discretionary purchase, an agency must:

- Ensure that the commodities and services acquired meet its form, function and utility needs;
- Document and justify the selection of the vendor;
- Document and justify the reasonableness of the price to be paid;
- Buy from a responsible vendor; and
- Comply with the agency's internal policies and procedures.

J. Procurement Card Program

The State's Procurement Card (P-Card) Program is a procurement and payment method designed to expedite purchases and payments. When properly used, the P-Card is an efficient and cost-effective alternative to a variety of traditional labor-intensive procurement and payment tools. Some purchases and payments that can be made with a P-Card include:

- Commodities or services from preferred sources;
- Commodities or services from an OGS centralized contract; and
- Supplies and materials.

Employees must be authorized by their agency to have a P-Card. The maximum single transaction limit for a P-Card holder cannot exceed the agency's Quick Pay threshold, which can be determined by contacting an agency's finance office. Agencies may set lower limits for specific employees and can impose additional limits in order to control P-Card activity.

P-Card holders should familiarize themselves with the OGS Bulletin "Procurement Card Guidelines," found at:

www.ogs.state.ny.us/purchase/pdfdocument/CreditCardGuidelines.pdf

P-Card holders should also review their agency's policies and procedures pertaining to P-Card use. Ultimately, it is the P-Card holder who is responsible for the proper use and safekeeping of a P-Card.

K. Purchase Orders

Purchase Orders (PO) are basic contractual documents, issued by an agency's finance office or other authorized individuals, and are generally for "one time" purchases. POs usually consist of the vendor's name/address, a description of the item, quantity, cost per item, shipping terms, total cost and some data for state use (cost center, object code, and the applicable OGS or purchase authorization contract number). The PO solidifies the terms of the purchase. POs are used to procure from preferred sources, OGS centralized contracts, and agency open market purchases. Appendix A must be incorporated in the agency's purchase orders.

L. Purchase Authorizations

Purchase Authorizations (PA) are issued by a state agency and are similar in both form and function to OGS centralized commodity contracts, in that once the PA is approved. agencies can issue purchase orders against the PA without further approval of OSC. An example is when an agency knows that a particular product, not available through a preferred source or an OGS centralized contract, will be needed over an extended period of time, but the exact quantity is not known at the time of establishing the PA.

The primary benefit of the PA is that it allows an agency to establish terms and pricing of a product without needing to encumber funds at the time of submission of the PA to OSC. Additional information, as well as a standard format for the PA and award letter, is available through the OSC Bulletin G-191 at:

www.osc.state.nv.us/Agencies/gbull/g-191.htm

M. Interagency Memorandum of Understanding

An Interagency Memorandum of Understanding (MOU) is an informal agreement entered into between two or more New York State agencies that outlines matters of substance, such as budget and reporting responsibilities, but does not include formal standard contract terms. Since MOUs are not legally binding contracts, they do not require the approval of OSC. Additional information on these documents can be obtained from OSC Bulletin G-228 at:

www.osc.state.nv.us/Agencies/gbull/g-228.htm

III. GENERAL GUIDANCE FOR SOLICITATIONS

A. Introduction

This chapter is intended to provide guidance to agencies on the following key considerations that apply to most solicitations:

- Procurements ethics;
- Mandatory requirements that must be considered and included in procurements;
- Methods for gathering information before developing the solicitation document and specifications;
- Advertisement of procurement opportunities;
- Determination of vendor responsibility; and
- Contract administration and monitoring.

Building on this base, Chapters IV and V will provide further detailed guidance to agencies on conducting procurements using two of the most common types of solicitations: *Invitation for Bids* (IFB) and *Request for Proposals* (RFP).

B. Procurement Ethics

Procurements are an expenditure of public monies, and public employees must always ensure that all procurements are conducted so as to not cause any concern that special considerations have been shown to a vendor. Actions such as providing a vendor with information that is not available to other vendors, accepting a gift, or having lunch with a potential vendor could be construed as showing favoritism to a vendor, and may violate state law. Questions regarding procurement ethics should be directed to the Agency Ethics Officer and/or the New York State Commission on Public Integrity.

C. Mandatory Requirements

State procurements, whether using an Invitation for Bids, Request for Proposals, or other method, must comply with a number of different statues, regulations, and policy requirements. Principal among these are:

- Procurement Lobbying Law;
- Sales tax certification;
- Vendor responsiveness and responsibility;

- Office for Technology approval of the "Plan to Procure" (PTP);
- Prevailing wage schedules;
- Consultant disclosure;
- Workers' compensation insurance and disability benefits insurance; and
- Bidders' right to a **debriefing**.

More information on a number of these areas is provided in subsequent sections.

Additional information can also be found at:

http://www.ogs.state.ny.us/procurecounc/Bulletins.asp

In addition, there are standard clauses that must be included in every state contract. This body of clauses is commonly referred to as "Appendix A." It can be found at:

www.ogs.state.ny.us/procurecounc/pdfdoc/appendixa.pdf

It should be noted that, depending on the nature of the procurement, additional requirements may apply. Check with your agency counsel or contracts management office.

D. State Reserved Rights

In addition to mandatory requirements, there are a number of state reserved rights that are typically included to provide additional protections to the agency conducting the procurement. These should be clearly stated in the solicitation. The following is the most common set:

The [name of agency] reserves the right to:

- Reject any or all proposals received in response to the IFB/RFP;
- Withdraw the IFB/RFP at any time, at the agency's sole discretion;
- Make an award under the IFB/RFP in whole or in part;*
- Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB/RFP;
- Seek clarifications and revisions of proposals;*
- Use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB/RFP;
- Prior to the bid opening, amend the IFB/RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;

- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB/RFP amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
- Waive any requirements that are not material;
- Negotiate with the successful bidder within the scope of the IFB/RFP in the best interests of the state;
- Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 60 days from the bid opening; and,
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.*

***NOTE:** Failure to include these specific reserved rights (marked with an asterisk) in the solicitation precludes their use in that procurement.

Depending on the nature of the procurement, there may be additional state reserved rights beyond those presented here.

E. Gathering and Exchanging Information Prior to Solicitation

Procurement staff have several methods available to them for gathering and exchanging information with potential bidders, prior to issuing a solicitation or making a purchase. These methods enable information-gathering while promoting openness, fairness, and transparency. The most common information-gathering options are described below.

As a best practice when gathering information, it is suggested that an agency issue a notice in the <u>New York State Contract Reporter</u> to ensure that a level playing field among potential bidders is provided. Other means of identifying potential bidders, such as market-based research and newspaper/trade journal advertisements, may be used depending upon the nature of the agency's need.

Request for Information

A **Request for Information** (RFI) is a research and information gathering document used when an agency seeks to learn about the options available for addressing a particular need or wants to obtain information to help create viable requirements for a potential solicitation. For example, an agency needs to buy decals to affix to the exterior of a vehicle, but does not

know how various materials (such as stock or ink) withstand long-term exposure to the elements. Issuing an RFI to potential bidders would elicit responses that would enable the agency to write specifications to provide the agency with the best solution.

Request for Comment

A Request for Comment (RFC) is used to solicit input from all potential bidders about a solicitation's structure and language to assess its impact on potential bidders. For example, an agency has drafted a Request for Proposals (RFP), but is unsure if potential bidders will find the language too restrictive or the requirements unclear. The RFC allows the agency to gather information, revise the RFP as appropriate, and issue a document to which potential bidders would be more likely to respond. This practice differs from sending a Draft RFP, in that the agency is only sending the sections of the RFP that are open for discussion.

Draft Request for Proposals

An agency may submit a **Draft RFP** to <u>all</u> potential bidders for remarks/comments prior to issuance. The cover letter releasing the draft RFP should state for which sections of the document the agency is requesting feedback. It should be noted that certain sections of the RFP are not subject to amendment (e.g., Appendix A, which sets forth the standard clauses for New York State contracts).

Roundtable Session

A roundtable session generally is an open meeting among all potential bidders and the agency(ies) involved in the procurement before the release of a competitive solicitation. These meetings allow potential vendors and agency staff to ask questions of each other and allow for an open exchange of information. It is suggested that these meetings be moderated to ensure that all attendees are provided an equal opportunity to participate. Techniques that can be used include: agendas detailing the topics to be discussed; prior submission of questions; and restricting time allowed for responses.

NOTE: Requests for Information, Requests for Comments, and Draft Requests for Proposals generally do not commence the restricted period under State Finance Law §139-i. commonly referred to as the Procurement Lobbying Law, because the documents do not request a proposal intended to result in a procurement contract (see the following section, Procurement Lobbying Law).

F. Procurement Lobbying Law

State Finance Law §§139-j and 139-k impose certain restrictions on communications between an agency and an offerer/bidder during the procurement process. An offerer/bidder is restricted from making "contacts" (defined in the law as communications intended to influence the procurement) from the date of the earliest notice of intent to solicit offers/bids through the date of the final award and if applicable, approval of the contract by the Office of the State Comptroller to other than designated staff (as identified by the agency). The interval between

these points is known as the "**restricted period**." Certain exceptions to this restriction are set forth in State Finance Law §139-j (3) (a). An example of an exception would be communication during contract negotiations.

Employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award. In the event of two such findings within a four-year period, the offerer/bidder is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found on the OGS website:

www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html

G. Advertising Procurement Opportunities

An agency has a statutory obligation to advertise a procurement opportunity in the <u>New York State Contract Reporter</u> when the procurement exceeds the agency's advertising threshold. If the agency seeks a waiver from this requirement, OSC must approve the exemption. The publication is available online at:

www.nyscr.org

Advertising thresholds for agencies are defined in the chart that is available at:

www.ogs.state.ny.us/purchase/spg/pdfdocs/PnpDiscretionaryThresholds.pdf

The intent of advertising is to promote competition. Advertisements should provide prospective bidders with an overview of the proposed procurement, including a brief description of the commodities or services sought, the contract period, the proposal due date, and contact information. In addition, as a best practice, an agency should also advertise its procurement opportunities in other sources such as trade publications, journals, newspapers, and agency websites and mailing lists. More information on advertising can be obtained from the Procurement Council bulletin at:

www.ogs.state.ny.us/procurecounc/pdfdoc/bulletin-Contractreporterquarterlylistings 2 .pdf

and from the OSC Bulletin No. G-107B at:

www.osc.state.ny.us/Agencies/gbull/g-107b.htm

H. Determination of Vendor Responsibility

State Finance Law §163(9)(f) requires that a state agency make a determination that a bidder is responsible prior to awarding that bidder a state contract. It is further recommended that the contract expressly obligate the contractor to maintain its responsibility throughout the

term of the agreement. The responsibility determination is based upon many factors, including, but not limited to, the bidder's:

- Financial and organizational capacity;
- Legal authority to do business in this state;
- Integrity of the owners/officers/principals/members and contract managers; and
- Past performance of the bidder on prior government contracts.

Review of these four elements is commonly known as the "FLIP" review.

Whether a bidder is "responsible" is a question of fact to be determined on a case-bycase basis after a comprehensive weighing of all factors. An unfavorable rating in one or more areas of evaluation does not need to result in a non-responsibility determination; however, it does require the agency to make a determination that it has reasonable assurance that the proposed contractor is indeed responsible or non-responsible, as applicable.

Before finding a bidder non-responsible, a state agency must ensure that the bidder was afforded due process rights and provided with the opportunity to explain its position in writing and, in some instances, in person, at a responsibility meeting. If responsibility issues cannot be resolved or explained to the satisfaction of the agency, the agency may issue a finding of nonresponsibility to the bidder. This finding must be provided in writing. For more information, see New York State Procurement Council Bulletin "Best Practices, Determining Vendor Responsibility" at:

www.ogs.state.ny.us/procurecounc/pdfdoc/BestPractice.pdf

Additional information and links to more resources for verifying a vendor's responsibility are also located at:

www.osc.state.ny.us/vendrep/webresources.htm

I. Workers' Compensation Insurance and Disability Benefits Requirements

As indicated in Section C above, Workers' Compensation Law (WCL) §57 & §220 requires that the heads of all municipal and state entities ensure that a business applying for permits, licenses, or contracts provides evidence of appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, and apply whether the governmental agency is having the work performed or is simply the entity issuing the permit, license, or contract.

In the context of state procurements, the solicitation must make it clear that the bidder/vendor will be required to provide proof of such coverage (or of having received a legal exemption) prior to being awarded a contract or receiving a contract renewal. Failure to do so will result in their bid being rejected or, in the case of contract renewals, their contract being allowed to expire. For more information, refer to the Workers' Compensation website at:

www.wcb.state.ny.us

J. Bidder Debriefings

The solicitation must include information advising bidders that a debriefing may be requested by any unsuccessful offerer, within a reasonable time frame after the contract award, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. While a debriefing is typically conducted in person, it may be conducted by video conference, over the phone, or through written summaries, if agreed to by the bidder. During the debriefing, the state agency may do one or more of the following:

- Limit the discussion to the reasons why the bid was not successful;
- Discuss the reasons why the winning bid was selected; and
- Offer advice and guidance to the bidder to improve future bids.

K. Contract Administration and Monitoring

The approved contract must be administered and monitored properly. Regular, diligent oversight of all activities and actions regarding the contract is an important part of the overall life cycle of a contract. The agency should assign a contract manager, who will be responsible for ensuring that the contractor performs the requirements of the contract in accordance with the contract's terms, conditions and specifications. Proper oversight and administration of the contract may entail educating and communicating with those agency personnel who will be direct users of the goods, services or technology acquired and who will therefore be in the best position to participate in monitoring the vendor's performance of contract provisions.

Additional guidelines for contract administration and monitoring can be found in the "Agency Receiving Inspection Guidelines" at:

www.ogs.state.ny.us/procurecounc/pdfdoc/inspgdl.pdf

and in the OSC Bulletin No. G-67 at:

www.osc.state.ny.us/Agencies/gbull/g-67.htm

IV. SPECIFIC GUIDANCE: INVITATIONS FOR BIDS

A. Introduction

An Invitation for Bids (IFB) is the appropriate solicitation to be used when the method of award is to be based on lowest price only. An IFB describes the administrative process; defines specifications; establishes required delivery terms, bidder qualifications, method of award, and terms and conditions; and provides instructions for responding.

For commodities, award shall be made on the basis of lowest price among responsible and responsive offers (State Finance Law §163(3)(a)(ii)). In the case of services, the award must be based on "best value" (State Finance Law §163(4)(d). If it is determined that best value is demonstrated by lowest price alone, then an IFB should be used for the procurement of those services.

B. Steps for Conducting an IFB

The following steps outline the process:

- Develop specifications for the commodity/service needed;
- Prepare the solicitation document;
- Advertise the procurement opportunity (New York State Contract Reporter);
- Distribute the IFB to all potential bidders;
- Conduct site visits and pre-bid conferences (as necessary);
- Receive questions and provide responses (as necessary);
- Receive bids:
- Conduct the bid opening;
- Conduct administrative review of bid submissions:
- Verify responsiveness and responsibility of apparent low bidder;
- Make award and, when necessary, obtain approvals; and
- Issue purchase order or contract.

More detail about each of these steps follows.

Step 1: Develop Specifications

The specifications must ensure that bidders know exactly what is required. Specifications should be as clear, inclusive and informative as possible. Specifications should be precise enough so that the agency will receive the commodity or service needed, yet broad enough to encourage competition. The agency should develop generic requirements that do not favor a particular vendor. However, the solicitation may incorporate any information obtained from research regarding the products and/or services available.

Specifications establish the <u>minimum</u> level of acceptable requirements. The level of detail required in the specification depends upon the complexity of the commodities and/or services being procured.

There are several methods for creating specifications. The most common are:

Make and Model or Equal – If an agency is not limiting the procurement to a specific brand, it may use a brand name and model as a reference to describe requirements such as functionality, style or capacity. The agency would award to the low bid offering the specified product or one of equal characteristics. (For example, "XYZ Corporation's washing machine Model #123 or equal.)

Make and Model Specific – If an agency determines (and can justify in writing for inclusion in the *procurement record*) that only one product (specific brand) or certain products meet its needs, and where competition exists, the IFB must state that bids will be accepted on the specified items only and no substitutions will be considered. (For example, "XYZ Corporation's Part #".)

Technical Specifications – These describe the product, usually detailing the physical components, method of assembly and, in some cases, chemical composition. (For example, a chain must be made of a certain material, a particular gauge, and have a specific tensile strength.)

Performance Specifications – Describes the performance standards required for the product and/or service that is being procured. The bidder must ensure that the product or service offered will meet the performance specifications. (For example, a window washing contract on a set schedule.)

Step 2: Prepare the Solicitation Document

In addition to the product/service specifications, the solicitation informs potential bidders of the nature of the procurement, any statutory requirements, the deadline for submission of bids, the location where bids must be sent, delivery terms, any special delivery requirements, and the basis for the award (e.g., lowest price).

The solicitation may also include other terms that the procuring agency desires or requires to be in the contract. For example, if the agency chooses to allow for cost adjustments, the basis for the cost adjustment must be specified in the IFB. Cost adjustments may be based on standard measures such as the U.S Bureau of Labor Statistics Consumer Price Index (CPI) or the Producer Price Index (PPI).

Bid instructions should inform the potential bidder of the contract period, the price structure, (hourly, per item, per carton, square foot, etc.), the agency's *bid protest* / dispute resolution policy (if applicable), performance requirements, contract monitoring, termination

rights and any optional requirements. The solicitation should also outline any bidder qualifications that the agency requires, such as licensing, if required, special equipment, financial viability, minimum years of experience, etc. If a specified qualification results in reduced competition, the agency may need to justify the requirement.

The document must inform potential bidders of the state's "reserved rights." A list of reserved rights is included in Chapter III and should be the minimum used. Agencies are encouraged to review the list and add to it, as needed.

The solicitation should inform potential bidders of the method of award – that is, whether the award will be by lot, item, region, or some other method.

The solicitation should also inform bidders of the requirements of Appendix A and depending on the nature and/or value of the contract, other requirements that must be included in the IFB.

Step 3: Advertise the Procurement Opportunity

Refer to Chapter III of these Guidelines.

Step 4: Distribute the IFB

Once the IFB has been completed and the advertisement(s) placed, the IFB should be distributed to all known potential bidders and any bidder that requests a copy as a result of the advertisement(s). Potential bidders can be identified through web searches, previous procurements, *bidder lists* maintained by the agency, and/or the Department of Economic Development list of New York State Certified M/WBEs. The IFB (or notice of the IFB) can be distributed via postal mail, e-mail, posting to agency website, and other means.

Step 5: Conduct Site Visits and Pre-Bid Conferences

Prior to the due date for bids, an agency may require site visits to ensure that bidders are aware of site conditions. The agency may also hold a pre-bid conference to allow bidders to ask questions and/or exchange information with agency staff. The solicitation must identify the date, time and location of such events, if planned, and whether attendance is mandatory in order to bid.

Step 6: Answer Questions

The agency should allow a period of time for bidders to submit written questions, and for the agency to provide written responses. All questions raised and answers provided, including those arising during site visits and pre-bid conferences, must be confirmed in writing and shared with all potential bidders.

Step 7: Receive Bids

The IFB must state the location, time and date for the submission of the bids. Any bid received must be kept in a secured area by the agency and not opened prior to the date and time of the bid opening. As a general rule, bids received after the deadline specified in the IFB cannot be accepted.

Step 8: Conduct Bid Opening

The bid opening should be conducted at the location and time stated in the IFB. At this time, all timely bids are opened and recorded. It is suggested that a minimum of two staff conduct the bid opening; one to open and announce the bids and one to record them. This will create a "bid tabulation," which must be kept as part of the procurement record and must accompany the bid package sent to OSC for approval, if necessary.

The bid tabulation must include all timely bids received. It should be signed and certified by the agency staff responsible for opening and recording the bids. Bid prices listed in the bid tabulation should state the prices required by the method of award.

Step 9: Conduct Administrative Review of Bid Submission

The agency must ensure that the bid submission is complete and accurate. This includes: confirming that the bidder understood the specifications and can perform/deliver at the bid price, particularly if there are large variances in the bid prices between the apparent low bid and the next low bid; and ascertaining that all materials are submitted and appendices are signed.

Step 10: Verify Responsiveness and Responsibility of Apparent Low Bid

Beginning with the apparent low bid, the agency must verify that: 1) the winning bid is responsive by meeting all mandatory requirements and specifications of the IFB; and 2) the winning bidder is responsible. If the apparent low bidder is not found to be responsive or responsible, the bid must be rejected and the next lowest price bid must be reviewed. In addition, notice should be provided to an apparent low bidder who is being rejected as non-responsive or non-responsible.

NOTE: In the event of a tie bid, the decision must be made in accordance with the State Finance Law §163(10)(a) and any policy stated in the IFB.

Step 11: Make Award

Once the agency has reviewed and verified the lowest responsive and responsible bidder(s), the award(s) shall be made in accordance with the method of award in the IFB. The agency must retain the supporting documentation as part of the procurement record.

Step 12: Obtain Approvals

Contracts resulting from an IFB are subject to review and approval first by the Office of the Attorney General (OAG) (with certain exemptions for OGS centralized contracts), and second by the Office of the State Comptroller (OSC), in accordance with State Finance Law §112.

The OAG generally requires only the contract document for its review and approval, but may require the entire procurement record. The agency may choose to submit the entire procurement record to the OAG, and request that, upon OAG's approval of the contract, OAG forward the file to OSC for its review and approval.

As provided for in State Finance Law §112, procurements over certain thresholds must be approved by OSC. If the value of the procurement is below the agency's State Finance Law §112 discretionary purchasing authority, the agency may proceed to issue the purchase order or contract. However, when the contract's value exceeds the State Finance Law §112 discretionary threshold, the agency must prepare an award package to submit to OSC for prior approval.

The agency must complete an AC-340 Form, which provides essential contract information to record the contract on the OSC central accounting system and to encumber the funds for the current fiscal year. The completed form must be submitted with the procurement package provided to OSC.

Step 13: Issue Purchase Order or Contract

Once the above steps have been completed and all necessary approvals have been obtained, the agency may proceed to issue the purchase order or contract to the vendor.

V. SPECIFIC GUIDANCE: REQUESTS FOR PROPOSALS

A. Introduction

A Request for Proposals (RFP) is generally used for the procurement of services or technology in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

Appropriate planning is essential for a successful RFP. The first step is to view the process as a project and to develop a timeline of events to meet the agency's programmatic needs and effectively budget staff time. It is also essential to focus on and develop the contract scope of service and deliverables that are required before proceeding to develop the methodology for evaluating proposals.

NOTE: If a vendor participates in the development or writing of the specifications for the RFP, that company is generally prohibited from participating in the procurement. (See State Finance Law §163(2) and for technology procurements; see also State Finance Law §163-a.)

B. Essential RFP Contents

An RFP should clearly convey all the information needed for potential bidders to determine their interest in participating in the solicitation and to offer a competitive proposal. At a minimum, the RFP should include language addressing each of the following items:

Table of Contents

A detailed and accurate Table of Contents improves the ability of potential bidders to grasp and keep track of all aspects of the RFP and to respond effectively.

Description of Program Objectives and Background

This RFP section provides a general description of the agency's overall objectives and the underlying reasons for the procurement.

Scope of Services

This section generally describes the scope of services necessary to meet the agency's needs. The section should include any strategic and tactical plans/direction of the agency to be affected by the required services.

Detailed Requirements/Specifications

This section details the technical specifications, which may be presented as specific, individual requirements or as a part of a deliverable. Specifications should not be written to favor a particular vendor and should clearly indicate the agency's needs as well as the performance standards to which the contractor will be held. This section should also describe the relative roles and responsibilities that the contractor and the agency are expected to undertake during the term of the contract.

Performance Standards

This section should describe the performance standards that will be used to assess the contractor's compliance with the contract requirements. If recommended by agency counsel, this section can include *liquidated damages* provision(s).

Mandatory Versus Optional Elements in the Response

The RFP should specify which aspects or features of the requested deliverables are critical to the agency, and therefore to the response the proposer provides, based on the following categories:

- **Mandatory** Minimum required goods or services that the agency deems essential to the program.
- **Options** Goods or services that the offerer must propose, but that the agency is not obligated to purchase.
- **Desirable** Goods or services that the agency prefers, but that the offerer is not obligated to propose.
- **Alternative** An approach proposed by the offerer that provides a different solution to the agency need.

Overview of the Solicitation Process

This section should provide information about how the agency will conduct the administrative aspects of the solicitation, selection, and contract development process. Procurements must be conducted in accordance with the process described in the RFP.

Timeline and Calendar of Events

This section should provide a specific timetable for the procurement process. Important milestones to be specified typically include:

Dates for Question Submission and Agency Response – The RFP should provide the time frames for submission of questions and responses to those questions. The method for submitting questions should be stated. The question and answer process may be multiphased, allowing for questions and answers prior to, during, and/or after the pre-bid conference. If no

pre-bid conference will be held, the agency should still provide for a question and answer period. Answers provided must be vendor neutral and provided in writing to all potential offerers.

Date for Pre-Bid Conference – The schedule should provide the date for the pre-bid conference if the agency decides to conduct one. Pertinent details such as time, specific location, security sign-in procedures, and parking arrangements should be included. Attendance must be defined as optional or mandatory; if attendance is mandatory, proposals may only be considered from offerers who participated.

Date for Notice of Intent to Bid (optional or mandatory) – The RFP may require a vendor to provide, by a specified date, notice of its intent to submit a bid. This notice may be optional or mandatory, at the agency's discretion, although agencies are encouraged to provide maximum flexibility for receipt of bids from all interested offerers.

If the notice of intent to bid is made mandatory, the agency should only consider proposals from those vendors who have submitted the notice of intent to bid on or before the date specified. Furthermore, the agency should distribute any amendments to the RFP and other communications only to such vendors. An exception would be if the amendment constitutes a material change that could have affected the ability of potential vendors to bid. In that event, the agency should provide the amendment to all potential vendors including those who did not submit a notice of intent to bid by the required deadline.

Date for No Bid Reply Form – Agencies may choose to include in the RFP a form that vendors will submit indicating their intention <u>not</u> to bid. The form should include space for vendors to explain why a bid is not being submitted. The form should indicate that a no bid response will not impact participation in future solicitations. A date for its return should be specified. Return of this form is usually requested no later than the proposal due date and time. The no bid reply form helps the agency demonstrate that proposals were shared with others besides those responding, and to understand why a company did not bid.

Date for Submission of Proposals – The earliest possible due date for submission of proposals is 15 business days after the advertisement appears in the <u>New York State Contract Reporter</u>. However, when selecting the submission date, consideration should be given to time frames necessary for intervening activities, such as the pre-bid conference and the question and answer period. Other factors, such as the complexity of the RFP, the time needed for vendors to prepare an effective response and obtain necessary internal approvals, and holidays that may impact availability of the agency and offerers, should also be taken into account.

Anticipated Start Date and Term of Contract

The term of the contract and any renewal/extension provisions must be specified in the RFP and the resultant contract.

Method of Award

This section should identify the method of award as best value. State Finance Law mandates that a contract for services (including technology) be awarded on the basis of best

value which takes into consideration cost as well as technical or non-cost factors. For certain service and technology procurements, however, best value can be equated to low price.

The RFP should indicate whether the agency anticipates making a single or multiple award pursuant to the solicitation. If there will be multiple awards, it should also state whether awards will be made by lot, region, type of service, or some other characteristic.

Evaluation Criteria

The RFP must present the criteria that will be used for the evaluation of proposals. At a minimum, the agency must disclose in the RFP the relative weights that will be applied to the cost and technical components of the proposals. An example would be: 30 percent for cost and 70 percent for technical.

An agency may elect to include in the RFP a more detailed breakdown of the evaluation criteria, such as specifying the relative weights for detailed categories (e.g., Experience = 20 percent, Staffing = 15 percent, and so forth). Additional information about developing and using evaluation criteria can be found in subsequent sections of this chapter.

Offerer's Minimum Qualifications

The RFP should state any qualifications that the offerer must meet to be eligible for consideration. Minimum qualifications may address characteristics of the business such as company capacity, staffing, licenses or certifications, experience (firm and/or employee), recently completed projects of similar scope/size, and references.

Mandatory Requirements

Refer to Chapter III.

Reserved Rights

The RFP must inform potential bidders of the agency's "reserved rights." A list of reserved rights is included in Chapter III, and represents the minimum that should be used. Agencies are encouraged to review the list and add to it as needed.

Method for Issuing Clarifications or Modifications to the RFP

This section should specify how the agency will issue any clarifications or modifications to the RFP that may arise after it is first issued.

C. Additional Content Considerations

Prequalification Criteria

An agency may establish minimally acceptable qualifications that an offerer must meet in order to be deemed responsive. These may include but are not limited to: adequacy of resources, experience, and past performance. If the agency elects to apply a prequalification screening, it must disclose in the RFP both the prequalification criteria and that offerers not meeting these criteria will be eliminated without further evaluation. Typically, prequalification criteria are scored on a pass/fail basis.

Risk Management / Required Assurances

An agency may opt to mitigate risk by requiring some form of financial assurance such as a letter of credit, performance bond or insurance coverage.

Cost Adjustments

If the agency chooses to allow for cost adjustments (whether up or down), the basis must be specified in the RFP. Cost adjustments may be based on standard measures such as the Consumer Price Index (CPI).

References

If the agency requires a bidder to submit references as part of the response, the agency must, at a minimum, verify the references provided as part of its evaluation process. If the agency opts to score reference checks, the scoring methodology must be disclosed in the RFP.

D. RFP Distribution and Receipt of Proposals

Advertisement of the Solicitation

The requirement to advertise solicitations in the <u>New York State Contract Reporter</u> is discussed in Chapter III.

Distribution of the RFP

Once the RFP is finalized, it should be distributed to all known potential bidders and any bidder that requests a copy as a result of the advertisement. Potential bidders may be identified through lists maintained by the agency, web searches, previous procurements, and/or the Department of Economic Development's list of M/WBEs. The RFP (or notice of the RFP) can be distributed via postal mail, e-mail, and/or posting to the agency website, among other means.

Receipt of Proposals

As noted above, the agency must state in the RFP the date and time that proposals are due. As a general rule, late bids cannot be accepted. However, if permitted by agency policy and if no timely and responsive bids are received, a late bid may be accepted. Before accepting a late bid, agencies should contact OSC. The agency must certify that proposals were received in accordance with the RFP.

E. Evaluation of Proposals – Overview

The objective of the evaluation process is to develop and apply criteria that will ensure that proposals are evaluated objectively, fairly, equally and uniformly and that the agency selects the best value solution among the submitted proposals.

Typically, evaluations are an analysis of the technical proposals, a separate comparative analysis of the cost proposals, and a method for combining the results of the technical and cost proposal evaluations to arrive at the selection of the proposal deemed to be the best value to the state. Thus, there are up to three distinct parts to the evaluation process:

- Administrative review of pregualification criteria (optional);
- Technical evaluation An examination of the non-cost elements that were not considered during the administrative review, such as the functional specifications (e.g., hardware requirements, scheduling); and
- Cost evaluation A comparison of the price proposed (and, at the agency's option, other costs of the project) to the prices and costs of other competing proposals.

More detail is provided in subsequent sections of this chapter.

F. Evaluation Team

It is strongly recommended that the agency establish an evaluation team. The agency may also establish various oversight roles to provide policy, guidance, and direction for the evaluation process and team, and to ensure the integrity of the procurement. An individual may be designated a lead role to coordinate all activities within the process.

The number and selection of evaluators should be based on many factors including the complexity of the procurement and the level of knowledge possessed by the potential evaluators available to analyze the proposals. There may be rare instances where a single evaluator must be used for the entire technical evaluation, or a portion of it, such as when available expertise for evaluating the technical considerations is limited.

It is strongly recommended that technical and cost proposals be reviewed by different evaluation sub-teams although it is recognized that in limited situations separate teams may not be feasible. Both approaches are addressed briefly below.

Separate Team Approach

Under this approach, the technical and cost evaluation teams may conduct their reviews simultaneously.

Technical Proposal Review Team – This team is typically comprised of program and technical experts, and may conduct its evaluation under the direction of a technical evaluation manager or a team leader. The team is responsible for all aspects of the evaluation of the technical proposal. This may include review of vendor qualifications, such as the number of past projects performed of a similar size and scope and proposed personnel resources, such as staff capacity. Depending on the nature of the RFP, the team would also be responsible to perform such activities as benchmark tests, site visits, and reference checks.

Cost Proposal Review Team – The cost proposal team is typically comprised of one individual, but may be a team of people, responsible for evaluating and scoring the cost proposals submitted in response to the RFP. The cost team works under the direction of a procurement director or coordinator.

NOTE: While it may be necessary for the cost team to obtain technical information to clarify the association between costs and technical components, the technical evaluators must not be provided with the proposed costs until after selection is made.

Single Team/Evaluator Approach

Under this model, one team or one individual evaluator conducts all evaluations. When a single team/evaluator is used, the cost proposals must remain sealed until completion of the technical evaluation.

G. Conducting the Administrative Review

At its discretion, the agency may conduct an administrative review of proposals to:

- Ensure that all required documents and forms are included in the submission.
 Proposals found to be materially incomplete may be disqualified as provided for in the RFP.
- Determine on a pass/fail basis that certain minimum mandatory qualifications (e.g., minimum experience requirements) set forth in the RFP have been met.

Depending on the number and complexity of proposals expected to be submitted, the agency should designate an individual or team to conduct this review.

H. Conducting the Technical Evaluation

The technical evaluation measures the extent by which a proposal would meet the agency's needs and relies upon the evaluators' expertise in assessing the strengths and weaknesses of each response. The technical evaluation is a critical part of the ultimate goal of determining which proposal presents the best value to the state. The main steps for performing the technical evaluation are discussed below.

Development of the Technical Evaluation Criteria

The criteria selected for evaluation must reflect the agency's objectives, scope of services, and requirements as set forth in the RFP. Examples of typical technical criteria include, but are not limited to:

- Work plan and methodology to achieve desired end results;
- Experience of the offerer in providing the required services and/or technology;
- Management capability of the offerer;
- Offerer's overall past performance;
- Qualifications and experience of the offerer's proposed staff;
- Conformance with the schedule of work set forth in the RFP: and
- Offerer references.

NOTE: Agencies are reminded that the criteria and sub-criteria may, but are not required, to be disclosed in the RFP.

Assignment of Values to Technical Evaluation Criteria

Once the technical evaluation criteria have been determined, values must be assigned to the criteria and any sub-criteria. Following are three examples of the ways in which values are typically assigned:

Example 1: Points are assigned to each technical criterion. Evaluators review the technical proposals and assign a score up to the maximum points for each evaluation criteria category. Illustration:

- Work plan and methodology to achieve desired end results = 25 points
- Offerer's experience in providing the required services and/or technology = 15 points
- Offerer's management capability = 15 points
- Proposed staffing plan = 10 points
- Conformance with the schedule of work set forth in the RFP = 5 points

Example 2: The technical criteria may be further broken down into sub-criteria and a subset of points is assigned to each sub-criterion. Evaluators review the technical proposals and score each sub-criterion. Illustration:

• Proposed Staffing Plan = 10 points

Staffing Plan proposes at least ten Programmer I positions = 2 points Staffing Plan proposes at least four Programmer II positions = 2 points Staffing Plan proposes at least three Analyst I positions = 2 points Staffing Plan proposes at least one Analyst II position = 2 points Staffing Plan proposes at least three Trainer positions = 2 points

Example 3: The technical criteria may be considered according to a pre-established scale. Evaluators grade the technical proposals and assign points for each criterion within the scale. Illustration:

- Excellent Staffing Plan = 8-10 points
- Good Staffing Plan = 5-7 points
- Fair Staffing Plan = 3-4 points
- Poor Staffing Plan = 0-2 points

In rare instances, due to the nature of the procurement, alternative concepts for assigning value to the technical criteria may be permissible. In such instances, it is recommended that the agency consult with the OSC Bureau of Contracts before beginning the procurement.

NOTE: The evaluation criteria and the values assigned must be consistent with any information provided in the RFP.

The Technical Evaluation Instrument

The nature, scope, and complexity of evaluation methods vary widely. However, in accordance with State Finance Law §§163(9)(a) and (b), the evaluation criteria and methodology for evaluating proposals must be completed and secured prior to the initial receipt of proposals. This principle applies to both technical and cost components.

The evaluation instrument is the tool that will be used by the evaluators to apply the evaluation criteria to the proposals and includes the breakdown of the relative weights (for technical versus cost) into more detailed categories (for example, experience = 20%, staffing = 15%, and so forth). This tool consists of a series of documents used during the evaluation process. This series may include, but is not limited to:

- Evaluator instructions;
- Evaluator confidentiality/conflict of interest statement;
- Rating sheet which defines allocation of points;
- Evaluator forms and summary evaluation sheet;

- Scripted interview questions:
- Scripted reference checks; and
- Oral/product presentation/agenda.

Evaluating Technical Proposals

As a preliminary step, proposals should be reviewed for compliance with the minimum mandatory technical requirements set forth in the RFP. After the preliminary review, the technical proposal evaluation must be conducted as documented in the RFP and the evaluation instrument. The evaluation team members apply scores to the pre-determined criteria and subcriteria if applicable. Scoring is based on information provided in the submitted proposal. However, additional factors, as established in the RFP and/or the evaluation instrument, may be considered. Examples include:

- Product or service demonstrations and presentations;
- Reference checks (staff and/or company performance);
- Vendor site inspections;
- Interviews of key proposed managers and technical experts;
- Written proposal clarifications; and
- Rating services (such as Moody's or Dun & Bradstreet)

The above factors may be used for non-scored validation purposes, as cumulative information to be considered together with submitted information, or as separately scored criteria. For example:

- A reference check might be used to verify submitted information (e.g., the proposer has in fact successfully completed three jobs of similar size/scope). A reference check might also be used as a separately scored criterion (e.g., the average satisfaction rating from three references is 7 on a scale of 0 - 10).
- Presentations and interviews might be used as cumulative information along with submitted documentation for scoring a criterion (e.g., experience, work plan). A presentation might also be used as a separately scored criterion.

The agency has the authority to waive mandatory requirements that are not material provided that:

- The RFP discloses to the offerers the agency's reserved right;
- The mandatory requirements are not met by all offerers;
- The waiver does not disadvantage the state;
- The waiver does not benefit the proposed contractor; and
- The waiver does not prejudice any non-winning bidder or potential bidder.

Following completion of the initial technical proposal review, evaluation scores are adjusted and finalized, as provided for in the evaluation instrument.

Regardless of the scoring methodology utilized, evaluators must document the basis for the rating using narrative to explain the proposal's strengths and weaknesses, thereby justifying the score. For example:

"The offerer's proposed Project Director was given the maximum number of points because this individual has successfully managed a project of similar complexity and he/she will be critically important to the success of our project."

I. Conducting the Cost Evaluation

Methods for calculating costs vary depending on a mix of factors concerning the nature and extent of the services, the costs associated with utilizing the services, and the impact of the services on agency programs and operations (State Finance Law §§160(5) and (6)).

The two most common methods for comparing the cost proposals are:

Conversion of Price to a Weighted Point Score

Points = (Lowest bid divided by the bid being evaluated) x cost points

Comparison of Life Cycle Costs

Procurements that entail the expenditure of funds for both the fees associated with the services to be procured (i.e., price) and costs associated with the introduction of the services into the environment (i.e., indirect costs) could be evaluated by analyzing total life cycle costs, defined as the sum of the fees and indirect costs.

An example of life cycle costs for a computer system conversion would be the offer price of the new system combined with other expenses, such as, but not limited to, upgrades to existing infrastructure and additional staff requirements if necessary.

Once the total life cycle costs for competing proposals have been determined, the life cycle costs associated with each proposal must be converted to a weighted point score using the formula above.

NOTE: If an agency wishes to use a cost evaluation method other than those described above, such as "banding" or "competitive cost range," it should contact OSC for further discussion before proceeding.

J. Determining the Final Score

The agency should weigh the technical and cost evaluation results as two components, which together total 100 percent of the evaluation. For example, the technical evaluation could be weighted at 70 percent and the cost evaluation weighted at 30 percent. After the technical evaluation has yielded a technical score and the cost evaluation has yielded a cost score, the scores are weighted and combined to produce a final score for the proposal.

K. Agency-Recommended Award and Notification

Agency-Recommended Award

The agency's selection of the vendor must be in accordance with evaluation criteria developed prior to the initial receipt of proposals. The agency may reject all proposals or – if provided for in the RFP – may reject separate parts of the scope of services. (State Finance Law §163(9)(d)).

The agency may award a contract to an offerer if only one proposal was submitted, provided that the agency documents that the RFP did not restrict competition and that the cost is reasonable.

Notification of Award

Upon completion of the evaluation and vendor selection, the agency must send notification of award to all successful and non-successful offerers. Notification to the selected offerer(s) should indicate that the award is subject to approval by control agencies before the contract is finalized. The agency must provide non-successful bidders the opportunity for a debriefing, if requested.

L. Contract Negotiation

In cases where the RFP has specifically provided for negotiation of terms and conditions, the agency may engage in negotiation with the successful bidder prior to settling on the contract terms. Revisions must not substantially alter the requirements or specifications set out in the RFP. To assess whether a potential revision constitutes a substantial change, the question should be asked: "Would other bidders or non-bidders have responded differently if the term or condition to be revised as a result of negotiation had been included in the RFP?" If the answer is "yes" or "possibly," then the provision may not be revised.

M. Documentation Requirements for Control Agency Review and Approval

Contracts resulting from an RFP are subject to review and approval first by the Office of the Attorney General, and second by the Office of the State Comptroller, in accordance with State Finance Law §112. Depending on the nature of the procurement, approval from other control agencies may be required.

Generally, when OAG approval is required, only the contract itself needs to be submitted for review. However, OAG may, for any particular contract, request the entire procurement record. The agency may also ask OAG if the entire procurement record can be submitted for forwarding on to OSC upon OAG's approval of the contract.

The OSC Bureau of Contracts conducts the final review and provides its approval. OSC conducts its review to ensure that:

- The procurement was conducted in accordance with the process established by the agency;
- The procurement and resulting contract complies with all relevant laws; and
- The contract terms and conditions are in the best interests of the state.

(State Finance Law §112 and State Finance Law §163(9)(g)).

NOTE: The agency must include a completed AC-340 Form along with the procurement package that is provided to OSC. This form provides essential contract information that is used to record the contract on the OSC central accounting system and to encumber the funds for the current fiscal year.

VI. BEST PRACTICES

This chapter highlights practices that experience has shown will make a procurement easier to manage, help ensure that the appropriate goods/services are obtained, increase the ability to receive control agency approval, and minimize the likelihood of a bid protest.

A. Knowing the Business Needs

Know what the "end result" needs to be. Before starting the procurement process, have a good understanding of what the agency needs, what a product will be used for, whether there will be a need for modifications to existing equipment or facilities, and what is available in the marketplace. Identification of the business needs may require meeting with end-users to bring added clarity to the scope of the transaction and the various components of the transaction, such as the intended product usage, what services are needed, or site conditions.

B. Proper Planning

Proper planning is the single most important factor in conducting a successful procurement. Proper planning includes allowing adequate time for advertisement, writing a clear and concise solicitation, allowing sufficient time for potential bidders to ask questions and prepare a proposal (taking into account the complexity of the solicitation), reviewing the bids/proposals, and conducting internal/ external reviews of the final contract.

C. Thorough Information Gathering

Consider using a Request for Information (RFI), as discussed in Chapter IV, to gather information about the types of goods/services that are available. Certain types of products evolve rapidly; therefore, sending an RFI to vendors may provide insight on newer, more efficient products or services that better address the needs of the agency. It is also strongly recommended that an RFI be advertised in the New York State Contract Reporter to provide additional vendors with an opportunity to respond to the RFI.

D. Conducting Pre-Bid Conferences

Pre-bid conferences can be very helpful to both agency staff and prospective bidders, particularly with respect to complex procurements. A pre-bid conference provides the prospective bidders and agency staff an opportunity to ask questions and obtain a better understanding of what is needed and what might be offered. Participation by potential bidders in a pre-bid conference can be deemed mandatory or optional. The conference can be conducted via a conference call, in-person, or as a combination of both. If a pre-bid conference is held, the agency must document who attended, the questions raised, the location, time, and

other salient information. Questions and answers must be provided to all potential bidders after the conference is conducted. Questions should remain "vendor neutral" – that is, the identity of the vendor asking the question should not be revealed in the presentation of either the question or the answer.

E. Providing for Site Visits

Site visits can be very beneficial for both potential bidders and agency staff. These can be deemed mandatory or optional. For example, a site visit may be useful in a procurement for janitorial services so potential bidders can know exactly what the equipment and/or facility looks like, whether there is access for vehicles, what the security procedures are, and other factors. Consideration may also be given to visiting the bidders' sites to ensure that they have the necessary equipment and/or facilities to meet the contract requirements.

F. Discussion with the Office of the State Comptroller

Prior to issuing the IFB/RFP, consideration should be given to discussing complicated and/or sensitive solicitations or unique evaluation methodologies with the OSC Bureau of Contracts to ensure that the procurement is undertaken in an appropriate manner.

G. Use of FOB Destination

When buying goods, the recommended practice is to require that quotes or bids be based on "Free on Board (FOB) Destination," meaning that there is no additional delivery charge and the title (ownership) does not transfer until the product reaches its destination. This requirement ensures that bids can be evaluated in an equal manner. Further, it ensures that the agency does not assume risk of loss until the product is delivered to the agency and any problems during transport are the vendor's responsibility. By contrast, title to items purchased Free on Board (FOB) Origin (a/k/a "FOB Shipping Point") transfers upon shipping and the agency is therefore responsible for any risk of loss or problems during transport.

H. Review of Terms and Conditions Proposed by Vendors

Carefully read all terms and conditions that are proposed by the vendor to ensure that nothing conflicts with Appendix A. In addition, any terms proposed by the vendor such as limits of liability, indemnification, and warranties, or those that may be detrimental to the state, should be discussed with agency counsel.

NOTE: Material terms of a contract awarded pursuant to a competitive bid cannot be negotiated.

NOTE: When issuing a purchase order on an OGS centralized contract, agencies and vendors are not authorized to change the terms and conditions of that contract, unless such changes are more favorable to the state.

I. Negotiating Effectively

The following are suggestions for negotiating contracts that are most commonly awarded via an RFP, or under a single or sole source theory:

- Prior to negotiating, the agency should identify all known issues and outline its position and acceptable alternatives.
- To the maximum extent possible, negotiations should be conducted at the agency's office. Always allow sufficient time to discuss the issues fully.
- Look for a "win-win." Often, it is possible for vendors and procurement staff to agree on terms that are beneficial to both parties. Making any necessary concessions incrementally will aid in working towards a "middle ground" that is satisfactory to all.
- Notes should be kept of all negotiation discussions and all revisions should be tracked in writing to ensure that the contract being signed contains all agreed upon terms and conditions.

CAUTION: Material terms of a contract awarded pursuant to a competitive bid cannot be negotiated.

J. Involving Upper Management

Even procurements that are limited in scope or are relatively simple have the potential to become controversial. It is recommended that the final selection of a contractor be reviewed by a manager who both has a broad perspective of the agency's operations and knows the strategic considerations related to the procurement. Management may: 1) concur with the selection; 2) request a re-evaluation in accordance with the pre-established evaluation methodology; or 3) determine that all offers should be rejected and a new procurement conducted. Management may not, however, direct an award to a specific vendor who is not the low bidder or who has not offered the best value in accordance with the pre-established evaluation methodology.

K. Documenting

Documentation of all phases of the procurement, including communications with bidders or agency program staff, should be included in the procurement record. Note that contacts with bidders must also be documented in accordance with the requirements of the Procurement Lobbying Law.

L. Adapting Standard Formats to the Specific Procurement

In general, previously issued solicitations and/or solicitation templates can be very helpful when creating a solicitation document for a new procurement. However, it is important to recognize that such models must often be adapted to suit the particular circumstances. Be aware that changes in law may have occurred since the example was created, which in turn may alter the provisions that must be included. Some amount of tailoring is typically necessary to construct an appropriate and effective solicitation package.

Sample outlines for developing an IFB and an RFP are included in these Guidelines in Chapter VIII. Exhibits. Consistent with the point made above, depending on the scope and nature of the specific procurement project, not all of the sections and clauses in these samples may apply. Similarly, the scope and nature of the procurement may require sections and clauses that are <u>not</u> listed in the respective samples.

For additional guidance in adapting a template or a previously used format to suit the procurement situation at hand, it is advisable to refer to the agency's policy and procedures and consult with experienced procurement personnel.

VII. GLOSSARY

AC-340 Form – The contract encumbrance request form that an agency prepares to record a new contract or an amendment onto the OSC Central Accounting System and encumber funds from the current year to ensure that payments can be made.

Agency (State Agency) – All state departments, boards, commissions, offices or institutions. This term excludes, however, for the purposes of subdivision five of §355 of the Education Law, the State University of New York and excludes, for the purposes of §6218 (a) of the Education Law, the City University of New York. Furthermore, the term does not include the Legislature or the Judiciary.

Agency Specific Contract – A contract where the specifications for the product and/or service are described and defined by an agency to meet its needs.

Appendix A – The document containing standard clauses required in all New York State contracts.

Attorney General (OAG) – The Office of the Attorney General of the State of New York. The duties of this office are set forth in Executive Law § 63. With regard to procurement, the OAG reviews contract terms to ensure that the interests of New York State are protected. This office also reviews complaints of improper conduct and may conduct examinations into the performance of a contract.

Backdrop Contract – A contract resulting from a process in which vendors respond to specifications in order to prequalify for a later solicitation. Such later solicitation will usually be conducted through a competitive mini-bid process. Prices offered under backdrop contracts are generally established as "maximum not to exceed prices." Where a mini-bid is not required, state agencies are encouraged to negotiate lower prices than the "maximum not to exceed prices" contained in the backdrop contract. The backdrop contracts may be awarded by the Office of General Services for use by all state agencies or by an individual agency for its own use.

Best Value – The basis for awarding <u>all</u> service and technology contracts to the offerer that optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall be, wherever possible, quantifiable (State Finance Law §163 (1) (j)).

Bid – An offer or proposal submitted by a bidder to provide a product or service at a stated price for the stated contract term.

Bid Opening – The formal process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the solicitation.

Bid Protest (also known as a Bid Dispute) – A formal written complaint made against the methods employed or decisions made by a state agency in the process leading to the award of a contract.

Bidder (also referred to as an offerer or proposer) – Any individual, business, or other legal entity, or any employee, agent, consultant or person acting on behalf thereof, that submits a bid in response to a bid solicitation.

