

**IH 35E Project
Request for Qualifications
Q&A Matrix #3**

(February 23, 2012)

<u>No.</u>	<u>RFQ Section/ Page No.</u>	<u>Question/Comment</u>	<u>Response</u>
17.	Part A §2.9	Please clarify the date of expected completion and availability for the Level III Traffic and Revenue Study.	Please see response to Question #7 on RFQ Q&A #2.
18.	Part A §4.2 (d)	<p>4.2 Format (d) Volume 2 requirements – given the 75-page limit for this volume, we ask that pages submitted to meet the requirements of the following sections of Volume 2 do not count towards the page limit listed:</p> <p>Section B (2)(b) Express Commitment Regarding Technical Key Personnel – such that there may be one commitment from each entity proffering Technical Key Personnel, as these entities may not be holding an equity interest in Proposer (and, therefore, have not signed an attachment letter to Form A – Transmittal Letter, as required in Volume 1, Section A), so that such commitments will not decrease the number pages of information responsive to the remainder of Volume 2. Section B (3) Management Structure – up to three charts (as these were excluded from the page count for the Grand Parkway RFQ)</p>	Please see response to Question #6 on RFQ Q&A #2.
19.	Part A §4.2 (e)	4.2 Format (e) Volume 3 requirements – given the volume of responsive financial information and the goal of the State of Texas agencies to be more sustainable, we ask that TxDOT consider accepting Volume 3 in electronic format, or, at the least, accepting 1 original hard copy + 15 e-copies of Volume 3	Please see response to Question #2 on RFQ Q&A #1.

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20.	Part A §4.2 (f)	<p>4.2 Format (f) Volume 4 requirements – given the 25-page limit for this volume, we ask that pages submitted to meet the requirements of the following sections of Volume 4 do not count towards the page limit listed:</p> <ul style="list-style-type: none"> • Section B (2)(b) Express Commitment Regarding Financial Key Personnel – such that there may be one commitment from each entity proffering Financial Key Personnel, as these entities may not be holding an equity interest in Proposer (and, therefore, have not signed an attachment letter to Form A – Transmittal Letter, as required in Volume 1, Section A), so that such commitments will not decrease the number pages of information responsive to the remainder of Volume 4. 	Please see response to Question #11 on RFQ Q&A #2.
21.	Part A §5.1, Forms D-1, D-2 & D-3	<p>Section 5.1 of the RFQ provides in part that Forms D-1, D-2 and D-3 should list only projects for which the entity providing the equity investment, engineering, construction, operations and maintenance or capital maintenance experience is respectively the Equity Member, Lead Design Firm, Lead Contractor, Lead Operations & Maintenance Firm or Lead Capital Maintenance Firm, or a controlled subsidiary thereof. The provision further states that the project experiences “provided by a parent or sister company of the Lead Design Firm, Lead Contractor, Lead Operations & Maintenance Firm or Lead Capital Maintenance Firm shall not be considered responsive to this QS, provided that, for toll concession submittals only, project experience provided by a parent company of an Equity Member will be considered” and it goes on to limit the Key Personnel who may be identified in the QS to those employed by the Equity Member, Lead Design Firm, Lead</p>	No change will be made

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		<p>Contractor, Lead Operations & Maintenance Firm or Lead Capital Maintenance Firm, a controlled subsidiary thereof or, for toll concession submittals only, a parent company of an Equity Member. We hereby respectfully request that TxDOT permit us to include in the QS the relevant experience and resources of the respective parent and sister companies of the Equity Member, Lead Engineering Firm, Lead Contractor, Lead Operations & Maintenance Firm and Lead Capital Maintenance Firm.</p>	
22.	Part A §5.5.1(a)(iii)	<p>Under Experience of Proposer Team Firms, in reference to The Lead Operations and Maintenance Firm, please confirm that respondents may include example projects in which they currently do not hold 50% of the ultimate responsibility for operations and maintenance work, but at one time did (within the last 10 years).</p>	Please see response to Question #8 on RFQ Q&A #2.
23.	<p>Part A, §5.5.3 (Toll Concession Project Finance Qualifications and Capability) Part B, Volume 4 Section A(1)(a); Sections B(1) and B(3) (Project Finance Experience and Qualifications) Page A-32, Page B-20, Page B-22</p>	<p>The criteria to evaluate the experience of the finance team, and two of the topics to be covered in the “Conceptual Project Financing Discussion” relates to brownfield projects.</p> <p>Please confirm whether for purposes of the RFQ the concept “brownfield” project corresponds to infrastructure projects which involve major construction works to expand or improve an existing facility (i.e. similar to the IH-35E Project). We note that the “brownfield” project concept could also refer to existing infrastructure projects in which limited or no construction is required (such as in the case of toll road privatizations). Since (a) both types of project involve different risk profiles, which also attract the interest of different types of investors and debt providers, and (b) we assume our experience and financial discussion will be evaluated in terms of its</p>	Please see response to Question #15 on RFQ Q&A #2

