

FREQUENTLY ASKED QUESTION FOR VDOT DESIGN-BUILD PROJECTS

June 1, 2013

For general guidance the following information is provided as an aid to those preparing submittals in response to Design-Build solicitations. This information at no time supersedes the requirements presented in individual solicitations.

Prequalification (Joint Ventures)

Specific guidance relative to the pre qualification process can be found at the following link: <http://www.virginiadot.org/business/const/prequal.asp>. In order to pre-qualify as a Joint Venture a completed "Joint Venture Bidding Agreement" must be submitted to and approved by VDOT at the Statement of Qualifications (SOQ) submittal due date. It should be noted that a Joint Venture is not required to register with the Virginia State Corporation Commission (SCC) unless the joint venture is formed as a Limited Liability Company, General Partnership or Limited Partnership. However, each individual member of the Joint Venture must be registered with the SCC in accordance with § 2.2-4311.2 of the *Code of Virginia*. As a requirement of pre-qualification, Joint Venture entities need to be properly established with a federal tax ID number.

In the event that two (2) or more prequalified Contractors that form a Joint Venture and each contractor is individually classified as "Prequalified (Probationary) or inactive", Offerors should be aware that VDOT's Rules Governing Prequalification Privileges stipulate:

"a firm with this level of prequalification is in good standing with the Department with regard to safety and has a demonstrated ability to complete the type of work for which they are requesting prequalification but has not performed work for the Department and thus has no Quality Score. With this level of prequalification a firm can be awarded/have under contract no more than three projects at any given time. Each of these contracts will be limited to a maximum contract value of \$2,000,000. The Contract Engineer has the authority to waive this restriction on a project-by-project basis. Such waiver must be obtained, in writing, by the firm prior to bidding on that project. A firm with this level of prequalification must file an updated Form C-42 including all active VDOT projects each time they submit a bid. A firm at this level of prequalification will be assigned a minimum Prequalification Score of 75, provided they have a minimum Safety Score of 70."

VDOT's Scheduling and Contracting Division does not provide prequalification certificates for Joint Ventures. As part of the SOQ submittal, Offerors should provide sufficient evidence to confirm the prequalification number of the Joint Venture so that the Department can confirm the above requirements have been met.

The bidding restrictions for an individual contractor with a Probationary or Inactive prequalification status may be waived if the contractor can demonstrate that they have performed satisfactorily on projects of similar scope, size and complexity for the requirements for the Lead Contractor stipulated in the Design-Build solicitation. Determination of waving bidding restrictions due to prequalification status must be finalized and evidence submitted at the time of the submittal due date. Requests for determination of waiving bidding restrictions due to prequalification status should be submitted to:

Virginia Department of Transportation
Scheduling and Contract Division
1401 East Broad Street
Richmond, VA 23219
Attn: Mr. Don Silies

As evidence of prequalification, Offerors can submit either a full sized copy of a VDOT prequalification certificate or a screen-shot printout showing that they are prequalified from VDOT's online Prequalified List (<http://www.virginia.gov/business/resources/prequalified-list.pdf>)

Prior to the execution of a contract with VDOT, Joint Ventures are required to be registered as an entity with eVA. Offerors are not required to submit proof of registration with eVA in their SOQ.

The surety letter for Joint Venture Offerors submitting a proposal on Design-Build contracts should be in the name of the Joint Venture entity and the letter should be addressed to the VDOT Point of Contact (POC) identified in the solicitation.

Work History

In response to the work history qualification the Offeror of a limited liability company, partnership or joint venture should list the relevant previous projects for the combined entity. The Lead Contractor (or Lead Designer) for a Joint Venture is considered to be the combination of all the joint venture contractors (or designers). The projects listed are to be a total of those for the joint venture entity. For demonstrating project experience, the Lead Contractor (or Lead Designer) should include projects where they were the prime contractor (or designer) responsible for the project/contract and clearly identify any sub-contractors performing work under their supervision.