Bidder List – A list of names and addresses of vendors from whom bids, proposals, or quotations are solicited. This may also apply to a list of potential bidders that is maintained by an agency.

Centralized Contract – Any contract let by the OGS Procurement Services Group for use by state agencies or any other authorized user, for the purchase of commodities or services. Centralized contracts are established or approved by the Commissioner of General Services as meeting the state's requirements.

Commodities – Material goods, supplies, products, construction items or other standard articles of commerce (other than printing or technology) that are the subject of any purchase or exchange (State Finance Law §160 (3)).

Contact – Any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement (State Finance Law §§139-j (1) and 139-k (1) (c)).

Contract – A written agreement that formalizes the obligations of all parties involved.

Contractor – Any individual, business or other legal entity awarded a contract with a state agency to furnish commodities or services for an agreed-upon price.

Cost – The total dollar expenditure of a procurement. Article 11 of the State Finance Law requires costs of the given goods or services to be quantifiable. This must take into account the price; the administrative, training, storage, maintenance or other associated overhead expenses; the value of warranties, delivery schedules, financing costs and foregone opportunity costs; and the life span and associated life cycle costs of the given good or service being purchased (State Finance Law §160 (5)).

Debriefing – The practice whereby, upon the request of a bidder, the state agency advises such bidder of the reasons why its bid was not selected for an award. It is viewed as a learning process for the bidder to be better prepared to participate in future procurements.

Discretionary Purchase – Purchases below an established dollar level that are authorized by law to be made without a formal competitive process.

Draft RFP – An advance copy of the RFP that is sent to known potential bidders for remarks or comments prior to the RFP being issued by the agency.

Emergency – An urgent and unexpected situation where health and public safety or the conservation of public resources are at risk. Such situations may create a need for an emergency contract. (State Finance Law §163 (1) (b)) An agency's failure to properly plan in advance, which results in a situation where normal practices cannot be followed, does not constitute an emergency.

F.O.B. Destination – As defined in U.C.C. §2-319, "free on board (F.O.B.) destination" means there will be no additional charge for delivery to the agency's specified location, and that the title is conveyed from the vendor to the agency at the destination of the shipment. The vendor owns the goods during transit and will file any damage claims.

F.O.B. Origin – As defined in U.C.C. §2-319, "free on board (F.O.B.) origin" means that the receiving agency pays the delivery charges and the title is conveyed at the origin of the shipment. Because the agency owns the goods during transit, it will file any damage claims. This may also be referred to as "F.O.B. Shipping Point."

Form, Function and Utility – The minimum essential requirements that will meet the agency's needs. These requirements are defined by the agency. Requirements may include quality, quantity, delivery terms, packaging, performance standards, and compatibility, among others.

Invitation for Bid (IFB) – A competitive solicitation seeking bids for a specified commodity or service, pursuant to which award is made to the responsive and responsible bidder(s) submitting the lowest price.

Liquidated Damages – A monetary amount agreed to in the contract to provide for reasonable compensation to the state for the contractor's failure to meet its contractual obligations.

Mini-Bid – An abbreviated bid process in which an authorized user develops a project definition outlining its specific requirements and solicits bids from existing pregualified backdrop contractors. When a mini-bid is required, the exact process is clearly outlined in the backdrop contract. The mini-bid award is made based on best value or lowest price.

Minority or Women Owned Business Enterprise (M/WBE) – A business certified under Article 15-A of the Executive Law that is independently owned, operated and authorized to do business in New York State; and is owned and controlled by at least fifty-one percent women or minority group members who are citizens of the U.S. or permanent resident aliens. Such ownership must be real, substantial and continuing; and the minorities or women must have and exercise the authority to control independently the day-to-day business decisions of the enterprise.

Multiple Award – A contract that is awarded to more than one responsive and responsible bidder who meets the requirements of a bid specification in order to satisfy multiple factors and needs as set forth in the bid document. These factors may include: complexity of terms: various manufacturers; differences in performance required to accomplish or produce required end results; production and distribution facilities; price; compliance with delivery requirements; and geographic location. (State Finance Law §163 (10) (c) and §9A-3 NYCRR 250.10 (c)).

Office of General Services (OGS) – The agency tasked with creating statewide centralized contracts for use by state departments and agencies, and other authorized users such as authorities, municipalities and not-for-profit organizations, as per State Finance Law §163.

Office of the State Comptroller (OSC) – The agency tasked with reviewing and approving contractual agreements and payments, as per §112 of State Finance Law, and granting exemptions from advertising requirements, as per State Economic Development Law §144.

Piggyback Contract – A newly created contract based upon a contract awarded by the United States government, or any state or any political subdivision thereof, in accordance with the requirements of the New York State Finance Law.

Preferred Source – In order to advance special social and economic goals, State Finance Law §162 requires that a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the "form, function and utility" requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; Industries for the Blind of New York State, Inc.; New York State Industries for the Disabled; and the Office of Mental Health. These requirements apply to a state agency, political subdivision and public benefit corporation (including most public authorities).

Prevailing Wage – The pay rate that is required to be paid to all private workers (non-government) on all New York State public works projects. Generally, prevailing wage rates apply to construction, repair or renovation of government facilities (state or local) or building service contracts. The New York State Department of Labor issues wage schedules on a county-by-county basis that contain minimum rates of pay for various job classifications. (State Labor Law Articles 8 and 9).

Price – Unless otherwise specified, the amount of money set as consideration for the sale of a commodity or service. When applicable and specified in the solicitation, it may include, but is not limited to, delivery charges, installation charges, and other costs (State Finance Law §160(6)).

Procurement – The acquisition of goods and/or services.

Procurement Record – Documentation of the decisions made and the approach taken in the procurement process (State Finance Law §163 (f)).

Proposal - A bid, quotation, offer or response to a governmental entity's solicitation relating to a procurement. In general, a proposal is submitted for an RFP and a bid is submitted for an IFB, but the terms are often used interchangeably.

Recycled Commodity – A product that is manufactured from secondary materials as defined in the State Economic Development Law §261 (1) and State Finance Law §165 (3) (a). The law creates a preference for purchases of recycled commodities when they meet the form, function, and utility of the authorized user after the cost of the commodity has been considered.

Remanufactured Commodity – A commodity that has been restored to its original performance standards and function and is thereby diverted from the solid waste stream, retaining, to the extent practicable, components that have been through at least one life cycle and replacing consumable or normal wear components. (State Finance Law §165 (3) (a)). The law creates a preference for purchases of remanufactured commodities when they meet the form, function, and utility of the authorized user after the cost of the commodity has been considered.

Request for Information (RFI) – A research and information gathering document used when an agency is seeking to learn about the options available to address a particular need and wants to obtain information to help create viable requirements for a potential solicitation.

Request for Proposals (RFP) – A competitive solicitation seeking proposals for a specified service or technology, pursuant to which an award is made to the responsive and responsible proposer(s) offering the best value.

Responsible – The status afforded an individual or company based on factors such as: financial ability and organizational capacity; legal authority to conduct business in New York State; integrity as it relates to business related conduct; and past performance. (These four factors are sometimes summarized by the acronym "FLIP.")

Responsive – Meeting the minimum specifications or requirements as prescribed in a solicitation for commodities or services by a state agency (State Finance Law §163 (d)).

Restricted Period – The period of time commencing with the earliest written notice, advertisement or release of an RFP, IFB or other solicitation from offerers intending to result in a procurement contract with a governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, OSC (State Finance Law §\$139-j (1) (f) and 139-k (1) (f)). During this period, State Finance Law §139-k requires a governmental entity to collect and record certain information pertaining to those individuals who contact it in an attempt to influence a procurement. The law restricts the time frame and manner in which the business community may contact a governmental entity with regard to attempting to influence a procurement. Under the law, the business community is obligated to make only permissible contacts during the restricted period and may only contact those who are designated by the governmental entity regarding a procurement.

Revenue Contract – A binding agreement between a governmental entity and another party that defines the terms under which revenue will be received by the governmental entity. Individuals should familiarize themselves with their agency's policies and procedures pertaining to revenue contracts.

Service – Except with respect to contracts for state printing, the performance of a task or tasks and may include a material good or a quantity of goods, and which is the subject of a purchase or other exchange. Procurements of technology are conducted in the same manner as are procurements of services.

Single Source – A procurement in which, although two or more offerers can supply the required commodities or services, the commissioner or state agency, upon written findings setting forth the material and substantial reasons therefore, may award the contract to one offerer over the other. The commissioner or state agency shall document in the procurement record the circumstances leading to the selection of the vendor, including the alternatives considered, the rationale for selecting the specific vendor, and the basis upon which it determined the cost was reasonable (State Finance Law §163 (h)).

Small Business – A business that is resident in this state, independently owned and operated, not dominant in its field, and employs no more than one hundred people (State Finance Law §160 (8)).

Sole Source – A procurement in which only one offerer is capable of supplying the required commodities or services (State Finance Law §163 (g)).

Specifications (Requirements) – Description of the physical or functional characteristics or the nature of a commodity, the work to be performed, the service or products to be provided, the necessary qualifications of the offerer, the capacity and capability of the offerer to successfully carry out the proposed contract, the process for achieving specific results and/or anticipated outcomes, or any other requirement necessary to perform the work. Specifications may include a description of any obligatory testing, inspection, or preparation for delivery and use. They may also include federally required provisions and conditions where the eligibility for federal funds is conditioned upon the inclusion of such federally required provisions and conditions. Specifications should be designed to enhance competition, ensuring that the commodities or services of any offerer are not given preference, except where required by the State Finance Law (State Finance Law §163 (1) (e)).

State Procurement Council – The policy-making body established under State Finance Law §161 that is responsible for the study, analysis and development of recommendations to improve state procurement policy and practices; and, for development and issuance of guidelines governing state agency procurement.

Technology – A good, either new or used, or service, or a combination thereof, that results in a technical method of achieving a practical purpose or in improvements in productivity (State Finance Law §160 (10)). Procurements of technology are conducted in the same manner as are procurements of services.

Vendor – A supplier/seller of commodities or services.

VIII. EXHIBITS

A. SAMPLE OUTLINE FOR AN "INVITATION FOR BIDS"

The following provides a detailed example of sections and clauses that can be considered for inclusion in an Invitation for Bids (IFB). The scope and nature of the IFB may require sections or clauses that are not listed here. For additional information, refer to the agency's policy and procedures.

1. **OVERVIEW/COVER LETTER**

- 1.1 **Designated Contact**
- 1.2 Minimum Qualification
- 1.3 Key Events/Timeline
- IFB Questions and Clarifications 1.4
- Instructions for Bid Submission 1.5

2. **ADMINISTRATIVE INFORMATION**

- Issuina Office 2.1
- 2.2 Method of Award
- 2.3 Term of Contract
- 2.4 Price (Including Price Adjustment Provisions)
- 2.5 Method of Payment
- 2.6 Electronic Payment
- 2.7 Dispute Resolution
- 2.8 Prime Contractor Responsibilities
- 2.9 **Prevailing Wage**
- **Debriefing Information** 2.10

SPECIFICATIONS/SCOPE OF WORK 3.

- **Operations Standards** 3.1
- 3.2 Scope

3.5

- 3.3 Site Visit, as required
- Resources and Specific Requirements 3.4 3.4.1 What the Contractor Shall Provide
 - Contract Delivery/Contract Period
- 3.6 **Contract Representative**
- Reporting Requirements 3.7
- Performance Guarantees (i.e. Progress Payments, Letters of Credit) 3.8

CONTRACT CLAUSES AND REQUIREMENTS 4.

- 4.1 Order of Precedence
- 4.2 **Procurement Lobbying Requirement**
- 4.3 **Contractor Insurance Requirements**
- 4.4 Tax Law Section 5-A Clause
- Participation Opportunities for New York State Certified Minorities and Women-4.5 **Owned Businesses**
- Freedom of Information Law/Trade Secrets 4.6
- 4.7 **General Requirements**

Attachments to an IFB

Agency practices differ. However, the solicitation should set forth any required documents, such as those listed below, that the bidder should be aware of and should complete and submit as necessary.

- Appendix A: Standard Clauses for New York State Contracts
- Standard Vendor Responsibility Questionnaire (SVRQ)
- Taxation and Finance Form ST-220 CA,
- Procurement Lobbying Forms
- Cost Proposal Form
- M/WBE / EEO Compliance Documentation Forms
- Sample Contract

B. SAMPLE OUTLINE FOR A "REQUEST FOR PROPOSALS"

The following provides an example of sections and clauses that can be considered for inclusion in a Request for Proposal (RFP). Depending on the scope and nature of the specific RFP, not all of these sections or clauses may apply. Further, the scope and nature of the RFP may require clauses that are not listed here. For additional information, refer to the agency's policy and procedures.

1. INTRODUCTION

- 1.1 Overview
- 1.2 Designated Contact
- 1.3 Minimum Qualifications
- 1.4 Key Events/Timeline

2. PROPOSAL SUBMISSION

- 2.1 Intent to Submit a Proposal
- 2.2 RFP Questions and Clarifications
- 2.3 Proposal Format and Content
- 2.4 Instructions for Bid Submission
 - 2.4.1 Packaging of RFP Response

3. ADMINISTRATIVE INFORMATION

- 3.1 Issuing Office
- 3.2 Method of Award
- 3.3 Term of Contract
- 3.4 Price (Including Price Adjustment Provisions)
- 3.5 Method of Payment
- 3.6 Electronic Payment
- 3.7 Reserved Rights
- 3.8 Exceptions to RFP
- 3.9 Waiver of Rights
- 3.10 Dispute Resolution
- 3.11 Inspection of Books
- 3.12 Prime Contractor Responsibilities
- 3.13 Glossary of Terms
- 3.14 Rules of Construction

4. EVALUATION AND SELECTION PROCESS

- 4.1 Proposal Evaluation
 - 4.1.1 Technical Evaluation
 - 4.1.2 Cost Evaluation
- 4.2 Notification of Award

5. SCOPE OF WORK

- 5.1 Operations Standards
- 5.2 Scope
- 5.3 Resources and Specific Requirements

- 5.3.1 What the Contractor shall provide:
- Performance Guarantees (i.e. Progress Payments, Letters of Credit) 5.4
- 5.5 Contract Representative
- Reporting Requirements 5.6

CONTRACT CLAUSES AND REQUIREMENTS 6.

- 6.1 Order of Precedence
- Procurement Lobbying Requirement 6.2
- Contractor Insurance Requirements 6.3
- 6.4 Tax Law Section 5-A Clause
- Participation Opportunities for New York State Certified Minorities and Women-6.5 Owned Businesses
- 6.6 Freedom of Information Law/Trade Secrets
- 6.7 **General Requirements**
- 6.8 **Contract Terms**
- 6.9 **Procurement Rights**
- 6.10 Termination
- New York State Standard Vendor Responsibility Questionnaire 6.11
- 6.12 **Ethics Compliance**

Attachments to an RFP

Agency practices differ. However, the solicitation should set forth any required documents, such as those listed below, and any additional statutory requirements pertaining to the particular service being procured (such as consulting disclosure forms), that the bidder should be aware of and should complete and submit as necessary.

- Appendix A: Standard Clauses for New York State Contracts
- Standard Vendor Responsibility Questionnaire (SVRQ)
- Taxation and Finance Form ST-220 CA,
- **Procurement Lobbying Forms**
- Cost Proposal Form
- M/WBE / EEO Compliance Documentation Forms
- Sample Contract

Exhibit 3

5.0 EVALUATION OF PROPOSALS

The Agencies have determined that its best opportunity to obtain the right Design-Builder to assure a successful Project will be gained by awarding the Contract based on a determination of the Proposal that offers the best value to the State and the Agencies (that is, by optimizing long term quality, cost and efficiency as specified in the Act), taking into consideration the technical and price factors discussed herein.

Each Technical Proposal will be evaluated on the pass/fail and technical evaluation factors identified herein. In order to be considered for award of the Contract, the Proposal must receive a "pass" rating on all pass/fail factors and receive a technical rating of at least "Acceptable" on each technical evaluation factor. A Technical Evaluation Team appointed by the Agencies will determine the overall technical strengths and weaknesses of each Proposal before the Price Proposals are opened and evaluated by a Selection Committee appointed by the Agencies. The Selection Committee will evaluate the technical findings and pricing information contained in the Price Proposals and prepare a recommendation to the Selection Official(s) appointed by the Agencies indicating which Proposal represents the "best value" to the State and the Agencies. The Selection Official(s) will then assess the Selection Committee's recommendation and make a final determination as to which Proposal offers the best value to the State and the Agencies, considering the technical and price factors set forth in the ITP.

In determining "best value," the Proposal Price will be approximately equal in importance to the combined overall technical ratings for design and construction solution; management approach; Key Personnel and experience; environmental compliance; and public outreach and coordination with stakeholders. The relative importance of each technical factor, and of major subfactors within each technical factor, is stated in ITP Section 5.1.2.

The Agencies reserve the right to reject any or all Proposals, to waive technicalities, or to advertise for new Proposals, if, in the judgment of the Agencies, the best interests of the public will be promoted thereby.

5.1 Evaluation Factors and Criteria

The factors identified in ITP Section 5.1.1 will be evaluated on a "pass/fail" basis.

The factors identified in ITP Section 5.1.2 will be evaluated on how well the Proposer has met or exceeded the requirements.

Price will be evaluated as specified in ITP Section 5.1.3.

5.1.1 "Pass/Fail" Evaluation Factors

Each Proposal must achieve a rating of "pass" on each "pass/fail" evaluation factor listed in ITP Section 5.1.1.1 (legal), Section 5.1.1.2 (administrative), Section 5.1.1.3 (DBE/EEO information), Section 5.1.1.4 (financial information) and Section 5.1.1.5 (Price Proposal) in order for the Proposal to be eligible for award.

Failure to achieve a "pass" rating on any "pass/fail" factor listed in ITP Section 5.1.1 will result in the Proposal being declared unacceptable and the Proposer being disqualified.

5.1.1.1. Legal Pass/Fail

The legal pass/fail requirements are as follows:

- Provision of a properly completed and executed Proposal affidavit (Form NC, ITP Appendix D);
- B) Provision of evidence that the Persons proposed to carry out engineering, design, architecture, landscape architecture, and surveying within the State hold appropriate licenses or that they have the capability to obtain licensure prior to execution of Contract;
- C) Provision of all other specified forms and documents, properly completed and signed (if required) (see ITP Appendix A) that do not identify any material adverse information:
- D) The organizational documents shall show that the Proposer has legal capacity to undertake design and construction of the Project, shall include appropriate provisions for management and decision-making within the organization as well as for continuation of the Proposer in the event of bankruptcy or withdrawal of any of its members, and shall otherwise be consistent with Project requirements; and
- E) Compliance with any other legal requirements as identified in ITP Appendix A.

5.1.1.2. Administrative Pass/Fail

The administrative pass/fail requirements are the following:

- A) Provision of all forms required from ITP Appendix D, properly completed and signed (if required);
- B) Timely submittal of Form EPD and the Electronic Pricing Documents;
- C) Confirmation that the Major Participants and Key Personnel listed in the Proposer's SOQ have either not changed since submission of the SOQ, or that the Proposer has previously advised the Agencies of a change and received the Agencies' written consent thereto;
- D) The Proposer shall have provided letter(s) of commitment from one or more sureties in accordance with ITP Appendix A, Section A2.3.5, committing to provide a Performance Bond and a Payment Bond, each in an amount equal to:
 - (1) \$1.5 billion or 30% of the proposed Contract Price (whichever is greater), in which case the Proposer shall, in addition, satisfy the requirements of Section 5.1.1.4(B); or
 - (2) \$1.5 billion or 40% of the proposed Contract Price (whichever is greater);
- E) Provision of a Proposal Bond in the form of Form PB (ITP Appendix D), and
- F) Provision of all other information specified in ITP Appendices A, B and C in the manner, format, and detail specified, without alteration of the forms except as expressly permitted by the instructions.

5.1.1.3. DBE/EEO Information Pass/Fail

To be eligible for award of the Contract, each Proposer must provide the following DBE and EEO submittals meeting the requirements specified herein.

- A) A completed Form DBE, Record of DBE Performance (see ITP Appendix D) either (i) showing no change in the Proposer's record of DBE performance, relative to the Proposer's SOQ submission, or (ii) including supplemental information regarding the Proposer's record of DBE performance showing that the Proposer and its team members have a record of meeting DBE participation.
- B) A completed Form EEO, Equal Employment Opportunity Certification, for the Proposer, each other Major Participant and each proposed known Subcontractor.
- C) Information on Proposer's letterhead in the form of Form GF (see ITP Appendix D) showing that the Proposer has undertaken appropriate good faith efforts during the Proposal period to obtain DBE participation in its Proposal;
- A list of DBE firms on the Proposer's team on Form LDB (included in the Administrative Proposal) and LDB-PP (included in the Price Proposal) (see Appendix D); and
- E) A DBE Plan meeting the requirements specified in ITP Appendix A Section A2.4 and showing that the Proposer plans to undertake appropriate good faith efforts over the course of the Contract to achieve the DBE goal for the Contract, and shall achieve the DBE goal or provide good faith effort documentation.

Failure to achieve a "pass" rating on this pass/fail factor shall result in the Proposal being declared non-responsive and the Proposer being disqualified.

5.1.1.4. Financial Information Pass/Fail

The pass/fail requirements relating to financial information are as follows:

- A) Financial information submitted does not indicate any material adverse change in the financial position (including business, assets, financial condition, credit rating and/or surety bonding capacity) of the Principal Participant that was not reflected in and/or differs from its SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Principal Participants described therein), or such change has been disclosed and accepted or mitigated to the satisfaction of the Agencies in accordance with Section 2.8;
- B) If the Proposer has elected to satisfy the financial and security requirements under Section 5.1.1.2(D)(1):
 - (1) the financial information submitted shall evidence a tangible net worth ("TNW") of the Proposer exceeding \$1.5 billion; provided that: (a) the TNW of each Principal Participant (or, as the case may be, its Guarantor (if any)), but without double-counting subsidiary financial statements if the Guarantor or Principal Participant is a parent company, can be combined to meet this requirement; and (b) except

as specified in Item (B)(2) below, only the TNW of firms with investment grade credit rating from a major credit rating agency (see ITP Appendix A Section A2.5.4) can be used to satisfy the TNW requirement. Tangible net worth of any Person means the sum of the amounts described in Items (i) through (iii) below for such Person and its Subsidiaries, determined on a consolidated basis without duplication in accordance with GAAP or IAS:

- (i) the amount of capital stock; plus
- the amount of surplus and retained earnings (or, in the case of a surplus or retained earnings deficit, minus the amount of such deficit); minus
- (iii) the sum of the following: cost of treasury shares and the book value of all assets that should be classified as intangibles (without duplication of deductions in respect of items already deducted in arriving at surplus and retained earnings) but in any event including goodwill, minority interests, research and development costs, trademarks, trade names, copyrights, patents and franchises, unamortized debt discount and expense, all reserves and any write-up in the book value of assets resulting from a revaluation thereof subsequent to December 31, 2011;
- (2) If a Principal Participant or Guarantor does not have any credit rating (but, for the avoidance of doubt, not if such entity has a credit rating of less than investment grade) directly issued by Standard & Poor's Ratings Services; Moody's Investor Service; or Fitch Ratings, such entity's TNW may nevertheless be considered eligible and counted at the Agencies' discretion, provided that such Principal Participant or Guarantor provides sufficient information to supplement its financial statements and reasonably demonstrate its financial strength and stability. At a minimum, this information shall include:
 - (i) All rating reports, commentaries, notes issued publicly or privately regarding any debt instruments since 2009 (or a statement that none were issued to the best of the entity's knowledge), produced by Dunn and Bradstreet or one of the major rating agencies (Moody's, Fitch Ratings, S&P or affiliates thereof) and, if necessary, translated into the English language;
 - (ii) Updated, audited financial statements and filings (see details in RFQ Section 4.4.2.2) to the extent not previously provided (or if available provide links to online public records thereof); and
 - (iii) A memorandum signed by the Chief Financial Officer of the entity attesting and reasonably demonstrating that the entity has ready and consistent access to necessary financial resources relative to current and future liabilities and other commitments, including this Project. Appropriate supporting information shall be attached. The memorandum should

reference the financial statements where appropriate and at a minimum shall discuss:

- a. The entity's backlog and business outlook;
- b. The entity's cash generation and deployment;
- c. The entity's liquidity (including working capital considerations) and debt structure;
- d. The entity's contingent liabilities;
- e. Current and anticipated litigation items in excess of \$10 million; and
- f. Any significant changes or trends in the above factors over the past three years.

In order to be considered for an exemption to the credit rating requirement, a preliminary version of the above-listed information must be submitted to the Agencies by the date stated in ITP Section 1.6.1;

C) If the Proposer:

- (1) was advised by the Agencies that its members and/or parent companies or other entities are required to provide a Guaranty;
- (2) indicated in its SOQ or otherwise agreed that a Guaranty will be provided by a specified entity; or
- (3) desires the TNW of an entity to be considered for the purposes of complying with Section 5.1.1.4(B)(1) above,

the Proposer shall have submitted an irrevocable letter of confirmation from each such entity that it is prepared to provide a Guaranty in the form of Form G, as specified in ITP Appendix A; and

D) Provision of all other specified forms and documents, properly completed and signed (if required), and compliance with any other financial requirements, as identified in ITP Appendix A.

5.1.1.5. Price Proposal Pass/Fail

The pass/fail requirements relating to the Price Proposal are as follows:

- A) The separately-packed documentation required in Volume 1, Appendix C of the Proposal (see ITP Appendix A Section A3.0) is complete and fully conforms to the requirements of the RFP;
- B) The Price Proposal is complete and fully conforms to the submission requirements of the RFP.

5.1.2 Technical Evaluation Factors

The technical evaluation factors are as follows:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;

- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The technical evaluation factors denoted A, B and C in the above list are of equal importance to each other, and are of more importance than factors D and E. Factors D and E are of equal importance.

The technical evaluation factors listed in this ITP Section 5.1.2 and the subfactors listed in ITP Sections 5.1.2.1 through 5.1.2.5 will be evaluated and rated using the evaluation guidelines specified in ITP Section 5.2, with special attention given to the desired quality expressed in the statement of each factor and/or subfactor. Proposals that receive a technical quality rating of less than "Acceptable" (see ITP Section 5.2) for any technical evaluation factor will not be selected for award.

ITP Sections 5.1.2.1 through 5.1.2.5 describe the expectations of the Agencies with regard to quality of Work to be performed and the related information to be submitted in the Technical Proposals. Along with the Project goals and objectives (see ITP Section 1.4), these objectives will guide the Agencies' evaluation of the factors and subfactors.

5.1.2.1. Design and Construction Solution

Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceed the Project's goals and objectives.

Objectives: Design solutions that respond to: the environmental and community sensitivities and commitments; the context sensitive design and toll road nature of the highway, bridges and structures, the requirement for a coordinated aesthetic theme that includes bridges, walls, signing, landscaping, and toll and intelligent transportation systems structures; quality pavements, geotechnical challenges; and the well planned and coordinated design and relocation of utilities.

The technical evaluation subfactors for the design and construction solution factor are as follows:

- A) <u>Construction Approach</u> evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder:
- B) <u>Service Life of the Crossing</u> evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing;
- C) <u>Maximizing the Public Investment</u> evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future loading;
- D) <u>Bridge, Structures and Aesthetic Design Concepts</u> evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure and aesthetic challenges of the Project;

- E) <u>Geotechnical</u> evaluates how well the Proposer understands and proposes to address the subsurface investigation, foundation design and construction, settlement, earth stability, and monitoring aspects of the Project;
- F) Roadway Design Concepts evaluates how well the Proposer understands the design and construction challenges of the roadway, traffic, shared-use path, property utilization, toll plaza, ITS and electronic toll collection, drainage and utilities for the Project and the interaction and coordination required for the toll plaza and associated toll system; and
- G) NYSTA Operations and Security evaluates how well the Proposer utilizes the available right-of-way, understands, integrates and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing.

The technical evaluation subfactors denoted A, B and C in the above list are of equal importance to each other, and are of more importance than subfactors D, E, F and G. The subfactors D, E, F and G are of equal importance to each other.

See ITP Appendix B Section B1.0 for additional detail regarding this factor and the specific information to be submitted for evaluation of this factor.

5.1.2.2. Management Approach

Evaluates the Proposer's understanding, approach, capabilities, commitments, and organization with respect to scheduling and completion of the Project on time and on budget, and the management of the Project, with emphasis on quality, design, and construction.

Objective: A design-build organization that is designed with clear lines of responsibility and well defined roles that respond to the Project and the Agencies; that includes integrated specialty subcontractors and subconsultants; that embraces partnering throughout; that contains the empowerment of all levels of the organization to make decisions in coordination with their counterparts at the Agencies and, if need be, a system to elevate issues to ensure rapid decisions; that encourages and facilitates quality through a well-defined and executed quality plans for design and construction; that has a disciplined strategy for design, design quality and design review; that likewise has a comprehensive strategy for construction management, logistics, hauling, access, construction sequencing, minimizing public disruptions, safety, and on-the-job training. Additionally, a well-coordinated network schedule that will reflect the integration of design and construction activities, fast-tracking, construction sequencing, and a short time for completion.

The technical evaluation subfactors for the management approach factor are as follows:

- A) Schedule evaluates the integrated scheduling of design and construction and the hauling, access, work traffic zone protection and staging of construction including work relating to the toll plaza required to achieve Project completion within the proposed Contract Deadlines and to minimize disruption to the environment and the public;
- B) Organization and General Management evaluates how well the Proposer is organized for quality, safety, design and construction to achieve the Project's goals;

- C) <u>Design Management</u> evaluates how well the Proposer understands and is organized for the integration of design and construction, design Quality Control, and design Quality Assurance and the Authority's design Oversight for the Project; and
- D) <u>Construction Management</u> evaluates how well the Proposer understands and is organized to manage construction Quality Control and Quality Assurance and the necessary tools required to provide seamless interaction between the Agencies' construction Oversight for the construction of a quality Project along a constrained, environmentally sensitive site, addressing needs for public outreach, on-the-job training, and empowered problem solving.

The technical evaluation subfactors denoted A, B, C and D in the above list are of equal importance to each other.

See ITP Appendix B2.0 for additional detail regarding this factor and the specific information to be submitted for the evaluation of this factor.

5.1.2.3. Key Personnel and Experience

Evaluates the Proposer's Key Personnel and experience, any changes in these since the Proposer submitted its SOQ.

Objective: The scope of the Project requires a highly qualified and integrated team of firms and technical specialists with expertise in and a record of producing quality work, including technical project management and technical delivery. It also demands experience in delivering large, preferably design-build, quality projects, on or ahead of schedule and/or budget, with environmental and public sensitivity.

The technical evaluation subfactors for the Proposer's Key Personnel and experience factor are as follows:

- A) Key Personnel evaluates the integration and experience of the Proposer's proposed personnel, including Key Personnel and all staff for whom resumes are submitted in the Proposal and evaluates the proposed technical and management team structures around the Key Personnel. Evaluation of this subfactor will consider the SOQ rating relevant to this subfactor as well as changes in Key Personnel and other relevant information submitted in the Proposal.
- B) Experience of the Firms evaluates the qualifications and experience of the Proposer and its team members including specific experience of the Major Participants relevant to the size, complexity and composition of the Proposer's proposed design and the Proposer's proposed means and methods of construction, including the relevant experience of each Major Participant in design-build, environmental permitting and quality compliance, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction over water, and construction in environmentally-sensitive areas. Evaluation of this subfactor will consider the SOQ rating relevant to this subfactor as well as any updated information regarding the qualifications and experience of the Proposer and its team members submitted in the Proposal.

C) Past Performance – evaluates the demonstrated record performance of each Major Participant in the period from submission of SOQs to the Proposal Due Date, including: completion schedule; quality of work product including construction and/or design; completion within budget; claims history (including number of claims submitted that were ultimately disallowed or significantly reduced, number of disputes submitted to formal dispute resolution and disposition of such actions, claims brought against the firm under the false claims act); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; and awards, citations and commendations.

The technical evaluation subfactor denoted A in the above list is of more importance than subfactors B and C.

See ITP Appendix B3.0 for additional detail regarding this factor and the specific information to be submitted as part of the Proposal.

5.1.2.4. Environmental Compliance

Evaluates the Proposer's understanding, approach, capabilities, and commitments with respect to the environmental needs of the Project, and evaluates the creativity and rigor of the Proposer's measures and approaches to avoid, minimize or mitigate environmental impacts, including the Project's Environmental Performance Commitments, mitigation and monitoring requirements made in the DEIS, terms and conditions of Environmental Approvals (see Contract Documents, Part 3 Project Requirement 3 - Environmental Compliance), and all applicable environmental laws.

Objective: Understanding and commitment to the environmental sensitivity of the Project, to include: successful and timely performance of all environmental requirements, including but not limited to Environmental Performance Commitments; requirements and terms of existing and anticipated Environmental Approvals, and monitoring requirements; design expertise and solutions that respond to environmental concerns; the provision of quality environmental personnel and specialty subcontractors; real time compliance and stewardship during construction throughout the development and exceptional execution of plans for environmental compliance, including but not limited to compliance with water quality, ecological resources, noise and vibration, air quality, energy, stormwater management and erosion and sediment control requirements; and teamwork with the Agencies and regulatory agencies in the prevention of and the solutions for environmental challenges.

See ITP Appendix B4.0 for details regarding this factor and the specific information to be submitted as part of the Proposal. The Proposer's Initial Environmental Compliance Plan will be evaluated for this factor.

5.1.2.5. Public Outreach and Coordination with Stakeholders

Evaluates the Proposer's understanding, capability, approach, and commitments to providing support to the Agencies in the implementation of their Tappan Zee Hudson River Crossing Project Public Involvement Plan (PIP; see Part 3 Project Requirement 8 – Public Involvement). The PIP is intended to engage public and agency participants in a constructive exchange of views and information on aspects of the Project.

Objective: Quality planning and execution of support to the Agencies in community relations, public information, and community outreach.

See ITP Appendix B5.0 for additional detail regarding this factor and the specific information to be submitted as part of the Proposal. The Proposer's Initial PIP Support Plan will be evaluated for this factor.

5.1.3 Price

The Proposer shall submit its Price Proposal for the Project in accordance with ITP Appendix C.

Prices shall be rounded to the nearest dollar with no cents columns. Refer to Part 2, DB §109 for information regarding payment procedures that apply following Contract award.

The net present value as calculated using the maximum cash flow curve (Form PPS-P) shall be used as a component element in the determination of the best value Proposal.

The Price Proposal shall be evaluated to assess whether: (i) it is significantly unbalanced relative to the scope of the Work; and (ii) it contains inaccurate, incomplete or unreasonable prices on Form SP (Schedule of Prices; see ITP Appendix D). A Price Proposal shall be considered to be significantly unbalanced if it is unreasonably front-loaded or the amounts shown in Form SP do not reflect reasonable actual costs plus a reasonable proportionate share of the Proposer's anticipated profit, overhead costs, and other indirect costs that are anticipated for the performance of the Work.

Two versions of Form PPS-P are provided in ITP Appendix D: Form PPS-P-A (HARS Alternative) and Form PPS-P-B (Non-HARS Alternative). The Proposer may elect to provide pricing only on Form PPS-P-B, in which event the Proposer shall submit Form PPS-P-A in its Proposal with a note stating that Form PPS-P-B shall be considered as providing pricing for the HARS Alternative. See ITP Appendix C, Section C2.2.2.

Each Price Proposal shall also specify the total cost of the Work that will be performed according to the RFP (the "Proposal Price") through the methods required on Forms PPS-P and SP, for each of the HARS Alternative and the Non-HARS Alternative. Any reference in the ITP to Proposal Price includes both the HARS Alternative and the Non-HARS Alternative, unless the context otherwise requires. The HARS Alternative Proposal Price may be based on an assumption that dredging materials from demolition will be disposed of at the HARS ocean disposal site as provided in ITP Section 1.15.

If the Authority obtains the necessary Section 103 permit to dispose of dredged material at the HARS, the HARS Alternative pricing information will be the basis upon which the Price Proposal will be evaluated, unless the Proposer has indicated in its Proposal that only Form PPS-P-B should be evaluated. If the Authority does not obtain the necessary Section 103 permit, the Non-HARS Alternative pricing information will be the basis upon which all Price Proposals will be evaluated. If selection is based on the Non-HARS Alternative, and the HARS permit is obtained by the Authority between the date of opening of the Price Proposal and the date of Contract award, the Authority will not reconsider its selection decision.

If the Contract is awarded to the Proposer:

A) if the Proposals were evaluated based on Form PPS-P-A, or if the Authority obtains the HARS Permit prior to the date of award and elects, in its sole discretion, to include the HARS Alternative pricing in the Contract, then the HARS Alternative Proposal Price shall be the Proposal Price, Form PPS-P-A

- shall be incorporated into the Contract as Form PPS-C and the HARS Alternative provisions shall be included in the Contract Documents; and
- B) if Proposals were evaluated based on Form PPS-B, then the Non-HARS Alternative Proposal Price shall be the Proposal Price, Form PPS-P-B shall be incorporated into the Contract as Form PPS-C, and the Non-HARS Alternative provisions shall be included in the Contract Documents, unless the Authority has exercised its right, as described above, to include the HARS Alternative pricing in the Contract.

5.1.4 Buy America Provision

The Proposer shall provide a "Buy America" certification on Form BAC (ITP Appendix D).

The Project is subject to FHWA's Buy America policies, which require a domestic manufacturing process for all steel or iron products that are permanently incorporated in a federal-aid highway construction project. The FHWA regulations permit a minimal use of foreign steel and iron in the amount of \$2,500 or one-tenth of one percent of the total Contract Price, whichever is greater, to be used in a Federal-Aid Contract.

5.2 Evaluation Guidelines

5.2.1 Technical Evaluation Factors

The technical evaluation factors, subfactors, and requirements identified in ITP Section 5.1.2 (not the "pass-fail" factors) will be evaluated in accordance with the guidelines provided in this ITP Section 5.2.1.

The technical evaluation factors and the overall Technical Proposal will be rated by an adjectival (qualitative/descriptive) method. The following adjectival ratings shall be used in evaluation of each subfactor, technical evaluation factor and the overall technical rating of the Proposal:

EXCEPTIONAL: The Proposer has demonstrated an approach that is considered to significantly exceed stated objectives/requirements in a way that is beneficial to the Agencies. This rating indicates a consistently outstanding level of quality, with little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no weaknesses (as such term is defined below).

GOOD: The Proposer has demonstrated an approach that is considered to exceed stated objectives/ requirements. This rating indicates a generally better than acceptable quality, with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE: The Proposer has demonstrated an approach that is considered to meet the stated objectives/requirements. This rating indicates an acceptable level of quality. The Proposal demonstrates a reasonable probability of success. Weaknesses, if any, are very minor or not material or can be addressed readily.

UNACCEPTABLE: The Proposal does not meet any of the rating standards listed above and/or is non-responsive.

In assigning ratings the Agencies may assign "+" or "-" (such as, "Exceptional -", "Good +", and "Acceptable +") to the ratings to better differentiate within a rating in order to more clearly differentiate between the technical evaluation factors and the overall Proposals.

The term "weakness," as used herein, means any flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. The term "deficiency" means a material failure of a proposal to meet an RFP requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

Certain technical evaluation factors include subfactors (see ITP Section 5.1.2). Each subfactor will be assigned a consensus rating, and all subfactors under a technical evaluation factor will be combined through consensus, taking into account the relative importance of each subfactor (see ITP Sections 5.1.2.1 through 5.1.2.5), to arrive at an overall rating for that factor. Technical evaluation factors without subfactors will also be assigned a consensus rating. The ratings of all the technical evaluation factors will then be combined by consensus, taking into account the relative importance of the evaluation factors (see ITP Section 5.1.2), to arrive at the overall rating for the Technical Proposal.

5.2.2 Communications

The Agencies may engage in communications with the Proposers after receipt of Proposals, allowing Proposers to provide clarifications to their Proposals as permitted by 23 CFR Part 636 or otherwise to address issues that might prevent the Proposal from being placed in the competitive range if the Agencies elect to proceed with discussions and a request for revised Proposals. This process will be initiated by delivery of a written request from the Agencies to the Proposer identifying the information needed and a date and time by which the information must be provided. The Proposer shall provide the requested information in writing by the date and time indicated. If the requested information is not timely received, the Proposer's ratings may be adversely affected and/or the Proposal may be declared unacceptable.

5.2.3 Administrative Reconsideration Concerning DBE Good Faith Efforts

Evaluation of good faith efforts will be conducted pursuant to 49 CFR Part 26. See Contract Documents, Part 2 §102-8.6 for information regarding types of actions which the Authority will consider as part of the Design-Builder's good faith efforts to achieve the DBE goal.

If the Agencies determine that any Proposer has failed to undertake good faith efforts during the Proposal period to obtain DBE participation, or that the efforts to achieve the DBE goal set forth in the DBE Plan do not meet the DBE good faith effort requirements, the Agencies will, before making the best value determination, provide the Proposer an opportunity for administrative reconsideration by an official who did not take part in the original good faith efforts determination. As part of this reconsideration, the Proposer shall have the opportunity to provide written documentation or argument and to meet in person with the Agencies' reconsideration official concerning the issue of whether it has met the good faith efforts requirements. The Agencies will send the Proposer a written decision on reconsideration, explaining the basis for finding that the Proposer did or did not meet the good faith efforts requirements.

5.3 Interviews/Presentations

The Agencies may meet with and receive presentations and conduct interviews with Proposers after receipt of Proposals.

5.4 Proposal Revisions

The Agencies do not currently intend to request Proposal revisions, but reserve the right to establish a competitive range, hold discussions with Proposers in the competitive range and request revisions to Proposals when in the best interest of the State and the Agencies.

All terms and conditions of this ITP applicable to Proposals shall also be applicable to Proposal revisions except as otherwise specified in the request for Proposal revisions.

New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Contract D214134 PIN 8TZ1.00



EVALUATION & SELECTION PLAN FOR DESIGN-BUILD PROPOSALS

CONFIDENTIAL: THIS IS A PROCUREMENT-SENSITIVE DOCUMENT

August 15, 2012

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

IMPORTANT NOTE

CONFIDENTIAL: THIS IS A PROCUREMENT-SENSITIVE DOCUMENT

THE PURPOSE OF THIS DOCUMENT IS TO ESTABLISH THE PROCESS BY WHICH PROPOSALS FOR THE TAPPAN ZEE HUDSON RIVER CROSSING PROJECT WILL BE EVALUATED.

IT IS INTENDED FOR INTERNAL USE DURING THE PROCUREMENT PERIOD. IT SHALL NOT BE PROVIDED TO PROPOSERS DURING THE PROCUREMENT PERIOD. HOWEVER, THIS DOCUMENT CAN BECOME PUBLIC UNDER FOIL AFTER A CONTRACT HAS BEEN EXECUTED.

If this document is found, please return to:

Office of Contracts Management New York State Thruway Authority 200 Southern Boulevard Albany, New York 12209 USA

email: TZBCrossing@thruway.ny.gov

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1 INTRODUCT ION

1.1 PURPOSE

This document provides the methodology and criteria for evaluation of the Proposals received in response to the Request for Proposals (RFP) issued by the New York State Thruway Authority. The RFP was issued by the New York State Thruway Authority (the "Authority") and the New York State Department of Transportation (the "Department"; the Authority and the Department are collectively referred to as the "Agencies"). The Agencies are seeking proposals ("Proposals") for the design, construction and other identified activities for the Tappan Zee Hudson River Crossing Project (the "Project").

The purpose of this Proposal Evaluation and Selection Plan ("Plan") is to establish a structured process and a fair and uniform basis for the evaluation of Design-Build Proposals in accordance with the Project objectives and the goals.

The contracting agency for this procurement is the New York State Thruway Authority. Award of the Project is to be based upon the best value to the Agencies, considering price and other factors. Unless otherwise defined herein, abbreviations and initially capitalized terms contained in this Plan retain the meanings given in the RFP.

1.2 DESCRIPTION

The Project includes the design and construction of a replacement bridge crossing of the Hudson River adjacent to the existing Governor Malcolm Wilson Tappan Zee Bridge and other Project components as described in the RFP in Appendix I (Project Scope) to the Agreement (Part 1) of the Contract Documents. Evaluators will be provided a copy of the description with their designation letter.

1.3 PROJE CT GOALS

The Agencies' primary goals for the project, as further detailed in Section 2.2, are to achieve the following:

- A. Ensure the long-term vitality of the Hudson River crossing at Tappan Zee;
- B. Improve transportation operations and safety at the crossing:
- C. Maximize the public investment in a new Hudson River crossing;
- D. Deliver the Project safely, on schedule, and within budget; and
- E. Provide best value to the Agencies.

1.4 BASIS OF EVALUATION

This document sets forth standards of acceptability and desirability with regard to evaluation factors enumerated in the Instructions to Proposers (ITP) and shown in Table 1 below. Evaluators should

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consider the factors deemed necessary to achieve the Project goals and the context under which the Project goals and evaluation factors were developed—granting significant flexibility and responsibility to the Design-Builder to plan, design, construct, manage, and control the work (including the QA/QC for both design and construction), and to complete the Project on schedule.

Further, the Project will be shaped by the design program requirements and performance specifications. High responsibility standards have been set to encourage Proposers to submit high quality SOQs and Proposals demonstrating their capability (financial, management, and technical), experience, and ability to generate creative yet sound design/construction solutions that, when combined with price, will be most advantageous (i.e., provide best value) to the Agencies.

The organization, procedures, evaluation factors, rating scheme, and evaluation process for selecting the best-value proposal are set forth in this document.

The Project evaluation factors have been designed to address each of the Project goals. As shown in Table 1, there are five pass/fail criteria, five technical quality factors, and a price factor. The following guidelines apply to these elements:

- A. Within the overall technical evaluation, Importance Category 1 is considered of greater importance than Importance Category 2. If no importance category is listed, then those subfactors are of equal importance to each other.
- B. Within each of the five technical evaluation factors, Importance Category A is considered of greater importance than Importance Category B. If no importance category is listed, then those sub-factors are of equal importance to each other.
- C. Proposals must receive a "Pass" rating on all Pass/Fail criteria in order to be considered for the Award.
- D. Proposals must receive a technical rating of at least "Acceptable Minus" on each technical evaluation factor in order to be considered for the Award.
- E. The Proposal Price is equal in importance to the overall combined technical ratings of all technical factors.

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Table 1: Evaluation Factors and Importance Categories

	Legal						
	Administrative						
Pass/Fail	DBE/EEO Information						
	Financial Information						
	Price Proposal						
		Construction Approach Importance Category A					
		Service Life of the Crossin Importance Category A					
		Maximizing the Public Investment Importance Category A					
	Design and Construction Solution Importance Category 1	Bridge, Structures and Aesthetic Design Concepts Importance Category B					
		Geotechnical Importance Category B					
		Roadway Design Concept Importance Category B					
Technical	_	NYSTA Operations and Security Importance Category B					
Technical		Schedule					
	Management Approach	Organization and General Management					
	Importance Category 1	Design Management					
		Construction Management					
	Kan Bananan I	Key Personnel Importance Category A					
	Key Personnel and Experience Importance Category 1	Experience of the Firms Importance Category B					
	, , ,	Past Performance Importance Category B					
	Environmental Compliance Importance Category 2						
	Public Outreach and Coordination with Stakeholders Importance Category 2						
Price							

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1.5 INSTRUCTIONS TO PROPOSERS

The ITP portion of the RFP is a companion document to this Plan and describes the pass/fail, technical quality, and price evaluation factors. The ITP serves as evaluators' primary reference for details of the evaluation factors, evaluation objectives, and the submittal requirements for each factor. The evaluation-factor descriptions given in this Plan are reproduced from the ITP, to which reference is made for further details of required forms and deliverables.

Other portions of the RFP (such as performance specifications and directive plans) may also be of assistance to evaluators, particularly for technical reviews, and the full RFP documents will be available to evaluators for reference during the training and evaluation sessions. In the event of a discrepancy between this Plan and the RFP, the RFP shall govern.

2 BEST VALUE DETERMINATION AND SELECTION

The process adopted here has been designed to guide the evaluators and selection committee officials in identifying the Proposal which provides the best value to the Agencies. The term "best value" may be defined as follows:

The greatest overall benefit, under the specified selection criteria, obtained through the tradeoff between price and technical benefits.

A best value determination places the emphasis on meeting the Agencies' needs, which may or may not involve selecting a proposal with the lowest price. In this process, a trade-off procedure is employed which evaluates a combination of price and technical factors as shown in Table 1 below. The Agencies may select the proposal which provides other than the lowest price, if the perceived technical benefits merit such a choice.

The following are the process objectives of this procedure:

- Objectivity
- Transparency
- Integrity
- Full and Open Competition
- Best Practice
- Minimization of Risk
- Confidentiality

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2.1 PROCESS OVERVIEW

The process begins with orientation and training of evaluation and selection team members. The training provides instructions on confidentiality, project background, and the step-by-step procedures of the evaluation and selection process. After the Proposals are received, the pass/fail, technical, and price evaluation factors are assessed by specific teams. A committee of selection officials ultimately reviews the Proposal strengths and weaknesses identified by the technical teams, develops adjectival ratings for technical quality, and then considers price data to perform a tradeoff analysis to determine which Proposal offers the best value to the Agencies. A higher priced Proposal may be chosen, if its perceived technical merits are of at least equal value to the difference in price.

To ensure that each step of this process is carried out with the utmost integrity and efficiency, eight evaluation and selection teams are convened, each performing a specific function. The following is an overview of these groups, with a more detailed description of their roles provided in Section 3 of this Plan. Each team may include both consultant and Agency staff.