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		relevance for the IH-35E Project, we are assuming that the right interpretation of the term “brownfield” project corresponds to projects including major construction to improve or expand existing facilities. Please, confirm that our interpretation is correct.	
24.	Part A §5.6	Please clarify the number of shortlisted teams that will be prequalified for the RFP stage for the D&B model and full concession model, respectively	TxDOT does not intend to identify a specific number of teams that will be shortlisted.
25.	Part B, Volume 2 Section B 2(a)	<p>Please clarify if, for a full concession model, the “Project Manager” position is equivalent to a CEO that is normally appointed by the developer (concessionaire).</p> <p>Please clarify if, for a full concession model, the “Superintendent” position is envisioned to be appointed by the lead contractor or by the developer (concessionaire). In the Grand Parkway RFQ, this position was attached to the lead contractor; please clarify if the deletion of this language now indicates that the position should be filled by personnel attached to the developer.</p> <p>Please clarify if, for a full concession model, the “Lead Quality Manager” position is envisioned to be appointed by the lead contractor or by the developer. Please clarify this role in relation to the “Design Quality Manager,” who appears to be attached to the lead Contractor.</p> <p>Please clarify if, for a full concession model, the Environmental Compliance Manager is envisioned to be appointed by the lead contractor or by the developer.</p>	Please see response to Question #13 on RFQ Q&A #2.
26.	Part B, Volume 3 Section A	Please clarify whether a Proposer, who is submitting a QS for the toll concession model as a consortium (and not as an existing or newly formed entity), is permitted, under RFQ Part B, Volume 3, Section A, to	Please see response to Question #14 on RFQ Q&A #2.

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		submit financial statements of (i) each of its consortium equity members and (ii) the equity member of each of its consortium equity members. If so, would it be correct to understand that the equity members of the Proposer's consortium members are not Guarantors under the RFQ?	
27.	Part B, Volume 4 Section B	Please clarify the terminology: "brownfield concession projects." Does this refer to projects in which additional capacity is added to existing roadways? (I.E. the LBJ Express project) Please note that experience in financing greenfields (where TIFIA and PABs are available) is much more relevant to this project than experience in financing pure brownfields (where construction is not involved) where those ways of financing are not available.	Please see response to Question #15 on RFQ Q&A #2.
28.	Part B, Section C Page B-7	<p>As currently drafted, this section would require disclosure of all liabilities and proceedings related to the applicable Equity Member or Major Non-Equity member, regardless of the third party involved, which would include any subcontractors or any other third party, not matter how minimal their role or how insignificant the liability or proceeding. Please revise the requirement, as suggested below, to limit the information to disputes with the public owners of the projects, which are the most significant to TxDOT.</p> <p>Current Text: Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other dispute resolution proceeding occurring during the last five years involving Proposer (or any other organization that is under common ownership with the Proposer), any Equity Member or any Major Identified Non-Equity Member and involving an amount in excess of \$500,000 related to performance in transportation projects with a contract value in excess of \$25 million.</p>	<p>The requested change will be made.</p> <p>The first sentence of item 3, Legal Proceedings, in Section C, will be revised by Addendum to read as follows:</p> <p style="text-align: center;">3. Legal Proceedings</p> <p>Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other dispute resolution proceeding occurring during the last five years <u>involving between the public owner and</u> Proposer (or any other organization that is under common ownership with the Proposer), any Equity Member or any Major Identified Non-Equity Member and involving an amount in excess of \$500,000 related to performance in transportation projects with a contract value in excess of \$25 million.</p>

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		<p>Suggested text: Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other dispute resolution proceeding occurring during the last five years involving <u>between the public owner and</u> Proposer (or any other organization that is under common ownership with the Proposer), any Equity Member or any Major Identified Non-Equity Member and involving an amount in excess of \$500,000 related to performance in transportation projects with a contract value in excess of \$25 million.</p>	
29.	Part B, Volume 1, Section C(2) Page B-6 thru B-7	<p>Our consortium includes large multinational companies with vast numbers of international affiliates in a number of industries and jurisdictions, and the efforts necessary to diligence such activities would be difficult given the time frame for the prequalification submission. As such, these proposed revisions are intended to provide information to TxDOT that will be necessary for it to perform a fully informed evaluation, while also making it feasible for us to provide the requested information.</p> <p>Proposed wording changes: Provide a list and a brief description of all instances during the last five years involving transportation projects <u>in North America or those projects included in the response to Part B, Volume 2, Section B(1)(a)</u> in which the Proposer (or any other organization that is under common ownership <u>and control</u> with the Proposer), any Equity Member or any Major Non-Equity Member was (i) determined, pursuant to a final determination in a court of law, arbitration proceeding or other dispute resolution proceeding <u>between the public owner and such entity</u>, to be liable for a material breach of contract, or (ii) terminated for cause. For each instance, identify an owner’s representative with a current</p>	No change will be made.