Key Personnel

Subconsultants that are not Key Personnel and/or not identified on the organizational chart can be added to the Offeror's team after submission of the SOQ and prior to the Technical Proposal.

Formatting/SOQ Organization

All printing, except for the front cover of the Statement of Qualifications, should be Times New Roman, with a font of 12-point (Times New Roman 10 point font may be used for filling out information on the Key Personnel Resume Form and the Work History Forms). This requirement does not apply to text on the organizational chart, any maps, phase diagrams, or other graphics included in an Offerors proposal. Text that is part of a graphic can be modified within reason. All text that is part of a graphic should be readable and should be no smaller than Times New Roman 10 point. Larger text can be used as well.

Only the resumes for the Key Personnel identified in the solicitation should be included in an Offeror's submittal. Form headers and footers may be modified if desired to include the Offerors name/logo, page numbers, etc.; however, the form must retain its original content and format.

Logos or pictures may be included on tabs and/or page separators.

If an SOQ Table of Contents is included in a submittal, the table of contents will be counted against the total page limit.

The front cover, title sheet, table of contents, appendices or back cover do not count against the total page limit. Concept Plans will be included in the total page limit.

The row heights and column widths may be modified as needed. Additional columns and/or rows beyond those included in the forms are not allowed. It is permissible to include pictures on the Resume and Work History Forms.

DBE/SWaM Participation

When meeting a DBE goal it should be noted that SWaM and DBE designations are mutually exclusive and should not be considered as the same. A SWaM vender is not always a DBE vender; however DBE's are SWaM vendors by default. SWaM goals are independent of the DBE goal requirement. The DBE goal is a pass/fail requirement. In accordance with an RFQ, the Offeror shall provide a written statement within the Letter of Submittal that the Offeror is committed to achieving the stated DBE goal. Failure to meet an RFQ requirement will render an Offeror's SOQ non-responsive. SWaM certification will not count toward the DBE goal. VDOT does not separate the DBE goal between the design and construction tasks of a project. The DBE goal needs to be satisfied for the overall contract value of the project.

DPOR Registration

Key Personnel including but not limited to the Quality Assurance Manager, Design Manager, Lead Designer, and Lead Structural Engineer are required to be a registered, licensed,

Professional Engineer in the Commonwealth of Virginia at the time of the SOQ submission. Offerors shall provide a copy of the DPOR license for each Key Personnel practicing or offering to practice professional services in Virginia in their SOQ.

Evidence provided to confirm licensure and registration requirements in response to Design-Build solicitations can be full-size copies of screen shots from the SCC website and DPOR websites.

Team members providing professional services are not required to have an office located in Virginia, unless otherwise required in the Design-Build solicitation.

It is not required for an Offeror to specifically identify the members of their right-of-way team in their submittal.

Quality Assurance/Quality Control (QA/QC) Program

The Quality Assurance Manager (QAM) is responsible for ensuring quality assurance through the use of the VDOT Minimum Quality Control and Quality Assurance Requirements for Design-Build and Public Private Transportation Act Projects Manual. It is the Design-Builder's responsibility to determine the number of hours and amount of time for which the QAM is required to be on the construction site to satisfy the requirements of the RFP.

The QAM shall assign a Lead QA Inspector to the Project prior to the start of construction. This individual must be on the site for the duration of construction of the Project. It is the Department's intention to have the QA Inspector(s) on site full-time, and as necessary to meet the requirements of Part 2, of the RFP for the duration of the construction of the project.

Right-of-Way and Utilities

All costs associated with utility relocations and adjustments, except for acquisition services should be included in the Offerors Price Proposal. Offerors are expected to coordinate directly with the utility owners, addressing all potential impacts with affected utility owners and third parties and ensuring all such impacts have been included in the Offeror's Proposal.