- Procurement Mana gement Te am the overseeing body of the entire evaluation process; responsible for ensuring that all procedures are carried out with the strictest confidentiality and integrity, and for maintaining and compiling the final documentation and justification for the Award selection.
- Legal Team the group of Agency legal advisors, Agency employees, and representatives from the
 Procurement Management Team, assessing the legal aspects of the Proposals and providing
 advisory support as needed for other teams' evaluation work.
- **Financial Team** the group of Agency financial advisors, with representatives from the Procurement Management Team, assessing the financial aspects of the Proposals; also responsible for evaluating the price totals in the price proposal.
- **Price Reasonableness Team** the group of cost and estimating experts responsible for evaluating the price centers in each price proposal for balance and reasonableness.
- Technical Evaluation Teams comprised of nine discipline-specific sub-teams, each responsible for evaluating a specific technical aspect of the Proposal and determining the relative technical strengths and weaknesses of each Proposal.
- Value Assessment Team a subset of the Technical Evaluation Teams, responsible for quantifying
 the value of each Proposal's technical strengths and weaknesses where feasible and consolidating the
 findings of the Technical Evaluation Teams into a single report per Proposer for delivery and
 presentation to the Selection Committee.
- Selection Committee the committee responsible for examining the reports and presentations from the Technical Evaluation Teams, Financial Team, and Value Assessment Team; and without knowing the identities of the proposing teams, reaching a consensus on the proposal that brings the best value.
- **Selection Executives** responsible for reviewing the selection and the findings of the Selection Committee, and without knowing the identity of the selected team, concurring with the decision.

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2.2 ROLE OF PROJECT GOALS IN EVALUATION PROCESS

The Project goals provide the necessary context for determining whether a particular Proposal provides best value to the Agencies. The Agencies' goals and objectives for the Project are to:

1. Ensure the long-term vitality of the Hudson River crossing at Tappan Zee by:

- A. Providing for sufficient strength and stability compliant with current standards to carry transport loading
- B. Providing for a robust and redundant structure to survive extreme natural events, including earthquakes and hurricanes
- C. Providing for a robust and redundant structure to survive extreme manmade events, including fires, vessel collisions, vehicular overloads, and vehicular accidents
- D. Ensuring compliance with the Authority's operational requirements, and
- E. Providing for a serviceable structure with a life span in excess of 100 years before major maintenance is required

2. Improve transportation operations and safety at the crossing by:

- A. Ensuring compliance of horizontal and vertical geometry with current engineering design standards, as practicable
- B. Providing for horizontal geometry that maximizes sight distances
- C. Providing for vertical geometry that minimizes grade changes
- D. Providing for standard, 12-foot traffic lanes
- E. Providing for adequate separation of eastbound and westbound traffic
- F. Providing for shoulders that meet current engineering design standards
- G. Eliminating reversible traffic lanes
- H. Providing for security infrastructure to monitor bridge operations
- I. Providing for improved emergency response

3. Maximize the public investment in a new Hudson River crossing by:

- A. Providing a cost-effective crossing that maximizes value over the lifespan of the structure
- B. Minimizing adverse effects on existing highways
- C. Maximizing the use of existing right-of-way
- D. Sequencing construction to minimize adverse effects on vehicular traffic operations
- E. Minimizing adverse navigational impacts in the waterway during construction
- F. Maintaining navigational clearance in the waterway
- G. Reducing maintenance requirements and operating costs
- H. Providing for trans-Hudson access for cyclists and pedestrians
- I. Providing a crossing that does not preclude future trans-Hudson transit services

4. Deliver the Project safely, on schedule and within budget

5. Provide best value to the Agencies

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3 EVALUATION TEAMS AND SELECTION COMMITTEES

The following eight teams are involved in the evaluation process:

- 1. Procurement Management Team
- 2. Legal Team
- 3. Financial Team
- 4. Price Reasonableness Team
- 5. Technical Evaluation Teams
- 6. Value Assessment Team Technical
- 7. Selection Committee
- 8. Selection Executives

Their relationships are illustrated in Figure 1 and further detailed below. Teams may include both Agency and consultant staff.

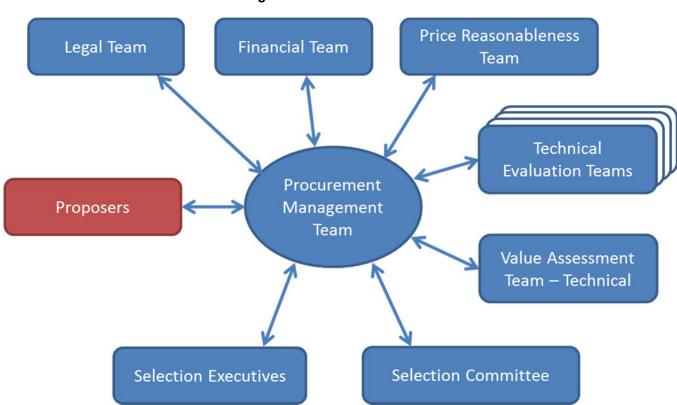


Figure 1: Evaluation Teams

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3.1 Procurement Management Team

As the overseeing body of the evaluation process, the Procurement Management Team is responsible for ensuring all evaluation and selection procedures are carried out with the strictest confidentiality and integrity, and for maintaining, compiling, and reviewing documentation related to the evaluation and selection. The Procurement Management Team is also responsible for conducting the Administrative Pass/Fail and the DBE/EEO Information Pass/Fail; in addition, members of this team may support the Legal Team to conduct the Legal Pass/Fail and the Financial Team for the Financial Pass/Fail.

As shown in Figure 1, the Procurement Management Team is the communication and managerial center of the process, ensuring that each team/committee is working efficiently, on schedule and adhering to the procedures set forth in this Evaluation and Selection Plan. The arrows in Figure 1 represent the acceptable lines of communication between teams. All evaluation findings must be reviewed and accepted by the Procurement Management Team before receipt by the Selection Committee and the Selection Executives. In addition, the Procurement Management Team is the only link between the Proposers and the evaluation teams: except during the scheduled presentations and interviews, all contact with the Proposers must pass through the Procurement Management Team.

The Procurement Management Team may assemble a supplemental pool of evaluators, who shall have completed confidentiality agreements and participated in the training session, to be available during the evaluation period to support the technical teams as needed.

3.2 Legal Team

The Legal Team, which consists of Agency legal advisors, legal staff from the Agencies, and representatives from the Procurement Management Team as needed, conducts the Legal Pass/Fail assessment. The team also provides advisory support as needed for other teams' evaluation work.

3.3 Financial Team

The Financial Team conducts both the Financial Information Pass/Fail assessment and the Net Present Value analysis based on the price proposals to furnish the price-based input for the Selection Committee's consideration. This information is kept confidential and provided to the Selection Committee only after the committee has reached a consensus assignment of adjectival ratings to each technical factor and sub-factor.

The Financial Team consists of Agency financial advisors, financial staff from the Agencies, and representatives from the Procurement Management Team as needed.

3.4 Price Reasonableness Team

The Price Reasonableness Team will evaluate Proposal prices and make a recommendation to the Procurement Management Team regarding the reasonableness of each Proposer's price. This is not a pass/fail criterion; the team's findings may be utilized in possible limited negotiations and to avoid the award of the contract to a Proposer with an imbalanced or unreasonable price.

During the Price Evaluation, members of the Price Reasonableness Team are responsible for evaluating the price centers in each price proposal for balance and reasonableness. These amounts are compared against those in other proposals and then against independent estimates. This assessment will not be conducted until after the Technical Evaluation has been completed.

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3.5 Technical Evaluation Teams

The Technical Evaluation Teams identify the relative strengths and weaknesses of the technical aspects of each Proposal. This part of the evaluation serves as the foundation for all judgment of technical merit. The technical evaluation teams' findings will be compiled and summarized jointly by the Procurement Management Team and the Value Assessment Team – Technical.

The technical evaluators do not assign numerical ratings to the technical factors or sub-factors, but instead thoroughly document the relative strengths and weaknesses associated with each Proposal. This information is subsequently used by the Selection Committee to assign adjectival ratings.

The technical evaluation is performed by nine discipline-specific teams, as follows:

- 1. Construction Team
- 2. Structures Team
- 3. Geotechnical Team
- 4. Roadway Team
- 5. Visual Quality Team
- 6. Operations and Security Team
- 7. Management Team
- 8. Environmental Team
- 9. Public Outreach Team

The team composition ensures that the evaluators have the proper background and credentials to conduct a sound evaluation of every major portion of the Proposals. Individuals are selected to serve on the Technical Evaluation Teams due to their expertise in the areas under consideration.

3.6 Value Assessment Team - Technical

The Value Assessment Team – Technical (VAT-T) is comprised of selected representatives from the nine technical teams. This team's primary responsibility is to produce consolidated summary reports from the many individual Technical Assessment Reports provided by the Technical Evaluation Teams, and to present the findings of these summaries to the Selection Committee, quantifying the value of each Proposal's technical strengths and weaknesses where feasible. The VAT-T will do this in close cooperation with the Procurement Management Team.

3.7 Selection Committee

The Selection Committee considers the reports and presentations from the Technical Evaluation Teams and Value Assessment Team, and without ever knowing the identities of the proposers, reaches a consensus on which proposal provides the best value using a qualitative approach that includes a technical quality/cost trade-off.

3.8 Selection Executives

The Selection Executives are responsible for reviewing the selection and the findings of the Selection Committee, and without knowing the name of the selected team, concurring on the decision.

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4 PROCUREMENT PROCESS

The Project will be procured through a single design-build contract using best value (price and other factors) as the method of selection. The intent is to award the contract to a qualified Design-Builder who provides the best combination of price and technical benefits.

4.1 GENERAL GUIDELINES

4.1.1 Confidentiality and Safeguarding Information

- A. The integrity of the Evaluation and Selection Plan is critical to the confidence that the Proposers, the stakeholders and the public have in the Authority. Therefore, the deliberations of all teams and committees and the knowledge of individual participants in the evaluation process must be held in the strictest confidence. The Procurement Management Team is responsible for setting the rules, guidelines and procedures for the safeguarding of all information. This includes, but is not limited to the following:
 - a. Ensuring that no information concerning the identity of the Proposers or information contained in the Proposals is made available to any member of the public or of any governmental entity not having a need-to-know, as further defined below;
 - Taking proper care to protect and safeguard all evaluation data on a strict need-to-know basis:
 - Ensuring that any information relating to price will not be revealed to anyone before the Technical Evaluation Team completes its review;
 - Developing and implementing measures to ensure that the Selection Committee members and Selection Executives will not find out which proposal was submitted by which Proposer; and
 - e. Ensuring that all personnel associated with the process sign certifications of confidentiality, non-disclosure and no conflict of interest.
- B. After receipt of Proposals, no information concerning the identity of the Proposers or information contained in the Proposals will be made available to any member of the public or of any governmental entity not having a need-to-know until after announcement of the Selection. Proper care to protect and safeguard all Proposal and evaluation data on a strict need-to-know basis will be exercised. During the Proposal evaluation and selection process, only the Chair of the Procurement Management Team can approve the release of any information. Only those individuals actively participating in the evaluation process (members of the teams enumerated in Section 3 above) have a need-to-know.

4.1.2 Presentations, Communications, and Interviews

- A. Communications may be required as part of the Proposal evaluation and selection process. During the evaluation process, there may be instances where meaningful evaluation cannot take place without seeking additional information about a pass/fail, technical quality, or price issue. Toward this end, the Agencies may schedule post-Proposal interviews and presentations. Proposers shall not modify their Proposals or make additional commitments regarding Proposals at such meetings.
- B. If information is required from Proposers during the evaluation process at times other than what has been scheduled by the Agencies, the Selection Committee or any Evaluation Team

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requiring communications should expeditiously submit a written request to the Procurement Management Team, which is the only team permitted to communicate with the Proposer. The Procurement Management Team, after reviewing and preparing questions, will send a request to the desired party, and upon receipt of a response, will forward it to the requesting Evaluation Team or Selection Committee. The Procurement Management Team will keep a copy of all Communications and responses as part of the official record of the evaluation and selection process.

4.2 EVALUATION SEQUENCE AND PROCESS

The following outline indicates the sequence of the evaluation-phase activities. Details of the evaluation criteria and decision factors are provided in Section 5.

4.2.1 Prior to Receipt of Proposals

- A. The Procurement Management Team will secure the final Evaluation and Selection Plan.
- B. Staffing of Evaluation Teams
 - a. The Agencies, in conjunction with the consultant teams, identify the required skill sets necessary to conduct the evaluations of the proposals and make the selection.
 - b. Based on the subject matter knowledge required, individuals with suitable expertise will be identified for appointment to the individual evaluation teams.
 - c. The Procurement Management Team notifies the evaluation team members of their appointment to the assigned teams/committees.
 - d. The Procurement Management Team obtains the required signatures on conflict of interest, confidentiality, and non-disclosure forms.

C. Training of Evaluation Teams

- a. The Procurement Management Team is responsible for providing orientation and training for the evaluation team members prior to the start of evaluations, ensuring the teams are adequately trained in the processes and procedures specific to their responsibilities. The intent of the training sessions will be to provide evaluators with the following:
 - i. The purpose and objectives of the Evaluation and Selection Plan;
 - ii. The step-by-step procedures of the Evaluation and Selection Plan;
 - iii. Instructions for the completion of all evaluation deliverables;
 - iv. Instructions regarding confidentiality and the safeguarding of information; and
 - v. Instructions regarding the time and location of all evaluation sessions.
- b. The Procurement Management Team makes arrangements for the secure facilities for the evaluations to be conducted.

4.2.2 Subsequent to Receipt of Proposals

A. The Procurement Management Team receives and secures the proposals. Throughout the evaluation and selection process, the Procurement Management Team will ensure that the facilities and the proposals are secure.

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- B. The Procurement Management Team issues the announcement that the evaluation and selection process has begun and reiterates the security and confidentiality requirements.
- C. The Procurement Management Team provides hard and soft copies of Proposal materials necessary for the pass/fail and technical evaluators to conduct their evaluations. The Price Proposals and the separately-packaged administrative forms (Proposal Volume 1, Appendix C) are temporarily placed unopened in a secure location.
- D. The Procurement Management Team shall conduct the Administrative Pass/Fail evaluation. For specific guidelines on this and other pass/fail evaluations, see Section 5.1 of this Plan. As part of this review, the Procurement Management Team will identify deficiencies, minor discrepancies or irregularities, apparent clerical or other mistakes, and any apparent instance of "qualification" and/or failure under the pass/fail criteria and consult with the Legal Team on options and/or action(s) to be taken, following up with the Proposer(s) as appropriate.
- E. The Procurement Management Team, with support from Agency personnel as needed, shall conduct the DBE/EEO Information Pass/Fail evaluation.
- F. The Legal Team will conduct the Legal Pass/Fail review, and its chair will issue a determination report to the Procurement Management Team for concurrence.
- G. The Financial Team will conduct the Financial Information Pass/Fail review, and its chair will issue a determination report to the Procurement Management Team for concurrence.
- H. The Procurement Management Team will review the results of the Pass/Fail evaluations. In the case of any apparent failures, the Procurement Management Team will remove all identifying information of the Proposer(s) involved and present the results to the Selection Committee for review. Upon the Selection Committee's concurrence, the Procurement Management Team will terminate the evaluation of those proposals which did not meet the Pass/Fail requirements. A separate review process will apply for Proposals which appear to fail the DBE/EEO Information assessment.

4.2.3 Technical Evaluation Concurrent with Pass/Fail Determinations

- A. The Procurement Management Team distributes the Proposals and other materials to the Technical Evaluation Teams.
- B. As the Technical Evaluation Teams conduct their reviews, the Procurement Management Team monitors their work and receives and safeguards their results and reports.
- C. No information is provided at this time to the Selection Committee or the Selection Executives.
- D. The Chair of each technical evaluation team is responsible for the timely and accurate completion of all deliverables and shall also serve as the point of contact for communications between the Chair's team and the Procurement Management Team.
- E. Except during the Proposer presentations and interviews, the Technical Evaluation Team members may not make direct contact with any members of the Proposer teams during the evaluation and selection process.
 - a. Each evaluation team shall prepare (if required) a list of concise questions to seek clarification for ambiguities, omissions, errors, mistakes or clerical revisions in order to assist the evaluators in better understanding the proposals.

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- b. Any number of representatives from the Technical Evaluation Teams may attend interviews, if held with the Proposers to request additional clarifications or information from the Proposers through the Procurement Management Team.
- c. Following the interviews, if additional communications with the Proposers are required, the Technical Evaluation Teams shall assist the Procurement Management Team in preparing questions and participate, as requested, in the communications.
- F. Each team will focus its evaluation on the specific evaluation factor(s) assigned, as summarized in Table 2.
- G. Consultation with other Evaluation Teams assessing related factors is permitted, though any contact between the Security team and other teams must be initiated by Security team members.
- H. With the approval of the Procurement Management Team, a technical evaluation team may engage outside technical experts, who shall have submitted written confidentiality agreements, to educate them on specific technical topics.
- I. Each team will conduct a technical evaluation to assess how each Proposer addressed the assigned factors and/or sub-factors in its proposal. In doing so, the Technical Evaluation Team will evaluate the related plans and drawings submitted by each Proposer in response to the RFP, as well as other relevant information, as appropriate.
- J. Each team shall prepare a written report organized according to the technical factors and sub-factors. It will detail the strengths and weaknesses of each factor and sub-factor by proposal, plus any reservations or qualifications that might affect evaluation, selection, negotiation, and award. Where applicable, the Technical Evaluation Teams will identify where there may be financial impacts.
- K. Each team is to evaluate the relative strengths and weaknesses for each of their assigned technical evaluation factors and/or sub-factors, as indicated in the Technical Evaluation Factor Team Matrix in Table 2 below.
- L. At no time will the Technical Evaluation Team members reveal the names of the proposers to anyone, including the Selection Committee members. It is paramount that the names of the proposers be kept confidential so that the Selection Committee will conduct a "blind selection" without knowing which team's proposal is being evaluated.

4.2.4 Review by Value Assessment Team and Presentation to Selection Committee

- A. The Value Assessment Team will consolidate and summarize the many individual reports from the Technical Evaluation Teams jointly with the Procurement Management Team.
- B. As part of their duties, the Value Assessment Team shall be responsible for quantifying the value of technical elements of the Proposals as feasible, accounting (for instance) for life-cycle cost advantages and disadvantages of different technical approaches. These quantifications as feasible will be presented to the Selection Committee to assist its development of cost/technical tradeoffs.
- C. The Procurement Management Team shall review and accept the Technical Evaluation reports for completeness and consistency prior to their presentation to the Selection Committee.
- D. The members of the Value Assessment Team shall not discuss the project or the proceedings with members of the Selection Committee outside of this formal presentation.

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4.2.5 Subsequent to Presentation of Technical Evaluation to Selection Committee

- A. After receiving information from the Technical Evaluation Teams via the Value Assessment Team, the Selection Committee will assign adjectival ratings to each of the technical evaluation factors and sub-factors. These deliberations are to take place in secure facilities. The Selection Committee will maintain strict confidentiality of the evaluation process, and shall not have any direct written or oral communication with any member of a Proposer's organization during the evaluation process.
 - a. The Selection Team will consider the integrated findings of the evaluation teams and make its decisions based on the teams' presentations and reports. Without ever knowing the identities of the proposing teams, the Selection Committee will reach a consensus assignment of adjectival ratings for each technical factor and sub-factor for each proposal.
 - b. Via the Procurement Management Team, the Selection Committee may submit questions to the Value Assessment Team to seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluations. If necessary, the evaluation teams may again appear before the Selection Committee to present the additional analysis.
 - c. The Selection Committee will qualitatively consider the magnitude of the relative weightings within the framework of the Importance Categories described in Section 1.4 above in order to rank the Proposals. The results, without revealing the names of the proposal teams, are displayed in a form that enables the Selection Committee to compare how each proposal team rated by factor and sub-factor.
- B. The Procurement Management Team will review for clarity and completeness the Selection Committee's ratings and rankings of the proposals based on the adjectival ratings, which are based on the technical evaluations.
- C. The Procurement Management Team shall ensure the confidentiality of all deliberations and results.

4.2.6 Subsequent to Opening of Price Proposals

After the technical evaluations are complete, the Price Proposals will be opened. After receiving the Price Proposals from the Procurement Management Team, the Financial Team and Price Reasonableness Team will begin their evaluations, as follows:

- A. The Procurement Management Team monitors the evaluations and receives and safeguards results and reports from the Financial and Price Reasonableness Teams.
- B. The Procurement Management Team shall insure no price-related information is provided at this time to the Selection Committee, the Selection Executives, or the Value Assessment Team.
- C. The respective Chairs of the Financial and Price Reasonableness Teams are responsible for the timely and accurate completion of all forms and deliverables. The Chairs shall also serve as the points of contact for all communications between their teams and the Procurement Management Team.
- D. The Price Reasonableness Team shall evaluate the price centers in the price proposal for balance and reasonableness. The price components of each proposal will then be compared against the other proposals and then against the independent estimates. At no time will the

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- Financial or Price Reasonableness Team members reveal the names of the proposers to anyone, including the Selection Committee members.
- E. If necessary, the Financial and/or Price Reasonableness Teams will prepare a list of concise questions (to be transmitted to proposers by the Procurement Management Team as Requests for Communications) to seek clarification for ambiguities, omissions, errors, mistakes or clerical revisions in order to assist in better understanding the proposals.
- F. The Financial and Price Reasonableness Teams will each reach a respective consensus and prepare their reports for review by the Procurement Management Team.

4.2.7 Subsequent to Presentation of Price Findings to Selection Committee

- A. Following their reports' review by the Procurement Management Team, the Financial Team and Price Reasonableness Team will present their findings to the Selection Committee. The Selection Committee receives this information only after the technical rankings are complete.
- B. The Selection Committee shall review the findings of the Financial Team and may prepare questions for the Financial Team, which seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluations. All contact with the Financial Team must be through the Procurement Management Team. If necessary, the Financial Team may again appear before the Selection Committee to respond to these questions.
- C. The Selection Committee shall review the findings of the Price Reasonableness Team and may prepare questions for this team, which seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluation. All contact with the Price Reasonableness Team must be through the Procurement Management Team. If necessary, the Price Reasonableness Team may again appear before the Selection Committee to respond to these questions.
- D. The Selection Committee will now have all the inputs necessary to determine best value. Toward this end, the Selection Committee will:
 - a. Examine the reports and presentations from the Price Reasonableness Team, the Financial Team, and the Technical Evaluation Teams via the Value Assessment Team, without ever knowing the identities of the proposing teams.
 - b. Conduct an in-depth trade-off of price and technical quality, comparing the relative technical and cost advantages and disadvantages of the various proposals.
 - c. Determine whether a higher-priced proposal offers sufficient quality advantages over lower-priced proposals to justify the price difference. Make tradeoffs between price and technical merit and reach a consensus of which proposal brings the greatest value.
 - d. Prepare a detailed justification of the selection. The perceived benefits of a higher-priced proposal must merit the additional cost, and the rationale for tradeoffs must be documented in the file. A selection without substantive explanations of the relative strengths and weaknesses of the competitive proposals, including the perceived benefits, will be an insufficient basis for paying a higher price.
- E. Once the Selection Committee has reached a consensus, their selection and detailed justification is forwarded to the Procurement Management Team for review.
- F. As an alternative, the Selection Committee may determine that a request for revised proposals is warranted. In this case, they shall submit their request and justification to the

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Selection Executives for concurrence. Upon their concurrence, the Procurement Management Team will review the request and shall notify the Proposers of the decision and initiate the solicitation for revised proposals. Upon conclusion of this process, the price/technical quality trade-off evaluation continues, following the process employed for the RFP.

4.2.8 Final Review and Notification of Award

- A. Upon receipt of the findings of the Selection Committee, the Procurement Management Team will review the recommendation and supporting material as to adequateness. If it is complete, the Procurement Management Team will advise the Selection Committee, and the Selection Committee will present its recommendation to the Selection Executives for their concurrence.
- B. Upon concurrence by the Selection Executives, the Procurement Management Team will assist in the announcement of the selection, and will maintain a complete file of the Proposal evaluation and selection process. This file will include all reports, Communications, and recommendations of the Evaluation Teams; the decisions and recommendations of the Selection Committee; and the Selection Executives' determination.
- C. As an alternative, if the Selection Executives fail to concur, limited negotiations with the Proposers may be conducted.
- D. As a further alternative, the Selection Executives may submit a recommendation and justification for a request for revised proposals to the Procurement Management Team for concurrence. If the Procurement Management Team concurs, they shall notify the Proposers of the decision and initiate the solicitation for revised proposals. Upon conclusion of this process, the cost/technical quality trade-off evaluation continues, following the process employed for the RFP.

5 BASIS OF EVALUATION

Following is a more detailed description of the pass/fail, technical quality, and price evaluation factors.

5.1 PASS/FAIL CRITERIA

The RFP contains five pass/fail categories that must be satisfied. If a Proposal does not comply with any pass/fail evaluation factor or sub-factor, the Procurement Management Team shall assign it a "fail" rating; and upon the Selection Committee's concurrence, further evaluation of that Proposal shall be terminated. In the case of the DBE/EEO Information assessment, concurrence must be sought from the Agencies' DBE/EEO staff.

5.1.1 Legal Pass/Fail Criteria

The legal authority of the Proposer to present a Proposal and to enter into and perform the Project contract will be determined, as well as the Proposer's compliance with relevant legal requirements. The Legal Pass/Fail shall be evaluated by the Legal Team, which will report the results of its evaluation to the Procurement Management Team for concurrence in the pass/fail determination. The legal pass/fail requirements are as follows:

A. Provision of a properly completed and executed Proposal affidavit (Form NC, see ITP Appendix D);

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- B. Provision of evidence that the persons proposed to carry out engineering, design, architecture, landscape architecture, and surveying within the State hold appropriate licenses or that they have the capability to obtain licensure prior to execution of Contract;
- C. Provision of all other specified forms and documents, properly completed and signed (if required) (see ITP Appendix A) that do not identify any material adverse information;
- D. The organizational documents shall show that the Proposer has legal capacity to undertake design and construction of the Project, shall include appropriate provisions for management and decision-making within the organization as well as for continuation of the Proposer in the event of bankruptcy or withdrawal of any of its members, and shall otherwise be consistent with Project requirements; and
- E. Compliance with any other legal requirements as identified in ITP Appendix A.

5.1.2 Administr ative Pass/Fail Criteria

The Procurement Management Team shall evaluate the following Administrative Pass/Fail requirements, with support from members of the Legal Team as needed:

- A. Provision of all forms required from ITP Appendix D, properly completed and signed if required, other than those forms assessed in another phase of the evaluation;
- B. Timely submittal of the Escrowed Proposal Documents;
- C. Confirmation that the Major Participants and Key Personnel listed in the Proposer's SOQ have either not changed since submission of the SOQ, or that the Proposer has previously advised the Agencies of a change and received the Agencies' written consent thereto;
- D. The Proposer shall have provided letter(s) of commitment from one or more sureties in accordance with ITP Appendix A, Section A2.3.5, committing to provide a Performance Bond and a Payment Bond in the amounts specified in the ITP; and
- E. All other information specified in ITP Appendices A, B, and C shall be provided in the manner, format, and detail specified, without alteration of the forms except as expressly permitted by the instructions.

In addition to assessing these factors, the Procurement Management Team shall also investigate whether the following circumstances exist which may result in a failing determination for a Proposal:

- A. Failure on the part of a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the Department, the Authority or other State agency;
- B. Default on the part of a Principal Participant or Designer under previous contracts with the Department, Authority or other State agency;
- C. Unsatisfactory performance of previous work by the Proposer, a Principal Participant, and/or Designer under previous contracts with the Department, Authority or other State agency;
- D. Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant, and/or Designer;
- E. Submittal by the Proposer of more than one Proposal in response to this RFP under the Proposer's own name or under a different name;
- F. Existence of an Organizational Conflict of Interest, or evidence of collusion between a Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal

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- Participants or Designer) in the preparation of a proposal or bid for any Department or Authority design or construction contract;
- G. Uncompleted work or default on a contract in another jurisdiction for which the Proposer or a Principal Participant is responsible, which in the judgment of the Agencies might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded;
- H. Failure to have a current Vendor Responsibility Questionnaire for each Major Participant on file with the Department, the Authority or other agency;
- I. The Proposer is not otherwise qualified and eligible to receive an award of the Contract under applicable laws and regulations; and/or
- J. Any other reason affecting the Proposer's ability to perform, or record of business integrity.

In performing the Administrative Pass/Fail assessment, the Procurement Management Team shall issue, in consultation with the Legal Team, a written determination of the responsibility of each Proposer. The determination shall identify any and all significant adverse information having arisen between the time the Proposer was shortlisted and the date the Proposals were submitted, and shall indicate whether identified problems have been satisfactorily addressed.

5.1.3 DBE/EEO Information Pass/Fail Criteria

The DBE/EEO Information Pass/Fail criteria shall be evaluated by the Procurement Management Team with support from Agency personnel as needed. To be eligible for award of the Contract, each Proposer must provide the following DBE and EEO submittals meeting the requirements specified below:

- A. A completed Form DBE, Record of DBE Performance (see ITP Appendix D) either (i) showing no change in the Proposer's record of DBE performance, relative to the Proposer's SOQ submission, or (ii) including supplemental information regarding the Proposer's record of DBE performance showing that the Proposer and its team members have a record of meeting DBE participation.
- B. A completed Form EEO, Equal Employment Opportunity Certification, for the Proposer, each Major Participant and each proposed known Subcontractor.
- C. Information on Proposer's letterhead in the form of Form GF showing that the Proposer has undertaken appropriate good faith efforts during the Proposal period to obtain DBE participation in its Proposal;
- D. A list of DBE firms on the Proposer's team on Form LDB (included in the Administrative Proposal) and LDB-PP (included in the Price Proposal); and
- E. A DBE Plan meeting the requirements specified in ITP Appendix A, Section A2.4 and showing that the Proposer plans to undertake appropriate good faith efforts over the course of the Contract to achieve the DBE goal for the Contract, and shall achieve the DBE goal or provide good faith effort documentation.

5.1.4 Financial Information Pass/Fail Criteria

This pass/fail test assesses the Proposer's capacity to undertake the financial responsibilities associated with the Contract and to furnish the required proposal, payment and performance bonds. The Financial Information Pass/Fail shall be evaluated by the Financial Team, with assistance from the Legal Team as needed, which shall provide its pass/fail determination to the Procurement Management Team for concurrence. The pass/fail requirements relating to financial information are as follows:

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- A. Financial information submitted does not indicate any material adverse change in the financial position (including business, assets, financial condition, credit rating and/or surety bonding capacity) of the Principal Participant that was not reflected in and/or differs from its SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Principal Participants described therein), or such change has been disclosed and accepted or mitigated to the satisfaction of the Agencies;
- B. The ITP's financial and security requirements relative to tangible net worth and credit ratings are satisfied;
- C. If specified criteria in the ITP are met, the Proposer shall have submitted an irrevocable letter of confirmation from each proposed Guarantor that such entity is prepared to provide a Guaranty in the form of Form G, as specified in ITP Appendix A; and
- D. All other specified forms and documents are provided, properly completed and signed (if required), and compliance with any other financial requirements identified in ITP Appendix A.

5.1.5 Price Proposal Pass/Fail Criteria

The Price Pass/Fail evaluation will be conducted separately from the other four Pass/Fail reviews, since it involves pricing information which cannot be revealed until the Technical Evaluation Teams have completed their assessments. The Price Proposal Pass/Fail criteria shall be evaluated by the Procurement Management Team, with support from the Legal Team as needed. The pass/fail requirements relating to the Price Proposal are as follows:

- A. The separately-packaged administrative forms required in Volume 1, Appendix C of the Proposal (see ITP Appendix A Section A3.0) is complete and fully conforms to the requirements of the RFP;
- B. The Price Proposal is complete and fully conforms to the requirements of the RFP.

5.2 TECH NICAL EVALUATION FACTORS

The technical evaluation factors shall be evaluated by the nine discipline-specific technical evaluation teams. As noted in Table 1 and Figure 2 above, the technical evaluation factors are as follows:

- 1. Design and construction solution
- 2. Management approach
- 3. Key personnel and experience
- 4. Environmental compliance
- 5. Public outreach and coordination with stakeholders

Because of the multi-disciplinary nature of some of the technical factors, it will be necessary for more than one discipline-specific technical evaluation team to provide an assessment of each of these factors. The Technical Evaluation Factor Team Matrices above indicate which teams are responsible for evaluating which of the technical evaluation factors and sub-factors, as well as the corresponding deliverables.

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5.2.1 Design and Construction Solution

The Design and Construction Solution factor evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives.

Objective: Design solutions that respond to the environmental and community sensitivities and commitments; the context-sensitive design and toll road nature of the highway, bridges and structures; the requirement for a coordinated aesthetic theme that includes bridges, walls, signing, landscaping; and toll and intelligent transportation systems structures; quality pavements; geotechnical challenges; and the well-planned and coordinated design and relocation of utilities.

The technical evaluation sub-factors for the design and construction solution factor are as follows:

- A. Construction Approach evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities (if necessary) due to the means and methods adopted by the Design-Builder
- B. Service Life of the Crossing evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing
- C. Maximizing the Public Investment evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future transit modes
- D. Bridge, Structures and Aesthetic Design Concepts evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure, and aesthetic challenges of the Project
- E. Geotechnical evaluates how well the Proposer understands and proposes to address the subsurface investigation, foundation design and construction, settlement, earth stability, and monitoring aspects of the Project
- F. Roadway Design Concepts evaluates how well the Proposer understands the design and construction challenges of the roadway, traffic, shared-use path, property utilization, toll plaza, ITS and electronic toll collection, drainage and utilities, for the Project and the interaction and coordination required for the toll plaza and associated toll system
- G. NYSTA Operations and Security evaluates how well the Proposer utilizes the available right-of-way, and understands, integrates, and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities, and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing.

5.2.2 Manag ement Approach

The Management Approach Factor evaluates the Proposer's understanding, approach, capabilities, commitments, and organization with respect to scheduling and completion of the Project on time and on budget, and the management of the Project, with emphasis on quality, design, and construction.

Objective: A design-build organization that is designed with clear lines of responsibility and well defined roles that respond to the Project and the Agencies; that includes integrated specialty subcontractors and subconsultants; that embraces partnering throughout; that contains the empowerment of all levels of the organization to make decisions in coordination with their counterparts at the Agencies and, if need be, a

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system to elevate issues to ensure rapid decisions; that encourages and facilitates quality through a well-defined and executed quality plan for design and construction; that has a disciplined strategy for design, design quality and design review; that likewise has a comprehensive strategy for construction management, logistics, hauling, access, construction sequencing, minimizing public disruptions, safety, and on-the-job training. Additionally, a well-coordinated network schedule that will reflect the integration of design and construction activities, fast-tracking, construction sequencing, and a short time for completion.

The technical evaluation sub-factors for the management approach factor are as follows:

- A. Schedule evaluates the integrated scheduling of design and construction and the hauling, access, work traffic zone protection and staging of construction including work relating to the toll plaza required to achieve Project completion within the proposed Contract Deadlines and to minimize disruption to the environment and the public
- B. Organization and General Management evaluates how well the Proposer is organized for quality, safety, design and construction to achieve the Project's goals
- C. Design Management evaluates how well the Proposer understands and is organized for the integration of design Quality Control, and design, Quality Assurance and the Authority's design Oversight for the Project
- D. Construction Management evaluates how well the Proposer understands and is organized to manage construction Quality Control and Quality Assurance and the necessary tools required to provide seamless interaction between the Agencies' construction Oversight for the construction of a quality Project along a constrained, environmentally sensitive site, addressing needs for public outreach, on-the-job training, and empowered problem solving

5.2.3 Key Personnel and Experience

The Key Personnel and Experience Factor evaluates the Proposer's Key Personnel and experience and any changes in these since the Proposer submitted its SOQ. The evaluators will draw on the Legal Team's support as needed in reviewing these sub-factors.

Objective: The scope of the Project requires a highly qualified and integrated team of firms and technical specialists with expertise in and a record of producing quality work, including technical project management and technical delivery. It also demands experience in delivering large, preferably design-build, quality projects, on or ahead of schedule and/or budget, with environmental and public sensitivity.

The technical evaluation sub-factors for the Proposer's Key Personnel and Experience factor are as follows:

- A. Key Personnel evaluates the integration and experience of the Proposer's personnel, including Key Personnel and all staff for whom resumes are submitted in the Proposal and evaluates the proposed technical and management team structures around the Key Personnel. Evaluation of this sub-factor will consider the SOQ rating relevant to this sub-factor as well as changes in Key Personnel and other relevant information submitted in the Proposal.
- B. Experience of the Firms evaluates the qualifications and experience of the Proposer and its team members including specific experience of the Major Participants relevant to the size, complexity and composition of the Proposer's proposed design and the Proposer's proposed means and methods of construction, including the relevant experience of each Major Participant in design-build, environmental permitting and quality compliance, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction over water, and construction in environmentally-sensitive areas. Evaluation of this sub-factor will consider the SOQ rating relevant to this sub-factor as well as

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- any updated information regarding the qualifications and experience of the Proposer and its team members submitted in the Proposal.
- C. Past Performance evaluates the demonstrated record performance of Major Participants in the period from submission of SOQs to the Proposal Due Date, including completion schedule; quality of work product including construction and/or design; completion within budget; claims history (including number of claims submitted that were ultimately disallowed or significantly reduced, number of disputes submitted to formal dispute resolution and disposition of such actions, claims brought against the firm under the false claims act); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; and awards, citations and commendations.

5.2.4 Environmental Compliance

The Environmental Compliance Factor evaluates the Proposer's understanding, approach, capabilities, and commitments with respect to the environmental needs of the Project, and evaluates the creativity and rigor of the Proposer's measures and approaches to avoid, minimize or mitigate environmental impacts, including the Project's Environmental Performance Commitments, mitigation and monitoring requirements made in the DEIS, terms and conditions of Environmental Approvals (see Contract Document Part 3 Project Requirement 3 - Environmental Compliance), and all applicable environmental laws.

Objective: Understanding and commitment to the environmental sensitivity of the Project, to include: successful and timely performance of all environmental requirements, including but not limited to Environmental Performance Commitments; requirements and terms of existing and anticipated Environmental Approvals, and monitoring requirements; design expertise and solutions that respond to environmental concerns; the provision of quality environmental personnel and specialty subcontractors; real time compliance and stewardship during construction throughout the development and exceptional execution of plans for environmental compliance, including but not limited to compliance with water quality, ecological resources, noise and vibration, air quality, energy, stormwater management and erosion and sediment control requirements; and teamwork with the Agencies and regulatory agencies in the prevention of and the solutions for environmental challenges.

5.2.5 Public Outreach and Coordination

The Public Outreach and Coordination with Stakeholders factor evaluates the Proposer's understanding, capability, approach, and commitments to providing support to the Agencies in the implementation of their support plan for the Tappan Zee Hudson River Crossing Project Public Involvement Plan (PIP; see Part 3 Project Requirement 8 – Public Involvement). The PIP is intended to engage public and agency participants in a constructive exchange of views and information on aspects of the Project.

Objective: Quality planning and execution of support to the Agencies in community relations, public information, and community outreach.

5.3 AD JECTIVAL RATINGS

The technical evaluation factors will be rated by an adjectival (qualitative/descriptive) method. The following adjectival ratings shall be used in evaluation of each subfactor, technical evaluation factor and the overall technical rating of the Proposal:

EXCEPTIONAL: The Proposer has demonstrated an approach that is considered to significantly
exceed stated objectives/requirements in a way that is beneficial to the Agencies. This rating
indicates a consistently outstanding level of quality, with little or no risk that this Proposer would fail to

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meet the requirements of the solicitation. There are essentially no weaknesses (as such term is defined below).

- GOOD: The Proposer has demonstrated an approach that is considered to exceed stated objectives/
 requirements. This rating indicates a generally better than acceptable quality, with little risk that this
 Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.
- ACCEPTABLE: The Proposer has demonstrated an approach that is considered to meet the stated objectives/requirements. This rating indicates an acceptable level of quality. The Proposal demonstrates a reasonable probability of success. Weaknesses, if any, are very minor or not material or can be addressed readily.
- **UNACCEPTABLE:** The Proposal does not meet any of the rating standards listed above and/or is non-responsive.

The Agencies may assign "+" or "-" (such as, "Exceptional -", "Good +", and "Acceptable +") to the ratings to better differentiate within a rating in order to more clearly distinguish among the technical evaluation factors and the overall Proposals.

The term "weakness," as used herein, means any flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. The term "deficiency" means a material failure of a proposal to meet an RFP requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

Certain technical evaluation factors include sub-factors (see ITP Section 5.1.2). Each sub-factor will be assigned a consensus rating, and all sub-factors under a technical evaluation factor will be combined through consensus, taking into account the relative importance of each sub-factor (see ITP Sections 5.1.2.1 through 5.1.2.5), to arrive at an overall rating for that factor. Technical evaluation factors without sub-factors will also be assigned a consensus rating. The ratings of all the technical evaluation factors will then be combined by consensus, taking into account the relative importance of the evaluation factors (see ITP Section 5.1.2), to arrive at the overall rating for the Technical Proposal.

5.4 PRICE EVALUATION FACTOR

The Proposal Price will be approximately equal in importance to the combined overall technical ratings for Design and Construction Solution; Management Approach; Key Personnel and Experience; Environmental Compliance; and Public Outreach and Coordination with Stakeholders. The Proposer shall submit a Price Proposal for the Project in accordance with ITP Appendix C.

Prices shall be rounded to the nearest dollar with no cents columns. Refer to Part 2, DB §109 for information regarding payment procedures that apply following Contract award. The net present value as calculated using the maximum cash flow curve (Form PPS-P) shall be used as a component element in the determination of the best value Proposal.

Two versions of Form PPS-P are provided in ITP Appendix D: Form PPS-P-A (HARS Alternative) and Form PPS-P-B (Non-HARS Alternative), based on different scenarios for disposal of dredged material. The Proposer may elect to provide pricing only on Form PPS-P-B, in which event the Proposer shall submit Form PPS-P-A in its Proposal with a note stating that Form PPS-P-B shall be considered as providing pricing for the HARS Alternative. See ITP Appendix C, Section C2.2.2.

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Each Price Proposal shall also specify the total cost of the Work that will be performed according to the RFP (the "Proposal Price") through the methods required on Forms PPS-P and SP, for each of the HARS Alternative and the Non-HARS Alternative. Any reference in the ITP to Proposal Price includes both the HARS Alternative and the Non-HARS Alternative, unless the context otherwise requires. The HARS Alternative Proposal Price may be based on an assumption that dredging materials from demolition will be disposed of at the HARS ocean disposal site as provided in ITP Section 1.15.

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Table 2: Factors and Sub-factors Reviewed by the Technical Evaluation Teams

FACTOR	SUB-FACTOR	Construction Approach	Structures	Geotechnical	Roadway	Operations & Security	Management Approach	Environmental	Visual Quality	Public Outreach
1	Construction approach (importance category A)	0		0	•	•		•		
gory	Service life of the Crossing (importance cat. A)		0	•		•				
uction nce cate	Maximizing the public investment (importance category A)	•	0	•	•	•				
Design & Construction Solution (importance category 1)	Bridge, structures & aesthetic design concepts (importance category B)	•	0	•					0	
% rc	Geotechnical (importance category B)			0						
sign	Roadway design concepts (importance cat. B)				0	•				
De	NYSTA operations & security (importance cat. B)	•			•	0				
	Schedule (importance category A)	•					0			
Management Approach (importance category 1)	Organization and general management (importance category A)						•			
nnag prod porta egory	Design management (importance category A)						0			
Ma Ap (im cat	Construction management (importance cat. A)						0			
t ()	Key Personnel (importance category A)						0			
Key Per- sonnel & Experience	Experience of the firms (importance category B)						0			
Key son Exp	Past performance (importance category B)						•			
Environmental Compliance (importance category 2)	None							0		
Public Outreach & Coordination with Stakeholders (importance category 2)	None									•

- Primary focus of the Technical Evaluation Team
- Secondary focus of the Technical Evaluation Team

6

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New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Contract D214134 PIN 8TZ1.00



TRAINING & EVALUATION PACKAGE

CONFIDENTIAL: THIS IS A PROCUREMENT-SENSITIVE DOCUMENT

July 25, 2012

Tappan Zee Hudson River Crossing Project

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Current Staffing Plan





Evaluation and Selection Plan for Design Build Proposals





New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Contract D214134 PIN 8TZ1.00



EVALUATION & SELECTION PLAN FOR DESIGN-BUILD PROPOSALS

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July 24, 2012

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

IMPORTANT NOTE

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THE PURPOSE OF THIS DOCUMENT IS TO ESTABLISH THE PROCESS BY WHICH PROPOSALS FOR THE TAPPAN ZEE HUDSON RIVER CROSSING PROJECT WILL BE EVALUATED.

IT IS INTENDED FOR INTERNAL USE DURING THE PROCUREMENT PERIOD. IT SHALL NOT BE PROVIDED TO PROPOSERS DURING THE PROCUREMENT PERIOD. HOWEVER, THIS DOCUMENT CAN BECOME PUBLIC UNDER FOIL AFTER A CONTRACT HAS BEEN EXECUTED.

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1 INTRODUCT ION

1.1 PURPOSE

This document provides the methodology and criteria for evaluation of the Proposals received in response to the Request for Proposals (RFP) issued by the New York State Thruway Authority. The RFP was issued by the New York State Thruway Authority (the "Authority") and the New York State Department of Transportation (the "Department"; the Authority and the Department are collectively referred to as the "Agencies"). The Agencies are seeking proposals ("Proposals") for the design, construction and other identified activities for the Tappan Zee Hudson River Crossing Project (the "Project").

The purpose of this Proposal Evaluation and Selection Plan ("Plan") is to establish a structured process and a fair and uniform basis for the evaluation of Design-Build Proposals in accordance with the Project objectives and the goals.

The contracting agency for this procurement is the New York State Thruway Authority. Award of the Project is to be based upon the best value to the Agencies, considering price and other factors. Unless otherwise defined herein, abbreviations and initially capitalized terms contained in this Plan retain the meanings given in the RFP.

1.2 DESCRIPTION

The Project includes the design and construction of a replacement bridge crossing of the Hudson River adjacent to the existing Governor Malcolm Wilson Tappan Zee Bridge and other Project components as described in the RFP in Appendix I (Project Scope) to the Agreement (Part 1) of the Contract Documents. Evaluators will be provided a copy of the description with their designation letter.

1.3 PROJE CT GOALS

The Agencies' primary goals for the project, as further detailed in Section 2.2, are to achieve the following:

- A. Ensure the long-term vitality of the Hudson River crossing at Tappan Zee;
- B. Improve transportation operations and safety at the crossing:
- C. Maximize the public investment in a new Hudson River crossing;
- D. Deliver the Project safely, on schedule, and within budget; and
- E. Provide best value to the Agencies.

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1.4 BASIS OF EVALUATION

This document sets forth standards of acceptability and desirability with regard to evaluation factors enumerated in the Instructions to Proposers (ITP) and shown in Table 1 below. Evaluators should consider the factors deemed necessary to achieve the Project goals and the context under which the Project goals and evaluation factors were developed—granting significant flexibility and responsibility to the Design-Builder to plan, design, construct, manage, and control the work (including the QA/QC for both design and construction), and to complete the Project on schedule.

Further, the Project will be shaped by the design program requirements and performance specifications. High responsibility standards have been set to encourage Proposers to submit high quality SOQs and Proposals demonstrating their capability (financial, management, and technical), experience, and ability to generate creative yet sound design/construction solutions that, when combined with price, will be most advantageous (i.e., provide best value) to the Agencies.

The organization, procedures, evaluation factors, rating scheme, and evaluation process for selecting the best-value proposal are set forth in this document.

The Project evaluation factors have been designed to address each of the Project goals. As shown in Table 1, there are five pass/fail criteria, five technical quality factors, and a price factor. The following guidelines apply to these elements:

- A. Within the overall technical evaluation, Importance Category 1 is considered of greater importance than Importance Category 2. If no importance category is listed, then those subfactors are of equal importance to each other.
- B. Within each of the five technical evaluation factors, Importance Category A is considered of greater importance than Importance Category B. If no importance category is listed, then those sub-factors are of equal importance to each other.
- C. Proposals must receive a "Pass" rating on all Pass/Fail criteria in order to be considered for the Award.
- D. Proposals must receive a technical rating of at least "Acceptable" on each technical evaluation factor in order to be considered for the Award.
- E. The Proposal Price is equal in importance to the overall combined technical ratings of all technical factors.

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Table 1: Evaluation Factors and Importance Categories

	Legal				
	Administrative				
Pass/Fail	DBE/EEO Information				
	Financial Information				
	Price Proposal				
	Design and Construction Solution Importance Category 1	Construction Approach Importance Category A			
		Service Life of the Crossing Importance Category A			
		Maximizing the Public Investment Importance Category A			
		Bridge, Structures and Aesthetic Design Concepts Importance Category B			
		Geotechnical Importance Category B			
		Roadway Design Concepts Importance Category B			
Technical		NYSTA Operations and Security Importance Category B			
	Management Approach Importance Category 1	Schedule			
		Organization and General Management			
		Design Management			
		Construction Management			
	Key Personnel and Experience Importance Category 1	Key Personnel Importance Category A			
		Experience of the Firms Importance Category B			
	Environmental Compliance Importance Category 2				
	Public Outreach and Coordination with Stakeholders Importance Category 2				
Price					

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1.5 INSTRUCTIONS TO PROPOSERS

The ITP portion of the RFP is a companion document to this Plan and describes the pass/fail, technical quality, and price evaluation factors. The ITP serves as evaluators' primary reference for details of the evaluation factors, evaluation objectives, and the submittal requirements for each factor. The evaluation-factor descriptions given in this Plan are reproduced from the ITP, to which reference is made for further details of required forms and deliverables.

Other portions of the RFP (such as performance specifications and directive plans) may also be of assistance to evaluators, particularly for technical reviews, and the full RFP documents will be available to evaluators for reference during the training and evaluation sessions. In the event of a discrepancy between this Plan and the RFP, the RFP shall govern.

2 BEST VALUE DETERMINATION AND SELECTION

The process adopted here has been designed to guide the evaluators and selection committee officials in identifying the Proposal which provides the best value to the Agencies. The term "best value" may be defined as follows:

The greatest overall benefit, under the specified selection criteria, obtained through the tradeoff between price and technical benefits.

A best value determination places the emphasis on meeting the Agencies' needs, which may or may not involve selecting a proposal with the lowest price. In this process, a trade-off procedure is employed which evaluates a combination of price and technical factors as shown in Table 1 below. The Agencies may select the proposal which provides other than the lowest price, if the perceived technical benefits merit such a choice.