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		phone and e-mail address.	
30.	Part B, Volume 1, Section C(3) Page B-7	<p>Our consortium includes large multinational companies with vast numbers of international affiliates in a number of industries and jurisdictions, and the efforts necessary to diligence such activities would be difficult given the time frame for the prequalification submission. As such, these proposed revisions are intended to provide information to TxDOT that will be necessary for it to perform a fully informed evaluation, while also making it feasible for us to provide the requested information.</p> <p>Further, we would like to highlight that in the Grand Parkway and Horseshoe projects TxDOT limited the scope of disclosure to only those proceedings “between the public owner” and Proposer, etc.</p> <p>Proposed Wording Changes: Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other formal dispute resolution proceeding occurring during the last five years <u>involving between the public owner and</u> Proposer (or any other organization that is under common ownership <u>and control</u> with the Proposer), any Equity Member or any Major Identified Non-Equity Member and involving an amount in excess of \$500,000 related to performance in transportation projects <u>in North America or those projects included in the response to Part B, Volume 2, Section B(1)(a)</u> with a contract value in excess of \$25 million.</p> <p>Include a similar list and description for all projects included in the response to Part B, Volume 2, Section B(1) regardless of whether the dispute occurred</p>	See response to Question 28, above.

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		during the past five years or involved the same organization that is on the Proposer's team. For each instance, identify an owner's representative with a current phone and e-mail address.	
31.	Part B, Volume 2, Section B(3) Page B-12-13	Can TxDOT please clarify if the 5 page "narrative" page count for the "Management Structure" section includes the 3 supporting org charts or if the org charts can be provided in addition to the 5 page narrative – for a total of 8 pages?	The 3 supporting organization charts are in addition to the 5-page narrative.
32.	Part B, Volume 3, Section A B-16	<p>We anticipate that certain . . . entities . . . may assume a role on the Proposer's team that would require the presentation of their financial statements. In order to streamline the submission process and to provide financial information that is more complete and meaningful than a letter from a certified public accountant discussing the areas of the financial statements that would be affected by conversion to U.S. GAAP, we request that the submission of financial statements prepared in accordance with IFRS be permitted.</p> <p>Proposed Wording changes: GAAP/IFRS – Financial Statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles ("U.S. GAAP") <u>or International Financial Reporting Standards ("IFRS")</u>. If financial statements are prepared in accordance with principles other than U.S. GAAP <u>or IFRS</u>, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP <u>or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.</u></p>	<p>TxDOT will accept financial statements prepared in accordance with International Financial Reporting Standards; however, if any financial statements included in the QS are prepared in accordance with International Financial Reporting Standards, the QS must also include the required letter from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP.</p> <p>No change will be made.</p>

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33.	Part B, Volume 3, Section B page B-17-B-19	<p>In connection with the disclosure requirements set forth in <i>Section B – Material Changes in Financial Condition</i>, we suggest including a materiality threshold or limit the disclosure requirements only to those Material Changes in Financial Condition that could have a materially adverse effect on the disclosing party because the current drafting is very broad and will require disclosure of nominal changes in existing projects that are not material to the disclosing party’s operations.</p> <p>For example, the list of Representative Material Changes includes broadly worded disclosure requirements regarding debt covenants, and without a materiality qualification every technical waiver or nominal modification to debt-financing covenants would need to be disclosed. Given the Proposer’s members’ global operations and extensive number of projects this will create an onerous reporting requirement for the Proposer and potentially overwhelm TxDOT with immaterial information, thereby obscuring the disclosure of (any) changes that are actually material.</p>	No change will be made.
34.	Part B, Volume 3, Section C Page B-19	<p>The disclosure requirement for off-balance sheet liabilities as previously drafted was overly broad and would require disclosure of nominal liabilities that would not have a practical impact on the applicable entity. As such, we propose to limit the disclosure requirement for off-balance sheet liabilities to only those liabilities exceeding a \$25 million threshold.</p> <p>Proposed wording Changes: A letter from the CFO or treasurer of the entity or the certified public accountant for each entity for which financial information is submitted, identifying (1) the number of off-balance sheet liabilities <u>in excess of \$25 million</u> and (2) the aggregate dollar amount</p>	No change will be made.

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		thereof.	
35.	Form C C-12 thru C-14	<p>As previously drafted, the requested disclosure was overly broad and unpractical, as the members of the Proposer providing Form C are often engaged in many joint ventures with otherwise unrelated third parties and the efforts necessary to diligence such third parties would be difficult given the time frame for the prequalification submission.</p> <p>Proposed wording changes: The term “Affiliates” includes parent companies, and subsidiary companies, joint venture members and partners in which the entity has more than a 15% financial interest.</p>	No change will be made
36.	General	On the IH 35E project website, in the General Project Documents section, there is a link to the Data Collection Project (DRAFT). This report references a Data CD throughout the document, containing data files. The project website does not appear to contain the data from the CD. Please confirm when the data will be uploaded to the project website or otherwise provided to respondents.	The Data CD has been added to the Project Documents.
37.	General	Can TxDOT please provide access to the Word files of all Forms or provide them in some other workable format?	An unprotected version of the RFQ forms (in Word format) will be posted to the Project website.
38.	General	I seem to be having a problem downloading the forms from page 7 of the above RFP. Is there a way you can send them to me directly?	Page A-2 of the RFQ will be revised to reference the following link. http://i35erfq.corridorprogram.com/ .