VDOT takes no position regarding whether or not the Design-Builder enters into a "betterment" agreement with a utility company. The agreement, if entered, is solely between the outside party and the Design-Builder. VDOT will have no funding involvement in any betterment. 100% payment for "betterment" work will be independent of VDOT and performance of the "betterment" work may not be used as justification for any delays, work orders, or other claims.

Per the VDOT Utility Manual of Instructions, 10th Edition, January 2011, betterment is defined as any upgrading of a utility facility that is not attributable to the highway construction or the placing of the facility underground and is made solely for the benefit of and at the election of

the utility. As such, utility betterments, if necessary, should not be included in the Design-Builder's Lump Sum Bid.

Affiliated and Subsidiary companies

The listing of Affiliated and Subsidiary companies should include all companies that have a direct or indirect power to exert control over the Offeror. If the parent company has other subsidiaries that do not share officers or directorships with the Offeror, will not be involved in this project and are otherwise not affiliated with the Offeror, these companies do not need to be listed.

Surety Letter

The Letter from Surety should be addressed to the APD Point of Contact. The surety or insurance company letter for evidence of bonding will be counted against the total page limit of the submittal. For specific information regarding warranty periods on behalf of the contractor refer to Request for Proposals Part 5 – 2013 Division I Amendments, Section 106.01. "Equipment and Material guaranties or warranties that are normally given by manufacturer or supplier, or are otherwise required in the Contract, shall be obtained by the Design-Builder and assigned to the Commonwealth in writing. The Design-Builder shall also provide an in-service operation guaranty on all mechanical and electrical Equipment and related components for a period of at least six months beginning on the date of partial acceptance of that specific item(s) or final acceptance of the Project." RFP Parts 3, 4 and 5 can be downloaded using the following link (<http://www.virginiadot.org/business/design-build.asp>)

**FREQUENTLY ASKED QUESTIONS
LOCALLY ADMINISTERED DESIGN-BUILD
PROJECT DELIVERY
SEPTEMBER 24, 2010**

1. What is the difference between a design-bid-build and a design-build project?

In a design-bid-build project design is completed separately from construction. VDOT approves the completed design then solicits contractors to construct the project in accordance with the approved design.

Design-build procurements streamline projects by placing responsibility for the design and construction of a project on a single entity. The design-build team constructs the project while design is still underway, greatly reducing the overall time necessary for completion of the project.

Additionally, design-build projects are typically lump sum projects with a guaranteed price and completion date established at the start of the project. Since design and construction are the responsibility of a single entity, the cost of any design or construction errors is borne by the design-build team. Design-build procurements transfer a significant portion of the risk for cost overruns to the design-build contractor.

2. Are there presently guidelines available specifically tailored to Locally Administered Design-build Projects?

Guidelines have been developed for Design-build Projects administered by VDOT. The Innovative Project Delivery Division (IPD) is currently working with Central Office Local Assistance Division (LAD) to develop guidelines specific to Locally Administered Design-build Projects. This documentation will be a separate posting from updates to the Guide for VDOT Projects Administered by Localities. VDOT has developed interim guidance and is working with LAD to finalize guidelines.

3. Is a Finding of Public Interest (FOPI) required for Locally Administered Design-build Projects?

Yes, a FOPI is required for Locally Administered Design-build Projects.

4. What attachments must be provided for a FOPI developed by a locality?

The following attachments should be provided for FOPIs developed by Localities:

- *Cover letter*
- *Location map*

- *Risk outline*
- *Locality Project Agreement*

5. Who is the signatory authority for the FOPI?

The Chief Executive Officer/Administrator for the town, city or county is the signatory authority for Locally Administered Design-build projects.

6. What type of information should be provided at the time of RFQ/RFP release?

For VDOT administered projects, the Department provides preliminary plans (~30%) to potential Offerors. These plans are provided to aid the Offeror in preparing proposal documents. An in depth explanatory of discipline specific requirements is provided in the design-build roles and responsibilities document (available for review upon request).