The following are the process objectives of this procedure:

- Objectivity
- Transparency
- Integrity
- Full and Open Competition
- Best Practice
- Minimization of Risk
- Confidentiality

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2.1 PROCESS OVERVIEW

The process begins with orientation and training of evaluation and selection team members. The training provides instructions on confidentiality, project background, and the step-by-step procedures of the evaluation and selection process. After the Proposals are received, the pass/fail, technical, and price evaluation factors are assessed by specific teams. A committee of selection officials ultimately reviews the Proposal strengths and weaknesses identified by the technical teams, develops adjectival ratings for technical quality, and then considers price data to perform a tradeoff analysis to determine which Proposal offers the best value to the Agencies. A higher priced Proposal may be chosen, if its perceived technical merits are of at least equal value to the difference in price.

To ensure that each step of this process is carried out with the utmost integrity and efficiency, eight evaluation and selection teams are convened, each performing a specific function. The following is an overview of these groups, with a more detailed description of their roles provided in Section 3 of this Plan.

Except for the Selection Committee and Selection Executives, which shall comprise solely State of New York personnel, each team may include both consultant and Agency staff.

- Procurement Mana gement Te am the overseeing body of the entire evaluation process; responsible for ensuring that all procedures are carried out with the strictest confidentiality and integrity, and for maintaining and compiling the final documentation and justification for the Award selection.
- **Legal Team** the group of Agency legal advisors, Agency employees, and representatives from the Procurement Management Team, assessing the legal aspects of the Proposals and providing advisory support as needed for other teams' evaluation work.
- **Financial Team** the group of Agency financial advisors, with representatives from the Procurement Management Team, assessing the financial aspects of the Proposals; also responsible for evaluating the price totals in the price proposal.
- Technical Evaluation Teams comprised of nine discipline-specific sub-teams, each responsible for evaluating a specific technical aspect of the Proposal and determining the relative technical strengths and weaknesses of each Proposal.
- Value Assessment Team a subset of the Technical Evaluation Team, responsible for assessing
 price reasonableness and balance relative to the technical aspects of each Proposal, and quantifying
 the value of each Proposal's technical strengths and weaknesses where feasible.
- Selection Committee the committee responsible for examining the reports and presentations from the Technical Evaluation Teams, Financial Team, and Value Assessment Team; and without knowing the identities of the proposing teams, reaching a consensus on the proposal that brings the best value.
- **Selection Executives** responsible for reviewing the selection and the findings of the Selection Committee, and without knowing the identity of the selected team, concurring with the decision.

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2.2 ROLE OF PROJECT GOALS IN EVALUATION PROCESS

The Project goals provide the necessary context for determining whether a particular Proposal provides best value to the Agencies. The Agencies' goals and objectives for the Project are to:

1. Ensure the long-term vitality of the Hudson River crossing at Tappan Zee by:

- A. Providing for sufficient strength and stability compliant with current standards to carry transport loading
- B. Providing for a robust and redundant structure to survive extreme natural events, including earthquakes and hurricanes
- C. Providing for a robust and redundant structure to survive extreme manmade events, including fires, vessel collisions, vehicular overloads, and vehicular accidents
- D. Ensuring compliance with the Authority's operational requirements, and
- E. Providing for a serviceable structure with a life span in excess of 100 years before major maintenance is required

2. Improve transportation operations and safety at the crossing by:

- A. Ensuring compliance of horizontal and vertical geometry with current engineering design standards, as practicable
- B. Providing for horizontal geometry that maximizes sight distances
- C. Providing for vertical geometry that minimizes grade changes
- D. Providing for standard, 12-foot traffic lanes
- E. Providing for adequate separation of eastbound and westbound traffic
- F. Providing for shoulders that meet current engineering design standards
- G. Eliminating reversible traffic lanes
- H. Providing for security infrastructure to monitor bridge operations
- I. Providing for improved emergency response

3. Maximize the public investment in a new Hudson River crossing by:

- A. Providing a cost-effective crossing that maximizes value over the lifespan of the structure
- B. Minimizing adverse effects on existing highways
- C. Maximizing the use of existing right-of-way
- D. Sequencing construction to minimize adverse effects on vehicular traffic operations
- E. Minimizing adverse navigational impacts in the waterway during construction
- F. Maintaining navigational clearance in the waterway
- G. Reducing maintenance requirements and operating costs
- H. Providing for trans-Hudson access for cyclists and pedestrians
- I. Providing a crossing that does not preclude future trans-Hudson transit services

4. Deliver the Project safely, on schedule and within budget

5. Provide best value to the Agencies

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3 EVALUATION TEAMS AND SELECTION COMMITTEES

The following eight teams are involved in the evaluation process:

- 1. Procurement Management Team
- 2. Legal Team
- 3. Financial Team
- 4. Price Reasonableness Team
- 5. Technical Evaluation Teams
- 6. Value Assessment Team Technical
- 7. Selection Committee
- 8. Selection Executives

Their relationships are illustrated in Figure 1 and further detailed below. Except for the Selection Committee and Selection Executives, which shall consist solely of Agency personnel, teams may include both Agency and consultant staff; each team shall be chaired by an Agency representative.

Proposers

Proposers

Proposers

Proposers

Proposers

Procurement
Management
Team

Value Assessment
Team – Technical

Selection Executives

Selection Committee

Figure 1: Evaluation Teams

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3.1 Procurement Management Team

As the overseeing body of the evaluation process, the Procurement Management Team is responsible for ensuring all evaluation and selection procedures are carried out with the strictest confidentiality and integrity, and for maintaining, compiling, and reviewing documentation related to the evaluation and selection. The Procurement Management Team is also responsible for conducting the Administrative Pass/Fail and the DBE/EEO Information Pass/Fail; in addition, members of this team may support the Legal Team to conduct the Legal Pass/Fail and the Financial Team for the Financial Pass/Fail.

As shown in Figure 1, the Procurement Management Team is the communication and managerial center of the process, ensuring that each team/committee is working efficiently, on schedule and adhering to the procedures set forth in this Evaluation and Selection Plan. The arrows in Figure 1 represent the acceptable lines of communication between teams. All evaluation findings must be reviewed and accepted by the Procurement Management Team before receipt by the Selection Committee and the Selection Executives. In addition, the Procurement Management Team is the only link between the Proposers and the evaluation teams: except during the scheduled presentations and interviews, all contact with the Proposers must pass through the Procurement Management Team.

The Procurement Management Team may assemble a supplemental pool of evaluators, who shall have completed confidentiality agreements and participated in the training session, to be available during the evaluation period to support the technical teams as needed.

3.2 Legal Team

The Legal Team, which consists of Agency legal advisors, legal staff from the Agencies, and representatives from the Procurement Management Team as needed, conducts the Legal Pass/Fail assessment. The team also provides advisory support as needed for other teams' evaluation work.

3.3 Financial Team

The Financial Team conducts both the Financial Information Pass/Fail assessment and the Net Present Value analysis based on the price proposals to furnish the price-based input for the Selection Committee's consideration. This information is kept confidential and provided to the Selection Committee only after the committee has reached a consensus assignment of adjectival ratings to each technical factor and sub-factor.

The Financial Team consists of Agency financial advisors, financial staff from the Agencies, and representatives from the Procurement Management Team as needed.

3.4 Price Reasonableness Team

In the State of New York, a contract cannot be awarded unless the bid price is determined to be "reasonable." The Price Reasonableness Team will evaluate Proposal prices and make a recommendation to the Procurement Management Team regarding the reasonableness of each Proposer's price. This is not a pass/fail criterion; the team's findings may be utilized in possible limited negotiations and to avoid the award of the contract to a Proposer with an imbalanced or unreasonable price.

During the Price Evaluation, members of the Price Reasonableness Team are responsible for evaluating the price centers in each price proposal for balance and reasonableness. These amounts are compared against those in other proposals and then against independent estimates. This assessment will not be conducted until after the Technical Evaluation has been completed.

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3.5 Technical Evaluation Teams

The Technical Evaluation Teams identify the relative strengths and weaknesses of the technical aspects of each Proposal. This part of the evaluation serves as the foundation for all judgment of technical merit. The technical evaluation teams' findings will be compiled and summarized jointly by the Procurement Management Team and the Value Assessment Team – Technical.

The technical evaluators do not assign numerical ratings to the technical factors or sub-factors, but instead thoroughly document the relative strengths and weaknesses associated with each Proposal. This information is subsequently used by the Selection Committee to assign adjectival ratings.

The technical evaluation is performed by nine discipline-specific teams, as follows:

- 1. Construction Team
- 2. Structures Team
- 3. Geotechnical Team
- 4. Roadway Team
- 5. Visual Quality Team
- 6. Operations and Security Team
- 7. Management Team
- 8. Environmental Team
- 9. Public Outreach Team

The team composition ensures that the evaluators have the proper background and credentials to conduct a sound evaluation of every major portion of the Proposals. Individuals are selected to serve on the Technical Evaluation Teams due to their expertise in the areas under consideration.

3.6 Value Assessment Team - Technical

The Value Assessment Team – Technical (VAT-T) is comprised of selected representatives from the nine technical teams. This team's primary responsibility is to produce consolidated summary reports from the many individual Technical Assessment Reports provided by the Technical Evaluation Teams, and to present the findings of these summaries to the Selection Committee. The VAT-T will do this in close cooperation with the Procurement Management Team.

3.7 Selection Committee

The Selection Committee considers the reports and presentations from the Technical Evaluation Teams and Value Assessment Team, and without ever knowing the identities of the proposers, reaches a consensus on which proposal provides the best value using a qualitative approach that includes a technical quality/cost trade-off.

3.8 Selection Executives

The Selection Executives are responsible for reviewing the selection and the findings of the Selection Committee, and without knowing the name of the selected team, concurring on the decision.

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4 PROCUREMENT PROCESS

The Project will be procured through a single design-build contract using best value (price and other factors) as the method of selection. The intent is to award the contract to a qualified Design-Builder who provides the best combination of price and technical benefits.

4.1 GENERAL GUIDELINES

4.1.1 Confidentiality and Safeguarding Information

- A. The integrity of the Evaluation and Selection Plan is critical to the confidence that the Proposers, the stakeholders and the public have in the Authority. Therefore, the deliberations of all teams and committees and the knowledge of individual participants in the evaluation process must be held in the strictest confidence. The Procurement Management Team is responsible for setting the rules, guidelines and procedures for the safeguarding of all information. This includes, but is not limited to the following:
 - a. Ensuring that no information concerning the identity of the Proposers or information contained in the Proposals is made available to any member of the public or of any governmental entity not having a need-to-know, as further defined below;
 - b. Taking proper care to protect and safeguard all evaluation data on a strict need-to-know basis:
 - c. Ensuring that any information relating to price will not be revealed to anyone before the Technical Evaluation Team completes its review;
 - d. Developing and implementing measures to ensure that the Selection Committee members and Selection Executives will not find out which proposal was submitted by which Proposer; and
 - e. Ensuring that all personnel associated with the process sign certifications of confidentiality, non-disclosure and no conflict of interest.
- B. After receipt of Proposals, no information concerning the identity of the Proposers or information contained in the Proposals will be made available to any member of the public or of any governmental entity not having a need-to-know until after announcement of the Selection. Proper care to protect and safeguard all Proposal and evaluation data on a strict need-to-know basis will be exercised. During the Proposal evaluation and selection process, only the Chair of the Procurement Management Team can approve the release of any information. Only those individuals actively participating in the evaluation process (members of the teams enumerated in Section 3 above) have a need-to-know.

4.1.2 Presentations, Communications, and Interviews

A. Communications may be required as part of the Proposal evaluation and selection process. During the evaluation process, there may be instances where meaningful evaluation cannot take place without seeking additional information about a pass/fail, technical quality, or price issue. Toward this end, the Agencies may schedule post-Proposal interviews and presentations. Proposers shall not modify their Proposals or make additional commitments regarding Proposals at such meetings.

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B. If information is required from Proposers during the evaluation process at times other than what has been scheduled by the Agencies, the Selection Committee or any Evaluation Team requiring communications should expeditiously submit a written request to the Procurement Management Team, which is the only team permitted to communicate with the Proposer. The Procurement Management Team, after reviewing and preparing questions, will send a request to the desired party, and upon receipt of a response, will forward it to the requesting Evaluation Team or Selection Committee. The Procurement Management Team will keep a copy of all Communications and responses as part of the official record of the evaluation and selection process.

4.2 EVALUATION SEQUENCE AND PROCESS

The following outline indicates the sequence of the evaluation-phase activities. Details of the evaluation criteria and decision factors are provided in Section 5.

4.2.1 Prior to Receipt of Proposals

- A. The Procurement Management Team will secure the final Evaluation and Selection Plan.
- B. Staffing of Evaluation Teams
 - a. The Agencies, in conjunction with the consultant teams, identify the required skill sets necessary to conduct the evaluations of the proposals and make the selection.
 - b. Based on the subject matter knowledge required, individuals with suitable expertise will be identified for appointment to the individual evaluation teams.
 - c. The Procurement Management Team notifies the evaluation team members of their appointment to the assigned teams/committees.
 - d. The Procurement Management Team obtains the required signatures on conflict of interest, confidentiality, and non-disclosure forms.

C. Training of Evaluation Teams

- a. The Procurement Management Team is responsible for providing orientation and training for the evaluation team members prior to the start of evaluations, ensuring the teams are adequately trained in the processes and procedures specific to their responsibilities. The intent of the training sessions will be to provide evaluators with the following:
 - i. The purpose and objectives of the Evaluation and Selection Plan;
 - ii. The step-by-step procedures of the Evaluation and Selection Plan;
 - iii. Instructions for the completion of all evaluation deliverables;
 - iv. Instructions regarding confidentiality and the safeguarding of information; and
 - v. Instructions regarding the time and location of all evaluation sessions.
- b. The Procurement Management Team makes arrangements for the secure facilities for the evaluations to be conducted.

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4.2.2 Subsequent to Receipt of Proposals

- A. The Procurement Management Team receives and secures the proposals. Throughout the evaluation and selection process, the Procurement Management Team will ensure that the facilities and the proposals are secure.
- B. The Procurement Management Team issues the announcement that the evaluation and selection process has begun and reiterates the security and confidentiality requirements.
- C. The Procurement Management Team provides hard and soft copies of Proposal materials necessary for the pass/fail and technical evaluators to conduct their evaluations. The Price Proposals and the separately-packaged administrative forms (Proposal Volume 1, Appendix C) are temporarily placed unopened in a secure location.
- D. The Procurement Management Team shall conduct the Administrative Pass/Fail evaluation. For specific guidelines on this and other pass/fail evaluations, see Section 5.1 of this Plan. As part of this review, the Procurement Management Team will identify deficiencies, minor discrepancies or irregularities, apparent clerical or other mistakes, and any apparent instance of "qualification" and/or failure under the pass/fail criteria and consult with the Legal Team on options and/or action(s) to be taken, following up with the Proposer(s) as appropriate.
- E. The Procurement Management Team, with support from Agency personnel as needed, shall conduct the DBE/EEO Information Pass/Fail evaluation.
- F. The Legal Team will conduct the Legal Pass/Fail review, and its chair will issue a determination report to the Procurement Management Team for concurrence.
- G. The Financial Team will conduct the Financial Information Pass/Fail review, and its chair will issue a determination report to the Procurement Management Team for concurrence.
- H. The Procurement Management Team will review the results of the Pass/Fail evaluations. In the case of any apparent failures, the Procurement Management Team will remove all identifying information of the Proposer(s) involved and present the results to the Selection Committee for review. Upon the Selection Committee's concurrence, the Procurement Management Team will terminate the evaluation of those proposals which did not meet the Pass/Fail requirements. A separate review process will apply for Proposals which appear to fail the DBE/EEO Information assessment.

4.2.3 Technical Evaluation Concurrent with Pass/Fail Determinations

- A. The Procurement Management Team distributes the Proposals and other materials to the Technical Evaluation Teams.
- B. As the Technical Evaluation Teams conduct their reviews, the Procurement Management Team monitors their work and receives and safeguards their results and reports.
- C. No information is provided at this time to the Selection Committee or the Selection Executives.
- D. The Chair of each technical evaluation team is responsible for the timely and accurate completion of all deliverables and shall also serve as the point of contact for communications between the Chair's team and the Procurement Management Team.

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- E. Except during the Proposer presentations and interviews, the Technical Evaluation Team members may not make direct contact with any members of the Proposer teams during the evaluation and selection process.
 - a. Each evaluation team shall prepare (if required) a list of concise questions to seek clarification for ambiguities, omissions, errors, mistakes or clerical revisions in order to assist the evaluators in better understanding the proposals.
 - b. Any number of representatives from the Technical Evaluation Teams may attend interviews, if held with the Proposers to request additional clarifications or information from the Proposers through the Procurement Management Team.
 - c. Following the interviews, if additional communications with the Proposers are required, the Technical Evaluation Teams shall assist the Procurement Management Team in preparing questions and participate, as requested, in the communications.
- F. Each team will focus its evaluation on the specific evaluation factor(s) assigned, as summarized in Figure 2.
- G. Consultation with other Evaluation Teams assessing related factors is permitted, though any contact between the Security team and other teams must be initiated by Security team members.
- H. With the approval of the Procurement Management Team, a technical evaluation team may engage outside technical experts, who shall have submitted written confidentiality agreements, to educate them on specific technical topics.
- I. Each team will conduct a technical evaluation to assess how each Proposer addressed the assigned factors and/or sub-factors in its proposal. In doing so, the Technical Evaluation Team will evaluate the related plans and drawings submitted by each Proposer in response to the RFP, as well as other relevant information, as appropriate.
- J. Each team shall prepare a written report organized according to the technical factors and sub-factors. It will detail the strengths and weaknesses of each factor and sub-factor by proposal, plus any reservations or qualifications that might affect evaluation, selection, negotiation, and award. Where applicable, the Technical Evaluation Teams will identify where there may be financial impacts.
- K. Each team is to evaluate the relative strengths and weaknesses for each of their assigned technical evaluation factors and/or sub-factors, as indicated in the Technical Evaluation Factor Team Matrix in Figure 2 below.
- L. At no time will the Technical Evaluation Team members reveal the names of the proposers to anyone, including the Selection Committee members. It is paramount that the names of the proposers be kept confidential so that the Selection Committee will conduct a "blind selection" without knowing which team's proposal is being evaluated.

4.2.4 Review by Value Assessment Team and Presentation to Selection Committee

- A. The Value Assessment Team will consolidate and summarize the many individual reports from the Technical Evaluation Teams jointly with the Procurement Management Team.
- B. The Procurement Management Team shall review and accept the Technical Evaluation reports for completeness and consistency prior to their presentation to the Selection Committee.

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C. The members of the Value Assessment Team shall not discuss the project or the proceedings with members of the Selection Committee outside of this formal presentation.

4.2.5 Subsequent to Presentation of Technical Evaluation to Selection Committee

- A. After receiving information from the Technical Evaluation Teams via the Value Assessment Team, the Selection Committee will assign adjectival ratings to each of the technical evaluation factors and sub-factors. These deliberations are to take place in secure facilities. The Selection Committee will maintain strict confidentiality of the evaluation process, and shall not have any direct written or oral communication with any member of a Proposer's organization during the evaluation process.
 - a. The Selection Team will consider the integrated findings of the evaluation teams and make its decisions based on the teams' presentations and reports. Without ever knowing the identities of the proposing teams, the Selection Committee will reach a consensus assignment of adjectival ratings for each technical factor and sub-factor for each proposal.
 - b. Via the Procurement Management Team, the Selection Committee may submit questions to the Technical Evaluation Teams to seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluations. If necessary, the evaluation teams may again appear before the Selection Committee to present the additional analysis.
 - c. The Selection Committee will deliver its findings to the Procurement Management Team, which will then rank the Proposals. The results, without revealing the names of the proposal teams, are displayed in a form that enables the Selection Committee to compare how each proposal team rated by factor and sub-factor.
- B. The Procurement Management Team will identify the relative rankings of the proposals based on the adjectival ratings, which are based on the technical evaluations.
- C. The Procurement Management Team shall ensure the confidentiality of all deliberations and results.

4.2.6 Subsequent to Opening of Price Proposals

After the technical rankings are complete, the Price Proposals will be opened. After receiving the Price Proposals from the Procurement Management Team, the Financial Team and Price Reasonableness Team will begin their evaluations, as follows:

- A. The Procurement Management Team monitors the evaluations and receives and safeguards results and reports from the Financial and Price Reasonableness Teams.
- B. The Procurement Management shall insure no price-related information is provided at this time to the Selection Committee, the Selection Executives, or the Technical Evaluation Teams.
- C. The respective Chairs of the Financial and Price Reasonableness Teams are responsible for the timely and accurate completion of all forms and deliverables. The Chairs shall also serve as the points of contact for all communications between their teams and the Procurement Management Team.

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- D. The Price Reasonableness Team shall evaluate the price centers in the price proposal for reasonableness. The price components of each proposal will then be compared against the other proposals and then against the independent estimates. At no time will the Financial or Price Reasonableness Team members reveal the names of the proposers to anyone, including the Selection Committee members.
- E. If necessary, the Value Assessment Team will prepare a list of concise questions (to be transmitted to proposers by the Procurement Management Team as Requests for Communications) to seek clarification for ambiguities, omissions, errors, mistakes or clerical revisions in order to assist the evaluators in better understanding the proposals.
- F. The Financial and Price Reasonableness Teams will each reach a respective consensus and prepare their reports for review by the Procurement Management Team.

4.2.7 Subsequent to Presentation of Price Findings to Selection Committee

- A. Following their reports' review by the Procurement Management Team, the Financial Team and Price Reasonableness Team will present their findings to the Selection Committee.
- B. The Selection Committee shall review the findings of the Financial Team and may prepare questions for the Financial Team, which seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluations. All contact with the Financial Team must be through the Procurement Management Team. If necessary, the Financial Team may again appear before the Selection Committee to respond to these questions.
- C. The Selection Committee shall review the findings of the Price Reasonableness Team and may prepare questions for this team, which seek clarification or request further analysis, in order to assist the Selection Committee in better understanding the evaluation. All contact with the Price Reasonableness Team must be through the Procurement Management Team. If necessary, the Price Reasonableness Team may again appear before the Selection Committee to respond to these questions.
- D. The Selection Committee will now have all the inputs necessary to determine best value. Toward this end, the Selection Committee will:
 - a. Examine the reports and presentations from the Price Reasonableness Team, the Financial Team, and the Technical Evaluation Teams via the Value Assessment Team, without ever knowing the identities of the proposing teams.
 - b. Conduct an in-depth trade-off of price and technical quality, comparing the relative technical and cost advantages and disadvantages of the various proposals.
 - c. Determine whether a higher-priced proposal offers sufficient quality advantages over lower-priced proposals to justify the price difference. Make tradeoffs between price and technical merit and reach a consensus of which proposal brings the greatest value.
 - d. Prepare a detailed justification of the selection. The perceived benefits of a higher-priced proposal must merit the additional cost, and the rationale for tradeoffs must be documented in the file. A selection without substantive explanations of the relative strengths and weaknesses of the competitive proposals, including the perceived benefits, will be an insufficient basis for paying a higher price.
- E. Once the Selection Committee has reached a consensus, their selection and detailed justification is forwarded to the Procurement Management Team for review.

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F. As an alternative, the Selection Committee may determine that a BAFO is warranted. In this case, they shall submit their request and justification to the Selection Executives for concurrence. Upon their concurrence, the Procurement Management Team will review the request and shall notify the Proposers of the decision and initiate the BAFO process. Upon conclusion of this process, the price/technical quality trade-off evaluation continues, following the process employed for the RFP.

4.2.8 Final Review and Notification of Award

- A. Upon receipt of the findings of the Selection Committee, the Procurement Management Team will review the recommendation and supporting material as to adequateness. If it is complete, the Procurement Management Team will advise the Selection Committee, and the Selection Committee will present its recommendation to the Selection Executives for their concurrence.
- B. Upon concurrence by the Selection Executives, the Procurement Management Team will assist in the announcement of the selection, and will maintain a complete file of the Proposal evaluation and selection process. This file will include all reports, Communications, and recommendations of the Evaluation Teams; the decisions and recommendations of the Selection Committee; and the Selection Executives' determination.
- C. As an alternative, if the Selection Executives fail to concur, limited negotiations with the Proposers may be conducted.
- D. As a further alternative, the Selection Executives may submit a recommendation and justification for a BAFO to the Procurement Management Team for concurrence. If the Procurement Management Team concurs, they shall notify the Proposers of the decision and initiate the BAFO process. Upon conclusion of this process, the cost/technical quality trade-off evaluation continues, following the process employed for the RFP.

5 BASIS OF EVALUATION

Following is a more detailed description of the pass/fail, technical quality, and price evaluation factors.

5.1 PASS/FAIL CRITERIA

The RFP contains five pass/fail categories that must be satisfied. If a Proposal does not comply with any pass/fail evaluation factor or sub-factor, the Procurement Management Team shall assign it a "fail" rating; and upon the Selection Committee's concurrence, further evaluation of that Proposal shall be terminated. In the case of the DBE/EEO Information assessment, concurrence must be sought from the Agencies' DBE/EEO staff.

5.1.1 Legal Pass/Fail Criteria

The legal authority of the Proposer to present a Proposal and to enter into and perform the Project contract will be determined, as well as the Proposer's compliance with relevant legal requirements. The Legal Pass/Fail shall be evaluated by the Legal Team, which will report the results of its evaluation to the Procurement Management Team for concurrence in the pass/fail determination. The legal pass/fail requirements are as follows:

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- A. Provision of a properly completed and executed Proposal affidavit (Form NC, see ITP Appendix D);
- B. Provision of evidence that the persons proposed to carry out engineering, design, architecture, landscape architecture, and surveying within the State hold appropriate licenses or that they have the capability to obtain licensure prior to execution of Contract;
- Provision of all other specified forms and documents, properly completed and signed (if required) (see ITP Appendix A) that do not identify any material adverse information;
- D. The organizational documents shall show that the Proposer has legal capacity to undertake design and construction of the Project, shall include appropriate provisions for management and decision-making within the organization as well as for continuation of the Proposer in the event of bankruptcy or withdrawal of any of its members, and shall otherwise be consistent with Project requirements; and
- E. Compliance with any other legal requirements as identified in ITP Appendix A.

5.1.2 Administr ative Pass/Fail Criteria

The Procurement Management Team shall evaluate the following Administrative Pass/Fail requirements, with support from members of the Legal Team as needed:

- A. Provision of all forms required from ITP Appendix D, properly completed and signed if required, other than those forms assessed in another phase of the evaluation;
- B. Timely submittal of the Escrowed Proposal Documents;
- C. Confirmation that the Major Participants and Key Personnel listed in the Proposer's SOQ have either not changed since submission of the SOQ, or that the Proposer has previously advised the Agencies of a change and received the Agencies' written consent thereto;
- D. The Proposer shall have provided letter(s) of commitment from one or more sureties in accordance with ITP Appendix A, Section A2.3.5, committing to provide a Performance Bond and a Payment Bond in the amounts specified in the ITP; and
- E. All other information specified in ITP Appendices A, B, and C shall be provided in the manner, format, and detail specified, without alteration of the forms except as expressly permitted by the instructions.

In addition to assessing these factors, the Procurement Management Team shall also investigate whether the following circumstances exist which may result in a failing determination for a Proposal:

- A. Failure on the part of a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the Department, the Authority or other State agency;
- B. Default on the part of a Principal Participant or Designer under previous contracts with the Department, Authority or other State agency;
- C. Unsatisfactory performance of previous work by the Proposer, a Principal Participant, and/or Designer under previous contracts with the Department, Authority or other State agency;
- D. Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant, and/or Designer;

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- E. Submittal by the Proposer of more than one Proposal in response to this RFP under the Proposer's own name or under a different name;
- F. Existence of an Organizational Conflict of Interest, or evidence of collusion between a Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designer) in the preparation of a proposal or bid for any Department or Authority design or construction contract;
- G. Uncompleted work or default on a contract in another jurisdiction for which the Proposer or a Principal Participant is responsible, which in the judgment of the Agencies might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded;
- H. Failure to have a current Vendor Responsibility Questionnaire for each Major Participant on file with the Department, the Authority or other agency;
- I. The Proposer is not otherwise qualified and eligible to receive an award of the Contract under applicable laws and regulations; and/or
- J. Any other reason affecting the Proposer's ability to perform, or record of business integrity.

In performing the Administrative Pass/Fail assessment, the Procurement Management Team shall issue, in consultation with the Legal Team, a written determination of the responsibility of each Proposer. The determination shall identify any and all significant adverse information having arisen between the time the Proposer was shortlisted and the date the Proposals were submitted, and shall indicate whether identified problems have been satisfactorily addressed.

5.1.3 DBE/EEO Information Pass/Fail Criteria

The DBE/EEO Information Pass/Fail criteria shall be evaluated by the Procurement Management Team with support from Agency personnel as needed. To be eligible for award of the Contract, each Proposer must provide the following DBE and EEO submittals meeting the requirements specified below:

- A. A completed Form DBE, Record of DBE Performance (see ITP Appendix D) either (i) showing no change in the Proposer's record of DBE performance, relative to the Proposer's SOQ submission, or (ii) including supplemental information regarding the Proposer's record of DBE performance showing that the Proposer and its team members have a record of meeting DBE participation.
- B. A completed Form EEO, Equal Employment Opportunity Certification, for the Proposer, each Major Participant and each proposed known Subcontractor.
- C. Information on Proposer's letterhead in the form of Form GF showing that the Proposer has undertaken appropriate good faith efforts during the Proposal period to obtain DBE participation in its Proposal;
- D. A list of DBE firms on the Proposer's team on Form LDB (included in the Administrative Proposal) and LDB-PP (included in the Price Proposal); and
- E. A DBE Plan meeting the requirements specified in ITP Appendix A, Section A2.4 and showing that the Proposer plans to undertake appropriate good faith efforts over the course of the Contract to achieve the DBE goal for the Contract, and shall achieve the DBE goal or provide good faith effort documentation.

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5.1.4 Financial Information Pass/Fail Criteria

This pass/fail test assesses the Proposer's capacity to undertake the financial responsibilities associated with the Contract and to furnish the required proposal, payment and performance bonds. The Financial Information Pass/Fail shall be evaluated by the Financial Team, with assistance from the Legal Team as needed, which shall provide its pass/fail determination to the Procurement Management Team for concurrence. The pass/fail requirements relating to financial information are as follows:

- A. Financial information submitted does not indicate any material adverse change in the financial position (including business, assets, financial condition, credit rating and/or surety bonding capacity) of the Principal Participant that was not reflected in and/or differs from its SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Principal Participants described therein), or such change has been disclosed and accepted or mitigated to the satisfaction of the Agencies;
- B. The ITP's financial and security requirements relative to tangible net worth and credit ratings are satisfied;
- C. If specified criteria in the ITP are met, the Proposer shall have submitted an irrevocable letter of confirmation from each proposed Guarantor that such entity is prepared to provide a Guaranty in the form of Form G, as specified in ITP Appendix A; and
- D. All other specified forms and documents are provided, properly completed and signed (if required), and compliance with any other financial requirements identified in ITP Appendix A.

5.1.5 Price Proposal Pass/Fail Criteria

The Price Pass/Fail evaluation will be conducted separately from the other four Pass/Fail reviews, since it involves pricing information which cannot be revealed until the Technical Evaluation Teams have completed their assessments. The Price Proposal Pass/Fail criteria shall be evaluated by the Procurement Management Team, with support from the Legal Team as needed. The pass/fail requirements relating to the Price Proposal are as follows:

- A. The separately-packaged administrative forms required in Volume 1, Appendix C of the Proposal (see ITP Appendix A Section A3.0) is complete and fully conforms to the requirements of the RFP;
- B. The Price Proposal is complete and fully conforms to the requirements of the RFP.

5.2 TECH NICAL EVALUATION FACTORS

The technical evaluation factors shall be evaluated by the nine discipline-specific technical evaluation teams. As noted in Table 1 and Figure 2 above, the technical evaluation factors are as follows:

- 1. Design and construction solution
- 2. Management approach
- 3. Key personnel and experience
- 4. Environmental compliance
- 5. Public outreach and coordination with stakeholders

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Because of the multi-disciplinary nature of some of the technical factors, it will be necessary for more than one discipline-specific technical evaluation team to provide an assessment of each of these factors. The Technical Evaluation Factor Team Matrices above indicate which teams are responsible for evaluating which of the technical evaluation factors and sub-factors, as well as the corresponding deliverables.

5.2.1 Design and Construction Solution

The Design and Construction Solution factor evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives.

Objective: Design solutions that respond to the environmental and community sensitivities and commitments; the context-sensitive design and toll road nature of the highway, bridges and structures; the requirement for a coordinated aesthetic theme that includes bridges, walls, signing, landscaping; and toll and intelligent transportation systems structures; quality pavements; geotechnical challenges; and the well-planned and coordinated design and relocation of utilities.

The technical evaluation sub-factors for the design and construction solution factor are as follows:

- A. Construction Approach evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities (if necessary) due to the means and methods adopted by the Design-Builder
- B. Service Life of the Crossing evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing
- C. Maximizing the Public Investment evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future transit modes
- D. Bridge, Structures and Aesthetic Design Concepts evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure, and aesthetic challenges of the Project
- E. Geotechnical evaluates how well the Proposer understands and proposes to address the subsurface investigation, foundation design and construction, settlement, earth stability, and monitoring aspects of the Project
- F. Roadway Design Concepts evaluates how well the Proposer understands the design and construction challenges of the roadway, traffic, shared-use path, property utilization, toll plaza, ITS and electronic toll collection, drainage and utilities, for the Project and the interaction and coordination required for the toll plaza and associated toll system
- G. NYSTA Operations and Security evaluates how well the Proposer utilizes the available right-of-way, and understands, integrates, and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities, and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing.

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5.2.2 Manag ement Approach

The Management Approach Factor evaluates the Proposer's understanding, approach, capabilities, commitments, and organization with respect to scheduling and completion of the Project on time and on budget, and the management of the Project, with emphasis on quality, design, and construction.

Objective: A design-build organization that is designed with clear lines of responsibility and well defined roles that respond to the Project and the Agencies; that includes integrated specialty subcontractors and subconsultants; that embraces partnering throughout; that contains the empowerment of all levels of the organization to make decisions in coordination with their counterparts at the Agencies and, if need be, a system to elevate issues to ensure rapid decisions; that encourages and facilitates quality through a well-defined and executed quality plan for design and construction; that has a disciplined strategy for design, design quality and design review; that likewise has a comprehensive strategy for construction management, logistics, hauling, access, construction sequencing, minimizing public disruptions, safety, and on-the-job training. Additionally, a well-coordinated network schedule that will reflect the integration of design and construction activities, fast-tracking, construction sequencing, and a short time for completion.

The technical evaluation sub-factors for the management approach factor are as follows:

- A. Schedule evaluates the integrated scheduling of design and construction and the hauling, access, work traffic zone protection and staging of construction including work relating to the toll plaza required to achieve Project completion within the proposed Contract Deadlines and to minimize disruption to the environment and the public
- B. Organization and General Management evaluates how well the Proposer is organized for quality, safety, design and construction to achieve the Project's goals
- C. Design Management evaluates how well the Proposer understands and is organized for the integration of design Quality Control, and design, Quality Assurance and the Authority's design Oversight for the Project
- D. Construction Management evaluates how well the Proposer understands and is organized to manage construction Quality Control and Quality Assurance and the necessary tools required to provide seamless interaction between the Agencies' construction Oversight for the construction of a quality Project along a constrained, environmentally sensitive site, addressing needs for public outreach, on-the-job training, and empowered problem solving

5.2.3 Key Personnel and Experience

The Key Personnel and Experience Factor evaluates the Proposer's Key Personnel and experience and any changes in these since the Proposer submitted its SOQ. The evaluators will draw on the Legal Team's support as needed in reviewing these sub-factors.

Objective: The scope of the Project requires a highly qualified and integrated team of firms and technical specialists with expertise in and a record of producing quality work, including technical project management and technical delivery. It also demands experience in delivering large, preferably design-build, quality projects, on or ahead of schedule and/or budget, with environmental and public sensitivity.

The technical evaluation sub-factors for the Proposer's Key Personnel and Experience factor are as follows:

A. Key Personnel – evaluates the integration and experience of the Proposer's personnel, including Key Personnel and all staff for whom resumes are submitted in the Proposal and evaluates the proposed technical and management team structures around the Key Personnel.

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- Evaluation of this sub-factor will consider the SOQ rating relevant to this sub-factor as well as changes in Key Personnel and other relevant information submitted in the Proposal.
- B. Experience of the Firms evaluates the qualifications and experience of the Proposer and its team members including specific experience of the Major Participants relevant to the size, complexity and composition of the Proposer's proposed design and the Proposer's proposed means and methods of construction, including the relevant experience of each Major Participant in design-build, environmental permitting and quality compliance, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction over water, and construction in environmentally-sensitive areas. Evaluation of this sub-factor will consider the SOQ rating relevant to this sub-factor as well as any updated information regarding the qualifications and experience of the Proposer and its team members submitted in the Proposal.
- C. Past Performance evaluates the demonstrated record performance of Major Participants in the period from submission of SOQs to the Proposal Due Date, including completion schedule; quality of work product including construction and/or design; completion within budget; claims history (including number of claims submitted that were ultimately disallowed or significantly reduced, number of disputes submitted to formal dispute resolution and disposition of such actions, claims brought against the firm under the false claims act); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; and awards, citations and commendations.

5.2.4 Environmental Compliance

The Environmental Compliance Factor evaluates the Proposer's understanding, approach, capabilities, and commitments with respect to the environmental needs of the Project, and evaluates the creativity and rigor of the Proposer's measures and approaches to avoid, minimize or mitigate environmental impacts, including the Project's Environmental Performance Commitments, mitigation and monitoring requirements made in the DEIS, terms and conditions of Environmental Approvals (see Contract Document Part 3 Project Requirement 3 - Environmental Compliance), and all applicable environmental laws.

Objective: Understanding and commitment to the environmental sensitivity of the Project, to include: successful and timely performance of all environmental requirements, including but not limited to Environmental Performance Commitments; requirements and terms of existing and anticipated Environmental Approvals, and monitoring requirements; design expertise and solutions that respond to environmental concerns; the provision of quality environmental personnel and specialty subcontractors; real time compliance and stewardship during construction throughout the development and exceptional execution of plans for environmental compliance, including but not limited to compliance with water quality, ecological resources, noise and vibration, air quality, energy, stormwater management and erosion and sediment control requirements; and teamwork with the Agencies and regulatory agencies in the prevention of and the solutions for environmental challenges.

5.2.5 Public Outreach and Coordination

The Public Outreach and Coordination with Stakeholders factor evaluates the Proposer's understanding, capability, approach, and commitments to providing support to the Agencies in the implementation of their support plan for the Tappan Zee Hudson River Crossing Project Public Involvement Plan (PIP; see Part 3 Project Requirement 8 – Public Involvement). The PIP is intended to engage public and agency participants in a constructive exchange of views and information on aspects of the Project.

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Objective: Quality planning and execution of support to the Agencies in community relations, public information, and community outreach.

5.3 AD JECTIVAL RATINGS

The technical evaluation factors will be rated by an adjectival (qualitative/descriptive) method. The following adjectival ratings shall be used in evaluation of each subfactor, technical evaluation factor and the overall technical rating of the Proposal:

- EXCEPTIONAL: The Proposer has demonstrated an approach that is considered to significantly
 exceed stated objectives/requirements in a way that is beneficial to the Agencies. This rating
 indicates a consistently outstanding level of quality, with little or no risk that this Proposer would fail to
 meet the requirements of the solicitation. There are essentially no weaknesses (as such term is
 defined below).
- **GOOD:** The Proposer has demonstrated an approach that is considered to exceed stated objectives/ requirements. This rating indicates a generally better than acceptable quality, with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.
- ACCEPTABLE: The Proposer has demonstrated an approach that is considered to meet the stated objectives/requirements. This rating indicates an acceptable level of quality. The Proposal demonstrates a reasonable probability of success. Weaknesses, if any, are very minor or not material or can be addressed readily.
- **UNACCEPTABLE**: The Proposal does not meet any of the rating standards listed above and/or is non-responsive.

The Agencies may assign "+" or "-" (such as, "Exceptional -", "Good +", and "Acceptable +") to the ratings to better differentiate within a rating in order to more clearly distinguish among the technical evaluation factors and the overall Proposals.

The term "weakness," as used herein, means any flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. The term "deficiency" means a material failure of a proposal to meet an RFP requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

Certain technical evaluation factors include sub-factors (see ITP Section 5.1.2). Each sub-factor will be assigned a consensus rating, and all sub-factors under a technical evaluation factor will be combined through consensus, taking into account the relative importance of each sub-factor (see ITP Sections 5.1.2.1 through 5.1.2.5), to arrive at an overall rating for that factor. Technical evaluation factors without sub-factors will also be assigned a consensus rating. The ratings of all the technical evaluation factors will then be combined by consensus, taking into account the relative importance of the evaluation factors (see ITP Section 5.1.2), to arrive at the overall rating for the Technical Proposal.

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5.4 PRICE EVALUATION FACTOR

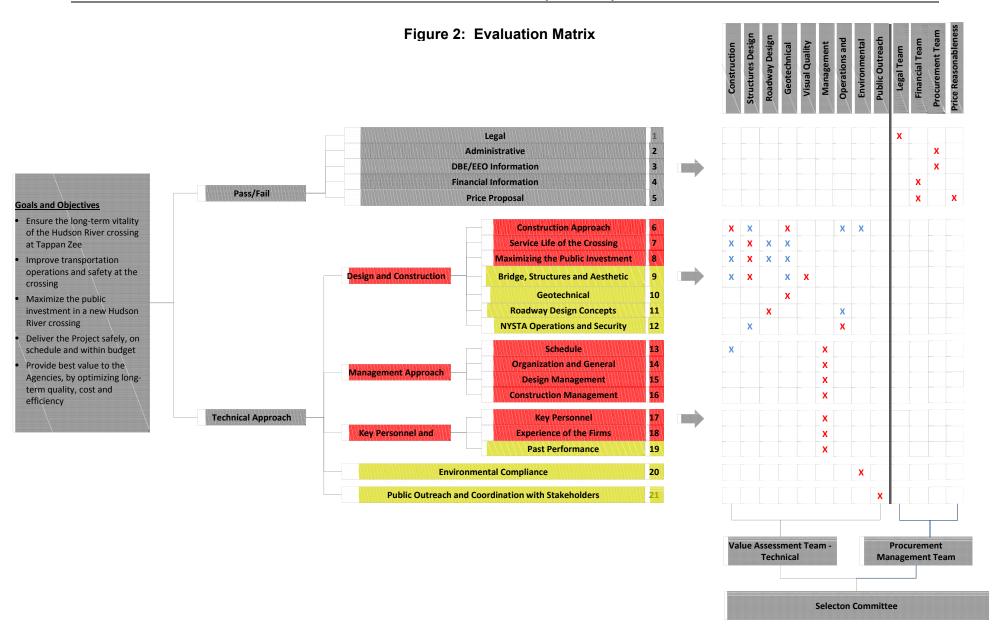
The Proposal Price will be approximately equal in importance to the combined overall technical ratings for Design and Construction Solution; Management Approach; Key Personnel and Experience; Environmental Compliance; and Public Outreach and Coordination with Stakeholders. The Proposer shall submit a Price Proposal for the Project in accordance with ITP Appendix C.

Prices shall be rounded to the nearest dollar with no cents columns. Refer to Part 2, DB §109 for information regarding payment procedures that apply following Contract award. The net present value as calculated using the maximum cash flow curve (Form PPS-P) shall be used as a component element in the determination of the best value Proposal.

Two versions of Form PPS-P are provided in ITP Appendix D: Form PPS-P-A (HARS Alternative) and Form PPS-P-B (Non-HARS Alternative), based on different scenarios for disposal of dredged material. The Proposer may elect to provide pricing only on Form PPS-P-B, in which event the Proposer shall submit Form PPS-P-A in its Proposal with a note stating that Form PPS-P-B shall be considered as providing pricing for the HARS Alternative. See ITP Appendix C, Section C2.2.2.

Each Price Proposal shall also specify the total cost of the Work that will be performed according to the RFP (the "Proposal Price") through the methods required on Forms PPS-P and SP, for each of the HARS Alternative and the Non-HARS Alternative. Any reference in the ITP to Proposal Price includes both the HARS Alternative and the Non-HARS Alternative, unless the context otherwise requires. The HARS Alternative Proposal Price may be based on an assumption that dredging materials from demolition will be disposed of at the HARS ocean disposal site as provided in ITP Section 1.15.

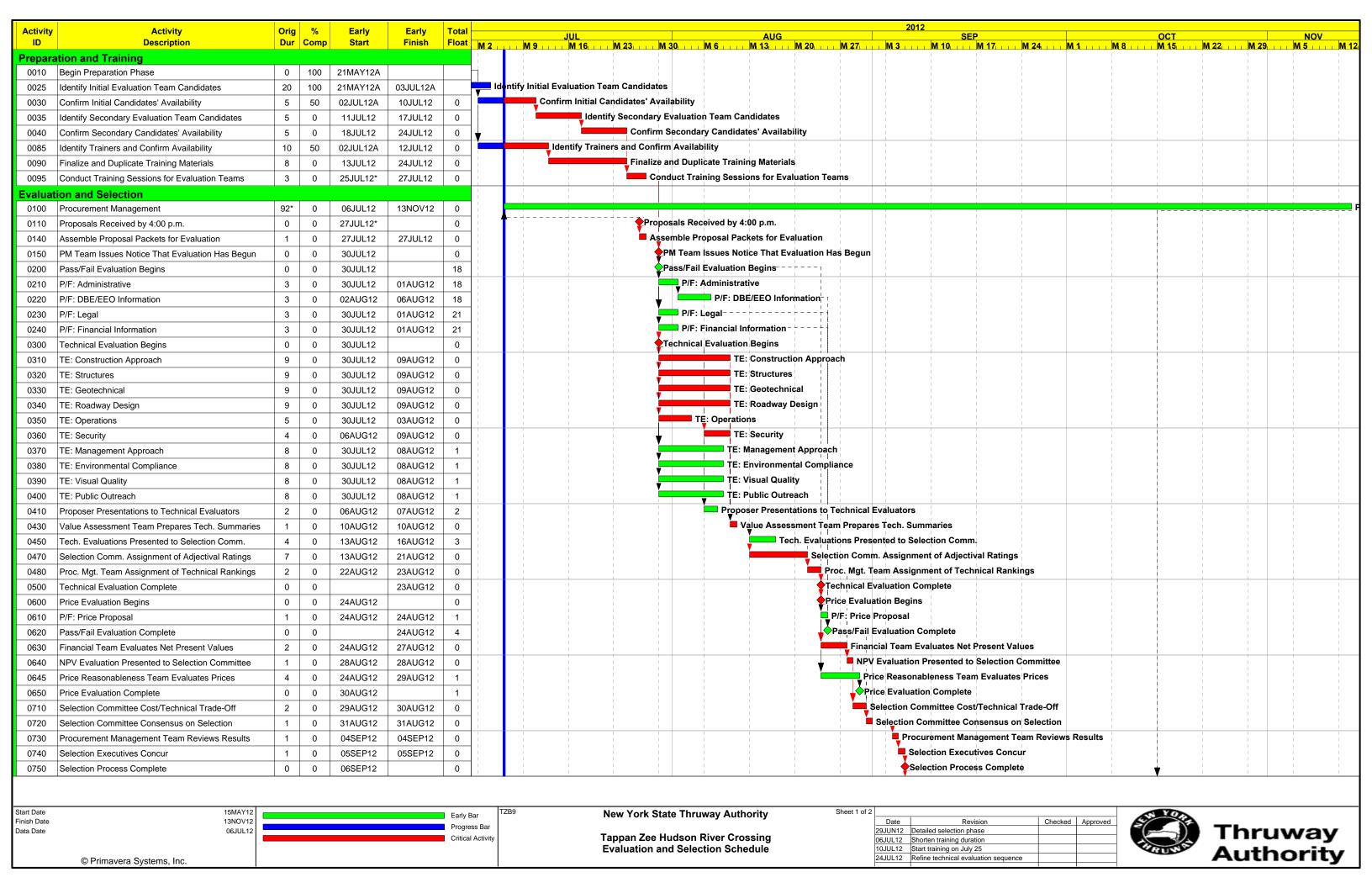
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Procurement Schedule







Training Schedule







PM:

Tappan Zee Hudson River Crossing Project

Wednesday, July 25, 8:30 am – 5:30 pm		
AM:	Introduction	

The Evaluation Process

8:30	Evaluators arrive and sign-in
9:00	Orientation (facility, ground rules, etc.)
9:10	Welcome
9:20	Introduction of Agencies and major players
9:30	Evaluation training schedule
9:40	Evaluation protocol
	 Confidentiality Communication Protocol Document Control
9:50	Design-Build briefing

10:50 Break

11:10 Project overview.....

- Project Goals and Objectives
- Project Development
- Project Components
- Key Issues and Drivers

12:00 Lunch

RFP overview 1:00

- RFP roadmap
- Part 1 Appendix I Project Scope
- ITP Chapter 5 Evaluation of Proposals
- ITP Appendix B Proposer Deliverables
- Reference Documents

1:30 **Evaluation overview.....**

- Procurement Management Team
- Evaluation process flow chart
- Technical Evaluation Factors
- Evaluation Schedule

2:40 Break

3:00 Technical Evaluation Teams.....

