Question #52:
Please clarify the definition of “dispute proceedings” that is found in Section 4.4.2.8.B.1.b on Page 32 of the General Instructions. What type of dispute proceedings is required to be explained as part of the Statement of Qualifications? There are many disputes that happen and are resolved during the course of every project. As an example, dispute proceedings with the NYSDOT can be resolved at the project level, at the region level, or can be brought to Albany at the State Level where they are resolved. Once they are resolved and agreed upon to become a change order is this still considered a dispute proceeding? Please explain what type and/or level of dispute proceedings must be discussed in the narrative section of the Statement of Qualifications.

Response:
Proposers shall include any disputes that were submitted to the commissioner’s office as part of a formal dispute resolution process, as outlined in Section 105-14, Disputed Work and Dispute Resolution, of the Standard Specifications.

Question #59:
Clause 1.17 – Will the stipend include provisions for protecting intellectual property represented in the design or construction means and methods (pg 13)?

Response:
The Stipend Agreement will be included in the RFP. Stated broadly, the Stipend Agreement provides that as a condition of receiving the stipend, NYSDOT may use the work product contained in the Proposer’s Proposal, including work product that may be deemed intellectual property.

Question #70:
Page 25 of the RFQ, Section 4.4.2.2.Letter B, Requirement #6 states that the information shall be packaged separately for each separate entity. Appendix B on page B-1, states to include Financial as Section 1 in Volume 1. Please clarify what portion of the financial information is to be included in Sec 1, Volume 1, if any, and which portion is to be included as a separate Financial Volume for each entity. Please also specify number of copies required for the separately packaged Financial volume for each entity.

Response:
All Financial information shall be included in Volume 1, Section 1 as stated in Appendix B. The Financial Information may be submitted in a sealed envelope, but must be securely included in Volume 1, Section 1 of the SOQ. The RFQ will be amended to reflect this.

Question #74
The definition for “Designer” means Principal Participant, yet the definition of Principal Participant is limited to the Proposer. Please clarify.
Response:
As defined in Appendix D, “Designer means a Principal Participant, specialty Subcontractor or in-house designer...”. In other words, the Designer may or may not be a Principal Participant depending on the Proposer’s organizational structure. Furthermore, a Principal Participant is not limited to the Proposer. Please refer to the definitions for Designer and Principal Participant included in Appendix D.

Question #79:
Section 3.3.2 “Quality Evaluation Factors” lists five (5) factors that are to be considered in the evaluation of a Proposer’s SOQ. Item D) states the following:

“Past performance: Demonstrated record of performance; including completion schedule; quality of work product; 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); . . . “

a) Where in the SOQ should this information be provided?

I. Is the intent to include this information in one of the Department’s pre-printed forms, or is it to be included in the narrative section of Volume 2 Section No. 8?

Response:
Section 4.4.2.8 describes how the information to be provided by the Design-Build team that will be used to evaluate this factor. Appendix B details where in the SOQ the information is to be provided.

II. Be advised that the narrative section is limited to 5-pages maximum. Many of the Proposers will be comprised of several firms in order to bring the proper expertise to the project. It would be quite difficult, if not impossible, to include a comprehensive performance history for all the Team Members within the body of a 5-page narrative. Please clarify.

Response:
The 5-page limit remains as stated in the RFQ for the purposes of being fair to all potential proposers.

b) Is the “claims history” that is being requested limited to just those projects included in the SOQ as part of a Team’s experience (Form E-1), or is the Department requested a complete history of every claim and dispute that a Team Member has been involved with throughout its existence?

I. Please define “claims”. Does “claims” in this context refer to the same “claims” that are listed in the Vendor Responsibility Questionnaire that is submitted in Volume 1 of the SOQ?
Response:
The claims history sought under 3.3.2.D includes claims elevated to the commissioner’s office as part of a formal dispute resolution process, as outlined in Section 105-14, Disputed Work and Dispute Resolution, of the Standard Specifications. There will be an amendment to the RFQ clarifying this point.

II. Can the Department clarify “Disputes”? Are “Disputes” limited to only those actions that are decided by a court or DRB? Or, does the Department want a comprehensive listing of every dispute (disagreement) that may have arisen on a project. Many disputes are decided within the Owner’s agency and follow a predefined process. For example, disputes may be resolved at the Field level, the Regional Level, or at the State Level. Are the Proposer’s to include all these issues in its SOQ?

Response:
Disputes or claims sought under 3.3.2.D includes disputes or claims elevated to the commissioner’s office as part of a formal dispute resolution process, as outlined in Section 105-14, Disputed Work and Dispute Resolution, of the Standard Specifications. There will be an amendment to the RFQ clarifying this point.

III. Are Specialty Subcontractors to also include their claims and disputes? As indicated in the question above, it would be quite difficult, if not impossible to include a comprehensive claims history for all Team Members, including Specialty Subcontractors) within the body of a 5-page narrative.

Response:
Any firm listed on Form L-1 must be included.

IV. Is there a time limitation for the information requested under “Past Performance”? For example, is the Department requested information for ongoing projects or just completed projects? If we are to include past projects, do we include every project a firm has completed or is the Department requesting information on projects completed in the past 5-years? Or the past 10-years? Please clarify.

Response:
The required information must be provided for all on-going projects, and all completed projects for the past five years.
Responses to Question #81 are revised as follows:

Question #81:
Section 4.4.2.8.B.1.b Past Performance (Page 32-33 Final RFQ) requires the each Principal Participant provide an explanation for claims, dispute proceedings, litigation and arbitration proceedings, listed in the Vendor Responsibility Questionnaire (CCA-2) submitted in Volume 1 of the SOQ. “Claim” as defined in the Vendor Responsibility Questionnaire refers to the following:

“A written, formal demand for money due, for property, for damages or for enforcement of a right, e.g., a fine or penalty sought by a Government Entity.”

   a) The Vendor Responsibility Questionnaire (CCA-2) only addresses “claim” as stated above, and does not address dispute proceedings, litigation and arbitration proceedings. Please clarify. Are we only to include explanations for the “claim”(s) noted in the responses to the CCA-2?

   Response:
   Disputes and claims sought under 3.3.2.D includes disputes or claims elevated to the commissioner’s office as part of a formal dispute resolution process, as outlined in Section 105-14, Disputed Work and Dispute Resolution, of the Standard Specifications. There will be an amendment to the RFQ clarifying this point.

   b) If not, what information is the Department looking for? For example, if the Department is requesting information on all claims submitted by a Principal Participant, these claims can include; insurance, subcontractor claims (liens), second tier claims against first tier subcontractor, etc., or is the Department looking only for claims against the Owner? Please clarify.

   Response:
   The Department is looking only for claims, as defined above, against the owner.”

   c) If the Department is requesting information on claims submitted against the Owner, are we to include all claims that were resolved at the Field Level, Regional Level, and State Level, or are we to only include claims resolved by a court, arbitration panel, DRB or some other formal resolution process?

   Response:
   “Claims” includes any claims sought under 3.3.2.D includes claims elevated to the commissioner’s office as part of a formal dispute resolution process, as outlined in Section 105-14, Disputed Work and Dispute Resolution, of the Standard Specifications. There will be an amendment to the RFQ clarifying this point.