7. Do Locally Administered Design-build projects need to go through the award/post award process required for design-build projects administered by the Department?

Yes, all projects that exceed the \$2 Million (Section 33.1-12) threshold must go through the CTB award process.

8. How and when does funding authorization occur for design-build projects?

Funding authorization occurs just prior to advertisement of the RFP. The locality will complete the federal criteria sheet and provide the latest PCES estimate for the project to the VDOT Project Coordinator for submittal to the Scheduling and Contract Division. Scheduling and Contract will subsequently develop a detailed estimate and submit the documentation to Programming who will interface with FHWA to obtain funding authorization. This process can take up to 30 days to complete.

9. Are there DBE requirements for Locally Administered Design-build Projects?

Yes, DBE requirements are specified for all federally funded projects. The Civil Rights Division will determine the DBE goal for the project.

10. What are the requirements in terms of Civil Rights Documentation/Davis-Bacon wage rates?

The locality needs to retrieve the appropriate wage rates for federally funded projects from the VDOT website (<http://www.viriniadot.org/business/const/wage-rates.asp>) and insert them in the RFP.

11. What is the typical duration for the procurement process for design-build projects?

For design-build projects procured by VDOT, the typical procurement duration is six to nine months. VDOT can provide a project schedule for an ongoing design-build project upon request.

12. Is Value Engineering required for Locally Administered Design-build Projects?

The Code of Virginia requires VE on highway projects with a construction cost of \$5 million or more.

13. How do I get in contact with IPD to determine the processes for Locally Administered Design-build Projects?

Information should be relayed through the VDOT Project Coordinator who will subsequently interface with IPD to determine the appropriate party to answer project specific questions.

14. Is a NEPA document required for design-build projects?

Environmental documents are required for any federal-aid transportation project. Environmental requirements for Locally Administered projects can be found at the following location:

<http://www.viriniadot.org/business/bu-environmentalRequirements.asp>

15. Do we have to complete a NEPA document before releasing an RFQ/RFP for a LAP Design-build Project?

No, federal Design-build regulations have changed to allow release of the RFQ/RFP prior to completing the NEPA process. However, no commitment may be made in an RFP as to any alternative under evaluation in the NEPA process. The RFP may allow preliminary design prior to NEPA completion; in addition the design-build contract must include appropriate provisions preventing the design-builder from proceeding with final design activities and physical construction prior to NEPA completion. In other words, the contract must contain hold points or another method of issuing multi-step approvals.

16. Can we have the Design-builder complete the NEPA document?

No, federal Design-build regulations state design-builders must not prepare the NEPA document or have any decisionmaking responsibility with respect to the NEPA process. Any consultants who prepare the NEPA document must be selected by and subject to the exclusive control of the contracting agency. The design-builder may provide information about the project and possible mitigation actions and its work product may be considered in the NEPA analysis.

17. What are the quality control and quality assurance requirements for Locally Administered Design-build Projects?

The Design-builder and locality will need to conform to the requirements set forth in the Minimum Quality Control and Quality Assurance for Design-build and Public

Private Transportation Act Projects dated August 2007. This document should be clearly identified in the Standards and Reference Documents included in the locality Request for Proposals.

18. What is the plan submittal process for Locally Administered Design-build Projects?

Plan submittals are to be processed in accordance with I&IM 204.15 Right of Way and/or Construction submittals will also include a paper title sheet to be signed by the Chief Executive Officer of the Town, Responsible charge Engineer and PM-Locality for each phase prior to construction. The duration of time for the acquisition of the applicable signatures is consistent with the defined timeframes in the contract documents. As-Built title sheet mylar (and bridge front sheet as applicable) shall be submitted for a complete set of signatures.

19. Why do I need a title sheet if the project will ultimately be operated and maintained by the locality?

This document is used to secure the necessary signatures / approvals through our financial, scheduling, and plan development groups.