- Team Introductions and Roles
- Team Guidelines
- Team Deliverables







Tappan Zee Hudson River Crossing Project

3:45	Value Assessment Team
	• Members
	Value flowchart
	 Deliverables to Selection Committee Presentations to Selection Committee
5:00	Q & A
5:30	Adjourn
7:00	Team Chairs meet with Procurement Management Team
Thursda	y, July 26, 9:00 am – 5:30 pm
AM: R	emaining Teams and the EIS
PM: B	reak-out Sessions
8:30	Evaluators arrive and sign-in
9:00	Non-Technical Evaluation Teams
	• Legal
	FinancialPrice Reasonableness
0.45	
9:45	Role of Selection Committee, Selection Executives
10:45 Br	eak
11:00	Environmental Impact Statement
12:00 Lu	nch
1:00	Technical Team Break-out Sessions Technical Team Chairs
5.00	Adianas Tachaigal Tagas Chains
5:00	Adjourn Technical Team Chairs
7:00	Team Chairs meet with Procurement Management Team
Friday,	July 27, 9:00 am – 12:00 pm
AM: D	ebriefing
8:30	Evaluators arrive and sign-in
9:00	Closing
	Question and answer session
	Instructions going forward
12:00	Adjourn





Technical Team Guidelines







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TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E

Technical Instruction

Construction Approach Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Construction Approach Evaluation Team for assessing the construction approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Construction Approach Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Construction Approach Evaluation Team will focus on primarily on **Subfactor A** below:

A) Construction Approach – "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))

The Construction Approach Evaluation Team also needs to review Subfactors B, C and D, but only as they apply to the construction approach:

- B) <u>Service Life of the Crossing</u> evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing; (ITP 5.1.2.1.(B))
- C) <u>Maximizing the Public Investment</u> evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future loading; (ITP 5.1.2.1.(C))
- D) <u>Bridge, Structures and Aesthetic Design Concepts</u> evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure and aesthetic challenges of the Project; (ITP 5.1.2.1.(D))

Finally, the Construction Approach Evaluation Team also needs to review Factor B above, but only as it applies to the construction approach. Specifically, the Team will review Subfactor A, which is described in the ITP as follows:

A) <u>Schedule</u> — evaluates the integrated scheduling of design and construction and the hauling, access, work traffic zone protection and staging of construction including work relating to the toll plaza required to achieve Project completion within the proposed Contract Deadlines and to minimize disruption to the environment and the public;

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

1) Whether the overall program for construction, as outlined in *Part 1 Appendix I* and *Part 3*, is clearly thought out and presented for the following project components:

- a) Replacement Bridge;
- b) Demolition and removal of the existing bridge
- c) Demolition and removal of other existing facilities that are not part of the permanent Work, including structures on property incorporated into the Right-of-Way
- d) Demolition and removal of temporary construction facilities
- e) Construction staging and schedule.
- f) Reconfigured toll plaza
- g) Replacement of Westchester landing facilities disturbed by construction operations, including the NYSTA Administration Building and New York State Police facilities, cell/radio tower and parking provisions, if displaced by the Design-Builder's operations and/or rehabilitation of existing facilities if these are not displaced by the construction activities
- h) Other building construction
- i) Construction over and adjacent to railroad facilities and related coordination
- 2) What aspects of the construction approach, for the above program, indicate that the primary performance requirements of *Part 1 Appendix I* and *Part 3, summarized below,* will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (I): "A Crossing designed and constructed to allow continued operation, maintenance and security of the existing bridge by the Authority including, but not limited to, operation, maintenance and security activities associated with the seven traffic lanes, reversible lane barrier, toll plaza, maintenance facilities, staff support facilities, emergency access, security facilities and access, utilities, lighting, ITS, signage, barriers and fencing, pavement and structures;"
 - b) Part 1 Appendix I Item 2.2 (d): A crossing with a minimum 100 year service life before major maintenance is required
 - c) Part 1 Appendix I Item 2.2 (o): The Crossing shall provide for Potential Future Loading should a viable plan be developed and implemented in the future
 - d) Part 1 Appendix I Item 2.2(q): All Authority facilities and/or functions/activities displaced by the Design-Builder's operations shall be temporarily relocated or facilitated during construction and reinstated as shown in the Indicative Plans in Part 6 RFP Plans.
 - e) Part 3 Project Requirement 17: "The Design-Builder shall provide WZTC (work zone traffic control) for the safe and efficient movement of people, goods, and services through the Project while maintaining access and minimizing negative impacts to residents, commuters, businesses, toll operations, and NYSTA maintenance operations. This Project Requirement applies to all roads, including the mainline, ramps, cross roads, local streets, maintenance roads, driveways, and active paths within and/or affected by the Project."
- 3) Those aspects of the construction approach that are of particular value or concern to the Authority.
- 4) The technical realism of the construction approach, including:
 - a) Technical aspects not addressed in the proposal.
 - b) Technical aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the construction approach that should be further considered in the negotiation if this proposal is advanced.

b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 4 Site Work
- 9 Utilities
- 17 Work Zone Traffic Control and Access
- 18 Maintenance of Shipping
- 19 Maintenance of Facilities
- 24 Railroad
- 25 Demolition
- 33 SMEP and Fire Safety for Buildings

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Construction Approach Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx. B1.1.1	Construction Staging and Facility Staging Narrative and Plans
ITP Appx. B1.1.2	Piling and Dredging Narrative
ITP Appx. B1.1.3	Protection of Facilities Narrative
ITP Appx. B1.1.4	Utilities Narrative and Plans
ITP Appx. B1.1.5	Property Utilization Plans
ITP Appx. B1.1.6	Initial Demolition and Removal Plan
ITP Appx B1.2.1	Service Life Narrative
ITP Appx. B1.3h	Maximizing Public Investment
ITP Appx. B1.4.2.1 (5)	Structures and Architecture Narratives and Drawings (constructability)
ITP Appx. B1.4.2.3 (2)	Demolition and Removals
ITP Appx. B1.7.1	Initial Work Zone And Traffic Control Plan
ITP Appx. B 2.1.1	Initial Project Phasing / Sequencing Plan
ITP Appx. B 2.1.2	Initial Baseline Project Schedule

Eight of the above deliverables will also be reviewed by other teams:

- 1. *ITP Appx. B1.1.1 Construction Staging and Facility Staging Narrative and Plans* will also be reviewed by Structures, Operations and Security teams.
 - Structures will review the Construction staging sequence in plan for the Crossing
 - Operations will review as it effects operations and the following:
 - Construction staging sequence of each landing and off-site facilities.
 - Plans showing Authority facilities affected by construction staging.
 - o Temporary location and layout for Authority facilities.

- Final location and layout for Authority facilities.
- Schedule of effects on Authority facilities.
- Security will review entire document.
- 2. *ITP Appx. B 1.1.2 Piling and Dredging Narrative* will be the primary responsibility of the Geotechnical Evaluation Team, and will also be reviewed by Environmental Compliance team as there are references to environmental impacts.
- 3. *ITP Appx. B1.1.5 Property Utilization Plans* will also be reviewed by Operations and by Roadway Design.
- 4. *ITP Appx. B1.1.6 Initial Demolition and Removal Plan* will also be reviewed by Operations as it affects the toll plaza and facilities and by Structures if there are any structural elements involved.
- ITP Appx B1.2.1 Service Life Narrative. The Structures Design Evaluation Team will have primary responsibility for the Service Life assessment, but the Construction Approach will be reviewing construction means and methods as they relate to or influence service life.
- 6. ITP Appx. B1.7.1 Initial Work Zone and Traffic Control Plan. The Operations and Security team will review this plan for operational implications; the Roadway Design Team will review it for design aspects; and Construction Approach will review it for any implications for means and methods.
- 7. ITP Appx. B 2.1.1 Initial Project Phasing / Sequencing Plan. This will be reviewed by the same teams as in item 6 above.
- 8. *ITP Appx. B 2.1.2 Initial Baseline Project Schedule.* The schedule will be the primary responsibility of the Management Approach team, but Construction Approach will review it for consistency with means and methods.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- q) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Evaluation Deliverables

- a) Construction Technical Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.

d) Summary Strength Weakness Evaluation Form:
 Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

- Days 1-5 Review Proposer deliverables and prepare questions for Proposers.
- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- <u>Days 8-9</u> Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor A: Construction Approach

Deliverable: Construction Staging and Facility Staging Narrative and Plans (ITP Appendix B – Section B 1.1.1)

- Is the staging of the bridge and facilities coordinated?
- Has the Proposer addressed how the facilities affected by construction will be maintained
- Has the Proposer provided in enough detail how the construction sequence at the landings and coordinated with the demolition of the structure will be done?
- Has the Proposer indicated how the toll plaza will be staged and maintained?
- Has the Proposer indicated how communications will be maintained?
- Has the Proposer indicated delivery routes and are they reasonable?
- If shown, is the site office located near the bridge?

Deliverable: Piling and Dredging Narrative (ITP Appendix B – Section B1.1.2)

 Has the Proposer taken into account dredging near existing foundations of Tappan Zee Bridge

Deliverable: Protection of Facilities Narrative (ITP Appendix B – Section B 1.1.3)

- Does the Proposer provide reasonable protection measures for the facilities
- Are the protection measures proposed easily monitored?
- · Are there thresholds identified and enforceable?

Deliverable: Utilities Narrative and Plans (ITP Appendix B - Section B 1.1.4)

• Has the proposer explained in enough detail how the utilities will be maintained throughout construction

Deliverable: Property Utilization Plans (ITP Appendix B – Section B 1.1.5)

- Is the final property utilization consistent with the Agencies requirements?
- Does the proposed staging areas have any impact on the surrounding communities?

Deliverable: Initial Demolition and Removal Plan (ITP Appendix B – Section B 1.1.6)

Has the demolition plan been coordinated with the construction staging plan?

Subfactor B: Service Life of the Crossing

Deliverable: Service Life Narrative (ITP Appendix B – Section B1.2.1)

 Has the Proposer indicated curing times for concrete? The longer the concrete is kept moist, the stronger and more durable it will become.

•

Subfactor C: Maximizing the Public Investment

Deliverable: Maximizing Public Investment Plan (ITP Appendix B – Section B 1.3)

- How has the Proposer incorporated future loadings into their design of the foundations and towers?
- Does the proposer show the constructability of the future loadings
- How easily are future loadings incorporated into the design and constructed?

Subfactor D: Bridge, Structures and Aesthetic Design Concepts

Deliverable: Structures and Architecture Narratives and Drawings (*ITP Appendix B – Section B* 1.4.2.1 (5) Constructability))

- Is construction equipment used applicable to the work shown
- Has the Proposer shown temporary supports, false work
- How does the Proposer plan on controlling geometry by the erection procedure being proposed?

•

Deliverable: Demolition and Removals (ITP Appendix B – Section B 1.4.2.3 (2))

 Has the Proposer shown the limits of demolition and does it impact the existing or proposed facilities or structures?

Subfactor G: NYSTA Operations and Security

Deliverable: Initial Work Zone and Traffic Control Plan (ITP Appendix B – Section B 1.7.1)

Does the Proposer provide the required number of lanes throughout construction?

Technical Factor: B) Management Approach

Subfactor A: Schedule

Deliverable: Initial Project Phasing / Sequencing Plan (ITP Appendix B - Section B 2.1.

 Is the duration of construction stages reasonable and consistent with the means and methods?

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New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Structures Design Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Structures Design Evaluation Team for assessing the structure of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Structures Design Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Structures Design Evaluation Team will consider only **Subfactors B, C, and D** below:

- B) <u>Service Life of the Crossing</u> evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing; (ITP 5.1.2.1.(B))
- C) <u>Maximizing the Public Investment</u> evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future loading; (ITP 5.1.2.1.(C))
- D) <u>Bridge, Structures and Aesthetic Design Concepts</u> evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure and aesthetic challenges of the Project; (ITP 5.1.2.1.(D)

The Structures Design Evaluation Team also needs to review Subfactors A and G, but only as they relate to design considerations:

- A) <u>Construction Approach</u> "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))
- G) NYSTA Operations and Security evaluates how well the Proposer utilizes the available right-of-way, understands, integrates and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing (ITP 5.1.2.1.(G))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for the design, as outlined in *Part 1 Appendix I* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Replacement Bridge;
 - b) Landings; and
 - c) Future loadings.

- What aspects of the structures design, for the above program, indicate that the primary performance requirements of Part 1 Appendix I and Part 3, summarized below, will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (I): "A Crossing designed and constructed to allow continued operation, maintenance and security of the existing bridge by the Authority including, but not limited to, operation, maintenance and security activities associated with the seven traffic lanes, reversible lane barrier, toll plaza, maintenance facilities, staff support facilities, emergency access, security facilities and access, utilities, lighting, ITS, signage, barriers and fencing, pavement and structures";
 - b) Part 1 Appendix I Item 2.2 (d): "A Crossing with a minimum 100-year service life before Major Maintenance is required";
 - c) Part 1 Appendix I Item 2.2 (g): "A Crossing with capacity to withstand extreme events, both natural and intentional, during construction and after completion in accordance with the Part 3 Project Requirements";
 - d) Part 1 Appendix I Item 2.2 (j): "A Crossing designed and constructed to incorporate scour protection systems within the Project Limits";
 - e) Part 1 Appendix I Item 2.2 (o): "The Crossing shall provide for potential future loading should a viable plan be developed and implemented in the future";
 - f) Part 3 Project Requirement 10 "...knowledge and understanding of the geotechnical, geologic, hydrogeology and seismic settings of the Project Site and how the nature and behavior of the soil, rock, groundwater and subsurface conditions will affect the design and methods of construction";
 - g) Part 3 Project Requirement 11: "The design and construction of all structural systems and components shall provide functionality, durability, ease of maintenance, safety, and pleasant aesthetics."
- 3) Those aspects of the design that are of particular value or concern to the Authority.
- 4) The technical realism of the design, including:
 - a) Structures design aspects not addressed in the proposal.
 - b) Structures design aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the structures design that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 10 Geotechnics
- 11 Structures
- 21 Shared-use Path
- 25 Demolition
- 28 Bridge Maintenance and Operating Requirements

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Structures Design Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx. B1.1.1	Construction Staging and Facility Staging Narrative and Plans
ITP Appx. B1.1.6	Initial Demolition and Removal Plan
ITP Appx. B1.2.1	Service Life Narrative
ITP Appx. B1.2.2	Initial Corrosion Protection and Maintenance Plan
ITP Appx. B1.3	Maximizing the Public Investment Plan
ITP Appx. B1.4.1	Initial Design Plan
ITP Appx. B1.4.2.1 (2)	Structures and Architecture Narratives and Drawings (Substructures)
ITP Appx. B1.4.2.1 (3)	Structures and Architecture Narratives and Drawings (Seismic)
ITP Appx. B1.4.2.1 (4)	Structures and Architecture Narratives and Drawings (Superstructures)
ITP Appx. B1.4.2.2	Main Span Crossing
ITP Appx. B1.4.2.3 (1)	Other Structures Retaining Walls Abutments and Noise Barriers
ITP Appx. B1.4.2.3 (2)	Other Structures Retaining Demolition and Removals
ITP Appx. B1.6.2	Shared Use Path
ITP Appx. B1.7.2	Initial Bridge Access Strategy Plan

Nine of the above deliverables will also be reviewed by other teams:

- 1. *ITP Appx. B1.1.1 Construction Staging and Facility Staging Narrative and Plans* will also be reviewed by Construction Approach and Operations and Security teams:
 - Structures will review the Construction staging sequence for the Crossing for consistency with the design;
 - Operations will review as it affects operations and the following:
 - o Construction staging sequence of each landing and off-site facilities;
 - Plans showing Authority facilities affected by construction staging;
 - Temporary location and layout for Authority facilities;
 - o Final location and layout for Authority facilities; and
 - Schedule of effects on Authority facilities;
 - Security will review the entire document;
- 2. *ITP Appx. B1.1.6 Initial Demolition and Removal Plan.* The Construction Approach Team will have primary responsibility for this plan, but Structures will review it for any implications for the new Crossing. Operations will review it for how it affects the toll plaza and facilities;
- 3. *ITP Appx. B1.2.1 Service Life Narrative.* The structures team will have primary responsibility for this plan, but it will also be reviewed by the Construction Approach, Roadway Design and Geotechnical Teams;

- 4. *ITP Appx. B1.2.2 Initial Corrosion Protection and Maintenance Plan.* Geotechnical will be reviewing piles, pile caps and footings as it relates to corrosion and maintenance. Structures will be reviewing everything else;
- ITP Appx. B1.3 Maximizing the Public Investment Plan. Geotechnical will be reviewing foundation design, including relevant measures incorporated into the design of piles and pile groups. The Structures team will be reviewing everything else;
- 6. *ITP Appx. B1.4.1 Initial Design Plan.* This also will be reviewed by Geotechnical and Roadway Design teams;
- 7. ITP Appx. B1.4.2.3 (1) Other Structures Retaining Walls Abutments and Noise Barriers, Visual Quality will also be reviewing as this reference requires surface treatments;
- 8. ITP Appx. B 1.6.2 Shared Use Path Plans. The Structures team will also review as there is a structural component for supporting the path in the deliverable. "...Plans showing shared-use path, including plan and profile drawings, cross-section drawings reflecting the various cross-sections proposed on the crossing and at the landings, transition area layouts, belvederes, road crossing layout plans, terminations, notification/informational signing concepts, and preliminary surface and structural section designs;" and
- 9. ITP Appx. B1.7.2 Initial Bridge Access Strategy Plan. The Operations and Security Team will have primary responsibility for this plan, but Structures will also review it for design implications: "...shall provide an Initial Bridge Access Strategy Plan that describes the Proposer's proposed plan for physical access by personnel and equipment to be used for operation and maintenance of the completed Crossing."

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- q) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Deliverables

- a) Structure design Technical Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

Days 1-5 – Review Proposer deliverables and prepare questions for Proposers.

<u>Days 6-7</u> – One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)

Days 8-9 - Complete Team deliverables

<u>Day 10-15</u> – Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor A: Construction Approach

Deliverable: Construction Staging and Facility Staging Narrative and Plans (*ITP Appendix B – Section B 1.1.1*)

Deliverable: Initial Demolition and Removal Plan (ITP Appendix B – Section 1.1.6)

The aspect the structural team should focus on in Construction Staging and Facility Staging Narrative and Plans and Initial Demolition and Removal Plan are;

- Type of construction method consistent with structure proposed
- Structural stability during construction and demolition

Subfactor B: Service Life of the Crossing

Deliverable: Service Life Narrative (ITP Appendix B – Section 1.2.1)

Deliverable: Initial Corrosion Protection and Maintenance Plan (ITP Appendix B - Section 1.2.2)

More items to consider in the evaluation of the Crossing and are;

Materials

- Higher Concrete Strength provides more durability
- Mix requirements for concrete if submitted. Additives used.
- Type of Coatings- Paint, galvanized, metalized and on what elements

Added Protection

- What measures are proposed to extend the service life of the structure Increase in cover concrete
 Sacrificial steel has this been used anywhere to prolong service life of structure
- Cable Stay Protection measures
 Industry standard The strands of each stay cable shall be greased or waxed and individually sheathed by Polyethylene (PE). The bundle of strands shall be placed in a PE pipe. The space between the PE pipe and the strand bundle is not filled.
- Types of reinforcement and used where. i.e. Stainless in splash zones, Barriers, Deck top of pier caps, columns near roadway, columns in tidal zone
- Deck protection- type of wearing course and waterproof membrane if used. Type of rebar used in deck
- Protective sealers for concrete penetrating or coating

Maintenance

- Maintenance access components that have service lives less than 100 years easily replaced.
- Frequency of replacement of parts; are they different from specification.
 For components See Tables below excerpted from Project Requirements
 Section 11 Table 11.3-2 and 3

Table 11.3-2 Minimum Service Life for Non-Replaceable Components

Non-Replaceable Components	Minimum Service Life (years)
Towers, pi les, pi le c aps, pi ers, pi er caps, dec k an d superstructure	<mark>100</mark>

Table 11.3-3 Minimum Service Life for Replaceable Components

Replaceable Components	Minimum Service Life (years)
Stay cables and tie-down cables	<mark>60</mark>
External post-tensioning cables	<mark>60</mark>
Bridge bearings	<u>50</u>
Expansion joints	<mark>30</mark>
Concrete bridge and approach barrier	<mark>60</mark>
Bridge rail / approach guide rail	<mark>30</mark>
Dampers (cylinder)	<u>50</u>
Dampers (other movable parts)	<mark>30</mark>
Separate bridge deck wearing surface	<mark>30</mark>

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Overhead sign structures	40
Drainage system	<mark>75</mark>
Access (towers and piers): Internal access ladders, platforms etc. (galvanized and coated)	<mark>60</mark>
Access elevators in towers	<mark>40</mark>
Inspection: stay-cable and arch hanger gantry	<mark>60</mark>
Inspection: under-deck and arch travelers	<mark>60</mark>
Stay cable dampers	40
Dehumidification system	<mark>30</mark>
Coating – superstructure ex ternal f or or thotropic box, composite box	<mark>20</mark>
Access: electrical and mechanical parts	<mark>30</mark>
Other proposed components	As negotiated

- How is the minimum service life of non-replaceable and replaceable components achieved in the design and construction processes
- What maintenance regime is assumed
- Inspection are all elements accessible for biennial inspections by means of motorized inspection access equipment, ladders, walkways or climbing. Are tieoffs provided in locations where required. Review abutments, piers, girders, towers, cables.
- Dehumidification required for steel box girders
- Number of expansion joints requiring maintenance. How easily replaced
- Number of bearings requiring maintenance. How easily replaced
- Any areas have potential to trap debris. Particularly bottom flange built-up girders are prone to this.
- Extent of bridge monitoring. Will the information gathered be useful? Weigh in motion, anemometer, tilt for piers.

Subfactor C: Maximizing the Public Investment

Deliverable: Maximizing the Public Investment Plan (ITP Appendix B - Section B 1.3)

More items to consider in the evaluation are;

- How easily is it incorporated
- How much additional work is required to build in the future
- Space available for future transit
- Space provided for additional cable stays if applicable
- Space provided for additional tendons in box girders if applicable

Piers separate or integral

Subfactor D: Bridge, Structures and Aesthetic Design Concept
Deliverable: Initial Design Plan (*ITP Appendix B – Section B 1.4.1*)

Deliverable: Structures and Architecture Narratives and Drawings (*ITP Appendix B – Section B* 1.4.2.1)

Structural items to consider in the evaluation of the Crossing are;

- How articulation is handled between differing soil types on the crossing
- Explain whether wind screens are needed at towers for cable stay option
- Review Span lengths
- Review Cross sections
- Amount of piers

Deliverable: Main Span Crossing Plans (ITP Appendix B – Section B 1.4.2.2)

Deliverable: Other Structures Plans (ITP Appendix B – Section B 1.4.2.3)

Subfactor F: Roadway Design Concepts

Deliverable: Shared Use Path (ITP Appendix B – Section B 1.6.2)



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Geotechnical Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Geotechnical Evaluation Team for assessing the construction approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Geotechnical Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Geotechnical Evaluation Team will consider only **Subfactors A and E** below:

- A) <u>Construction Approach</u> "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))
- E) <u>Geotechnical</u>— "Evaluates how well the Proposer understands and proposes to address the subsurface investigation, foundation design and construction, settlement, earth stability, and monitoring aspects of the Project." (ITP 5.1.2.1.(E))

The Geotechnical team also needs to review Subfactors B, C and D, but only as they apply to the geotechnical aspects of the project and not as in depth as the structures team review:

- B) <u>Service Life of the Crossing</u> evaluates how creative and robust the Proposer is in maximizing the service life of the Crossing, and in minimizing and simplifying maintenance operations during the service life of the Crossing; (ITP 5.1.2.1.(B))
- C) <u>Maximizing the Public Investment</u> evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future loading; (ITP 5.1.2.1.(C))
- D) <u>Bridge, Structures and Aesthetic Design Concepts</u> evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure and aesthetic challenges of the Project; (ITP 5.1.2.1.(D))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

1) Whether the geotechnical aspects of the proposal support the overall program, as outlined in *Part 1 Appendix I* and *Part 3*, and are clearly thought out and presented for the following project components:

Foundations:

- a) Piles:
- b) Footings;
- c) Pile caps
- 2) What aspects of the geotechnical work, for the above program, indicate that the primary performance requirements of *Part 1 Appendix I* and *Part 3*, *summarized below*, will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (I): "A Crossing designed and constructed to allow continued operation, maintenance and security of the existing bridge by the Authority including, but not limited to, operation, maintenance and security activities associated with the seven traffic lanes, reversible lane barrier, toll plaza, maintenance facilities, staff support facilities, emergency access, security facilities and access, utilities, lighting. ITS, signage, barriers and fencing, pavement and structures":
 - b) Part 1 Appendix I Item 2.2 (d): "A Crossing with a minimum 100-year service life before Major Maintenance is required";
 - c) Part 1 Appendix I Item 2.2 (g): A Crossing with capacity to withstand extreme events, both natural and intentional, during construction and after completion in accordance with the Part 3 Project Requirements";
 - d) Part 1 Appendix I Item 2.2 (j): "A Crossing designed and constructed to incorporate scour protection systems within the Project Limits";
 - e) Part 1 Appendix I Item 2.2 (o): "The Crossing shall provide for potential future loading should a viable plan be developed and implemented in the future";
 - f) Part 3 Performance Requirement 10 "...knowledge and understanding of the geotechnical, geologic, hydrogeology and seismic settings of the Project Site and how the nature and behavior of the soil, rock, groundwater and subsurface conditions will affect the design and methods of construction".
- Those aspects of the geotechnical work that are of particular value or concern to the Authority.
- 4) The technical realism of the geotechnical work, including:
 - a) Technical aspects not addressed in the proposal.
 - b) Technical aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the geotechnical work that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 10 Geotechnics
- 11 Structures

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Geotechnical Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections:

Reference	Deliverable
ITP Appx B1.5	Geotechnical Work Plan
ITP Appx B 1.1.2	Piling and Dredging Narrative
ITP Appx B1.2.1	Service Life Narrative
ITP Appx B1.2.2	Initial Corrosion Protection and Maintenance Plan
ITP Appx B1.3	Maximizing the Public Investment Plan
ITP Appx B1.4.1	Initial Design Plan
ITP Appx B1.4.2.1 (1)	Structures and Architecture Narratives and Drawings (Foundations/Geotechnical)
ITP Appx B1.4.2.1 (3)	Structures and Architecture Narratives and Drawings (Seismic)

Five of the above deliverables will also be reviewed by other teams:

- 1. *ITP Appx B 1.1.2 Piling and Dredging Narrative* will also be reviewed by the Construction Approach Team for consistency with means and methods, and by the Environmental Compliance Team.
- 2. *ITP Appx B1.2.1 Service Life Narrative*. Geotechnical will be reviewing piles, pile caps and footings as it relates to service life. Structures will be reviewing everything else.
- 3. *ITP Appx B1.2.2 Initial Corrosion Protection and Maintenance Plan*. Geotechnical will be reviewing piles, pile caps and footings as it relates to corrosion and maintenance. Structures will be reviewing everything else.
- 4. *ITP Appx B1.3 Maximizing the Public Investment Plan*. Geotechnical will review how well the foundation design accounts for potential future loading and supports the goal of maximum future flexibility, including relevant measures incorporated into the location and design of piles and pile groups.
- 5. *ITP Appx B1.4.1 Initial Design Plan* will be reviewed by Geotechnical, Structures Design and Roadway Design teams.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.

- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Evaluation Team Deliverables

- a) Geotechnical Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

- Days 1-5 Review Proposer deliverables and prepare questions for Proposers.
- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- Days 8-9 Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor E: Geotechnical

Deliverable: Geotechnical Work Plan (ITP Appendix B – Section B 1.5)

Geotechnical items to consider in the evaluation of the Crossing;

- Site Characterization:
 - o Soil stratigraphy:
 - Did the DB Identify and understand of all unique subsurface conditions along the alignment?
 - Did the DB create a geologic section?
 - How does it compare with boring data?
 - How does it differ?
 - Foundation Zones:
 - How many foundation zones were selected?
 - Do the foundation zones adequately cover the variability of Subsurface conditions?
- Soil Design Parameters

- What is the DBs basis of selecting design parameters?
 - CPTs, Laboratory testing, Correlations, Suspension logging, In-situ testing, PIDP data, or a Combination
- Soil parameter evaluation
 - How aggressive/conservative are the DB design parameters?
 - Are they missing any parameters?

Foundation Design

- o PIDP Data
 - How did the DB incorporate results from PIDP in their design?
- Friction Piles:
 - What are the ultimate capacities assumed?
 - What analysis methods did they use?
 - How do they compare with PIDP results? Are they aggressive/conservative?
 - What percentage is end bearing/side friction?
 - How did the DB account for group effects? Is it consistent with pile spacing used?
 - What is the settlement estimate of the pile group? How did the DB estimate this?
 - Is the estimated settlement accounted for in the bridge structure?
 - Are parameters used aggressive or conservative?
- o Piles to rock:
 - What are the ultimate capacities assumed
 - How do they compare with the PIDP results? Aggressive or conservative
 - What analysis methods were used?.
- Lateral Capacities/deflection:
 - What are the lateral deflections of the pile cap?
 - Are these reasonable?
 - Was a detailed analysis performed?
- Pile lengths
 - Are they using splices? If yes where and how many per pile?
 - Did they consider strain compatibility of the various soils.
 - (extremely long pile may not carry load to the tip)
- Rock Socketed Piles
 - What are the allowable bond values/end bearing used in rock sockets?
 - How long are the rock sockets?

Seismic Design Issues

- What dynamic analysis methods were used?
- o Site Response Study.
- Liquefaction Assessment
 - Was it a detailed evaluation or not critically addressed. Did they use the cyclic testing results?

What are the CSR demands on the soil?

Other Items

Does the Scope of subsurface investigation including proposed laboratory testing program meet the requirements of the RFP?

Resumes of Geotechnical, Instrumentation and Seismic lead engineers.

Subfactor A: Construction Approach

Deliverable: Piling and Dredging Narrative (ITP Appendix B –Section B1.1.2)

Geotechnical items to consider in the evaluation of the Crossing;

- Foundation Installation
 - Pile driving methods assumed by DB:
 - vibrating piles:
 - How deep do they propose to vibrate piles?
 - · What soils can they penetrate with vibratory methods?
 - driving piles
 - What hammer type(s) are assumed
 - Was there are drivability study performed?
 - · What driving criteria are established?
 - Pile details
 - welding details for splices (full penetration welds)
 - pile shoes for piles bearing on rock
 - Monitoring of existing bridge during construction
 - settlement
 - vibration
 - Coordination of foundations with existing bridge
 - Could be overlap of foundations at certain locations
 - Has this been identified in their documentation?
 - Coordination of foundation installation methods with Environmental Issues
 - Is their foundation construction schedule realistic given the environmental constraints?
 - What is their approach to temporary cofferdams?
 - Scope and detail of their Pile Load Test Program

- Does it meet requirements of RFP?
- Support of Excavation Systems and embankment construction at Rockland and Westchester landings

Subfactor B: Service Life of the Crossing

Deliverable: Service Life Narrative (ITP Appendix B – Section 1.2.1)

Deliverable: Initial Corrosion Protection and Maintenance Plan (ITP Appendix – Section B1.2.2)

Table 11.3-2 Minimum Service Life for Non-Replaceable Components

Non-Replaceable Components		- <mark>Iinimur</mark>	n Service Life (years)
Towers, piles, pile caps, piers, pier caps, deck and superstructure			100

More items to consider in the evaluation of the Crossing are;

Geotechnical items to consider in the evaluation;

- Corrosion protection methods and their appropriateness
- Are the piles completely submerged?
- Reinforcing types and cover in foundations
- Properties of the concrete to be used in foundations

Subfactor C: Maximizing the Public Investment

Deliverable: Maximizing the Public Investment Plan (ITP Appendix B – Section B1.3)

More Geotechnical items to consider in the evaluation are;

- Piers separate or integral
- Arrangement of piles to maximize efficiency.
- No additional piles should be required for future loading

Subfactor B: Bridge Structures & Aesthetic Design Concept

Deliverable: Initial Design Plan (ITP Appendix B – Section B 1.4.1)

Deliverable: Structures and Architecture Narratives and Drawings (ITP Appendix B – Section B1.4.2)

This includes a thorough assessment of the following bridge structures:

- a. the Crossing, including approach structures and the Main Span;
- temporary access bridge crossing Metro-North Railroad's Hudson Line railroad, if applicable; and
- c. Shared-Use Path crossings.

More items to consider in the evaluation of the Crossing;

- Elevation of pile caps relative to ranges in Hudson River Levels
- Bridge Pier protection systems



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Roadway Design Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Roadway Design Evaluation Team for assessing the roadway design of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Roadway Design Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Roadway Design Evaluation Team will consider only **Subfactor F** below:

F) Roadway Design Concepts – "evaluates how well the Proposer understands the design and construction challenges of the roadway, traffic, shared-use path, property utilization, toll plaza, ITS and electronic toll collection, drainage and utilities for the Project and the interaction and coordination required for the toll plaza and associated toll system;" (ITP 5.1.2.1.(F))

The Roadway Design Evaluation Team also needs to review Subfactors A, C and G, but only as they relate to roadway design considerations.

- A) Construction Approach "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))
- C) <u>Maximizing the Public Investment</u> evaluates how creative and robust the Proposer is in design and construction solutions that maximize the public investment for potential future loading; (ITP 5.1.2.1.(C))
- G) NYSTA Operations and Security evaluates how well the Proposer utilizes the available right-of-way, understands, integrates and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing (ITP 5.1.2.1.(G))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition,

the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for design and construction, as outlined in *Part 1 Appendix I* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Roadways
 - b) Traffic
 - c) Shared use path
 - d) Property utilization
 - e) Toll plaza
 - f) ITS and electronic toll collection

- g) Drainage
- h) Utilities
- 2) What aspects of the roadway design, for the above program, indicate that the primary performance requirements of *Part 1 Appendix I* and *Part 3, summarized below,* will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (I): "A Crossing designed and constructed to allow continued operation, maintenance and security of the existing bridge by the Authority including, but not limited to, operation, maintenance and security activities associated with the seven traffic lanes, reversible lane barrier, toll plaza, maintenance facilities, staff support facilities, emergency access, security facilities and access, utilities, lighting, ITS, signage, barriers and fencing, pavement and structures;"
 - b) Part 1 Appendix I Item 2.2 (o): "The Crossing shall provide for potential future loading should a viable plan be developed and implemented in the future";
 - c) Part 3 Project Requirement 17: "The Design-Builder shall provide WZTC (work zone traffic control) for the safe and efficient movement of people, goods, and services through the Project while maintaining access and minimizing negative impacts to residents, commuters, businesses, toll operations, and NYSTA maintenance operations. This Project Requirement applies to all roads, including the mainline, ramps, cross roads, local streets, maintenance roads, driveways, and active paths within and/or affected by the Project."
- 3) Those aspects of the construction approach that are of particular value or concern to the Authority.
- 4) The technical realism of the construction approach, including:
 - a) Technical aspects not addressed in the proposal.
 - b) Technical aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the construction approach that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 7 Right of Way
- 9 Utilities
- 14 Signing, Pavement Marking and Signals
- 16 Intelligent Transportation Systems
- 17 Work Zone Traffic Control and Access
- 21 Shared-Use Path
- 22 Subgrade Supported Pavement
- 23 Drainage and Stormwater
- 24 Railroad
- 25 Demolition
- 26 Toll Plaza
- 27 Highway Design

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Roadway Design Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections:

Reference	Deliverable
ITP Appx. B 1.1.4	Utilities Narrative and Plans
ITP Appx. B 1.1.5	Property Utilization Plans
ITP Appx. B 1.1.6	Initial Demolition and Roadway Plan
ITP Appx. B1.3	Maximizing the Public Investment Plan
ITP Appx. B 1.6.1	Roadway Design Concepts Plans
ITP Appx. B 1.6.2	Shared Use Path Plans
ITP Appx. B 1.6.3	Drainage Concept Plans
ITP Appx. B 1.7.1	Initial Work Zone Traffic Control Plan

Three of the above deliverables will also be reviewed by other teams:

- ITP Appx. B 1.1.6 Initial Demolition and Roadway Plan will be reviewed by the Construction Approach and Environmental Compliance Teams.
- ITP Appx. B1.3 Maximizing the Public Investment Plan will be reviewed by Construction Approach, Geotechnical, Structures Design, and Operations and Security Evaluation Teams.
- 3. ITP Appx. B 1.6.2 Shared Use Path Plans. The Structures team will also review as there is a structural component for supporting the path in the deliverable. "...Plans showing shared-use path, including plan and profile drawings, cross-section drawings reflecting the various cross-sections proposed on the crossing and at the landings, transition area layouts, belvederes, road crossing layout plans, terminations, notification/informational signing concepts, and preliminary surface and structural section designs."
- 4. *ITP Appx. B 1.7.1 Initial Work Zone Traffic Control Plan* will be reviewed by the Operations and Security Evaluation Team.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Deliverables

- a) Roadway Technical Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

- Days 1-5 Review Proposer deliverables and prepare questions for Proposers.
- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- <u>Days 8-9</u> Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor C: Maximizing the Public Investment

Deliverable: Maximizing the Public Investment Plan (ITP Appendix B – Section B 1.3)

Subfactor F: Roadway Design Concepts

Deliverable: Roadway Design Concepts Plan (ITP Appendix B – Section B 1.6.1)

Items to consider in the evaluation the roadway;

- Compatibility with future loading requirement use of spiral transitions, or other means and methods to make the new roadway compatible for future cases
- Compliance with project specific and general Roadway Design principles of grade, lanes, shoulders etc
- Drainage flow paths and channel widths, self cleansing flows etc more detail given below
- Overall performance of roadway with respect to signage, ATMS, lane configuration, toll approach layout etc.
- Avoidance of new non standard features
- Not increasing severity of existing non standard features

Elimination of non standard features through innovative design approach

Deliverable: Shared Use Path Plans (ITP Appendix B – Section B 1.6.2)

Items to consider in the evaluation the Shared Use Path;

- Connectivity
- Flexibility for emergency access
- Security and lighting
- Location and amenities at belvederes

Deliverable: Drainage Concept Plans (ITP Appendix B – Section B 1.6.3)

Items to consider in the evaluation of drainage;

- Knowledge of existing stormwater infrastructure in terms of location, size, condition, status (i.e. in service, abandoned, out of service) and ownership;
- Number, size, existing land use and soil characteristics of catchment areas;
- Preservation of existing stormwater infrastructure functionality during and post construction within project limits;
- Number and size of new stormwater structures (catchbasins, manholes, water quality / quantity devices, outfalls etc);
- Length, type, depth and size of new stormwater piping;
- Extent of re-use of existing stormwater infrastructure versus new stormwater infrastructure;
- Estimate of residual design life of re-used existing stormwater infrastructure;
- Location and quantity of stormwater structures requiring maintenance access;
- Frequency of maintenance regime required for new and re-used stormwater infrastructure;
- Method of meeting stormwater quantity and quality requirements;
- Redundancy of stormwater system;
- Flexibility of stormwater system and proposed adaptive management strategies;
- Mitigation of potential hydroplaning risks;
- Temporary drainage provisions during construction;
- Erosion and sedimentation control provisions during and post construction;
- Potential stormwater re-use opportunities?;
- Functional and aesthetic integration of stormwater infrastructure with proposed landscaping, structural, toll plaza, building and highway elements;
- Integration of stormwater infrastructure with environmental compliance requirements;
- Is there any stormwater pumping required, or does everything work with gravity?; and
- Stormwater permitting/approvals process and implications to schedule.

Subfactor G: NYSTA Operations and Security

Deliverable: Initial Work Zone Traffic Control Plan (ITP Appendix B – Section B 1.7.1)



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E

Technical Instruction

Operations and Security Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Operations and Security Evaluation Team for assessing the construction approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Operations and Security Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Operations and Security Evaluation Team will primarily focus their attention on **Subfactor G** below:

G) NYSTA Operations and Security – evaluates how well the Proposer utilizes the available right-of-way, understands, integrates and plans for continued operation of NYSTA facilities as well as traffic operations, maintenance activities and security of the existing Governor Malcolm Wilson Tappan Zee Bridge and the new Crossing.

The Operations and Security Evaluation Team also needs to review Subfactors A, B and F, but only as they relate to operations and security:

- A) Construction Approach "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))
- F) Roadway Design Concepts "evaluates how well the Proposer understands the design and construction challenges of the roadway, traffic, shared-use path, property utilization, toll plaza, ITS and electronic toll collection, drainage and utilities for the Project and the interaction and coordination required for the toll plaza and associated toll system;" (ITP 5.1.2.1.(F))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

- 1) The proposal is a basis for technical evaluation to be conducted prior to award.
 - In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the

RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for design and construction, as outlined in *Part 1 Appendix I* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Operations
 - b) Security
 - c) Phasing of work
 - d) Property utilization
 - e) Toll plaza
 - f) ITS and electronic toll collection
 - g) Maintenance access and egress

- 2) What aspects of the operations, for the above program, indicate that the primary performance requirements of *Part 1 Appendix I* and *Part 3, summarized below,* will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (I): "A Crossing designed and constructed to allow continued operation, maintenance and security of the existing bridge by the Authority including, but not limited to, operation, maintenance and security activities associated with the seven traffic lanes, reversible lane barrier, toll plaza, maintenance facilities, staff support facilities, emergency access, security facilities and access, utilities, lighting, ITS, signage, barriers and fencing, pavement and structures;"
 - b) Part 3 Project Requirement 17: "The Design-Builder shall provide WZTC (work zone traffic control) for the safe and efficient movement of people, goods, and services through the Project while maintaining access and minimizing negative impacts to residents, commuters, businesses, toll operations, and NYSTA maintenance operations. This Project Requirement applies to all roads, including the mainline, ramps, cross roads, local streets, maintenance roads, driveways, and active paths within and/or affected by the Project."
- Those aspects of operation and security that are of particular value or concern to the Authority.
- 4) The technical realism of the operations and security approach, including:
 - a) Technical aspects not addressed in the proposal.
 - b) Technical aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the operations and security approach that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 6 Third Party Agreements
- 7 Right of Way
- 9 Utilities
- 17 Work Zone, Traffic Control and Access
- 18 Maintenance of Shipping
- 19 Maintenance Facilities
- 20 Security
- 28 Bridge Maintenance and Operating Requirements
- 30 State Police Facilities
- 31 Buildings
- 33 SMEP and Fire Safety for Buildings

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Operations and Security Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections:

Reference	Deliverable
ITP Appx. B1.1.1	Construction Staging And Facility Staging Narrative & Plans
ITP Appx. B1.1.5	Property Utilization Plan
ITP Appx. B1.1.6 c, d	Initial Demolition and Removal Plan
ITP Appx. B1.2.2	Initial Corrosion Protection and Maintenance Plan
ITP Appx. B1.3 h	Maximizing Public Investment Plan
ITP Appx. B1.7.1	Initial Work Zone Traffic Control Plan
ITP Appx. B1.7.2	Initial Bridge Access Strategy Plan
ITP Security Requirements	Security Management System
ITP Security Requirements	Site Security Plan
ITP Security Requirements	Security Staging Plan
ITP Security Requirements	Incident Response Plan
ITP Security Requirements	Bridge Protection Plan

Six of the above deliverables will also be reviewed by other teams:

- 1. ITP Appx. B1.1.1 Construction Staging and Facility Staging Narrative and Plans will also be reviewed by Construction Approach and Structures teams.
 - Structures will review the Construction staging sequence in plan for the Crossing
 - Operations will review as it affects the operations of NYSTA and the following;
 - Construction staging sequence of each landing and off-site facilities.
 - o Plans showing Authority facilities affected by construction staging.
 - Temporary location and layout for Authority facilities.
 - Final location and layout for Authority facilities
 - Schedule of effects on Authority facilities.
 - Security will review entire document
- 2. ITP Appx. B1.1.5 Property Utilization Plan. This will be the primary responsibility of the Roadway Design Team, and will also be reviewed by the Environmental Compliance Team. Operations will review "...plans identifying the temporary and permanent requirements for the construction and sequencing of the Work, including all temporary use access and construction easements and staging areas, as well as the final permanent footprint of the constructed improvements, defined easements, and access ways"
- 3. ITP Appx. B1.2.2 Initial Corrosion Protection and Maintenance Plan. This will be the primary responsibility of the Structures Design Team. Operations will review it in relation to: (ii) how the Proposer's design and construction approach will minimize short-term and long-term maintenance efforts and costs for the completed Project..
- 4. ITP Appx. B1.3 h Maximizing Public Investment h. This will be reviewed by the Structures Design, Roadway Design and Geotechnical Teams. Operations will review for operational aspects such as widths and access arrangements proposed for emergency and maintenance vehicles serving the potential future loading elements;
- 5. *ITP Appx. B1.7.1 Initial Work Zone Traffic Control Plan* will also be reviewed by the Construction Approach and Security teams.

6. ITP Appx. B1.7.2 Initial Bridge Access Strategy Plan will also be reviewed by the Structures Team.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Deliverables

- a) Operations Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

- Days 1-5 Review Proposer deliverables and prepare questions for Proposers.
- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- Days 8-9 Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor A: Construction Approach

Deliverable: Construction Staging and Facility Staging Narrative & Plans (*ITP Appendix B – Section B 1.1.1*)

Deliverable: Property Utilization Plan (ITP Appendix B – Section B 1.1.5)

Deliverable: Initial Demolition and Removal Plan (ITP Appendix B - Section B 1.1.6)

Operational items to consider in the evaluation of the Crossing;

- Does construction methods affect operations
- Does construction sequencing affect operations
- Do proposed phasing and staging plans support maintenance of traffic flows throughout all construction periods.

Subfactor B: Service Life of the Crossing

Deliverable: Initial Corrosion Protection and Maintenance Plan (*ITP Appendix B – Section B* 1.2.2)

Subfactor C: Maximizing the Public Investment

Deliverable: Maximizing the Public Investment Plan (ITP Appendix B – Section B 1.3)

Subfactor G: NYSTA Operations and Security

Deliverable: Initial Work Zone Traffic Control Plan (ITP Appendix B - Section B 1.7.1)

Deliverable: Initial Bridge Access Strategy Plan (ITP Appendix B - Section B 1.7.2)

Deliverable: Security Management System (ITP Security Requirements)

Deliverable: Site Security Plan (ITP Security Requirements)

Deliverable: Security Staging Plan (ITP Security Requirements)

Deliverable: Incident Response Plan (ITP Security Requirements)

Deliverable: Bridge Protection Plan (ITP Security Requirements)



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Management Approach Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Management Approach Evaluation Team for assessing the construction approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Management Approach Evaluation Team will be focused on Factors B and C above. Factor B is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities, commitments, and organization with respect to scheduling and completion of the Project on time and on budget, and the management of the Project, with emphasis on quality, design, and construction".(ITP 5.1.2.2)

Factor B has four subfactors. The Management approach team will consider all subfactors: A, B, C, and D.

- A) <u>Schedule</u> evaluates the integrated scheduling of design and construction and the hauling, access, work traffic zone protection and staging of construction including work relating to the toll plaza required to achieve Project completion within the proposed Contract Deadlines and to minimize disruption to the environment and the public;
- B) <u>Organization and General Management</u> evaluates how well the Proposer is organized for quality, safety, design and construction to achieve the Project's goals;
- C) <u>Design Management</u> evaluates how well the Proposer understands and is organized for the integration of design and construction, design Quality Control, and design Quality Assurance and the Authority's design Oversight for the Project; and
- D) Construction Management evaluates how well the Proposer understands and is organized to manage construction Quality Control and Quality Assurance and the necessary tools required to provide seamless interaction between the Agencies' construction Oversight for the construction of a quality Project along a constrained, environmentally sensitive site, addressing needs for public outreach, on-the-job training, and empowered problem solving.

Factor C is described in the ITP as follows:

"Evaluates the Proposer's Key Personnel and experience, any changes in these since the Proposer submitted its SOQ". (ITP 5.1.2.3)

Factor C has three subfactors. The Management Approach team will consider all subfactors: A, B and C.

A) <u>Key Personnel</u> – evaluates the integration and experience of the Proposer's proposed personnel, including Key Personnel and all staff for whom resumes are submitted in the Proposal and evaluates the proposed technical and management team structures around the Key Personnel. Evaluation of this subfactor will consider the SOQ rating relevant to this

- subfactor as well as changes in Key Personnel and other relevant information submitted in the Proposal.
- B) Experience of the Firms evaluates the qualifications and experience of the Proposer and its team members including specific experience of the Major Participants relevant to the size, complexity and composition of the Proposer's proposed design and the Proposer's proposed means and methods of construction, including the relevant experience of each Major Participant in design-build, environmental permitting and quality compliance, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction over water, and construction in environmentally-sensitive areas. Evaluation of this subfactor will consider the SOQ rating relevant to this subfactor as well as any updated information regarding the qualifications and experience of the Proposer and its team members submitted in the Proposal.
- C) Past Performance evaluates the demonstrated record performance of each Major Participant in the period from submission of SOQs to the Proposal Due Date, including: completion schedule; quality of work product including construction and/or design; completion within budget; claims history (including number of claims submitted that were ultimately disallowed or significantly reduced, number of disputes submitted to formal dispute resolution and disposition of such actions, claims brought against the firm under the false claims act); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; and awards, citations and commendations.

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One of the potential flaws in the Design-Build process is the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another potential flaw in the Design-Build process is associated with unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- Whether the overall management program for design and construction, as outlined in Part 1 Appendix I and Part 3, is clearly thought out and presented for the following project components:
 - a) Organization of Management Team;
 - b) Design management
 - c) Construction management
 - d) Quality control;
 - e) Quality assurance;
 - f) Baseline schedule
- 2) What aspects of the construction management, for the above program, indicate that the primary performance requirements of the ITP Appendix B 2.0 and B 3.0 and Part 3, summarized below, will be achieved, not achieved, or exceeded:
 - a) ITP Appendix B 2.0: "A design-build organization that is designed with clear lines of responsibility and well defined roles that respond to the Project and the Agencies; that includes integrated specialty subcontractors and subconsultants; that embraces partnering throughout; that contains the empowerment of all levels of the organization to make decisions in coordination with their counterparts at the Agencies and, if need be, a system to elevate issues to ensure rapid decisions; that encourages and facilitates quality through a well-defined and executed quality plans for design and construction; that has a disciplined strategy for design, design quality and design review; that likewise has a comprehensive strategy for construction management, logistics, hauling, access, construction sequencing, minimizing public disruptions, safety, and on-the-job training. Additionally, a well-coordinated network schedule that will reflect the integration of design and construction activities, fast-tracking, construction sequencing, and a short time for completion."
 - b) ITP Appendix B 3.0: "Project requires a highly qualified and integrated team of firms and technical specialists with expertise in and a record of producing quality work,

including technical project management and technical delivery. It also demands experience in delivering large, preferably design-build, quality projects, on or ahead of schedule and/or budget, with environmental and public sensitivity."

