Question 1.

DBE Utilization. The DBE Utilization Goal is 14% of the “total Contract Price” (ITP 1.9). *Will the Department consider excluding specialty items (for example, furnishing and installing the main span cables) from the calculation of “total Contract Price” for purposes of the DBE Utilization Goal?*

Answer: The following specialty items will be excluded from the total Contract Price for the purpose of calculating the DBE Utilization Goal.

- Drilled Shafts
- Micropiles
- Stay Cable installation
- Elevators
- Travelers
- ITS Equipment
- Wind tunnel testing
- Rail shipping/railroad flagging
- Special Fills (i.e. Styrofoam Block fill and other light weight fills)
- Specialty overlays

If the Design-Builder does utilize a DBE for any of the items above it will count towards their DBE Utilization. This will be issued by Addendum.

Question 2.

Self-Performance and Specialty Items. Article 23 of the DB Agreement (“Self Performance”) indicates that the Design-Builder must perform “with its own organization Contract Work amounting to not less than 51% of the original total Contract Price.” But FHWA Form 1273 (Rev’d May 1, 2012), which is Appendix B, Attachment 1 to the DB Agreement, provides that
the “contractor shall perform with its own organization contract work amounting to not less than 30% (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed before computing the amount of work required to be performed by the contractor’s own organization (23 CFR 635.116).”

a. We believe that Article 23’s “not less than 51%” is applicable, given that it is (as permitted in FHWA’s attachment) “specified elsewhere in the contract.” Please confirm.

Answer: Confirmed, not less than 51% is applicable.

b. Has the Department, as the contracting agency, designated any specialty items? If so, we believe that the FHWA exclusion of specialty items applies in computing the amount of work required to be performed by contractor’s own organization, given the order of precedence set forth in Article 5 (“Documents Forming the Contract”) and based on Section 107.4 of the DB Agreement. Please confirm.

Answer: The following specialty items will be excluded from the total Contract Price for the purpose of calculating the required Self Performance.

- Pavement Markings
- Sampling and laboratory analysis of soil for disposal parameters
- Removal and disposal of asbestos containing material
- Structural Steel Painting
- Landscaping items
- Television Inspection and Video Recording of Sewers
- Building Condition Survey
- Vibration Monitoring
- ITS Equipment
Elevators
Travelers
Archeological monitoring/reporting
Electrical / lighting
Overlays
Signs/sign structures
Stay cable installation
Material Testing
Quality Control Inspection
Design/Erection Engineering
Wind tunnel testing
Rail shipping/railroad flagging
Special Fills (i.e. Styrofoam Block fill and other light weight fills)
Stone and brick work
Specialty Lighting (for cables and tower)
Temporary Structures

This will be issued by Addendum.

c. Because the Design-Builder must subcontract the design services to its consultants and sub-consultants, and cannot perform design “with its own organization,” please confirm that design costs may also be deducted from the “total Contract Price” for purposes of this computation, either as a “specialty item” or otherwise.

Answer: Per Form SP - Design, Construction Inspection and Quality Control Services are not included in this computation.