- Those aspects of the management program that are of particular value or concern to the Authority.
- 4) The realism of the management approach, including:
 - a) Management aspects not addressed in the proposal.
 - b) Management aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 1 General
- 2 Project management

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Geotechnical Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx. B2.1.1	Initial Project Phasing / Sequencing Plan
ITP Appx. B2.1.2	Initial Baseline Project Schedule
ITP Appx. B2.2.1	Initial Workforce Participation Plan
ITP Appx. B2.2.2	Initial Safety Plan
ITP Appx. B2.2.3	Initial Site Security Plan
ITP Appx. B2.3	Design Management - Initial Project Management Plan
ITP Appx. B2.4	Construction Management - Initial Quality Plan
ITP Appx. B3.1	Key Personnel- Narrative with organizational diagrams
ITP Appx. B3.2	Experience of Firms – Narrative with qualifications and experience

Three of the above deliverables will also be reviewed by other teams:

- 1. ITP Appx. B2.1.1 Initial Project Phasing / Sequencing Plan. The Construction Approach team will also be reviewing as it relates to construction activities.
- 2. *ITP Appx. B2.1.2 Initial Baseline Project Schedule*. The Construction Approach team will also be reviewing as it relates to construction activities.
- 3. ITP Appx. B2.2.3 Initial Site Security Plan. The Security team will also be reviewing.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Evaluation Team Deliverables

- a) Management Approach Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

- <u>Days 1-5</u> Review Proposer deliverables and prepare questions for Proposers.
- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- Days 8-9 Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: B) Management Approach

Subfactor A: Schedule

Deliverable: Initial Project Phasing / Sequencing Plan (ITP Appdendix B – Section B 2.1.1)

Deliverable: Initial Baseline Project Schedule (ITP Appendix B – Section B 2.1.2)

- Meets the formatting requirements for the scheduling as prescribed in the ITP;
- b) Demonstrates a clear understanding of the Work to be performed;

c) Proposes a realistic execution of the Work in terms of phasing and sequencing, consistent with its Initial Work Zone Traffic Control Plan;

Presents a comprehensive, well-considered, logical and linked schedule for the execution of the Work.

Subfactor B: Organization and General Management

Deliverable: Initial Workforce Participation Plan (ITP Appendix B - Section B 2.2.1)

Deliverable: Initial Safety Plan (ITP Appendix B – Section B 2.2.2)

Deliverable: Initial Site Security Plan (ITP Appendix B – Section B 2.2.3)

- a) Demonstrates a clear and well-considered plan for the workforce it intends to apply to the execution of the Work;
- b) Makes a reasonable effort to meet equal employment opportunity goals;
- c) Presents a sound, comprehensive, workable Initial Safety Plan that should ensure the safety of all involved in, or affected by, the Project;

Presents a sound, comprehensive, workable Initial Site Security Plan that should ensure the site security of all involved in, or affected by, the Project.

Subfactor C: Design Management

Deliverable: Initial Project Management Plan (ITP Appendix B – Section B 2.3)

- a) Presents organizational structures for the design and construction that fully meet requirements for the execution of the Work;
- b) Demonstrates how the construction and operational aspects of the Project will be integrated during the design process;
- c) Indicates clearly the roles and lines of responsibility of staff during all phases of the Project;
- d) Proposes clear and well-considered design and construction management concepts assuming efficient use of resources and personnel;
- e) Shows a full appreciation of the internal and external interrelationships and interfaces inherent in the Project;
- Describes comprehensive proposals for the adequate maintenance of internal and external coordination.

Subfactor D: Construction Management

Deliverable: Initial Quality Plan (ITP Appendix B – Section B 2.4)

- Demonstrates a clear understanding of the QA/QC requirements for the Project;
- b) Proposes measures that should ensure the consistency of quality throughout the design and construction activities;
- c) Provides a QA/QC organizational structure that will meet the requirements for the maintenance of quality throughout the Project;

 Adequately describes the roles and responsibilities of QA/QC staff during all phases of the Project.

Technical Factor: C) Key Personnel and Experience

Subfactor A: Key Personnel

Deliverable: Key Personnel Narrative with Organizational Diagrams (ITP Appendix B – Section B 3.1)

- Adequately describes its organizational structures intended to support the Key Personnel named in its SOQ;
- b) Identifies clear lines of responsibility and reporting for its Key Personnel and other staff;
- c) States the times Key Personnel will be committed to the Project.

Subfactor B: Experience of the Firms

Deliverable: Experience of Firms Narrative with Qualifications and Experience (*ITP Appendix B-Section B 3.2*)

- a) Demonstrates a clear understanding of the requirements of the Project in terms of the nature, complexity and magnitude of Work to be performed;
- b) Provides adequate evidence of relevant experience and capability of its member firms to undertake the nominated aspects of its proposed execution of the Project;
- Commits to the assignment of resources and personnel to meet its planned execution of the Project.



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Environmental Compliance Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Environmental Compliance Evaluation Team for assessing the environmental approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Environmental Compliance Evaluation Team will be focused on **Factor D** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities, and commitments with respect to the environmental needs of the Project, and evaluates the creativity and rigor of the Proposer's measures and approaches to avoid, minimize or mitigate environmental impacts, including the Project's Environmental Performance Commitments, mitigation and monitoring requirements made in the DEIS, terms and conditions of Environmental Approvals (see Contract Document Part 3 Project Requirement 3 - Environmental Compliance), and all applicable environmental laws.." (ITP 5.1.2.4)

The Environmental Compliance Evaluation Team also needs to review Factor A above (Design and Construction Solution) Subfactor A, but only as it applies to the environmental aspects of the project, particularly demolition:

A) Construction Approach – "Evaluates how well the Proposer understands the construction challenges and proposes adequate measures to eliminate or mitigate them, including but not limited to protection of existing facilities, dredging, staging, piling, demolition, and rehabilitation of facilities if necessary due to the means and methods adopted by the Design-Builder." (ITP 5.1.2.1.(A))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must

assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for environmental work, as outlined in *ITP* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Environmental management, compliance, mitigation and associated permits
 - b) Erosion control, including slope stabilization and storm water pollution prevention
- 2) What aspects of the environmental compliance, for the above program, indicate that the primary performance requirements of the *ITP* and *Part 3, summarized below,* will be achieved, not achieved, or exceeded:
 - a) ITP 5.1.2.4 "Understanding and commitment to the environmental sensitivity of the Project, to include: successful and timely performance of all environmental requirements, including but not limited to Environmental Performance Commitments; requirements and terms of existing and anticipated Environmental Approvals, and monitoring requirements; design expertise and solutions that respond to environmental concerns; the provision of quality environmental personnel and specialty subcontractors; real time compliance and stewardship during construction

throughout the development and exceptional execution of plans for environmental compliance, including but not limited to compliance with water quality, ecological resources, noise and vibration, air quality, stormwater management and erosion and sediment control requirements; and teamwork with the Agencies and regulatory agencies in the prevention of and the solutions for environmental challenges."

- 3) Those aspects of the environmental work that are of particular value or concern to the Authority.
- 4) The technical realism of the environmental work, including:
 - a) Environmental aspects not addressed in the proposal.
 - b) Environmental aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the environmental work that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 1 General
- 3 Environmental Compliance
- 25 Demolition

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Environmental Compliance Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx. B 1.1.1	Construction and Facility Staging Narrative and Plans
ITP Appx. B1.1.2	Piling And Dredging Narrative
ITP Appx. B1.1.5	Property Utilization Plans
ITP Appx. B1.1.6	Initial Demolition and Removal Plan
ITP Appx. B1.4.2.3 (2b)	Other Structures (Demolition and Removals)
ITP Appx. B 1.6.2	Shared Use Path Plans
ITP Appx. B2.3.4	Internal Coordination
ITP Appx. B2.3.5	External Coordination
ITP Appx. B 4.0	Environmental Compliance Plan

All of the above deliverables, except the Environmental Compliance Plan, will be reviewed by other teams:

1. ITP Appx. B 1.1.1 Construction and Facility Staging Narrative and Plans will be reviewed by the Construction Approach Team.

- 2. *ITP Appx. B1.1.2 Piling and Dredging Narrative* will also be reviewed by the Construction Approach team and the Geotechnical Team.
- 3. *ITP Appx. B 1.1.5 Property Utilization Plans* will be reviewed by the Construction Approach and Roadway Design Teams.
- 4. *ITP Appx. B1.1.6 Initial Demolition and Removal Plan* will also be reviewed by the Structures Design and Construction Approach teams.
- 5. ITP Appx. B1.4.2.3 (2b) Other Structures (Demolition and Removals) will also be reviewed by the Construction Approach team. Describe the approach to meeting environmental requirements related to demolition and removals. Include salvage of specified elements and proposed disassembly, transport and storage methods.
- 6. *ITP Appx. B 1.6.2 Share Use Path Plans* will be reviewed by the Roadway Design and Structures Design Teams.
- 7. ITP Appx. B 2.3.4 Internal Coordination will be reviewed by the Management Approach Team.
- 8. ITP Appx. B 2.3.5 External Coordination will be reviewed by the Management Approach Team

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Evaluation Team Deliverables

- a) Environmental Compliance Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

<u>Days 1-5</u> – Review Proposer deliverables and prepare questions for Proposers.

<u>Days 6-7</u> – One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)

Days 8-9 - Complete Team deliverables

<u>Day 10-15</u> – Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor A: Construction Approach

Deliverable: Piling And Dredging Narrative (ITP Appendix B – Section B 1.1.2)

Deliverable: Initial Demolition and Removal Plan (ITP Appendix B – Section B 1.1.6)

Subfactor D: Bridge, Structures and Aesthetic Design Concept

Deliverable: Other Structures Plans (ITP Appendix B – Section B 1.4.2.3)

Technical Factor: D) Environmental Compliance

Deliverable: Environmental Compliance Plan (ITP Appendix B – Section B 4.0)

9. Design

- a) Has property acquisition been minimized/conformed to the DEIS takings;
- Are pier and pile cap designs consistent/similar with in-water impacts of DEIS alternatives;
- c) Tidal and Freshwater wetland are these consistent/similar to DEIS findings and DEC/ACOE Joint Permit application drawings;
- d) Dredge footprint -similar/consistent with extent of dredging the ACOE permit;
- e) Is project design consistent with USCG application;
- f) Does proposed design minimize or lessen the visual impacts disclosed in the DEIS.

10. Process

- Does proposer recognize the potential for a NEPA re-evaluation or permit modification for any of its design features of construction methods that are inconsistent with the DEIS or permit applications;
- Does the proposer present a process and understanding of a re-evaluation and/or permit modification. Has the proposer discussed the potential effects on schedule and how to manage any modifications;
- Has the proposer demonstrated an understanding of the coordination required with the DEIS/permit project team and the regulatory agencies;
- d) Has the proposer outlined a process for communication with the regulatory agencies on design/permit modifications:
- e) Does the proposer present a method for continued coordination pursuant to the Section 106 MOA.

11. Construction

- a) Does the proposed contractor discuss construction staging needs and recognize the need for compliance with local/state permits and approvals at these sites;
- b) Is the contractors proposed schedule consistent with DEIS estimates for duration of pile driving, in-water work, dredging, hours of operation, etc;
- Do the required environmental compliance plans submitted by the contractor provide a complete understanding of the Environmental Performance Commitments specified in the DEIS particularly as it relates to:
 - i. Dredging particularly as it relates to methods, work windows, armoring, transfer of material and dewatering for economic loads. Has the proposer provided a more environmentally beneficial alternative to dredging or reduced dredging quantities;
 - ii. Pile driving particularly as it relates to noise reduction, consistency with 5000 foot migratory corridor. Has contractor proposed methods beyond DEIS commitments that would lower in-water noise levels even further;
 - iii. Air quality particularly as it relates to diesel emission controls for tug boat;
 - iv. Maintenance of traffic particularly as it relates to construction truck access to waterfront platforms;
 - v. Noise and vibration particularly as it relates to pile driving and truck access routes to the proposed waterfront platforms;
 - vi. Contaminated materials has the contractor exhibited an understanding of the results of the Phase II and how to integrate measures to protect public and worker health.
- d) In developing their pile placement and construction scheduling has the contractor provided/complied with the requirements of the RFP with respect to fish passage during year and particularly during the April to August migratory period;



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Visual Quality Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Visual Quality Evaluation Team for assessing the construction approach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Visual Quality Evaluation Team will be focused on **Factor A** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, approach, capabilities and commitments to the delivery of a design and construction solution that meets or exceeds the Project's goals and objectives." (ITP 5.1.2.1)

Factor A has seven subfactors. The Visual Quality Evaluation Team will consider only **Subfactor D** below:

D) <u>Bridge, Structures and Aesthetic Design Concepts</u> – evaluates how creative and robust the Proposer is in its design and construction solution to the bridge, structure and aesthetic challenges of the Project; (ITP 5.1.2.1.(D))

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for architectural design, as outlined in *Part 1 Appendix I* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Replacement Bridge;
 - b) Permanent Facilities:
 - c) Landscaping;
 - d) Lighting.
- 2) What aspects of the architectural design, for the above program, indicate that the primary performance requirements of *Part 1 Appendix I* and *Part 3, summarized below,* will be achieved, not achieved, or exceeded:
 - a) Part 1 Appendix I Item 2.2 (N): "A Crossing and landings aesthetic in accordance with Part 3 Project Requirements that gives consideration to previous and/or future public preferences and as determined through the public involvement process"
 - b) Part 3 Project Requirement 13: "...Tappan Zee Hudson River Crossing Project is a valued visual and aesthetic component compatible with the environmental, social, and physical characteristics of the region and the river corridor in which it is located."
 - c) Part 3 Project Requirement 13: "Supporting infrastructure shall be designed to the same high aesthetic standards as the Crossing. The Crossing, and in particular the Main Spans, shall have a strong visual identity that will positively reflect the local community context and distinguish the Project internationally."
- Those aspects of the construction approach that are of particular value or concern to the Authority.

- 4) The technical realism of the architectural approach, including:
 - a) Architectural aspects not addressed in the proposal.
 - b) Architectural aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:
 - a) Aspects of the construction approach that should be further considered in the negotiation if this proposal is advanced.
 - b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 12 Landscape Architecture
- 13 Visual Quality
- 15 Lighting
- 32 Architectural Quality of Buildings

4. PROPOSER DELIVERABLES

The following is a list of Proposer deliverables that must be reviewed by the Visual Quality Evaluation Team. A detailed description of each deliverable can be found in the ITP referenced in the listed sections:

Reference	Deliverable
ITP Appx. B1.4.2.1 (4) f	Structures and Architecture Narratives and Drawings (Superstructures)
ITP Appx. B1.4.2.3 (1)	Other Structures (Retaining Walls Abutments & Noise Barriers)
ITP Appx. B1.4.3	Visual Quality
ITP Appx. B1.6.2	Shared Use Path Plans

Three of the above deliverables will also be reviewed by other teams:

- 1. ITP Appx. B1.4.2.1 (4) f Structures and Architecture Narratives and Drawings
 Superstructures "will also be reviewed by the Structures Design Team. The Visual Quality
 Team will focus on the aesthetics and visual elements.
- 2. ITP Appx. B1.4.2.3 (1) Other Structures (Retaining Walls Abutments & Noise Barriers). This will be reviewed by the Structures Design Team. The Visual Quality Team will focus on the aesthetics and visual elements, including surface treatments and visual details.
- ITP Appx. B1.6.2 Shared Use Path Plans. This will be reviewed by the Structures Design, Roadway Design, Operations and Environmental Compliance Teams. The Visual Quality Team will focus on the aesthetics and visual elements, including surface treatments and visual details.

The review teams are encouraged to communicate with each other to ensure there are no sections missed.

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Deliverables

- a) Visual Quality Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

<u>Days 1-5</u> – Review Proposer deliverables and prepare questions for Proposers.

<u>Days 6-7</u> – One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)

Days 8-9 - Complete Team deliverables

<u>Day 10-15</u> – Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED CONSIDERATIONS

Technical Factor: A) Design and Construction Solution

Subfactor D: Bridge, Structures and Aesthetics Design Concepts

Deliverable: Structures and Architecture Narratives and Drawings (*ITP Appendix B – Section B* 1.4.2.1)

Deliverable: Other Structures Plans (ITP Appendix B – Section B 1.4.2.3)

Deliverable: Visual Quality (ITP Appendix B – Section 1.4.3)

Subfactor F: Roadway Design Concepts

Deliverable: Shared Use Path Plans (ITP Appendix B – Section B 1.6.2)

The following items for consideration under the subfactors are provided as a sounding board for discussion and do not conclude that these are the only items to consider.

Architectural Design Requirements

Visual Quality Team evaluates how creative and robust the Proposer is in its design solution to the bridge, structure and aesthetic challenges of the Project

Specific aesthetic requirements are to be provided in the Proposer's submittals for architectural concepts and lighting concepts (see ITP Appendix B – Section B1.4.3). More general items to consider in the evaluation of architectural concepts and lighting concepts are;

The main span bridge should have a strong visual identity that will positively distinguish the bridge as the Tappan Zee.

All design elements should complement the appearance of the main span structure.

The primary characteristics of form, scale, line and proportion should be harmonious and inform an elegant and simple design

All structures should be integrated into the existing setting.

The design should account for all vantage points from which it will be viewed.

Transitions between approach spans and between the main span and the approach spans should be fully resolved to smoothly translate between structures of differing types, dimensions, and designs.

Approach spans should be fully resolved to smoothly blend into the adjacent landscape at bridge ends.

Motorists, bicyclists, and pedestrians should feel safe and secure.

Bicycle and pedestrian facilities should be safe, attractive, and visually integrated into the main-span bridge and approach structures, including pedestrian and bicyclist rest and viewing position intermittently integrated along the route.

Sign structures, maintenance facilities and other furniture items should be fully integrated into the overall architectural vision.

Utility and drainage systems should not create adverse visual impacts and should be integrated into the bridge architecture.

If mechanically stabilized earth (MSE) retaining wall systems are included, the shape, pattern, and texture of the face relates to the overall architectural vision of the Project.

Evaluation of Bicycle and Pedestrian Facilities

The evaluators should consider that the design of the horizontal alignment, vertical alignment, and cross-section of bicycle and pedestrian ways, provide clearly legible facilities that enhance the safety and utility of users.

Evaluation of Grading

The evaluators should consider the design and construct grading so as to establish visual continuity between the topography of the highway corridor and the topography of the adjacent landscape.

Evaluation of Retaining Walls

Noise walls shall be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture.

The evaluators should consider the retaining walls be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture. Retaining walls at bridge touch-down points should be designed to blend into the

The evaluators should consider on any slopes that will receive sufficient sunlight and water to support plants, employ vegetative slope protection methods. On other slopes, employ materials, textures, patterns, and colors that will complement adjacent elements and contribute to the overall aesthetic effect of the Project.

existing landscape.

Evaluation of noise walls

Noise walls shall be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture.

The evaluators should consider the retaining walls be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture. Retaining walls at bridge touch-down points should be designed to blend into the

The evaluators should consider on any slopes that will receive sufficient sunlight and water to support plants, employ vegetative slope protection methods. On other slopes, employ materials, textures, patterns, and colors that will complement adjacent elements and contribute to the overall aesthetic effect of the Project.

Evaluation of Slope Protection

Noise walls shall be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture.

The evaluators should consider the retaining walls be designed as part of a cohesive architectural vision and be complementary to the proposed bridge architecture. Retaining walls at bridge touch-down points should be designed to blend into the

The evaluators should consider on any slopes that will receive sufficient sunlight and water to support plants, employ vegetative slope protection methods. On other slopes, employ materials, textures, patterns, and colors that will complement adjacent elements and contribute to the overall aesthetic effect of the Project.

Evaluation of Traffic Barriers

Evaluators should consider that the traffic barriers are part of a comprehensive architectural vision.

Color and Surface Palettes

The evaluators shall consider color as a Project design element, integral to the design of other visual quality elements, including; all bridge components, retaining walls, traffic barriers, fencing, etc.

Signage

Evaluators should consider that signage is part of a comprehensive architectural vision.

Fencing

Evaluators should consider fencing is part of a comprehensive architectural vision.

Utilities

The evaluators should understand that utilities will affect the visual quality of the corridor by compromising visual quality, prohibiting the installation of vegetation, or by adversely affecting existing vegetation.

The evaluators should consider that the design and placement of utilities so that the visual quality of the project is maintained.

Evaluation of Lighting

This evaluation refers to architectural lighting of the structure and bridge environs. It does not cover specific requirements for technical lighting provisions including roadway and pathway lighting, channel navigation and aircraft lights which are subject to provisions in other sections of the evaluation. It does however cover general visual quality requirements for all lighting.

The administrative separation of requirements for architectural and technical lighting in the evaluation does not imply that the lighting design or provision should be separated. The proposer should produce an integrated and holistic design for all lighting of the bridge. Has the proposer utilized light sources to aesthetic effect in addition to functional tasks? Has the proposer used the architectural lighting of the main span to wholly replace or substantially reduce the requirement for dedicated roadway lighting?

The following qualities should be considered in the evaluation in the design of the architectural lighting:

The visual effects of daylight and sunlight as well as powered illumination should be considered in the design.

The design should account for the appearance of the bridge during both day and night. The structure of the main span, and elements of the approach spans are required to be illuminated. The main span bridge is to have a strong visual identity that will distinguish the bridge as the Tappan Zee. This criterion should be maintained in the night time condition.

Key characteristics of the structural form and design should be evident through the architectural lighting, including the twin deck configuration, bridge fascia and edges, primary structural components and cable planes.

The design may take on differing characteristics and emphasis under illumination than in daylight and the proposer should take full account of the surrounding context and viewpoints in determining the architectural lighting strategy.

The architectural lighting of the main span should be configured to be effective in illuminating the roadway, replacing or substantially reducing the requirement for additional dedicated technical lighting. Where additional roadway lighting is required, lighting masts should be minimized to avoid visual interference with main structural components and stay cables.

The relationship between color of structures and lighting should be fully understood and explained.

Where possible, technical light sources should be configured and utilized to provide additional architectural lighting characteristics.

Architectural and technical light sources should be harmonious

Technical lighting including roadway and pathway lighting, channel navigation and aircraft lights should be integrated with the architectural vision of the bridge design.

Illumination of pedestrian and bikeway should be designed to enhance security and safety

Enhanced lighting provision should be provided at rest and viewing positions for pedestrians and bicyclists, and at pivotal locations, such as on and off ramps, crossovers and stops.

Architectural lighting may not interfere with the safety and utility of bridge users. Glare must be avoided and the impact of potentially distracting lighting situations should be assessed and mitigated.

Light pollution must be eradicated through the accurate placement and focusing of light sources.

The lighting of the bridge should reduce the consumption of power to practical minimum levels and optimize maintainability through the use of long life, reliable and replaceable light sources.

The following is a list of deliverables of which a detailed description can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx. B 1.4.3	Visual Quality
ITP Appx. B 1.6.2	Shared Use Path Plans



New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E
Technical Instruction
Public Outreach Team

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

1. INTRODUCTION

The following information is intended to be a guide to the Public Outreach Evaluation Team for assessing the public outreach of each Proposal. It does not take the place of thorough knowledge and familiarity with the guidelines set forth in the RFP's Instructions to Proposers (ITP) and the Project Requirements. For a complete description of the Evaluation subfactors and deliverables, see the ITP Section 5 and ITP Appendix B. For a complete description of the construction requirements, see Part 3 of the RFP, Project Requirements.

The technical evaluation of the four Proposals is organized around five factors:

- A) Design and construction solution;
- B) Management approach;
- C) Key Personnel and experience;
- D) Environmental compliance; and
- E) Public outreach and coordination with stakeholders.

The Public Outreach Evaluation Team will be focused on **Factor E** above which is described in the ITP as follows:

"Evaluates the Proposer's understanding, capability, approach, and commitments to providing support to the Agencies in the implementation of their Tappan Zee Hudson River Crossing Project Public Involvement Plan. The PIP is intended to engage public and agency participants in a constructive exchange of views and information on aspects of the Project.." (ITP 5.1.2.5)

2. BASIS OF EVALUATION

The submitted proposals fulfill two purposes:

1) The proposal is a basis for technical evaluation to be conducted prior to award.

In the Design-Build contractual arrangement the objective of the RFP is to procure a project through a competition based on Scope, Price and Schedule. As a basis for this competition, the RFP aims to set out only the high level program and performance requirements. For TZHRC Project the high level program and performance requirements are outlined in the RFP in Part 1 Appendix I Section 2.2 Project-wide Requirements, supported by specific requirements included in Part 3 Project Requirements and Part 6 RFP Plans.

The technical proposal, in its most basic form, is an accounting of what the Proposers are offering to meet the program and performance requirements. The technical evaluation must recognize this approach and set out to understand the proposers offering and then evaluate if the offering meets the program and performance requirements. Further, the evaluation must assess the quality of the offering including the clever/innovative elements and also if there are missing or unexpected components.

One challenge of the evaluation is discerning the potential subjugation of the designer. There can be an intention by the builder to minimize the input of the professional designer and make simplified assumptions or avoid studies or other design aspects to flush out design parameters. The evaluation must consider if the design process is fully understood and will be implemented.

Another challenge is discerning unrealistic proposals. For example, a proposer may indicate that the project schedule will be a much shorter period than that anticipated or that the number of piles can be reduced substantially compared to expectations. These changes may

be valid but there is the potential that the proposal is unreal and may be part of a strategy to win the project with consequences to be addressed later during execution of the contract.

In the evaluation process it is necessary to identify any and all elements that are substantially different or are at odds with expectations.

2) The proposal is a basis for assessing compliance during the execution of the contract.

The successful Design-Builder's proposal will be included as Part 9 of the final contract document and the whole contract will be the basis for the oversight conducted by the Authority during contract execution. In this oversight role, the Authority gets to review and comment on all that the Design-Builder does/submit but does not approve. Typically, the only response from the Authority on elements that are unsatisfactory will be that "the submission does not comply with the contract requirements or the commitments included in the proposal".

To prepare for these potential responses, the ITP requires that proposals include substantial written content to encourage 'commitments' during the competition stage. The more the commitments provided in the proposal the greater the potential quality of the project and the greater will be the influence of the Authority during execution.

One of the tasks of the evaluators is to identify commitments or their absence in the proposals and determine if these are of value/concern to the Authority.

3. SCOPE

To accomplish the evaluation, the Team will review each Proposer's deliverables and report on the following:

- 1) Whether the overall program for public outreach, as outlined in *the ITP* and *Part 3*, is clearly thought out and presented for the following project components:
 - a) Engaging public;
 - b) Engaging agencies
 - c) Support to agencies in community relations
 - d) Project Website, Project Newsletter, Project Phone Hotline, Technical Media and Public Involvement Meetings
- 2) What aspects of the public outreach, for the above program, indicate that the primary performance requirements I the ITP and *Part 3*, *summarized below*, will be achieved, not achieved, or exceeded:
 - a) ITP 5.1.2.5: "Quality planning and execution of support to the Agencies in community relations public information, and community outreach."
 - b) Part 3 Project Requirement 8: "The goal of the public involvement activities is to engage a diverse group of public and agency participants, seeking and using their views, and providing timely information throughout the design and construction process."
- 3) Those aspects of the public involvement that are of particular value or concern to the Authority.
- 4) The realism of public involvement, including:
 - a) Aspects not addressed in the proposal.
 - b) Aspects at odds with expectations.
- 5) Those issues that may be revised as part of a negotiation or may be significant during contract execution, including:

- Aspects that should be further considered in the negotiation if this proposal is advanced.
- b) Commitments included/not included in the proposal that may be of value or concern to the Authority.

The Team should closely read the following Project Requirements relevant to its scope:

- 1 General
- 8 Public Involvement

4. PROPOSER DELIVERABLES

The following is a list of deliverables of which a detailed description can be found in the ITP referenced in the listed sections;

Reference	Deliverable
ITP Appx B 5.0	Initial PIP Support Plan

5. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organization

- a) A Chair will be appointed for each Team.
- b) The Chair will be responsible for meeting the evaluation schedule and deliverables.
- c) A Technical Lead will also be appointed for each Team. This may or may not be the same person as the Chair.
- d) The Technical Lead is the person with the greatest expertise in the core subject of the Evaluation Team.
- e) The Team will designate a Recording Secretary.
- f) The Chair and the Technical Lead will present to the Selection Committee.
- g) The Chair and the Technical Lead will participate on the Technical Summary Team.

2. Deliverables

- a) Public Involvement Content Checklist:
 - To be delivered to Procurement Management Team by end of Day 1.
- b) Technical Questions for Proposers:
 - Individual members submit to Chair by end of Day 4.
 - Final document delivered to Procurement Management Team by end of Day 5.
- c) Strength Weakness Evaluation Form:
 - Individual members submit by end of Day 7.
 - Final document delivered to Procurement Management Team by end of Day 9.
- d) Summary Strength Weakness Evaluation Form:
 - Final document delivered to Procurement Management Team by end of Day 9.

3. Schedule

Up to nine (9) days are available to complete the evaluation.

Days 1-5 – Review Proposer deliverables and prepare questions for Proposers.

- <u>Days 6-7</u> One-on-One with the Proposers (Chair and Technical Lead only; rest of team continues review)
- Days 8-9 Complete Team deliverables
- <u>Day 10-15</u> Chair and Technical Lead participate in reporting to Selection Committee and Technical Summary Team.

6. SUGGESTED TECHNICAL CONSIDERATIONS

Technical Factor: E) Public Outreach and Coordination with Stakeholders

Deliverable: Initial PIP Support Plan (ITP Appendix B – Section B 5.0)

Value Assessment Team Guidelines







New York State Thruway Authority

TAPPAN ZEE HUDSON RIVER CROSSING PROJECT

Design-Build Project

Evaluation of Proposals

Appendix E

Technical Instruction

Value Assessment Team - Technical

Contract D214134 PIN 8TZ1.00 Project TA#: TANY 12-18B

Appendix E

Technical Instruction

Value Assessment Team -Technical

1. INTRODUCTION

This document is a guide to the role and activities of the Value Assessment Team - Technical (VAT-T).

The VAT-T is comprised of the chairs and selected members of the various Technical Evaluation Teams. The scope of work for the VAT-T comprises the following tasks:

- 1. Review the lists of strengths and weaknesses and the Technical Evaluation Summaries provided by the nine Technical Evaluation Teams, for each Proposal.
- 2. Prepare a consolidated Technical Assessment Report for each Proposal in conjunction with the Procurement Management Team.
- Present a summary of the Technical Assessment Report for each Proposal to the Selection Committee.
- Respond to questions from the Selection Committee and conduct further assessment of the Proposals as directed by the Selection Committee.

2. Technical Assessment Report

The Technical Assessment Report for each Proposal will contain the following:

- 1. Cover*
- 2. Table of contents*
- 3. Introduction*
- 4. Description of the Proposal*
- 5. Technical Evaluation Summary
- 6. Technical Value Statement
- Appendix A All strengths and weaknesses as identified by the Technical Evaluation Teams*
- 8. Appendix B Excerpts from the Proposal*

The Procurement Management Team (PMT) has overall responsibility for producing the Reports. The PMT will prepare/compile the items identified with an asterisk (*) in the list above. The PMT will begin work on these sections at the same time as the individual Technical Evaluation Teams begin their evaluations so that substantial portions of the reports will have been prepared by the time the VAT-T begins its work.

The elements of the Reports are discussed below.

1. Cov er

The cover anonymously identifies the Proposal (Proposals A thru D), identifies the principal evaluation authors and records revisions and quality procedures. The cover also highlights that the report is confidential with all copies numbered before distribution for tracking and control.

2. Table of contents

Self-explanatory.

3. Introduc tion

The introduction sets out the purpose of the report, summarizes the work of the Technical Evaluation Teams, and summarizes the documentation used in the technical evaluation.

4. Description of the Proposal

This text, and that presented in the Appendix to this report, is all that the Selection Committee will see from each of the submitted Proposals. Text is intended to be a summary of the main components of the Proposal and a map to the reasoning for the documents contained in the appendices. Specific items to be included in this text include:

- 1. A one page description of the crossing type, form and arrangement;
- 2. A two page summary indicating the overall approach to construction, construction timeline and general sequence of activities;
- 3. A one page summary of innovations;
- 4. A summary and status of ATCs included in the Proposal; and
- 5. Color renderings.

All materials presented must be in a form that does not allow identification of the specific proposer.

5. Technical Evaluation Summaries

The VAT-T will review the Technical Evaluation Summaries prepared by the nine Technical Evaluation Teams for each Proposal (36 Summaries in total). Each of these Summaries is a series of statements outlining the notable strengths and weaknesses of the Propos al as determined by each Team, organized by Factors and Sub-Factors. The VAT-T will compile the 36 individual Summaries into a single Technical Evaluation Summary for each Proposal (four total), still organized by Factors and Sub-Factors.

Where the VAT-T disagrees with or has comments on the strengths and weaknesses provided by the Technical Evaluation Teams these will be noted in the compiled Summary for later communication to the Selection Committee.

There is no page limit for each compiled Summary but it is desirable that the summary for each Factor or Sub-Factor fit on one or two 11 by 17 pages (Form XXX).

Where Factors or Sub-Factors have been assessed by only one Technical Evaluation Team, the VAT-T will review the summary strengths and weakness to ensure that the results are not in conflict with those of other Factor or Sub-Factor evaluations. Where conflicts are found these will be highlighted in the summary with an appropriate explanation added.

Where Factors and Sub-Factors have been assessed by more than one Technical Evaluation Team, the VAT-T will compile the overlapping Summaries into single Summaries.

6. Technical Value Statement

The compiled lists of strengths and weaknesses and the consolidated Technical Evaluation Summaries will be large, detailed documents. Therefore, the VAT-T will also prepare a Technical Value Statement as an Executive Summary level document for each Proposal.

The Technical Value Statements will be organized by the five Evaluation Factors only. The definition of each Factor as presented in the ITP is repeated below for guidance:

A) Design and construction solution:

Evaluates the Proposer's understanding, approach, capabilities and commitments to the delive ry of a de sign and con struction solution that m eets or exce ed the Project's goals and objectives.

B) Management approach:

Evaluates the Proposer's understanding, approach, capabilities, commitments, and organization with respect to scheduling and completion of the Project on time and on budget, and the management of the Project, with emphasis on quality, design, and construction.

C) Key Personnel and experience:

Evaluates the Proposer's Key Personnel and experience, any changes in these since the Proposer submitted its SOQ.

D) Environmental compliance:

Evaluates the Proposer's understanding, approach, capabilities, and commitments with respect to the environmental needs of the Project, and evaluates the creativity and ri gor of the Propo ser's measures and approaches to a void, minimize or mitigate environmental impacts, including the Project's Environmental Performance Commitments, mitigation and monitoring requirements made in the DEIS, term s and conditions of Environmental Approvals (see Contract Documents, Part 3 Project Requirement 3 - En vironmental Compliance), and all a pplicable environmental laws.

E) Public outreach and coordination with stakeholders:

Evaluates the Proposer's understanding, capability, approach, and commitments to providing support to the Agencies in the implementation of their Tappan Zee Hudson River Crossing Project Public Involvement Plan (PIP; see Part 3 Project Requirement 8 – Public In volvement). The PIP is intended to engage public and agency participants in a constructive exchange of views and information on aspects of the Project.

Each Value Statement should summarize all of the detailed information presented in the lists of advantages and disadvantages and the consolidated Technical Assessment Reports. The summaries should clearly present a consensus view of the evaluators' opinions of what value each Proposal offers with respect to these five Factors. These discussions should:

- 1. Summarize those strengths relevant to each Factor that add the greatest value to the Proposal;
- 2. Summarize those weaknesses relevant to each Factor that most reduce the value of the Proposal;
- 3. Discuss opportunities inherent in the Proposal;
- 4. Discuss risks inherent in the Proposal; and
- Discuss any items that should be negotiated with the Proposer should they be selected.

7. Appe ndix A

Compiles all of the strengths and weaknesses identified by the Technical Evaluation teams for each Proposal, organized by Factor and Sub-Factor.

8. Appe ndix B

At a minimum this appendix should contain a redacted copy of Volume 2 narrative (200 page limit) of the Proposal. This document must be redacted to eliminate all features, text or content that may identify the Proposer. As directed by the Procurement Management Team, this document may need to be regenerated in a different format to be Proposer neutral.

The following documents may also be included if it is determined by the Procurement Management Team that they can be presented in a form that does not identify the Proposer:

- 1. Volume 2 Appendix A Letters regarding ATCs
- 2. Volume 2 Appendix B Design & Construction Solutions Submittal (plan drawings)
- 3. Volume 2 Initial Plans
 - a) Initial Design Plan
 - b) Initial Geotechnical Work Plan
 - c) Initial Corrosion Protection and Maintenance Plan
 - d) Maximizing the Public Investment Plan
 - e) Initial Demolition and Removal Plan
 - f) Initial Work Zone Traffic Control Plan
 - g) Initial Bridge Access Strategy Plan
 - h) Initial Project Phasing/Sequencing Plan
 - i) Initial Baseline Project Schedule
 - i) Initial Workforce Participation Plan
 - k) Initial Safety Plan
 - I) Initial Project Management Plan
 - m) Initial Quality Plan

3. Presentation to Selection Committee

The VAT-T will have one day to summarize the Technical Assessment Report and Technical Value Statement for each Proposer (total four days). It is anticipated that a significant time will be allotted for questions from the Selection Committee.

The Selection Committee may request additional evaluation efforts by the VAT-T.

4. TEAM ORGANIZATION, DELIVERABLES, AND SCHEDULE

1. Organi zation

- a) A Chair will be appointed by the Procurement Team.
- b) The Chair will be responsible for meeting the evaluation schedule and completing deliverables.
- c) The Chair will be responsible for preparing the schedule and order of the presentations to the Selection Committee.
- d) The Team will designate a Recording Secretary for all discussions.

2. Ev aluation Deliverables

- a) Up to four Technical Assessment Reports;
- b) Up to four Technical Value Statements;
- c) Up to four presentations to the Selection Committee; and

d) Further material as requested by the selection committee

3. Schedule

The VAT-T team members will commence work as soon as their individual Technical Evaluation Teams complete their work, which will be no later than Thursday, August 9th. The VAT-T presentations to the Selection Committee will take place on August 13th thru 16th, with August 17th available if needed.

5. Selection Committee adjectival ratings

As outlined in the Section 5.0 of the ITP, extracted below, the Selection Committee will determine the overall technical rating of each proposal:

"Each Technical Proposal will be evaluated on the pass/fail and technical evaluation factors identified herein. In order to be considered for award of the Contract, the Proposal must receive a "pass" rating on all pass/fail factors and receive a technical rating of at least "Acceptable" on each technical evaluation factor. A Technical Evaluation Team appointed by the Agencies will determine the overall technical strengths and weaknesses of each Proposal before the Price Proposals are opened and evaluated by a Selection Committee appointed by the Agencies. The Selection Committee will evaluate the technical findings and pricing information contained in the Price Proposals and prepare a recommendation to the Selection Official(s) appointed by the Agencies indicating which Proposal represents the "best value" to the State and the Agencies. The Selection Official(s) will then assess the Selection Committee's recommendation and make a final determination as to which Proposal offers the best value to the State and the Agencies, considering the technical and price factors set forth in the ITP."

Although the adjectival ratings will be determined by the Selection Committee, it will be useful if the VAT-T understands the logic of the ratings so that the materials prepared by the VAT-T for the Selection Committee are concise and focused to support the Committee's decision making process.

The adjectival ratings will be based on the following as presented in Section 5.2.1:

"EXCEPTIONAL: The Proposer has demonstrated an approach that is considered to significantly exceed stated objectives/requirements in a way that is beneficial to the Agencies. This rating indicates a consistently outstanding level of quality, with little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no weaknesses (as such term is defined below).

GOOD: The Proposer has demonstrated an approach that is considered to exceed stated objectives/ requirements. This rating indicates a generally better than acceptable quality, with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE: The Proposer has demonstrated an approach that is considered to meet the stated objectives/requirements. This rating indicates an acceptable level of quality. The Proposal demonstrates a reasonable probability of success. Weaknesses, if any, are very minor or not material or can be addressed readily.

UNACCEPTABLE: The Proposal does not meet any of the rating standards listed above and/or is non-responsive.

In assigning ratings the Agencies may assign "+" or "-" (such as, "Exceptional -", "Good +", and "Acceptable +") to the ratings to better differentiate within a rating in order to more clearly differentiate between the technical evaluation factors and the overall Proposals.

The term "weakness," as used herein, means any flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. The term "deficiency" means a material failure of a proposal to meet an RFP requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level." (ITP Section 5.2.1)

"Proposals that receive a technical quality rating of less than "Acceptable" (see ITP Section 5.2) for any technical evaluation factor will not be selected for award." (ITP Section 5.1.2)

ITP Appendix A





APPENDIX A

VOLUME 1: ADMINISTRATIVE SUBMITTAL REQUIREMENTS

A1.0 GENERAL INSTRUCTIONS

This ITP Appendix A provides the general instructions and establishes the content and formatting requirements for the administrative submittal (which includes the Proposal narrative, Proposer's offer and various administrative submittal forms) which, unless noted otherwise, shall be included in Volume 1 of the Proposal.

The Proposer shall submit the administrative submittal required pursuant to this ITP Appendix A, organized, separated and labeled in accordance with the checklist in Table A.

The administrative submittals shall be limited to the page limitations (if any) specified for that submittal in this ITP Appendix A. All the forms referenced in this ITP Appendix A are provided in ITP Appendix D unless otherwise noted. Each sheet shall be 8.5" by 11" and printed double-sided, unless otherwise stated below.

Volume 1 shall consist of the following major elements:

- a. Project narrative;
- b. Proposer's offer,
- c. Information, certifications and documents (including required forms), and
- d. DBE/EEO information.

A2.0 CONTENTS OF VOLUME 1

A2.1 Project Narrative

Each Proposal shall contain an Project narrative that meets the requirements set forth in this ITP Appendix A, Section A2.1. The Project narrative shall be written using non-technical language and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with the Proposal and the Proposer's ability to satisfy the Project's financial and technical requirements. It shall not include any information that might lead the reader to determine the Proposal Price. The Project narrative shall, at a minimum, include the following items:

- A) Summary of changes in the Proposer's organization (if any) including changes to the Major Participants, Equity Participants, Subcontractors or Key Personnel since submission of the SOQ.
- B) Overview of the Proposer's design and construction approach, technical innovations, key risks anticipated and the mitigation methods proposed that will result in a world-class project.
- C) Summary of the Proposer's management, decision making and day-to-day operational structure for the Project.

- D) Summary of the Proposer's approaches to fulfilling the expectations of the Project's stakeholders and to working with the Agencies' Project team.
- E) Summary of the Proposer's approach to fulfilling, to the highest possible standards, the environmental requirements set forth in the Contract Documents.
- F) Summary of the Proposer's approach to the labor and job training requirements set forth in the Contract Documents.
- G) Summary of the Proposer's Project schedule, and anticipated milestones, including a statement of the proposed Contract Deadlines for removal of traffic from the existing Tappan Zee Bridge, moving traffic to the final configuration (Crossing Substantial Completion) and completion of physical Work (Physical Completion) stated as number of days from the effective date of the NTP.
- H) Summary statement outlining the specific areas where the Proposer has shown enhanced quality in long-term performance, durability and maintainability through the information submitted with its Proposal, indicating the specific section of Volume 2 of the Proposal where the information is shown.

Do not include any information regarding price in the Project narrative.

The Project narrative shall be suitable for presentation to, and review by, the Executive Director. It may be released to the media after selection, hence sensitive or confidential information should not be discussed in the Project narrative.

A2.2 Proposer's Offer

Provide a firm offer to the Agencies valid for the period stated in ITP Section 4.5.2, using the Form of Proposal (Form FP, ITP Appendix D). The offer shall be executed by the Proposer or by its legally authorized representative. If the Proposer is a joint venture or a partnership, the offer shall be executed by all joint venture members or all general partners, as applicable.

Complete and submit the Appendix to Form of Proposal (Form FP(A), ITP Appendix D).

Upon Contract award, those portions of the selected Proposer's administrative submittal identified by asterisks in Table A to this ITP Appendix A , will be incorporated into the Contract at Part 9.

A2.3 Proposer Information, Certifications and Documents

A2.3.1 Proposer Information

Provide a detailed description of the legal structure of the entity submitting the Proposal (i.e. the Proposer), include organizational charts reflecting the roles and responsibilities of the Principal Participants and Subcontractors (design, construction and suppliers) named on Form NS and provide licensing information for the Proposer and each Principal Participant.

A2.3.2 Changes in Proposer's Organization

Provide a copy of any letter issued by the Agencies to approve any change to the Proposer's organization as represented in the Proposer's SOQ. Attached to each letter, the Proposer shall provide a written description (two pages maximum) of the change(s) approved in the letter.

See ITP Section 2.7.

A2.3.3 Forms and Certificates

Provide the following:

- A) Form AR, Acknowledgement of Receipt;
- B) Form C, Proposer's Representative;
- C) Form NS, Named Subcontractors and Suppliers , listing proposed Subcontractors (including suppliers) as specified therein, and including the percentage of the Proposal Price that represents the anticipated participation of such entities (not the specific dollar value of participation). On Form NS, show all major Subcontractors (i.e Subcontractors performing Work valued at 5% or more of the proposed Contract Price) or major Suppliers (i.e. suppliers providing products and material valued in excess of 5% of the proposed Contract Price), the Designer and known architectural and engineering subconsultants including any proposed subconsultants involved in QA/QC;
- D) Form KP, Key Personnel Inform ation, to communicate any approved changes in the Proposer's proposed roster of Key Personnel, relative to the Proposer's SOQ submission. For each change in its Key Personnel since the SOQ, the Proposer shall include in the Proposal with Form KP a copy the written approval received from the Agencies for such change (see ITP Section 2.7), details of such Key Personnel's role and a 2 page resume of the substitute personnel. If no changes in Key Personnel have been requested since the SOQ, the Proposer shall use Form KP to state that there is no change relative to the SOQ:
- E) Form IS, Certificate Regarding Ineligible Subcontractors , for each proposed Subcontractor listed on Form NS:
- F) Form BAC, Buy America Certificate;
- G) Form LC, Lobbying Certificate;
- H) Form LSI, Letter of Subcontract Intent , which shall be separately packaged (see ITP Section A3.0);
- I) Form CR, Commitment to Assign Identified Resources to Project , providing a written commitment, signed by the designated Project Principal, that the resources identified in the Proposal, including Key Personnel and identified design staff, will be available and assigned to the Project if the Proposer is awarded the Contract, to the extent such assignment remains within the control of the Proposer;
- J) Form IC, Certificate Regarding Ineligible Contractors , for the Proposer and each Principal Participant;
- K) Form NC, *Non-Collusion Affidavit*, certifying that the Proposal is not the result of, and has not been influenced by, collusion;
- L) Form SCD, Substantial Completion Deadlines, identifying the Contract Deadlines that will be included in Article 4 of the Agreement, consistent with the Initial Baseline Project Schedule: and

M) Form U, Organizational Conflicts of Interest Disclosure Statem ent (see ITP Section A2.3.4).

A2.3.4 Conflict of Interest Disclosure

Provide a conflict of interest disclosure statement on Form U (ITP Appendix D) if and as required by ITP Appendix E, identifying and describing any potential Organizational Conflicts of Interest and any relevant facts concerning past, present or currently planned interests that may present an Organizational Conflict of Interest. The conflict of interest disclosure statement shall be signed by the Proposer's Representative.

A2.3.5 Letter of Commitment from Surety

Provide a letter from one or more surety(ies) licensed to issue bonds in the State, signed by an authorized representative of each surety as evidenced by a current certified power of attorney, indicating that the surety has reviewed the Contract and committing to provide a Performance Bond in the form set forth in Form PEB and a Payment Bond in the form set forth in Form PAB. The commitment letter shall specify the amount of each bond as "the greater of \$1.5 billion or 30% of the proposed Contract Price" or "the greater of \$1.5 billion or 40% of the proposed Contract Price." The letter shall not state the actual dollar amounts of the bonds. The surety's commitment under such letter will expire 180 days following the Proposer Due Date, unless extended by the surety. If multiple surety letters are provided, the Proposer as the principal is acceptable, or alternatively separate surety letters may be provided for each of the Proposer's joint venture members.

Each surety providing such letter shall be (i) rated at least AA-/Aa3 by two nationally recognized rating agencies or at least A-VIII by A.M. Best and Company, (ii) listed on Treasury Department Circular 570, and (iii) on the list of companies approved by the State.

The commitment letter must specifically state that the surety has read the RFP (including the ITP) in determining its willingness to issue the Payment Bond and Performance Bond. The commitment letter may include no conditions, qualifications or reservations for underwriting or otherwise, other than a statement that the commitment is subject to award and execution of the Contract and issuance of the NTP; provided, however, that the surety may reserve in its letter the right to reasonably approve any material adverse changes made to the Contract Documents, but excluding any changes or information reflected in the Proposal, such as ATCs and Proposer commitments.

A2.3.6 Letter of Commitment from Guarantor

If applicable, provide a letter from each Guarantor, stating that the Guarantor is prepared to provide a Guaranty in the form of Form G (ITP Appendix D) if the Contract is awarded to the Proposer, together with appropriate evidence of authorization thereof.

A2.4 DBE/EEO Information

Provide the following forms and other documentation:

- A) Form DBE, Record of DBE Perform ance updating the information submitted in the Proposer's SOQ;
- B) Form EEO, Equal Employment Opportunity Certification;

- C) On the Proposer's letterhead, in the format of Form GF, a written summary of the Proposer's good faith efforts to obtain DBE participation (see ITP Appendix D). Supporting evidentiary documentation as required under Note (2) of Form GF (see ITP Appendix D) shall be provided as specified in ITP Section A3.0;
- D) Form LDB, List of Proposed DBEs (without pricing information) (see ITP Appendix D);
- E) A DBE Plan documenting how the Proposer will obtain sufficient DBE participation to meet the goal, including information regarding good faith efforts to be undertaken. At a minimum, the plan shall: (a) identify specific, economically-feasible work units of the Project that the Proposer considers appropriate for performance by DBEs, including actual participation levels for each unit included in Form LDB and anticipated participation levels for each unit over the course of the Project; (b) describe the outreach efforts and other steps the Proposer will take to meet the Project's DBE goals; (c) include a system of reports and procedures that will document adjustments and maintenance of the DBE participation schedule, achievement of the Project's DBE goal and compliance with the requirements of applicable Governmental Rules; and (d) include an affirmation regarding the Proposer's intention to use good faith efforts to achieve the Project's DBE participation goal.

A2.5 Information To Be Included in Appendices to Volume 1

A2.5.1 Evidence of Authorization

Provide appropriate evidence that the Form of Proposal (Form FP) has been properly executed or that the representative has bound the Proposer, so that there is a valid Proposal that the Agencies can accept and constitute a binding Contract. Evidence shall include a legal opinion in the format of Form OC (but only including opinions 1 through 4 therein) by in-house or outside counsel with respect to the Proposer, its joint venture members or general partners and the Proposal, as well as the following documents:

- 1) **Corporation.** If the Proposer is a corporation, it shall provide evidence in the form of a resolution of its governing body certified by an appropriate officer of the corporation.
- 2) **Partnership**. If the Proposer is a partnership, such evidence shall be in the form of a partnership resolution and a general partner resolution (as to each general partner) providing such authorization, in each case, certified by an appropriate officer of the general partner.
- 3) Joint Venture. If the Proposer is a joint venture, submit notarized powers of attorney executed by each joint venture or partnership member appointing and designating one or more individuals of the joint venture or partnership to execute the Proposal on behalf of the Proposer, and to act for and bind the Proposer in all matters relating to the Proposal. Submit evidence of authorization of the power of attorney with respect to each joint venture member, certified by an appropriate officer of such joint venture member.
- 4) Limited Liability Company. If the Proposer is a limited liability company, such evidence shall be in the form of a limited liability company resolution and a managing member(s) resolution providing such authorization, certified by an appropriate officer of the managing member(s). If there is no managing member, each member shall provide the foregoing information.

A2.5.2 Joint and Several Liability Statement

If the Proposer is a joint venture, submit evidence that each member of the joint venture shall be jointly and severally liable for any and all of the duties and obligations of the Proposer assumed under the Proposal and under any Contract arising therefrom, should its Proposal be accepted by the Agencies. Submit evidence of authorization of the joint and several liability statement with respect to each joint venture member, certified by an appropriate officer of such joint venture member.

A2.5.3 Organizational Documents

Submit organizational documents in the form of copies of incorporation and bylaws, the joint venture agreement, partnership agreement, limited liability company operating agreement or equivalent organizational documents for the Proposer and each Principal Participant, which documents shall be consistent with the responsibilities to be undertaken by the Proposer and Principal Participants under the Contract.

A2.5.4 Financial Information

Submit financial statements, reports and other information updating the financial statements and information included in the SOQ (see RFQ Section 4.4.2.2), including financial information for any guarantors as well as the Proposer and Principal Participants or if available provide links to online public records thereof. Credit ratings from major credit rating agencies (Moody's, Fitch Ratings, S&P) shall be provided for the Proposer, Principal Participants an guarantor(s) if any. To the extent not already provided in accordance with Section 2.8, provide information regarding any applicable changes relative to the Proposer's SOQ submission in the financial condition of the Proposer. If no change has occurred and none is pending, the Principal Participants shall provide letters from their chief financial officers or treasurers so certifying.

Information shall be packaged separately for each separate entity with a cover sheet identifying the name of the organization, its role in the Proposer's organization and its North American Industry Classification System (NAICS) Code.

A2.5.5 Insurance – Request for Exceptions/Deviations

If the Proposer wishes to seek the Agencies' approval of exceptions to, or deviations from, insurance requirements under ITP Section 1.12, submit a detailed written request for same, together with all substantiating information and documentation.

A2.5.6 Proposal Bond

Submit a Proposal Bond in the form of Form PB (ITP Appendix D). See ITP Section 4.6.

A3.0 FORMAT OF VOLUME 1

Organize Volume 1 in the format shown in Table A, with the cover of the volume labeled as follows, plus the name of the Proposer:

TZHRC DESIGN-BUILD PROPOSAL

VOLUME 1 ADMINISTRATIVE SUBMITTAL

PROPOSER: ...

The total number of pages (sides of sheets) that shall be used for the Volume 1 Section 1 shall not exceed 10 pages. No specific page limit applies to the other sections and appendices of Volume 1.

Sections 1 through 4 of Volume 1 plus Appendix A to Volume 1 shall be submitted in a package together.

A single set of supporting evidentiary documentation required under Note (2) of Form GF (see ITP Appendix D) shall be provided, if use of Form GF is required. If Form GF is required, the single set of the supporting documentation shall be supplied alongside the copy of Form GF submitted in the original copy of Volume 1 (see ITP Section 4.3.1(A)). Copies of Form GF shall be supplied with all submitted copies of Volume 1.

Appendix B to Volume 1 (financial information; see ITP Section A2.6.4) shall be submitted in a separately-sealed package labeled with the text "Tappan Zee Hudson River Crossing Project VOLUME 1 APPENDIX B - FINANCIAL INFORMATION" plus the name of the Proposer.

Appendix C to Volume 1 (Form LSI; see ITP Section A2.3.3(H)) shall be submitted in a separately-sealed package labeled with the text "Tappan Zee Hudson River Crossing Project VOLUME 1 APPENDIX C" plus the name of the Proposer.

Table A – Format of Volume 1			
Proposal Component	Required Information	ITP Reference	
Volume 1, Section 1	Project Narrative	A2.1	
Volume 1, Section 2	* Form FP, Form of Proposal	A2.2	
	* Form FP(A), Appendix to Form of Proposal		
Volume 1, Section 3	Proposer Information	A2.3	
	Description of organization	A2.3.1	
	Organization charts		
	Licensing information	A2.3.2	
	Changes in organization		
Volume 1, Section 4	Forms and Certifications	A2.3.3	
	Form AR, Acknowledgement of Receipt	Appendix D	
	Form C, Proposer's Representative		
	Form PPF, Past Performance	B3.3	
	* Form NS, Named Subcontractors and Suppliers		
	* Form KP, Key Personnel Information		
	* Form IS, Certificate Regarding Ineligible Subcontractors		
	* Form BAC, Buy America Certificate		
	* Form LC, Lobbying Certificate		
	* Form CR, Commitment of Resources		
	* Form IC, Certificate Regarding Ineligible Contractors		
	* Form NC, Non-Collusion Affidavit		
	* Form SCD, Substantial Completion Deadlines		
	* Form U, Organizational Conflicts of Interest Disclosure Statement (if required)	A.2.3.4	
	Surety Commitment Letters	A2.3.5	
	Guarantor Commitment Letters (if applicable)	A2.3.6	
Volume 1, Section 5	* DBE Plan	A2.4	
	Form DBE, Record of DBE Performance		
	* Form EEO, Equal Employment Opportunity Certification		
	* Form GF, Documentation of Good Faith Efforts (if required)		
	Form LDB, List of Proposed DBEs		

Table A – Format of Volume 1			
Proposal Component	Required Information	ITP Reference	
Volume 1, Appendix A	Evidence of Authorization	A2.5.1	
	Opinion of Counsel with respect to the Proposal	A2.5.1	
	* Joint and Several Liability Statement (if applicable)	A2.5.2	
	Organizational Documents	A2.5.3	
	Request for Insurance Exceptions/Deviations (if applicable)	A2.5.5	
	Proposal Bond	A2.5.6	
Volume 1, Appendix B	Updated Financial Information (separately packaged)	A2.5.4/ A3.0	
Volume 1, Appendix C	* Form LSI, Letter of Subcontract Intent (separately packaged)	A2.3.3(h)	

^{*} Submittals identified by an asterisk will be incorporated in the Contract at Part 9.

ITP Appendix B





APPENDIX B

VOLUME 2: TECHNICAL PROPOSAL SUBMITTAL REQUIREMENTS

The Proposer shall submit the Volume 2 Technical Proposal information required by this ITP Appendix B, separated, labeled and organized in accordance with the checklist in Table B.

In Appendix A to Volume 2, provide copies of all ATC(s) approved or conditionally approved by the Agencies that are incorporated into the Technical Proposal.

Each sheet shall be 8.5" by 11" and printed double-sided, unless otherwise stated herein. Other than the mandatory use of 11" by 17" sheets explicitly stated herein, the Proposer can optionally use 11" by 17" sheets for the presentation of graphics if the Proposer wishes. For such optional use of 11" by 17" sheets, each 11" by 17" sheet used shall count as two sheets of 8.5" by 11" paper.

All forms named herein are found in ITP Appendix D unless otherwise noted.

Upon award, the selected Proposer's Technical Proposal will be incorporated into the Contract at Part 9.

B1.0 DESIGN AND CONSTRUCTION SOLUTIONS SUBMITTAL

The Technical Proposal shall include a design and construction solutions submittal, which shall include the following three types of document:

- a. Narrative documents: The Proposer shall submit narratives as part of the design and construction solutions submittal in Volume 2, which shall: (i) provide an overview of the proposed design, (ii) provide the information requested in ITP Section B1.1 through B1.7; and (iii) describe the key features and any innovative aspects of Proposer's design concept, including a summary of any ATCs approved or conditionally approved by the Agencies.
- b. **Plan documents:** The Proposer shall submit the following plan documents as part of the design and construction solutions submittal in Volume 2 in accordance with ITP Sections B1.1 through B1.5, Section B1.7 and Table B:
 - i. Initial Design Plan
 - ii. Initial Geotechnical Work Plan
 - iii. Initial Corrosion Protection and Maintenance Plan
 - iv. Maximizing the Public Investment Plan
 - v. Initial Demolition and Removal Plan
 - vi. Initial Work Zone Traffic Control Plan
 - vii. Initial Bridge Access Strategy Plan.
- c. **Design plans (draw ings):** The Proposer shall submit design plans (drawings) in Appendix B to Volume 2 of the Proposal, which shall be organized in accordance with ITP Sections B1.1, B1.4 and B1.6 and Table B. All plans (drawings) submitted with Proposals shall be printed single-sided on 11" by 17" sheets, and all as-printed text font sizes on plans shall be at least 8 point.

The design and construction solutions submittal shall: represent a level of design sufficient to enable a thorough evaluation of Proposer's design concepts; address all elements of the proposed design; allow for easy transferability into a 3-D virtual design and construction (VDC) format; and be consistent with the requirements of the Contract Documents.

B1.1 Construction Approach

B1.1.1 Construction Staging and Facility Staging Narrative and Plans

The Proposer shall provide plans showing and provide a narrative describing:

- a. Construction staging sequence in plan for the Crossing.
- b. Construction staging sequence of each landing and off-site facilities.
- c. Plans showing Authority facilities affected by construction staging.
- d. Temporary location and layout for Authority facilities.
- e. Final location and layout for Authority facilities.
- f. Schedule of effects on Authority facilities.
- g. List of permits and approvals required for staging areas.

B1.1.2 Piling and Dredging Narrative

The Proposer shall provide a narrative description of the Proposer's approach to all construction activities related to dredging and piling, as follows:

- a. Provide plans showing the extent and arrangement of temporary platforms in the Hudson River. Include details of proposed circulation on and off the platforms and access to the Thruway and local roads.
- b. Provide plans showing the extent, sequence, depth, volume and duration of dredging for construction and demolition. Indicate months and years when dredging is planned to occur.
- c. If the Proposer's proposed dredging scheme does not conform to the dredging scheme and prism of dredging in the Authority's Section 103 dredging permit application (see ITP Section 1.15), then the Proposer's narrative shall include discussion of: (i) potential impacts of on vehicular traffic, river traffic, environmental impacts (favorable and unfavorable) identified in appropriate environmental documents (especially with regard to the impacts and commitments of the DEIS), community impact and safety; (ii) what changes in the EPCs, compliance terms, best management practices and avoidance measures identified in any Environmental Approval would be required; and (iii) whether the Proposer's proposed dredging scheme would require any deviation from the terms and conditions of any anticipated or existing Environmental Approval or new Environmental Approval and, if so, an analysis of the steps and time that would be required to obtain, and the likelihood of success in obtaining, the required approval from the appropriate Governmental Person(s);
- d. Provide narrative on approach to limiting suspended solids and river bed disruption to the levels included in the DEIS. Provide specific narrative on the extent of armor, placement method and integration with dredging activities.

e. Provide narrative on the planned river equipment including numbers and types of vessels anticipated, size, draft and power output.

B1.1.3 Protection of Facilities Narrative

The Proposer shall provide a narrative description of the Proposer's approach to protecting facilities, as follows:

- a. Provide a description of the specific means the Proposer intends to use to minimize impacts to existing utilities, maintenance facilities, administrative buildings, bridge structures, private residences and properties, and Metro-North Railroad infrastructure adjacent to or within the Project Limits. This description shall identify how the Proposer intends to mitigate risks of settlement and/or instability of receptors and surrounding ground area due to vibrations and other effects of the Proposer's construction operations.
- b. Provide a narrative to describe the extent of existing condition assessment to be undertaken to establish a baseline against which subsequent monitoring results can be measured.
- c. Describe: anticipated vibration producing activities; the methodology of selecting potential receptors that may be impacted; the methodology for setting threshold limits; and how the type of monitoring necessary is determined.
- d. Describe types of instrumentation equipment that will be used, what each instrument type will monitor, and the format of the monitoring data.
- e. Provide a plan identifying the minimum receptors, what will be monitored and where, and describe the coordination that will be undertaken with the receptor owner(s).
- f. Describe the process to be used to notify workers when a threshold limit has been reached and the protocol and actions that will be implemented to address the threshold limit occurrence situation.
- g. Describe the proposed mitigation plan for addressing any defects that occur as a result of threshold limits being exceeded.

B1.1.4 Utilities Narrative and Plans

The Proposer shall provide:

- a. conceptual utility relocation plans that tie to the phasing of the construction Work;
- b. identification of any utility relocations on the critical path of the Project schedule; and
- c. a narrative description addressing how utility relocation work will be approached with minimal disruptions to utility operations and other activities on the Project. Identify specific and/or unique design and/or construction methods that will be implemented to minimize the impacts on existing utilities and facilities as a result of construction activities.

B1.1.5 Property Utilization Plans

The Proposer shall provide plans identifying the temporary and permanent requirements for the construction and sequencing of the Work, including all temporary use access and construction easements and staging areas, as well as the final permanent footprint of the constructed

improvements, defined easements, and access ways. The Proposer shall show on the plans the Limit of Construction that it shall use in Rockland County, within the minimum and maximum Limits of Construction in Rockland County as shown in Contract Documents, Part 6 RFP Plans (Directive Drawings) – Drawing DIR-001.

B1.1.6 Initial Demolition and Removal Plan

The Proposer shall provide an Initial Demolition and Removal Plan that shall include a description of the Proposer's plans for:

- a. Any necessary phasing in the demolition of the existing bridge in relation to construction, including any proposals for salvage.
- b. Any elements to be demolished and removed in staging areas.
- c. A staging plan and specific means that the Proposer intends to use in order to maintain and if necessary replace the existing toll plaza.
- d. A staging plan and specific means that the Proposer intends to use in order to maintain and if necessary replace the existing NYSTA maintenance and operation facilities.

B1.2 Service Life of the Crossing

B1.2.1 Service Life Narrative

The Proposer shall provide a narrative that shall describe the Proposer's approach for the Project's maintenance and durability (*i.e.* sustainability) as follows:

- a. Describe the factors that affect the service life of the Crossing and show how these factors are accommodated in the design as an integrated system.
- b. Provide general procedure for replacement of elements.
- c. Describe the maintenance routines/inspections that will be required after a seismic or extraordinary event and how the design of the Project will accommodate this.
- d. Describe acceptable types of cable material and protection systems for cable stays, if these are used in the Proposer's proposed design.
- e. Describe the design of details, what materials will be used or evaluated, future maintenance tasks or routines and the expected schedule of future maintenance tasks or routines to achieve the required service life.
- f. Provide a life-cycle cost analysis that includes all scheduled maintenance, expected maintenance intervals, and cost in 2012 dollars.

B1.2.2 Initial Corrosion Protection and Maintenance Plan

The Proposer shall submit an Initial Corrosion Protection and Maintenance Plan that describes: (i) how the Proposer's design and construction approach will achieve and/or extend the service life of structures and structural elements; and (ii) how the Proposer's design and construction approach will minimize short-term and long-term maintenance efforts and costs for the completed Project. Proposers should identify elements of the Proposal that will enhance the long-term beneficial use of the Project by the Agencies and the public.

B1.3 Maximizing the Public Investment

The Proposer shall provide a plan, designated the Maximizing the Public Investment Plan, that describes how the Proposer intends to meet the Project goal of maximizing the public investment for potential future loading (see ITP Section 1.4 Item C). The plan shall present concept-level details for strengthening, configuring and dimensioning the Crossing superstructure and substructure elements to accommodate potential future loadings. The plan shall also present descriptions of the Proposer's approach to the design elements including but not limited to:

- a. The Main Span structure and Main Span foundations.
- b. The foundation design, including relevant measures incorporated into the design of piles and pile groups.
- c. All additional structural support included within the foundations and substructures such that these shall accommodate potential future loadings.
- d. Any superstructure design elements (including geometry, spacing and layout) that are intended to facilitate potential future loading. Identify the superstructure components that are designed specifically to accommodate potential future loading and potential future structure associated with potential future loading.
- e. Anchorages and anchorage blocks.
- f. The weight of additional or separate superstructure to accommodate potential future loading (expressed as an equivalent uniform dead load) assumed for design of shared or separate substructure and foundations.

The Proposer shall include in the Maximizing the Public Investment Plan, concepts indicating the range of potential service options that could be accommodated in the future. This shall include:

- g. Discussion of the ability to add future loading with minimal disturbance to existing infrastructure and the Project elements designed and constructed under the Contract, including impacts to the Main Span, Approach Spans, abutments, highways and facilities;
- h. Discussion of widths and access arrangements proposed for emergency and maintenance vehicles serving the potential future loading elements; and
- i. Discussion of a methodology for how the structural elements for the potential future loading would be connected to the Crossing, including possible construction activities.

B1.4 Bridge, Structures and Aesthetic Design Concepts

B1.4.1 Initial Design Plan

The Proposer shall submit an Initial Design Plan which shall address the following bridge structures:

- a. the Crossing, including approach structures and the Main Span;
- b. temporary access bridge crossing Metro-North Railroad's Hudson Line railroad, if applicable; and
- c. shared-use path grade separated crossings.

The Initial Design Plan shall describe how the Proposer will apply the requirements of Contract Documents Part 3 Project Requirements to bridge structures, while complying with the environmental and permitting requirements and commitments and other Project requirements during the performance of the design and construction Work. At a minimum, the Initial Design Plan shall:

- d. Provide the design criteria for the structures listed above;
- e. Summarize the design parameters, including loads and load factors together with their proposed combinations, combined with the potential future loading;
- f. Verify all studies, analysis methods and testing proposed for determining the effects of earthquake, hydraulic, scour, ice, wind and ship impact loads on the Crossing;
- g. List the proposed materials and their properties; and
- h. Explain the proposed design and verification methods.

B1.4.2 Structures and Architecture Narratives and Drawings

The Proposer shall provide design plans showing elevation view, plan view, cross section and details as required to convey appropriately the information, with elements appropriately labeled and/or dimensioned, that include the information summarized in the following subsections, along with supporting narratives.

B1.4.2.1 All bridges

(1) Foundations / Geotechnical

- a. Provide plans showing the location and type of foundations that will be used at each foundation location. Include the proposed maximum and minimum number and size of foundation elements, the approximate maximum capacity of the proposed foundation elements and the configuration of foundations. Include details of the:
 - (i) unfactored and factored loads at each pile cap;
 - (ii) pile count at each pile cap (pile group);
 - (iii) diameter(s) of piles at each pile gap group
 - (iv) ultimate pile capacity(ies) of each pile group
 - (v) pile cap size(s).
- b. Describe any geotechnical investigation and testing that will be provided by the Proposer to substantiate its design
- c. Describe the geotechnical borings program, including proposed locations.
- d. Describe the pile load testing program and the locations where each pile load test will be performed.
- e. Describe the design method that will be used to determine foundation capacities.
- f. Describe the geotechnical aspects of the Project site as they relate to the Project and identify critical issues and how these critical issues such as seismic design, settlement and vibration will be addressed. This narrative shall include discussion on the design and construction of foundations, cofferdams, walls, slopes,

dredging, falsework or shorings, at a minimum. Identify areas where ground improvements will be used and the type of ground improvement.

(2) Substructures

- a. For each substructure type, provide plans showing the approximate footprint of the footing, number of columns, column shape and orientation, details of architectural shapes, tapers and finishes.
- b. Include in the plans the approximate dimensions of the substructure cross sections, the section type (e.g. solid or hollow), approximate minimum wall thickness and any unique details.

(3) Seismic

- a. Describe how the seismic criteria will be met for the major or critical elements of each bridge type or type of element. At a minimum, this shall be provided for the foundation, substructure and superstructure components of each bridge type.
- b. Provide plans showing details of any elements that will be used to meet seismic requirements including maximum / minimum sizes, shapes, details and architectural appearance.
- c. For bridges that require non-linear time-history analysis, confirm the software to be used for the analyses. Outline the design and verification methods to be used in the analysis, together with a summary of the initial model.
- d. Describe any testing that will be necessary for seismic devices including which elements will be tested, how testing will be conducted, the location of the facility testing will be conducted at and the plan in the event a test is not successful.

(4) Superstructures

- a. Provide drawings showing the cross section of the Crossing superstructure including locations and dimensions of lanes, barriers, shoulders, path(s), railings, noise barriers, fences, primary structural elements, deck joints and conduit locations.
- b. Provide plans showing the elevation, cross section and approximate size dimensions of the primary structural elements for each structure including the deck, floor beams, edge girders, segmental girders, stringers, stay cables and bearings. These can be included in other views such as the overall bridge cross section or elevation as long as the scale is reasonable so configuration of elements can be understood.
- c. Table of minimum vertical clearances to be provided at each bridge that lists the dimension, location on bridge, and location on crossing road, navigation channel, waterway or railroad. Plan sheets may be used in combination with or in place of the table.
- d. Table of minimum horizontal clearances to be provided at each bridge that lists the dimension, the object, and method of shielding, if required. Plan sheets may be used in combination with or in place of the table.
- e. Identify the principles and means of incorporating articulation for all portions of the Crossing superstructure. Indicate movements, restraints, bearings, joints, any equipment used to modify the free behavior of the superstructure under load.

f. Provide plans that indicate how all the services, appurtenances and equipment will be incorporated into the superstructure. Indicate how these elements will interact with the visual quality of the Crossing.

(5) Constructability

- a. Provide a narrative describing the construction methods that will be followed and major equipment used to construct each bridge type. Include the associated temporary works, material types, equipment used, the construction sequence and falsework needs.
- b. Describe the erection procedure and approach that will be used to control geometry.
- c. Provide a superstructure cross section at each crossing showing the existing condition, each construction phase, and the final condition. All bridges at the crossing road are to be shown in one section to show the inter-relationship between the bridges. The cross section shall show as a minimum lanes, shoulders, railings, barriers, fencing, walls, slab, and beams.
- d. Describe critical construction events and clearances and provide the location and when the event or clearance will be critical.
- e. Describe how river traffic will be maintained throughout construction of the Crossing.

B1.4.2.2 Main Span of the Crossing

(1) <u>Towers</u> (if used)

- a. Provide plans showing the tower configuration and layout including height, shape, tapers, approximate dimensions, cross sections, orientation and architectural details.
- b. If using multiple components to form towers, provide plans indicating approximate size, shape, location, and description of purpose of components.
- c. Provide supporting narratives for the plans.

(2) For Stay Cables (if used)

Provide plans showing anchor locations, cable anchorage connections, details of guide pipes, cable arrangement including number and spacing, and proposed cable suppliers, along with supporting narratives.

B1.4.2.3 Other Structures

(1) Retaining Walls, Abutments and Noise Barriers

Provide plans for earth retaining walls, abutments and noise barriers along with the supporting narratives. Include elevation and plan views showing the extent of the Work and conceptual details for surface treatments.

(2) Demolition and Removals

a. Provide plans showing the approximate limits of existing bridges, walls, buildings and embankment removals that are required to complete the Project.

b. Describe the approach to meeting environmental requirements related to demolition and removals. Include salvage of specified elements and proposed disassembly, transport and storage methods.

B1.4.3 Visual Quality

(1) Architectural Concept

Provide architectural concept plans and renderings, along with supporting narratives, that comply with the architectural criteria set forth in the Contract Documents that address:

- a. Aesthetic concepts for the Main Span structure addressing the different perspectives of a driver and a distant observer located from the points depicted on visualization pictures A1, A6, A7, A8, B3, B11, B15 and B17, provided in Contract Documents Part 7 Engineering Data (Part 7-15 Visualization Backgrounds).
- b. Aesthetic concepts for roadway and bridge approaches, demonstrating harmony with the main span concepts and approaches, as well as concepts for the support piers, columns, abutments and associated earth retaining structures.
- c. Concepts for the shared-user path with detailed examples of how non-vehicular users of the new crossing will interface and relate to the structure, roadway and project components.
- d. Color renderings in both daylight and night time settings showing architectural concepts proposed.

(2) Lighting Concept

Provide architectural concept plans and renderings, along with supporting narratives, that comply with the Project-wide architectural criteria set forth in the Contract Documents that address:

- a. Spacing and location of poles, types of luminaires, and controls.
- Aesthetic lighting plans for the main span structure (inclusive of towers, cables, deck, under-structure, and piers), the approach structures, and the shared-use path (including landing areas) from all primary perspectives and demonstrating compatibility among these elements
- c. Color renderings showing architectural concepts and lighting concepts for the bridges.

B1.5 Geotechnical

The Proposer shall submit an Initial Geotechnical Work Plan, which shall include:

- A. A summary of the Proposer's knowledge and understanding of the geotechnical, geologic, hydrogeology and seismic settings of the Project site and how the nature and behavior of the soil, rock, groundwater and subsurface conditions will affect the design and methods of construction
- B. Anticipated methods of analysis and design for the Crossing foundations and a discussion of the foundation optimization process and rationale for selection of the foundation types.

- C. Identify key Project constraints and describe how the geotechnical work will be designed and constructed to meet these constraints.
- D. A risk register identifying all major design and construction risks of the geotechnical works, and describe how these risks are managed and mitigated.
- E. Minimum numbers, depths, types of subsurface investigations that the Proposer would, if awarded the Contract, carry out in order to facilitate the Crossing design and construction, including a narrative of the in-situ tests and laboratory tests to be carried out.
- F. Anticipated design approach and discussion of settlements and associated lateral ground movements and their effect on existing and proposed structures and foundations.
- G. Anticipated design approach and method of analysis to determine the site specific seismic response spectra and liquefaction assessment for the design earthquakes; and
- H. Summary of anticipated foundation systems.

B1.6 Roadway Design Concepts

B1.6.1 Roadway Design Concepts Plans

The Proposer shall provide plans showing, and supporting narratives describing the following:

- a. Project Limits, including both permanent and temporary use easements.
- b. Horizontal and vertical roadway alignment with mathematized baseline / centerline stationed at 100 feet for all roadways, ramps, and defined access ways within the Project limits.
- c. Existing and proposed ROW lines, and any additional ROW needs identified.
- d. Lane, shoulder, median, transitions and sidewalk dimensions.
- e. For guide signs structures, changeable message signs ("CMS") and variable message signs ("VMS"), sign structures, and signalization poles (including locations).
- f. Beginning and end of bridge, and beginning and end of retaining wall stations and offsets.
- g. Connections to existing roadways.
- h. Typical roadway cross-sections, including right-of-way lines and special features including typical sections for all roadways, ramps, and defined access ways within the project limits.
- i. Specific cross sections at the limits of Work on the I-287 and at the toll plaza.
- j. Pavement design package to include pavement type with proposed limits; pavement design including typical section details for mainline, shoulders, ramps, cross streets; transition and tie-in details, and areas of roadbed improvement to existing at tie-ins.
- k. Provide plans showing the approximate limits of existing bridge, wall and embankment removals that will be completed as part of this Project.

B1.6.2 Shared Use Path Plans

The Proposer shall provide plans showing shared-use path, including plan and profile drawings, cross-section drawings reflecting the various cross-sections proposed on the crossing and at the landings, transition area layouts, belvederes, road crossing layout plans, terminations, notification/ informational signing concepts, and preliminary surface and structural section designs.

B1.6.3 Drainage Concept Plans

The Proposer shall provide concept drainage plans, including plan sheets, notes and concept for stormwater management facilities, drainage divides and ground elevations, drainage areas and flow directions, major conveyance structures, culverts and existing structures and pipes. Major conveyance structures, include all storm drains and/or cross drains (pipe culverts, box culverts, and bridges) necessary to convey stormwater runoff to the stormwater management facilities and/or receiving water bodies. If pump stations are required to adequately convey stormwater runoff to the stormwater management facilities and/or receiving water bodies, then such major conveyance structures shall also include pump stations.

B1.7 NYSTA Operations

B1.7.1 Initial Work Zone Traffic Control Plan

The Proposer shall provide an Initial Work Zone Traffic Control Plan, which shall describe the Proposer's plan to maintain the safety and use of traffic corridors and minimize disruption on existing roads as a result of the construction Work. At a minimum, the Initial Work Zone Traffic Control Plan shall:

- a. Describe the major phases of the Work, including any unique sub-phases required to address unique construction practices.
- b. Include complete typical sections by phase, including information regarding maintenance of access and egress. It shall provide phase notes and details regarding sequence of work activities (e.g., specialized equipment needs and falsework).
- c. Identify each road and access way within the vicinity of the Project site, and describe the potential impacts, mitigation measures, limitations of use, and the number and duration of time that each road and access way may be impacted in performing the Work, including information regarding detours.
- d. Identify how access to all Authority facilities will be maintained. Identify each water channel and rail line within the vicinity of the Project site, and describe the use and potential impacts on the water channels and rail lines that may be affected or utilized by the Proposer in performing the Work.
- e. Describe the Proposer's approach to accommodate local events, emergency service providers and commercial vehicles.

B1.7.2 Initial Bridge Access Strategy Plan

The Proposer shall provide an Initial Bridge Access Strategy Plan that describes the Proposer's proposed plan for physical access by personnel and equipment to be used for operation and maintenance of the completed Crossing.

Provide plans showing how access to the Project will be achieved for future maintenance, inspection and replacement of elements. Include location of access elements with approximate sizes and clearances along with maintenance and inspection equipment that will be necessary.

B2.0 MANAGEMENT APPROACH SUBMITTAL

The Proposer shall submit, as its management approach submittal in the Technical Proposal, initial plans relating to management aspects of the Project. Each initial plan shall outline the key features of that particular aspect and describe how it will be addressed during the Contract. Each initial plan should, therefore, be capable of being developed by the Design-Builder during early stages of the Contract into a full comprehensive plan for that aspect in accordance with the requirements of the Contract Documents.

The Proposer shall submit the following initial plans as part of the management approach submittal; the plans are described in the Sections B2.1 through B2.4 herein:

Section B2.1.1 Initial Project Phasing/Sequencing Plan (Part 3 - 2. Project Management)

Section B2.1.2 Initial Baseline Project Schedule (Part 2 - DB §108).

Section B2.2.1 Initial Workforce Participation Plan (Part 2 - DB §102-9.4)

Section B2.2.2 Initial Safety Plan (Part 2 - DB §107-7.5)

Section B2.3 Initial Project Management Plan (Part 3 – 2. Project Management)

Section B2.4 Initial Quality Plan (Part 2 - DB §113)

In the above list, references in parenthesis relate to the Contract Document requirements for the relevant plan after Contract award. The Proposer may refer to these references for assistance in understanding the requirements for the initial plans.

B2.1 Schedule

B2.1.1 Initial Project Phasing / Sequencing Plan

The Technical Proposal shall include an Initial Project Phasing/Sequencing Plan. See Contract Document Part 3 Project Requirements - 2 Project Management.

The Initial Project Phasing/Sequencing Plan shall be consistent with the Initial Work Zone Traffic Control Plan and shall include any proposed segmentation of the Project. The Initial Project Phasing/Sequencing Plan shall include: a description of the timing and phasing of the design and construction Work; an executive summary version of the Initial Baseline Project Schedule (see ITP Section B2.1.2); a narrative that lists and describes the assumptions used in preparing the Initial Baseline Project Schedule, which shall include the timing, duration and subject matter for the review and processing of all required submittals; a narrative that shall describe the restraints, critical path activities, activities requiring night work, activities that include contingencies, holidays and other non-work days, potential problem areas, permits, the timing and duration of temporary lane closures, utility relocations, proposed use of properties for staging and laydown activities, and the accommodation of any work restrictions; and a time-chainage schedule which shall show the major construction activities and how they occur in time relative to the chainage of work location(s) along the Crossing.

The Initial Project Phasing/Sequencing Plan shall include a specific description of the Proposer's planned coordination with other contractors working in the vicinity and impacted by the construction of the Project.

B2.1.2 Initial Baseline Project Schedule

The Technical Proposal shall include a Initial Baseline Project Schedule comprising a logic-based, critical path method (CPM) project schedule in Oracle Primavera® P6 format for the Work to be performed from the execution of the Contract up to and including Final Acceptance. The Initial Baseline Project Schedule shall include a start date and the duration in days for all activities, as well as a detailed work plan with a hierarchical breakdown of work scope by location, type and task (known as a work breakdown structure, WBS). See Contract Document Part 2 - DB §108.

The Initial Baseline Project Schedule shall include the following milestone dates, at a minimum:

- a. Notice to Proceed
- b. Design reviews
- c. Submissions for construction
- d. Construction commencement
- e. Major permits approval deadlines
- f. Construction closures
- g. Initial Traffic Relocation Deadline
- h. Crossing Completion Deadline
- i. Physical Completion Deadline
- Final Acceptance Deadline.

The Initial Baseline Project Schedule shall be provided in hard copy and electronically Specifically, the schedule shall be presented: (i) in hard copy printed on 11" by 17" sheets with all as-printed font sizes at least 8 point; and (ii) electronically in Oracle Primavera® P6 format on compact disk without copy protection.

B2.2 Organization and General Management

B2.2.1 Initial Workforce Participation Plan

The Technical Proposal shall include an Initial Workforce Participation Plan covering the Proposer's proposed workforce and the workforce of all its proposed Subcontractors, together and coordinated with the proposed progress schedule that addresses the equal employment opportunity goals. See Contract Document Part 2 §102-9.4.

B2.2.2 Initial Safety Plan

The Technical Proposal shall include an Initial Safety Plan. The plan shall describe the Proposer's program that ensures the Project is safe for the public, employees and proposed sub-contractors, staff from the Agencies, the Agencies' representatives, public safety personnel, stakeholders and all businesses and contractors operating within or affected by the construction of the Project, and the public during construction and upon service. See Contract Document Part 2 §107-7.5 and Part 3 Project Requirement – 20 Security.

In the Initial Safety Plan, the Proposer shall include the following:

- a. Roles and responsibilities for safety, at all levels of the organization;
- b. Required resources and Project schedule for safety activities;
- c. Procedures and programs to ensure safety integration into design, construction, testing and acceptance, and start-up activities;
- d. The process for the identification and effective communication of safety hazards associated with the operational phase of Project; and
- e. The process for sound decision-making that integrates the results of system safety activities into the requirements and specifications for the Project.

B2.3 Initial Project Management Plan

The Technical Proposal shall include an Initial Project Management Plan. See Contract Document Part 3 Project Requirement - 2 Project Management. The Initial Project Management Plan shall include the Proposer's organization charts and describe its design management concept, construction management concept, and internal and external coordination approaches as described in Sections B2.3.1 to B2.3.5 herein.

B2.3.1 Organization Charts

The Proposer shall provide two organization charts (each on 11"x17" sheets of paper), illustrating the Proposer's Key Personnel and their prospective roles and responsibilities, as well as other principal participants and any known Subcontractors having a material role in the Project's design Work, design check Work and construction Work. The organization charts shall be titled "Proposed Design Organization" and "Proposed Construction Organization", respectively.

The Proposed Design Organization chart shall illustrate the proposed design organization, indicating the responsibilities and structure of the design staff, independent design check staff, down to and including discipline leads and the staff positions proposed in each discipline. The Proposer shall provide resumes (maximum of two 8.5" x 11" pages per person) for personnel listed in the Proposed Design Organization charts to the level of discipline leads.

The Proposed Construction Organization chart shall illustrate the proposed construction organization, indicating the responsibilities and structure of the construction staff, down to and including field superintendents and the staff positions proposed under each field superintendent for all shifts. The Proposer shall provide resumes (maximum of two 8.5" x 11" pages per person) for personnel listed in the Proposed Construction Organization charts to the level of senior site staff.

B2.3.2 Design Management Concept

The Initial Project Management Plan shall describe the Proposer's design management concept. The description shall, at a minimum, include: (i) the structure of the Proposer's design organization; (ii) the names of the individuals the Proposer commits to use in its design check Work; (iii) the proposed design and check sequencing; and (iv) the resources and personnel needed for timely implementation of design and design check activities taking into account construction schedule requirements.

Describe also the Proposer's approach to design deliverables, including definition, packaging, submission, review, approval and issue for construction, together with the names of the key individuals involved in the process.

Provide details of the Proposer's proposed document management system for document interfacing with the Authority.

B2.3.3 Construction Management Concept

The Initial Project Management Plan shall describe the Proposer's construction management concept. The description shall, at a minimum, include: (i) the structure of the Proposer's construction organization; (ii) the resources and personnel needed to effectively and efficiently manage the Project during the construction phase; and (iii) the management and integration of Subcontractors and suppliers.

B2.3.4 Internal Coordination

The Initial Project Management Plan shall describe the interrelationships and interfaces between each discipline within the Proposer's organization (e.g., design, design check, construction, quality management).

B2.3.5 External Coordination

The Initial Project Management Plan shall describe the interrelationships and interfaces between the Proposer's organization and the Agencies, other governmental agencies, utility owners, stakeholders, businesses, the public and other contractors working in the vicinity and impacted by the construction of the Project. This description shall, at a minimum, address the following activities:

- a. Reviews of plans and permits;
- b. Progress, workshop, partnering and utility coordination meetings; and
- c. Construction, engineering and inspection activities.

B2.4 Initial Quality Plan

The Technical Proposal shall include an Initial Quality Plan. The Initial Quality Plan shall describe the Proposer's proposed quality assurance/quality control program for the design Work, the QA/QC program for the construction Work, and how the design and construction activities performed by different entities will be coordinated to ensure consistency of quality. The Initial Quality Plan shall be considered an interim document for the purpose of conveying the overall philosophy of the Proposer regarding QA/QC, and shall be expanded and/or amended prior to implementation on the Project. See Contract Document Part 2 - DB §113.

The Initial Quality Plan shall include two, separate QA/QC organization charts (on 11"x17" sheets) for the design Work and the construction Work, clearly defining to whom the QA/QC staff shall report within the Proposer's organization. The Proposer shall provide resumes (each no more than two 8.5" x 11" pages per person) for key QA/QC personnel.

The narrative for the Initial Quality Plan shall describe the roles and responsibilities of key QA/QC personnel during each phase of the Project to ensure quality design and construction, and describe the inter-relationship and relative authority within the Proposer's organization of QA/QC staff and design and construction staff.

B3.0 KEY PERSONNEL AND EXPERIENCE

B3.1 Key Personnel

The Technical Proposal shall include a narrative with organizational diagrams, as necessary, describing the design and construction organizational arrangements it is intended to implement to support the Key Personnel named in the Proposer's SOQ. The organizational arrangements shall clearly identify responsibilities and reporting lines of staff, particularly relating to Key Personnel. Where the Proposer considers that staff roles, not previously identified as Key Personnel in its SOQ, are worthy of greater consideration, resumes shall be submitted for the staff assigned to these roles. The Proposer shall commit to designate these additional named staff and their roles in the category Key Personnel if the Proposer is awarded the Contract.

The narrative shall include a review of the Proposer's assessment of the roles that the Key Personnel named in the SOQ (and any further Key Personnel added by the Proposer) shall take in the Proposer's organization. The narrative will include the approximate time commitments (percentage of working time) of Key Personnel to the Project for each 12 month period of the Project from NTP.

B3.2 Experience of the Firms

The Technical Proposal shall include a narrative describing the qualifications and experience of the Proposer and its team members including specific experience relevant to the nature, size, complexity and composition of the Proposer's proposed design and the Proposer's proposed means and methods of construction. This shall include, but not be limited to, relevant experience of the Proposer's team in design-build, environmental permitting and quality compliance, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction over water, and construction in environmentally-sensitive areas, as well as any other experience relevant to significant aspects of the Proposer's Proposal.

B3.3 Past Performance

Form PPF (ITP Appendix D), in Volume 1 (Administrative Submittal) shall present the demonstrated record of performance for each of the Major Participants during the period of reporting between the date of submission of SOQs (SOQ Due Date defined in the RFQ) and the Proposal Due Date.

In Table 1 of Form PPF, list all awards, citations and/or commendations for performance relevant to the Project received by the entity in the relevant reporting period.

In Table 2 of Form PPF, include all claims, dispute proceedings, litigation and arbitration proceedings involving amounts in excess of \$100,000 and related to performance of a contract involving planning, permitting, design, construction or demolition of a public works project in which the entity has been involved during the relevant reporting period. Include all claims, dispute proceedings, litigation and arbitration proceedings initiated by or against owners and federal, State and local regulatory agencies. Indicate whether the claim, dispute proceeding, litigation or arbitration proceeding was resolved against the entity or its insurers/sureties or resulted in reduction in compensation to the participant. Indicate any unresolved, outstanding claims, dispute proceedings, litigation and arbitration proceedings.

In Table 3 of Form PPF, describe any contract, which resulted in assessment of liquidated damages against the entity involving amounts in excess of \$100,000 during the relevant reporting period. Describe the causes of the delays and the amounts assessed. Describe any outstanding damage claims by or damages due and owing to any owner/agency.

In Table 4 of Form PPF, describe the conditions surrounding any contract (or portion thereof) entered into by the entity during the relevant reporting period that has been terminated for cause or default, or which required completion by another party. Describe the reasons for termination and the amounts involved.

In Table 5 of Form PPF, indicate any disciplinary action taken against the entity within the relevant reporting period by any governmental agency or licensing board, including suspension from the right to propose or removal from any proposer list.

B4.0 ENVIRONMENTAL COMPLIANCE

The Technical Proposal shall include an Initial Environmental Compliance Plan that describes how the Proposer will comply with applicable NEPA and SEQR commitments, and environmental and permitting commitments and requirements during the performance of the design and construction Work. The Initial Environmental Compliance Plan shall:

- 1) Provide resumes (maximum of two 8.5" x 11" pages per person) and identify the personnel that will be responsible for: NEPA and SEQR compliance, compliance with Environmental Performance Commitments, biological monitoring, cultural resource compliance, noise monitoring, water pollution control, stormwater monitoring, erosion control, historical and archaeological issues, the handling of Hazardous Materials, and any environmental permitting for which the Design-Builder will be responsible.
- 2) Describe how the Proposer intends to comply with the Project's environmental requirements and commitments, including the environmental requirements in the Contract Documents and the DEIS. Describe how the Proposer will identify, track, verify and report that these requirements and commitments have been met.

- 3) Identify any environmental impacts that are greater than those disclosed in the Environmental Requirements, and any additional impacts not identified in the Environmental Requirements, associated with approved or conditionally approved ATCs included in the Technical Proposal and other technical concepts that are not ATCs.
- 4) Identify all new Environmental Approvals and changes to existing Environmental Approvals, including supplements to the EIS, required for implementation of approved or conditionally approved ATCs included in the Technical Proposal and other technical concepts that are not ATCs. (See Contract Documents, Part 2 DB §104-4.4.)
- 5) Describe the Proposer's plan to obtain all new Environmental Approvals and changes to existing Environmental Approvals identified in Item (4) and associated schedule implications.
- 6) Identify the mitigation plans that the Proposer will develop for environmentally sensitive aspects of the Work, addressing potential Work activities related to the natural environment, physical environment, and cultural and historic resources, including the monitoring, treatment and discovery of existing and unknown archaeological and/or cultural resources encountered throughout the Contract term.
- 7) Explain how the Proposer will integrate environmental compliance into the construction activities in the river, and manage their mitigation and monitoring,
- 8) Provide a description of the specific means the Proposer intends to use to minimize impacts to the river, including impacts to the water, fish and wildlife.
- 9) Describe the Proposer's plan to train its personnel regarding EPCs, environmental issues, risks, mitigation measures and related environmental reporting requirements.
- 10) Describe the Proposer's plan for integrating efficient and renewable energy designs into the Project, where practicable, including options for renewable power production.

B5.0 PUBLIC OUTREACH AND COORDINATION WITH STAKEHOLDERS

The Agencies have prepared a Tappan Zee Hudson River Crossing Project Public Information Plan (PIP; see Part 3 Project Requirement 8 – Public Involvement). The goal of the PIP is to engage a diverse group of public and agency participants, soliciting and utilizing their views, and providing timely information throughout the design and construction process

The Technical Proposal shall include an Initial PIP Support Plan which shall describe the Proposer's support to the Agencies in their implementation of the PIP.

The Proposer shall submit an Initial PIP Support Plan that describes how support will be provided in the public involvement activities including but not limited to:

- 1) <u>Project Website</u>: The Agencies will host and maintain the Project's website. The Initial PIP Support Plan shall describe support to the Agencies in the development and maintenance of the site to give the greatest positive impact to the viewing community.
- 2) <u>Project Newsletter</u>: The Initial PIP Support Plan shall include for the preparation of a Project newsletter to provide the public with updates on the Project. The frequency and timing of the newsletter will be as proposed in the PIP.

- 3) <u>Project Phone Hotline</u>: The Initial PIP Support Plan shall include for the provision of a phone hotline related to design and construction-related activities for individuals to call with concerns or questions.
- 4) <u>Technical Media</u>: The Initial PIP Support Plan shall include for the preparation of public information videos for use throughout the duration of the Project in various public involvement activities. The Initial PIP Support Plan shall include for state-of-the-art video and graphic methods for depicting various aspects of the Project.
- 5) <u>Public Involvement Meetings</u>: The Initial PIP Support Plan shall detail the proposed support to public involvement meetings, including convening meetings, preparing meeting materials, and fully documenting the results of meetings.

B6.0 FORMAT OF VOLUME 2

Organize Volume 2 in the format shown in Table B, with the cover(s) of the parts of Volume 2 labeled as follows, with section / appendix details added as appropriate:

TZHRC DESIGN-BUILD PROPOSAL VOLUME 2 TECHNICAL PROPOSAL PROPOSER: ...

The total number of pages (sides of sheets) that shall be used for the submission of the narrative documents (see Section B1.0 Item (a)) in Volume 2 Sections 1 through 3 shall together not exceed 200 pages. No specific page limit applies to the submission in Volume 2 Sections 1 through 5 of the plan documents that are listed in Section B1.0 Item (b) and that are listed in Section B2.0. No specific page limit applies to the submittal of Volume 2 Appendix A (letters regarding ATCs) and Volume 2 Appendix B (plan drawings).

Provide the Technical Proposal submittals in Volume 2 in the order set forth in Table B. Separate the individual submittals in Volume 2 with tabs labeled as outlined in Table B (e.g., "Initial Quality Plan"), and use a copy of the Table B checklist as the basis for the table of contents for Volume 2 (which shall be the first page of Volume 2).

Table B – Format of Volume 2						
Pro	posal	Component	ITP Reference			
Vo	Volume 2 Section 1 – Design and Construction Solutions Submittal					
1	Cons	struction Approach				
	1.1	Construction Staging & Facility Staging (narrative)	Appendix B, § B1.1.1			
	1.2	Piling and Dredging (narrative)	Appendix B, § B1.1.2			
	1.3	Protection of Facilities (narrative)	Appendix B, § B1.1.3			
	1.4	Utilities (narrative)	Appendix B, § B1.1.4			
	1.5	Initial Demolition and Removal Plan	Appendix B, § B1.1.6			
2	Serv	ice Life of the Crossing				
	2.1	Service Life (narrative)	Appendix B, § B1.2.1			
	2.2	Initial Corrosion Protection and Maintenance Plan	Appendix B, § B1.2.2			
3	Maxi	mizing the Public Investment				
	3.1	Maximizing the Public Investment Plan	Appendix B, § B1.3			
4	Brid	ge, Structures and Aesthetic Design				
	4.1	Initial Design Plan	Appendix B, § B1.4.1			
	4.2	Structures and Architecture (narrative)	Appendix B, § B1.4.2			
	4.3	Visual Quality (narrative)	Appendix B, § B1.4.3			
5	Geot	rechnics				
	5.1	Initial Geotechnical Work Plan	Appendix B, § B1.5			
6	Road	dway Design Concepts				
	6.1	Roadway Design Concepts (narrative)	Appendix B, § B1.6.1			
7	NYS	TA Operations				
	7.1	Initial Work Zone Traffic Control Plan	Appendix B, § B1.7.1			
	7.2	Initial Bridge Access Strategy Plan	Appendix B, § B1.7.2			
Vo	lume 2	2 Section 2 – Management Approach Submittal				
Init	ial Pro	ject Phasing/Sequencing Plan	Appendix B, § B2.1.1			
Init	ial Bas	seline Project Schedule	Appendix B, § B2.1.2			
Init	ial Wo	rkforce Participation Plan	Appendix B, § B2.2.1			
Init	ial Saf	ety Plan	Appendix B, § B2.2.2			

	Table B – Format of Volume 2			
Pro	oosal Component	ITP Reference		
Initia	al Project Management Plan	Appendix B, § B2.3		
	Organization Charts	Appendix B, § B2.3.1		
	Design Management Concept	Appendix B, § B2.3.2		
	Construction Management Concept	Appendix B, § B2.3.3		
	Internal Coordination	Appendix B, § B2.3.4		
	External Coordination	Appendix B, § B2.3.5		
Initia	al Quality Plan	Appendix B, § B2.4		
Vol	ume 2 Section 3 – Key Personnel and Experience			
Key	Personnel (narrative and charts)	Appendix B, § B3.1		
Ехр	erience of the Firms (narrative)	Appendix B, § B3.2		
Vol	ıme 2 Section 4 – Environmental Compliance			
Initia	al Environmental Compliance Plan	Appendix B, § B4.0		
Vol	ıme 2 Section 5 – Public outreach and coordination with	stakeholders		
Initial Public Involvement Plan (PIP) Support Plan Appendix B, § B5.0				
Vol	ıme 2 Appendix A – Letters regarding ATCs			
A1	List of letters from Agencies regarding approved and conditionally approved ATCs	Appendix B1.0		
A2	Copies of each letter, presented in the order listed in A1.	Appendix B1.0		
Vol	ıme 2 Appendix B - Design & Construction Solutions Su	bmittal (plan drawings)		
B1	Construction Approach			
	B1.1 Construction Staging & Facility Staging (drawings)	Appendix B, § B1.1.1		
	B1.2 Utilities (drawings)	Appendix B, § B1.1.4		
	B1.3 Property Utilization (drawings)	Appendix B, § B1.1.5		
B2	Bridge, Structures and Aesthetic Design			
	B2.1 Structures and Architecture (drawings)	Appendix B, § B1.4.2		
	B2.2 Visual Quality (drawings)	Appendix B, § B1.4.3		
ВЗ	Roadway Design Concepts			
	B6.1 Roadway Design Concepts (drawings)	Appendix B, § B1.6.1		
	B6.2 Shared Use Path Plans (drawings)	Appendix B, § B1.6.2		
	B6.3 Drainage Concept Plans (drawings)	Appendix B, § B1.6.3		

Exhibit

8

The GOLDEN RULES

Protocol for Document Management by each Evaluation Team member

THE PROPOSALS

- The Proposals are highly sensitive commercial documents of great interest to many external organizations – and must be protected and controlled at all times.
- One printed copy of the Proposals and electronic copies are provided to each Team.
- The Team Chair (or equivalent, if a team has no Chair) signs for a Team's documents on receipt from the Procurement Management Team (PMT), and again whenever the documents are returned to the PMT.
- Return of Proposal documents to the PMT will occur for all Teams at the end of the evaluation period, and also anytime that a Team has to move meeting room.
- For all documents being returned to the PMT by a Team, the PMT will pick up the documents from the Team's assigned meeting room.

PAPER COPIES OF THE PROPOSALS

- Your Team's printed copy of the Proposals, plus any extra prints of the Proposal drawings, are already in your Team's lockable meeting room.
- The Chair of each Team holds the key to the lockable room assigned to that Team. The Chair is responsible for locking the room whenever it is unoccupied.
- THE PROPOSAL DOCUMENTS MUST NOT BE REMOVED FROM THE ASSIGNED LOCKABLE MEETING ROOMS. The printed Proposal must not be removed from the meeting room for example for overnight reading by any team member.

ELECTRONIC COPIES OF THE PROPOSALS

- An honor system applies.
- All Team members may download the files from the USB drives to their laptops provided that the laptop is password protected. You can take the laptop home (if you are commuting to the evaluation venue) or to your room at the venue. Care must be taken not to leave laptops - or lose them - in public places.
- Team Chairs shall return the USB drives to the PMT as soon as all their team members have downloaded the files to their laptops.
- Team Chairs can request access to the USB drives at any time, for example if a file becomes corrupted.
- At the end of the evaluation period, each team member who made an electronic copy of the Proposals from the USB drive shall fully delete the files from their computer (including emptying the recycling bin).

EMAILS and EMAIL ATTACHMENTS

- Avoid sending procurement-sensitive material, including your Team reports, as email attachments if practicable.
- Use the USB drive (with a yellow tag on the lanyard) assigned to your Team Chair to exchange e-material between Team members and between the Team and the PMT. (This process may also help with document version control, as we are not networked.)
- At the end of the evaluation session, fully delete all emails that contain procurementsensitive material.
- Double-check all email addresses before you hit the send button.

DOCUMENTS SENT FROM THE TEAMS TO THE PMT

- Each team shall keep a log of all documents (draft or final) that they issue to the PMT.
- The Team Chair will appoint a team member to keep the log up-to-date, and to provide the log to the PMT at the end of the evaluation period. A simple spreadsheet will suffice.

FOR RECEIPT / RETURN OF THE PROPOSAL DOCUMENTS					
TEAM	SIGNATORY FOR DOCUMENTS	TEAM'S ASSIGNED MEETING ROOM	No. of USB sticks	No. of extra drawings	
Construction		Stonecrop Living Room	4	4	
Structures		Guggenheim Master Seminar Room	6	5	
Geotechnical		Ford 10	4	4	
Roadway		Straus Meeting Room 2	3	3	
Operations & Security		Hyuck Master Bedroom	4	2	
Management		Stonecrop Master Bedroom	4	1	
Environmental		Stonecrop Meeting Room	3	1	
Visual Quality		Ford 7	1	-	
Public Outreach		Huyck House Library	2	-	
Legal		Guggenheim Conf 1	1	-	
Finance		Guggenheim Conf 2	3	-	
Procurement		Paschalis Penthouse in Guggenheim	5	-	

⁽⁾ denotes the signatory is other than the Chair, or that a team has no nominated Chair.

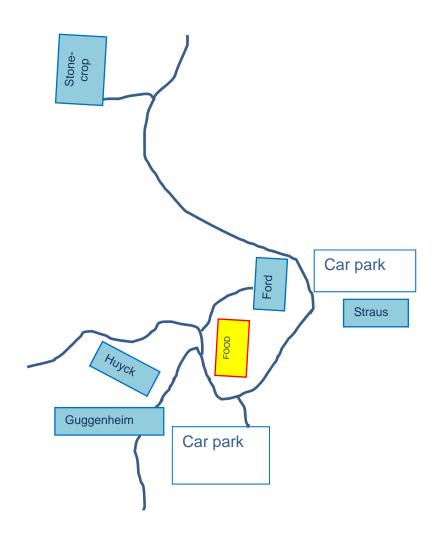


Exhibit 9

THE PLATINUM RULES

Evaluation Team Member Guidelines for Proposer Presentations

IMPORTANT

Evaluation Team Members must not have any Proposal-related discussions with the Proposers outside of the time designated for Q&A during the presentations.

SCHEDULE

Monday 6th August

8:30 - 9:00	Registration of Evaluation Team	Carriage House
9:00 - 12:30	P1 Presentation	Straus Auditorium
12:30 - 1:30	Lunch	Carriage House
1:30 - 5:00	P2 Presentation	Straus Auditorium

Tuesday 7th August

8:30 - 9:00	Registration of Evaluation Team	Carriage House
9:00 - 12:30	P3 Presentation	Straus Auditorium
12:30 - 1:15	Lunch	Carriage House
1:15 - 2:00	Evaluation Team Plenary Session	Straus Auditorium

REGISTRATION

- All Evaluation Team members must register at Carriage House (dining room) on Monday and Tuesday morning.
- You will be provided with a blank 'Team' name tag, which should be worn at all times while Proposers are onsite.
- A hard copy of all questions sent to the Proposers will be provided to you at registration.

PRESENTATION CONTENT

- Presentation content will be limited to contents of existing Proposal no new materials will be introduced.
- Proposers have been provided with your questions. Answers to questions will be
 addressed within the Proposer presentations. Formal written responses to each question will also be provided.
- Hard and electronic copies of Proposer presentations and formal responses to questions will be provided to each Team Chair following conclusion of the presentations.

PRESENTATION AGENDA

- Proposers are responsible for structuring the 3½ hour presentation session, including break time.
- Each presentation will include 1 hour of Q&A.
- Additional questions resulting from Proposer presentations or developed between now and Mon/Tues are permitted to be asked during this time. Questions relating to price or sensitive security information are no to be asked during Q&A time.
- Questions are to be written on a blank sheet of paper and handed to your Team Chair for vetting. Team Chairs should submit vetted questions to the PMT Chair for delivery to Proposers during Q&A.
- Evaluation Team members must leave the auditorium immediately after each

Exhibit 10

The TITANIUM RULES

Protocol for Document Management by each VAT-T Team Member

THE PROPOSALS

- The Proposals are highly sensitive commercial documents of great interest to many external organizations – and must be protected and controlled at all times.
- Three printed copies of the Proposals and electronic copies are provided to the VAT-T.
- The VAT-T Chair signs for a Team's documents on receipt from the Procurement Management Team (PMT), and again whenever the documents are returned to the PMT.
- Return of Proposal documents to the PMT will occur for all Teams at the end of the evaluation period, and also anytime that the VAT-T team has to move venue.
- For all documents being returned to the PMT by a Team, the PMT will pick up the documents from the assigned lockable room(s) used for the printed Proposals.

PAPER COPIES OF THE PROPOSALS

- The printed copy of the Proposals, plus any extra prints of the Proposal drawings, are already in the assigned lockable Proposals Room at the VAT venue.
- The Chair holds the key to the lockable room in which the paper Proposals are located. The Chair is responsible for locking the room when the VAT work area is vacated and every night.
- THE PROPOSAL DOCUMENTS MUST NOT BE REMOVED FROM THE ASSIGNED VAT WORK AREA. No copy or extract of the printed Proposals shall be removed from the assigned VAT-T work space - for example for overnight reading - by any team member.

ELECTRONIC COPIES OF THE PROPOSALS

- An honor system applies.
- All VAT-T team members may download Proposal files and related documents from the USB drives to their laptops provided that the laptop is password protected. You can take the laptop home (if you are commuting to the evaluation venue) or to your room at the venue. Care must be taken not to leave laptops or lose them in public places.
- Return the Proposal USB drive to the PMT as soon as you have put the files to your laptop.
- VAT-T team members can request access to the Proposal USB drives at any time from the PMT, for example if a file becomes corrupted.
- At the end of the VAT-T evaluation period, each VAT-T team member who made an electronic copy of the Proposals from the USB drive shall fully delete the files from their computer (including emptying the recycling bin).

EVALUATION MATERIALS

- All paper and electronic documents containing evaluation material (whether produced by the Technical Evaluation Teams or by the VAT-T or others) are procurement-sensitive material and shall be handled, stored and protected by all VAT-T and PMT members as carefully as the Proposals.
- No member of the PMT or the VAT-T shall reveal any code names assigned to the Proposals.

EMAILS and EMAIL ATTACHMENTS

- Avoid sending procurement-sensitive material, including your reports, as email attachments if practicable. Use the USB drives instead.
- Use the yellow-tagged USB drive assigned to you to exchange e-material between VAT members and between the VAT and the PMT.
- At the end of the VAT-T evaluation session, fully delete all emails that contain procurementsensitive material

Exhibit 11

Technical Ratings - Niagara

CODE NAME OF PROPOSER:	NIAGARA			
DATE OF REVIEW:	September 12, 2012	Sub-Factor Ratings	Factor Ratings	
FACTOR	TOR SUB-FACTOR			
	[1] Construction Approach	Unacceptable		
5	[2] Service Life of the Crossing	Acceptable Minus		
Solutic	[3] Maximizing the Public Investment	Acceptable		
Design and Construction Solution	[4] Bridge, Structures & Aesthetic Design Concepts	Good Minus	Acceptable Minus	
Cons	[5] Geotechnical	Acceptable Minus		
gn and	[6] Roadway Design Concepts	Acceptable Plus		
Desi	[7] NYSTA Operations and Security	Acceptable Minus		
	[8] Schedule	Acceptable Minus		
ŧ	[9] Organization and General Management	Acceptable Plus	Acceptable Plus	
Management Approach	[10] Design Management	Good		
Мапа	[11] Construction Management	Good		
ce	[12] Key Personnel	Acceptable		
Key Personnel & Experience	[13] Experience of the Firms	Acceptable Plus	Acceptable Plus	
Key & Ex	[14] Past Performance	Good Plus		
[15] Environm	ental Compliance	Acceptable		
[16] Public Ou Coordination	treach and with Stakeholders	Accepta	ble Minus	

Exhibit 12

Technical Ratings – Oneida

CODE NAME OF PROPOSER:	ONEIDA			
DATE OF REVIEW:	September 12, 2012	Sub-Factor Ratings	Factor Ratings	
FACTOR	SUB-FACTOR			
	[1] Construction Approach	Good Plus		
5	[2] Service Life of the Crossing	Exceptional Minus		
Solutie	[3] Maximizing the Public Investment	Good Plus		
Design and Construction Solution	[4] Bridge, Structures & Aesthetic Design Concepts	Exceptional Minus	Good Plus	
Cons	[5] Geotechnical	Exceptional Minus		
gn and	[6] Roadway Design Concepts	Exceptional Minus		
Desi	[7] NYSTA Operations and Security	Acceptable Minus		
	[8] Schedule	Good		
ıt.	[9] Organization and General Management	Good	01	
Management Approach	[10] Design Management	Good	Good	
Man	[11] Construction Management	Good		
nce	[12] Key Personnel	Acceptable Plus		
Key Persor & Experien	[13] Experience of the Firms	Good	Good Minus	
Key & Ex	[14] Past Performance	Good		
[15] Environmental Compliance		Go	pod	
[16] Public Ou Coordination	treach and with Stakeholders	Exceptional		

Exhibit 13

Technical Ratings – Catskills

CODE NAME OF PROPOSER:	CATSKILLS			
DATE OF REVIEW:	September 12, 2012	Sub-Factor Ratings	Factor Ratings	
FACTOR	SUB-FACTOR			
	[1] Construction Approach	Good		
5	[2] Service Life of the Crossing	Unacceptable		
Solutic	[3] Maximizing the Public Investment	Acceptable		
Design and Construction Solution	[4] Bridge, Structures & Aesthetic Design Concepts	Acceptable	Acceptable	
Cons	[5] Geotechnical	Acceptable Plus		
gn anc	[6] Roadway Design Concepts	Good Plus		
Desi	[7] NYSTA Operations and Security	Good Plus		
	[8] Schedule	Good		
ŧ	[9] Organization and General Management	Good Plus	Cood Blva	
Management Approach	[10] Design Management	Good Plus	Good Plus	
Мапа	[11] Construction Management	Good Plus		
nnel	[12] Key Personnel	Good		
Key Personnel & Experience	[13] Experience of the Firms	Good Plus	Good	
Key	[14] Past Performance	Good		
[15] Environm	ental Compliance	Goo	d Plus	
[16] Public Ou Coordination	itreach and with Stakeholders	Good	d Plus	

Exhibit 14

New York State Thruway Authority

Tappan Zee Hudson River CrossingBlue Ribbon Selection Committee Report

Final | November 30, 2012



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Executive Summary

1. Introduction

This report summarizes the deliberations and recommendations of the Blue Ribbon Selection Committee ("BRSC" or "Selection Committee") for the Tappan Zee Hudson River Crossing Project. The BRSC was charged with evaluating and comparing three design-build proposals submitted to the New York State Thruway Authority ("the Authority") and recommending that proposal which it considered to offer best value to the Authority, the New York State Department of Transportation, and the State of New York.

On October 9, 2012, the BRSC reached an initial consensus determination that, of the three design-build Project proposals submitted to and evaluated by the Authority, the proposal team identified as Niagara represented the best-value offer. The BRSC considered the proposals on a blind basis, as the members were not informed of the identity of the companies constituting this or the other two proposing teams, which were identified to the BRSC as Oneida and Catskills. The BRSC further recommended that the Authority enter into limited negotiations with Niagara with the objective of finalizing a contract for consideration by the Authority's Board of Directors. The final determination was based on BRSC consensus that:

- Niagara provided the best-value proposal, based on consideration of the original proposal
 with clarifications made during the Communications and Discussions phases (it was considered that the clarifications offered by Niagara were significant factors in this determination);
- Further, Niagara provided the best-value proposal based on consideration of the original proposal with clarifications and also with the potential enhancements that were offered by all proposers during Discussions; and
- The Authority should enter into limited negotiations with the proposer Niagara.

In accordance with best practice for best-value procurements, the BRSC recommendation:

- Represents the selectors' rationale and is based on their independent judgment;
- Is based on a comparative analysis of the proposals; and
- Is consistent with the solicitation evaluation factors and sub-factors.

In accordance with the process established for the procurement, as contained in the Request for Proposals (RFP), the recommendation of the BRSC was forwarded to the Selection Executives, consisting of the members of the Major Projects Committee of the Authority Board of Directors. On October 15, 2012, the Selection Executives reviewed and concurred with the findings and recommendations of the BRSC. The Selection Executives also considered the proposals and the recommendation on a blind basis, as the members were not informed of the identity of the companies constituting the proposer teams.

On October 17, 2012, the proposer Niagara was informed that the Authority wished to enter into limited negotiations. The other proposers were simultaneously notified that they would be maintained as part of the competition in the event that negotiations could not be successfully concluded with the selected bidder.

2. Determination of Best Value

To determine the best-value proposal, the BRSC performed a qualitative tradeoff between technical merit and price, which according to the RFP's instructions were weighted approximately equally. This process is consistent with the Federal Highway Administration regulations governing design-build procurement, the best-practice guidance from the National Cooperative Highway Research Program (in NCHRP Report 561, "Best-Value Procurement Methods for Highway Construction Projects"), and the guidelines provided to the BRSC by the Authority's Procurement Management Team.

To support the BRSC deliberations, the following sequence of activities preceded the tradeoff process between technical merit and price:

- 1. Formation of the Authority's Technical Evaluation Teams, who reviewed each proposal's technical content, presented reports to the BRSC on the strengths and weaknesses of each proposal, and answered the Committee's questions on this material
- 2. Determination of technical rankings based on these reports from the Technical Evaluation Teams. (These rankings were not subsequently modified and did not address the clarifications received during the subsequent Communications and Discussions with the proposers.) The technical rankings were determined by the BRSC based on assessment of the 16 technical factors and sub-factors noted in the RFP. Pursuant to the Instructions to Proposers, these rankings were completed without knowledge of the price offers.
- 3. Reporting of the price proposals
- 4. Request and receipt of written clarifications (through a process referred to as Communications under FHWA regulations) from each of the proposers, with the purpose of addressing perceived deficiencies and weaknesses and confirming the BRSC's interpretation and understanding of the proposals
- 5. Authorization of the Procurement Management Team to enter into face-to-face Discussions (as this term is used in FHWA regulations) with all three proposers to further clarify and potentially enhance details of each of the three proposals
- 6. Completion and reporting of the outcome of Discussions with each of the proposers, again with the purpose of addressing perceived weaknesses and confirming the interpretation and understanding of the proposals
- 7. Reporting of further supporting assessments by the Technical Evaluation Teams

Table A presents a summary of the technical rankings and the financial offers for the three proposals. Although the Communications and Discussions with the proposers substantially altered the BRSC assessment of technical merit, the original technical rankings were not revisited because these subsequent technical clarifications furnished sufficient information for the Committee to reach a best-value decision.

As required by the best-value tradeoff process, the BRSC considered whether the two higher-priced proposals offered sufficient quality advantages over the lower-priced proposal to justify the price difference. This deliberation was based upon the original proposals, modified solely by the subsequent clarifications received, and did not take into account any potential improvements or enhancements that were presented by the proposers during the Discussion phase, or that might otherwise be considered.

The BRSC took the following steps in its best-value assessment:

- Conducted an in-depth trade-off of technical quality and price, comparing the relative technical and cost advantages of the original proposals as explained by clarifications received in Communications and Discussions with the proposers;
- Determined whether the higher-priced proposal offered sufficient quality advantages over lower-priced proposals to justify the price difference;
- Reached a decision on which proposal provides the best value;
- Documented a justification of the selection; and
- In addition, the BRSC separately considered whether the potential enhancements identified by each proposer during Discussions might affect the best-value decision. Considering both the value added to each proposal based upon the potential changes and the financial impact (if any) of such changes, Niagara was still also considered to be the best-value proposer.

Table A: Technical Rankings and Price Proposals

		Catskills	Oneida	Niagara
Technical Ranking *		2	1	3
	Contract Amount	\$4,059	\$3,990	\$3,142
Proposal Prices	Difference above Low Bid	\$917	\$848	-
(millions)	Net Present Value **	\$3,837	\$3,705	\$2,959
	Difference above Low NPV	\$878	\$746	-
Best-Value Proposal				√

^{*} Rankings shown were determined prior to extensive Communications and Discussions with the three proposers.

^{**} In accordance with the RFP, the price evaluation is based on Net Present Value (NPV) of each proposer's bid amount distributed over the duration of the contract.

Oneida Proposal

The Oneida proposal was initially qualified by the BRSC as an acceptable proposal and given a technical ranking of "best" of the three proposals. A number of strengths and weaknesses were identified by the BRSC through the rating process. The proposer provided additional information during Communications and Discussions which built upon the proposal's strengths and generally mitigated the BRSC's concerns with the perceived weaknesses of the proposal.

Through Discussions, the Oneida team noted it would potentially be able to reduce the overall construction schedule and bring forward key delivery dates, thereby potentially reducing price to a limited degree. As discussed below, even with this potential price reduction, the gap between the Oneida and Niagara prices would not have been appreciably diminished.

Catskills Proposal

The Catskills proposal was initially qualified by the BRSC as an acceptable proposal and was given a technical ranking of "second best" of the three proposals. A number of strengths and weaknesses were identified by the BRSC through the rating process. The proposer provided additional information during the Communication and Discussion phases which built upon the proposal's strengths and generally mitigated the BRSC's concerns with the perceived weaknesses of the proposal.

The BRSC recognized that the Catskills proposal had the highest cost of all three proposals and was not ranked best technically. During Communications and Discussions, Catskills clarified certain matters that helped mitigate some of the BRSC's concerns in terms of service life and construction approach and offered potential enhancements toward addressing these concerns. However, based on the proposal and the proposer's responses to questions, the clarifications provided during Communications, and the supplementary materials received from the proposer in Discussions, the BRSC did not consider the Catskills proposal as offering better value in comparison to Oneida's proposal, which had a higher technical ranking and a lower proposed price. At this point, the consensus of the BRSC was to proceed to compare the Oneida proposal with the Niagara proposal.

Niagara Proposal

The Niagara proposal was initially qualified by the BRSC as an acceptable proposal and was given a technical ranking of "third best" of the three proposals. A number of strengths and weaknesses were identified by the BRSC through the rating process. The proposer provided additional information during Communications and Discussions which built upon the proposal's strengths and generally mitigated the BRSC's concerns with the perceived weaknesses of the proposal.

Primary clarifications provided by Niagara that materially alleviated the BRSC's initial concerns regarding the Niagara proposal included the following:

• Confirmed viability of a highly specialized marine derrick capable of lifting loads well in excess of standard derricks, thus substantially reducing the number of lifts required and

the corresponding duration of construction activities; this clarification was considered to be highly material

- Ability of the specialized marine derrick to fit and maneuver within the dredged channel
- Feasibility of the proposed reduction in the volume of dredged material to approximately half of the amount identified in the Final Environmental Impact Statement
- Ability to incorporate measures in proposed construction sequence to avoid potential traffic delays at the toll plaza during construction
- Potential refinements to the main span towers that could be implemented within the firm fixed price to address aesthetic issues
- Confirmation that demolition of the existing Tappan Zee Bridge would be conducted using environmentally sensitive methods
- Clarification that the structure could support an increased deck thickness to allow for future replacement of an overlay layer for deck protection
- Expanded pile testing program to confirm proposed foundation solutions
- Clarification of sacrificial steel thickness for durability of steel piles

These clarifications substantially improved the BRSC's view of the Niagara proposal.

The BRSC discussions considered whether the remaining technical advantages of Oneida's original proposal, as clarified, were sufficiently compelling to justify the price differential with Niagara and concluded that they were not. The Committee determined that the benefits of selecting Oneida over Niagara did not justify a potential NPV difference of \$746 million, based on the NPVs of the original proposals. The Committee was advised that additional project costs of this magnitude would likely have a significant adverse effect on bridge tolls that might be required in the future.

The Committee also concluded that taking account of the potential enhancements presented by both proposers in the Discussion phase would not alter the best value determination. Even with a price reduction potentially available from Oneida based on an improved schedule, the gap between the Oneida and Niagara prices would not have been appreciably diminished, and the advantages offered by Oneida's technical proposal did not justify accepting Oneida's still considerably higher-priced proposal. The Committee then concluded, based on the significant price differential between the proposals and other factors, that it would not be in the Authority's best interests to request revised proposals (best and final offers), but rather that it should proceed directly to limited negotiations with Niagara.

3. Review and Confirmation of Best Value

After concurring that Niagara's proposal offered the best value, the BRSC recommended the Authority engage in limited negotiations with Niagara with the goal of developing a final contract for execution. The Committee also requested an opportunity to reconvene and review the outcome of these negotiations to confirm that its best-value determination remained appropriate.

The BRSC further asked that specific items be taken forward into the negotiations and project planning:

- The Authority should explore potential enhancements to maximize service life.
- The Authority should better define issues that it would like to discuss with the proposer concerning bridge aesthetics and the range of design modifications expected (to the extent possible) within the firm fixed price and, as necessary, that might be available for future consideration as an addition to the firm fixed price.
- The Authority should consider whether the proposer's geotechnical/foundation/pile testing protocols are sufficient and should negotiate changes, if any, based upon this analysis.
- The Authority should consider contractual mechanisms for addressing community-based issues that cannot be predicted at the Proposal and Negotiations phases, e.g. specific noise or traffic problems.
- The Authority should consider allowance amounts that might be utilized to help address local issues.
- The Authority should maintain a risk register going forward to understand the cumulative impacts of these risks.

Following conclusion of the Authority's negotiations with Niagara, the outcome was presented to the BRSC on November 15, 2012 for review. The Committee was advised that limited negotiations had been successfully concluded on November 14, 2012, subject to confirmation by drafting of the resolution of matters discussed. There were no changes in Niagara's proposed price or its completion schedule for its base proposal, and all other issues that were negotiated resulted in changes in the Authority's favor. The Committee was further advised that there were no concessions to Niagara of any nature that that might even arguably affect the Committee's prior best-value determination.

Among the items discussed at this meeting were clarifications of Niagara's pile-testing protocol, dredging and spoil-disposal plans, construction schedule, environmental-mitigation approach, permitting responsibility and key personnel. Improvements in community and public participation were also presented, including traffic, staging, and public-information approach.

The BRSC also reviewed a list of potential technical enhancements, for which Niagara furnished not-to-exceed price and schedule proposals during the negotiations, for possible inclusion in the contract as options which the Authority could exercise in the future at its discretion. While Niagara's original proposal, as clarified, had been determined to meet RFP requirements and to be an acceptable proposal, these enhancements offered potential improvements and/or alternate approaches in the areas of 100-year service life, traffic operations and toll collection, potential future loading, and aesthetic variations. The Committee was advised that in considering reconfirmation of best value, it should not assume that any of the options for these potential enhancements would in fact be elected by the Authority.

The BRSC deliberated whether Niagara's proposal, considering these clarifications and potential enhancements from the negotiations, continued to reflect its previous best-value determination. The Committee reconfirmed its previous determination as follows:

- Niagara provided the best-value proposal, based on consideration of the original proposal with clarifications made during the communications, discussions, and negotiations phases; and
- Further, Niagara provided the best-value proposal based on consideration of the original proposal with clarifications, with the potential enhancements offered by all proposers during discussions, and also with the additional potential enhancements offered by Niagara during negotiations

With this confirmation of the BRSC's best-value determination, the Committee authorized Authority staff to complete negotiations with Niagara, so that a contract consistent with the terms described to the Committee could be presented to the Authority's Board for its consideration.

1 Introduction

1.1 Purpose

This report outlines the procurement structure and process of the Tappan Zee Hudson River Crossing Project and summarizes the deliberations and recommendations of the project's Blue Ribbon Selection Committee ("BRSC" or "Selection Committee"). The BRSC was charged with evaluating and comparing three design-build proposals submitted to the New York State Thruway Authority ("the Authority") and recommending a selected proposer for the Project based on best value to the Authority, the New York State Department of Transportation, and the State of New York.

1.2 Project Goals

In March 2012, the Authority issued a request for design-build proposals for the new Tappan Zee Hudson River Crossing. The Authority's primary goals for the project were as follows:

- 1. To ensure the long-term vitality of the Hudson River crossing at Tappan Zee;
- 2. To improve transportation operations and safety at the crossing;
- 3. To maximize the value of the public investment in a new Hudson River crossing;
- 4. To deliver the Project safely, on schedule, and within budget; and
- 5. To provide best value to the Authority.

The fifth goal, best value, represents "the greatest overall benefit, under the specified selection criteria, obtained through the tradeoff between price and technical benefits." Accordingly, the project's evaluation criteria gave approximately equal weighting to technical merit and price, enabling the selection of the proposal which provides the best value.

This best-value determination placed the emphasis on meeting the State's and the Authority's needs, which might or might not involve selecting the proposal with the lowest price. In this process, a trade-off procedure was employed which evaluated a combination of technical factors and pricing. The Authority could select the proposal which provides other than the lowest price, if the perceived technical benefits merit such a choice.

1.3 Selection Committee Tasks

To provide this assessment of technical factors and price, the Authority appointed a 12-member Blue Ribbon Selection Committee to perform the following primary tasks:

- Conduct an in-depth trade-off of technical quality and price, comparing the proposals' relative technical and cost advantages;
- Determine whether the higher-priced proposal offered sufficient quality advantages over lower-priced proposals to justify the price difference;

- Reach a decision on which proposal provides the best value; and
- Document a justification of the selection.

Determining best value by a qualitative tradeoff between technical merit and price is consistent with the Federal Highway Administration regulations governing design-build procurement, the best-practice guidance from the National Cooperative Highway Research Program (in NCHRP Report 561, "Best-Value Procurement Methods for Highway Construction Projects"), and the guidelines provided to the BRSC by the Authority's Procurement Management Team.

In accordance with the NCHRP 561 best-practice guidelines, selectors employing a qualitative best-value tradeoff "must analyze the differences between the competing proposals and make a rational decision based on the facts and circumstances of the specific acquisition [procurement]." Even though different selectors may not reach the same conclusions based on the same set of facts, a best-value determination is considered valid if it:

- Represents the selectors' rationale and is based on their independent judgment;
- Is based on a comparative analysis of the proposals; and
- Is consistent with the solicitation evaluation factors and sub-factors.

2 Evaluation and Selection Process

The Request for Proposals (RFP), which was issued on March 9, 2012 and amended by various addenda, contained the contract requirements and the guidelines by which the proposals were to be evaluated. In response to the RFP, three bidding teams submitted proposals (consisting of separate technical and financial packages) by the July 27, 2012 deadline.

2.1 Proposal Evaluation

Upon receipt of the three proposals, the Authority conducted preliminary pass/fail reviews and determined that all proposals met the minimum requirements. Concurrent technical reviews were conducted by a nationally-recognized team of subject-matter experts, who identified strengths and weaknesses of each proposal in the following ten categories:

Construction Approach
 Structures
 Operations
 Security

3. Geotechnical 8. Management Approach

4. Roadway Design 9. Environmental Compliance

5. Visual Quality 10. Public Outreach

The Authority's Value Assessment Team, which represented the leaders of the technical review teams, summarized these strengths and weaknesses for presentation to the Selection Committee. In order to maintain a blind selection process, all identifying material which could reveal a

proposer's identity was removed. The three proposers were assigned code names of Catskills, Oneida, and Niagara, and all materials presented to the Committee referenced these names.

2.2 Technical Evaluation Factors

As shown in Table 1, the RFP defined five technical-quality factors (shaded in blue) by which the technical aspects of the proposals would be evaluated. The first three factors are further divided into sub-factors (shaded in yellow).

Table 1: Evaluation Factors and Sub-Factors

FACTOR	SUB-FACTOR			
	Construction Approach			
	Service Life of the Crossing			
	Maximizing the Public Investment			
Design and Construction Solution	Bridge, Structures and Aesthetic Design Concepts			
	Geotechnical			
	Roadway Design Concepts			
	NYSTA Operations and Security			
	Schedule			
Management	Organization and General Management			
Approach	Design Management			
	Construction Management			
	Key Personnel			
Key Personnel and Experience	Experience of the Firms			
	Past Performance			
Environmental Complian	Environmental Compliance			
Public Outreach and Coordination with Stakeholders				

After considering the technical strengths and weaknesses of each proposal, the Selection Committee concurred on qualitative adjectival ratings for each factor and sub-factor of that proposal. Ten levels of rating options were possible, as shown in Table 2.

Table 2: Adjectival Rating Options

Exceptional -		Good -	Acceptable -	
Exceptional		Good	Acceptable	Unacceptable
Exceptional +		Good +	Acceptable +	

Proposals receiving an "Unacceptable" technical rating for any evaluation factor would not be considered for award, though an "Unacceptable" rating for a sub-factor would not eliminate a proposal from consideration.

3 Selection Committee Actions

The Selection Committee was appointed in the first week of September 2012 and consisted of the members identified in Appendix A. The panel included local community leaders, state and authority representatives, and experienced design, construction, and planning professionals.

A separate panel of visual-quality advisors, which met on September 25, 2012, was appointed to provide advisory perspectives to the Selection Committee on the proposals' aesthetic features.

3.1 Orientation (September 6-10, 2012)

The Selection Committee convened at the Tappan Zee Bridge project office in Tarrytown, New York on September 6, 7, and 10 for orientation and information sessions which included the following topics:

- Project background and objectives
- Design-build delivery
- Environmental issues
- Procurement process
- Evaluation and selection process
- Site tour by boat

3.2 Meeting 1 (September 11-12, 2012)

Following the orientation sessions, the Committee received technical presentations from a core team of subject-matter experts who had examined the proposals in depth. The technical strengths and weaknesses of each proposal were highlighted, after which the Committee deliberated and assigned adjectival ratings and technical rankings.

After the technical rankings were complete and recorded, the contents of the three teams' price proposals were revealed together with brief supplemental material for context on the proposals' risk characteristics and life-cycle cost assessments. Upon reviewing the financial elements of the proposals, the Committee asked that additional material be requested from the three teams to provide clarifications prior to determination of best value.

3.3 Meeting 2 (September 24, 2012)

The Committee reviewed the proposers' clarifications in a conference-call meeting and determined that each bidding team should be invited to discussions to address perceived deficiencies and weaknesses and to explore further opportunities by which its proposal could provide best value to the Authority. The Authority conducted these discussions in a face-to-face meeting with each proposer on October 1-3.

3.4 Meeting 3 (October 9, 2012)

At its third session, the Selection Committee received and reviewed the findings of the discussion meetings with the proposers. Following deliberations, which are further detailed in Part 6 of this report, the Committee identified Niagara as the apparent best-value proposer, recommended that the Selection Executives concur in this finding, and further recommended that the Authority proceed to limited negotiations with this proposer. The selection and recommendation were conditioned upon the Committee's subsequent review and concurrence that the post-negotiation technical and financial outcome continued to represent best value.

The Selection Executives met on October 15, 2012 and ratified the Selection Committee's recommendation. Accordingly, the Procurement Management Team notified Niagara on October 17 of its invitation to limited negotiations. Catskills and Oneida were simultaneously advised that another team had been selected for negotiations, but that the Authority could still engage in limited negotiations with another team or take such other action as might be warranted if it could not successfully conclude limited negotiations with the selected proposer.

3.5 Meeting 4 (November 15, 2012)

Limited negotiations were conducted with Niagara on October 29-31 and November 12-14, 2012. Following conclusion of the negotiations, the Selection Committee reconvened on November 15 to assess the proposed contract with the selected proposer and reconfirm, as appropriate, that it continued to represent best value.

At this meeting, the Authority presented additional clarifications and potential technical enhancements which had resulted from the negotiations. For the potential enhancements, as options to be exercised at the Authority's future discretion, Niagara submitted not-to-exceed costs and identified maximum schedule impacts. These binding not-to-exceed estimates accounted for both direct costs and (in some cases) schedule-extension costs of certain enhancements. In the case of scope reductions, the estimates were structured as not-less-than credits. In either case, the actual cost or credit to the Authority if the option were exercised would be based on the Design-Builder's

detailed cost justification to be prepared in accordance with contract requirements for the pricing of changes, subject to the not-to-exceed estimates.

Following deliberations, the BRSC agreed by consensus that Niagara's post-negotiation offer continued to represent best value, both in consideration of clarifications only, and also in consideration of the clarifications plus any or all of the optional technical enhancements (including an alternative technical concept presented by another proposer and under review by Niagara). In reaching this determination, the Committee was advised that it should not assume that any of the enhancement options would in fact be elected by the Authority, but only to consider that if any or all options were elected at the not-to-exceed prices and schedule impacts, then Niagara's proposal would continue to represent best value.

In regard to the potential approval of the contract and any options by the Authority's Board, the Committee also concurred on the following recommendations:

- The options (including the alternative technical concept described to the Committee) have the potential to further improve the project and are worthy of serious consideration by the Authority within the timeframe necessary permitted for such consideration in the contract; and
- The Authority's decisions should be informed by actual cost and schedule impacts, rather than the not-to-exceed estimates.

4 Proposal Technical Rankings

In its assignment of adjectival ratings for the technical evaluation factors, the Committee found all of the proposals to be responsive (i.e., acceptable) and concurred that based only on their technical proposals (without the benefit of clarifications or knowledge of price), the proposals would be ranked as follows:

Best technical proposal: Oneida

Second best technical proposal: Catskills

Third best technical proposal: Niagara

5 Proposal Financial Rankings

The real and net present values of the base proposal prices were as shown in Table 3. These prices were exclusive of any additional-scope options which the Authority might exercise.

Bid Costs (millions) Catskills Oneida Niagara \$3.990 **Contract Amount** \$4.059 \$3,142 Difference from Low Bid \$917 \$848 Net Present Value \$3,837 \$3,705 \$2,959 Difference from Low Bid \$878 \$746

Table 3: Price-Proposal Summary

Per the RFP, price evaluation was based on Net Present Value (NPV) of each proposer's bid amount distributed over the duration of the contract. Accordingly, the financial rankings were as follows:

Best price proposal: Niagara

Second best price proposal: Oneida

Third best price proposal: Catskills

6 Best Value Determination

6.1 Selection Committee's Recommendation

Because the RFP instructions directed that technical merit and price be weighted approximately equally, the results of the technical and price rankings indicated no uniformly superior proposal. Hence the Selection Committee requested additional material from each of the proposers through formal communications and discussions (as defined by FHWA regulations), which yielded both clarifications and potential enhancements of the original proposals.

At its October 9, 2012 meeting, the Selection Committee considered whether the Authority should proceed to limited negotiations with a best-value proposer, or alternately request revised proposals from all three proposers (i.e., proceed to a best and final offer, or BAFO).

Authority staff reported many of the Selection Committee's initial technical concerns had been further explained and addressed via the clarifications. This additional information was presented for the Committee's consideration. Staff also shared the estimated costs, based on discussions

and subsequent correspondence with the proposers, for providing potential enhancements which might be desirable to potentially optimize the technical solution offered in each proposal.

The Selection Committee concurred that Niagara's perceived weaknesses had been adequately addressed through the clarification process. The Committee deliberated whether the technical merits of Oneida's proposal were sufficient to outweigh Niagara's price advantage. They ultimately concluded that Niagara's combination of low price and its acceptable technical proposal were sufficient to make Niagara a viable candidate for the best-value proposer.

At its November 15, 2012 meeting, the Selection Committee re-affirmed its previous best-value determination in light of the final outcome of negotiations with Niagara.

6.2 Comparison Summary

For the best-value tradeoff decision between Niagara and Oneida, a summary of the superior elements of each proposal reviewed by the Committee is shown in Tables 4a and 4b below.

Table 4a: Superior Elements of Oneida's Proposal over Niagara's Proposal

Element	Aspects of Superior Solution	
SERVICE LIFE	 Overall service life is potentially superior: Integral deck design for the approach spans gives more confidence in achieving service-life target Higher quality protective coating for structural steel at main span Extensive use of pre-cast concrete elements Stiffer structure provides better deflection performance Additional deck thickness/increase in concrete cover at approach and main span 	
MAXIMIZING PUBLIC INVESTMENT	Features of Potential Future Loading options on the main span: Relatively simple addition of cable strands Continuation of gap between structures into Rockland Lower future main-span costs Highway deck supports LRT; provides more flexibility	
BRIDGE AESTHETICS	Oneida has proposed larger belvederes	
GEOTECHNICAL	 More robust foundations and towers for initial construction Foundation solution is preferable and more conservative 	

ROADWAY DESIGN	Overall geometry of Shared Use Path and in Westchester is superior
OPERATIONS	Plan for Facilities and Westchester work zone is superior
MANAGEMENT	Commitment to contractor-controlled insurance plan
PUBLIC OUTREACH	Plan is more creative, innovative and comprehensive

Table 4b: Superior Elements of Niagara's Proposal over Oneida's Proposal

Element	Aspects of Superior Solution	
CONSTRUCTION APPROACH	Construction schedule is more favorable	
MAXIMIZING PUBLIC INVESTMENT	Extra piles for Potential Future Loading in approach spans are better positioned	
BRIDGE DESIGN	 Main span deck has a redundant load path (longitudinal trusses) for resiliency under extreme events Approach span decks are more readily replaceable 	
BRIDGE AESTHETICS	The aesthetic approach has potential for greater flexibility to respond to stakeholder input on visual-quality issues. This approach is a good solution that can be improved upon as the design is further developed, within the firm fixed price. Additional improvements would be possible at additional cost as an enhancement option.	
	 The designer has treated the whole crossing as a continuous element, with a consistent aesthetic concept throughout the approach and main spans 	
	The structure is all steel end to end, has a 10" full deck, open and airy aesthetics, and a lower approach on the Rockland side	
OPERATIONS	 Bridge inspection and maintenance access plan is better Plan for temporary facilities is superior 	
ENVIRONMENTAL	Dredging plan significantly reduces size of dredge prism, amount of spoils for disposal, and impact on riverbed habitats	
EXPERIENCE OF THE FIRM	Past project experience is more directly relevant to this type of construction	

6.3 Conclusion

The Selection Committee reached consensus on recommending Niagara as providing the best value based on its original proposal, as clarified in the Communication and Discussion phases. The Committee also separately considered the potential technical enhancements that had been discussed with each proposer and, based on the assumption that such enhancements could be included at the Authority's option, determined that Niagara also offered best value on this basis. It concluded by recommending that the Authority enter limited negotiations with Niagara as the apparent best-value proposer.

The Committee further requested the opportunity to review the final combination of technical scope and price as achieved in the limited negotiations and to reconfirm, as appropriate, its determination of best value at that point. The Authority's presentation of the post-negotiation outcome described additional clarifications and potential technical enhancements, as options to be exercised at the Authority's future discretion. Based on consideration of these elements, the Committee re-affirmed its previous determination of Niagara's proposal providing the best value.

The overall ranking of the proposers was accordingly formalized as follows:

Best-value proposer: Niagara

Second best-value proposer: Oneida

Third best-value proposer: Catskills

Appendix A: Blue Ribbon Selection Committee Members

Name	Affiliation
David Aukland	Tarrytown Planning Board Member
Allen Biehler	Transportation Professor and former DOT Secretary
Keith Brownlie	Independent Bridge Architect
Edward Buroughs	Westchester County Planning Commissioner
Nuria Fernandez	Chief Operating Officer, Metropolitan Transportation Authority
Richard Kohlhausen	South Nyack Civic Leader
Joan McDonald	Commissioner, NYS Department Of Transportation
Gene McGovern	Construction Executive, McGovern Management
Karen Rae	Deputy Secretary for Transportation
Brandon Sall, BRSC Chairman	New York State Thruway Authority Board Member
Thomas Vanderbeek	Rockland Planning and Public Transportation Commissioner
Robert Yaro	President, Regional Plan Association

David Aukland

Mayor Drew Fixell designated David Aukland to represent the Village of Tarrytown on the Selection panel. Aukland is a member of the Village's five-person Planning Board, to which he was appointed in 2006. His work for the Village has included reviews of the implications of various Tappan Zee Bridge replacement proposals with the Mayor and other Officials, as well as other activities relating to the future development of the Village. Prior to his formal association with the Village of Tarrytown, Aukland worked for IBM. After early work in the United Kingdom, he spent fifteen years at the company's European headquarters in Paris, France.

Allen Biehler

Al Biehler is a Distinguished Service Professor of Transportation Systems and Policy at the H. John Heinz III College at Carnegie Mellon University, Executive Director of the University Transportation Center, and an adjunct professor in the Civil and Environmental Engineering Department in the Engineering College at Carnegie Mellon. He previously served for eight years as Secretary of the Pennsylvania DOT, leading an organization that operated the nation's fifth largest state highway system and administered one of the country's largest grant programs for mass transit, rail freight, and aviation. In 2009, Biehler was elected President of the American Association of State Highway and Transportation Officials, where he helped to create the State

Smart Transportation Initiative to assist state transportation agencies wishing to accelerate sustainable practices.

Prior to his post at the DOT, he was a Vice President with the international transportation consulting firm DMJM-Harris, where he was project manager for preliminary engineering of the North Shore LRT Connector project in Pittsburgh, Pennsylvania and Director of Planning and Preliminary Engineering for extension of the Tren Urbano rail system in San Juan, Puerto Rico. Earlier, Biehler was Director of Planning, Engineering and Construction at Port Authority of Allegheny County, in charge of the agency's \$500 million capital improvement program. He received a B.S. in Civil Engineering from the University of Pittsburgh, and a masters-equivalent Certificate in Highway Transportation from Yale University. He is a registered professional engineer in Pennsylvania.

Keith Brownlie

Keith Brownlie, an independent UK-based architect with over 20 years of experience, has shaped numerous landmark structures around the world and bases his work on the concept that "bridges should be particular to their place." His achievements include the Tipping Bridge in Newcastle upon Tyne; the Sail Bridge in Swansea; the Living Bridge in Limerick; and the Gateshead Millennium Bridge, which won the Stirling Prize for excellence in architecture. Before starting his own firm, he was director of an internationally recognized architectural consultancy. Brownlie was elected a Fellow of the Royal Society of the Arts for his artistic contributions to society.

Edward Buroughs

County Executive Rob Astorino designated County Department of Planning Commissioner Edward Buroughs to represent Westchester County on the Selection panel. Buroughs's career has since 1980 focused on municipal planning in Westchester, Putnam and Dutchess counties, following earlier experience in county and town governments in Pennsylvania. Prior to joining the county staff in 1994, he served as Director of Planning for the towns of Somers and Lewisboro in Westchester and as consulting town planner for the town of Carmel in Putnam County. He earned a Masters of City and Regional Planning from Rutgers University and a B.A. from the University of Delaware.

Nuria Fernandez

Nuria Fernandez is Chief Operating Officer of the Metropolitan Transportation Authority. She previously served as Senior Vice President of CH2M Hill, a firm that provides engineering, construction, and operations services for businesses and governments throughout the world. Prior to that, Fernandez served as Commissioner for the Chicago Airport System, where she directed all airport operations, planning, engineering, and management services for O'Hare and Midway International Airports, the second busiest airport system in the world. She has also served in executive positions at the U.S. Department of Transportation (DOT), the Washington Metropolitan Area Transit Authority, and the Chicago Transit Authority. Fernandez holds a MBA from Roosevelt University in Chicago and a BS degree in Civil Engineering from Bradley University.

Richard Kohlhausen

Mayor Tish Dubow designated Richard L. Kohlhausen to represent the Village of South Nyack on the Selection panel. Kohlhausen was appointed to the SUNY Rockland Community College Board of Trustees by Governor Pataki and was reappointed by Governor David Paterson. He also serves as President of the Board of Nyack Hospital, and formerly served as President of the Nyack School Board and as a Member of the Board of the Edwin Gould Academy in Ramapo. A West Virginia native, Kohlhausen moved to Rockland more than 30 years ago and currently resides in South Nyack. He has worked as a chemical engineer in the pharmaceutical industry, and now works in the insurance industry for Capitol Risk Management Services, Ltd. in Nanuet. He earned a bachelor's degree in chemical engineering from New York University and an MBA from Iona College, New York.

Joan McDonald

Joan McDonald is Commissioner of the New York State Department of Transportation. Commissioner McDonald previously served as commissioner of the Department of Economic and Community Development for the State of Connecticut, as Senior Vice President of Transportation for the New York City Economic Development Corporation, and as the Vice President in charge of New York and New Jersey at Jacobs Engineering. She began her transportation career as Deputy Commissioner for Planning and Traffic Operations for the New York City DOT and as the Director of Capital and Long Range Planning for the MTA Metro-North Railroad. McDonald received her Bachelor of Arts from LeMoyne College and her Masters of Public Administration from the John F. Kennedy School of Government at Harvard University.

Gene McGovern

Gene McGovern is widely known and respected as a manager of large construction projects. In 1979, he co-founded Lehrer McGovern Inc., which ultimately became a part of the construction industry leader now known as Bovis Lend Lease. Lehrer McGovern was the construction manager for the mid-1980s restoration of the Statue of Liberty, and worked on other high-profile projects including renovations of Grand Central Station and Ellis Island and the construction of Euro Disney and London's Canary Wharf business district.

Karen Rae

Karen Rae is Deputy Secretary for Transportation in the Executive Chamber. Prior to joining the Cuomo Administration, she served as Deputy Administrator of the Federal Railroad Administration in the Obama Administration, where she managed the federal high speed rail initiative and developed national freight and passenger rail policy. She also served as Director of the Virginia Department of Rail and Public Transportation, including negotiating and executing the multibillion dollar public-private partnership contract for the Dulles rail project. She was previously General Manager of transit systems in Austin, Texas, Glens Falls and Buffalo. Rae was also Deputy Commissioner of Policy and Planning at the New York State DOT, where she was

responsible for finance, planning and policy, and Deputy Secretary of the Pennsylvania DOT, where she led the creation of a streamlined, performance-based funding program for transit.

Brandon Sall

Brandon Sall is chairman and a non-voting member of the Blue Ribbon Selection Committee. He is a member of the Thruway Board of Directors and a partner at Sall & Geist and Gellert & Rodner, located in White Plains. Sall has vast experience with real estate law and knowledge of the process involved with land transactions. He is admitted to the Bar in New York, New Jersey, Connecticut and Florida and is a member of the New York State Bar Association. Sall received his B.B.A from the University of Miami and attended the Benjamin N. Cardozo School of Law in New York City. He resides in Harrison.

Thomas Vanderbeek

County Executive C. Scott Vanderhoef designated County Commissioner of Planning Thomas B. Vanderbeek, P.E., to represent Rockland County on the Selection panel. Vanderbeek has a wealth of experience with respect to facilities and water supply planning, having successfully worked with major governmental agencies including the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation, as well as Rockland County's towns and villages. He is a licensed professional engineer specializing in civil and environmental engineering as well as water resources planning. For eight years, he was a member of the Rockland County Planning Board. Vanderbeek also served as Stony Point Town Engineer and was project manager and engineer in the development of sewer systems in western Ramapo, overseeing environmental impact study, survey and design. Vanderbeek has a B.S. in Civil Engineering from Princeton University and is a member of the state Fire Prevention and Building Codes Council, the Rockland County Parks Commission and the National Society of Professional Engineers.

Robert Yaro

Robert Yaro is President of Regional Plan Association (RPA), the nation's oldest independent metropolitan policy, research, and advocacy group. He led development of and co-authored RPA's Third Regional Plan, A Region at Risk, and has authored and co-authored numerous papers and articles on planning and infrastructure for the five boroughs of New York City and the metropolitan region. He founded and co-chairs America 2050, RPA's initiative to create a national development and infrastructure plan. He is co-chair of the Empire State Transportation Alliance, on the board of the Forum for Urban Design, and an honorary member of the Royal Town Planning Institute. Yaro holds a Masters in City and Regional Planning from Harvard University and a B.A. in Urban Studies from Wesleyan University. In addition to leading RPA, Yaro is a professor of practice at the University of Pennsylvania and has consulted on city and regional planning issues across the United States and in Europe, China, Japan, Turkey, and North Africa.

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Exhibit 15