Question #49:
We are currently preparing bids for other major projects that are being let by other agencies while trying to prepare the Statement of Qualifications for this project. The time it takes to assemble a qualified team, and to coordinate and prepare the necessary documents is an enormous undertaking that requires more time. The February 19th due date allows us little time to provide the NYSDOT with an exceptional Statement of Qualifications for this project. We therefore kindly request that the due date be changed to Tuesday, March 5th, 2013 and trust that you will allow for the postponement.

Response:
The SOQ due date has been changed to February 28, 2013.

Question #50:
The Agency response to Question # 43 only allows if the OSC VendRep System for Contractors CCA-2 was submitted online. What if the Contractors submitted their CCA-2 to via paper in December? Can the Contractor try to obtain a receipt that the submission was received as the confidentiality of the submission is still an issue.

Response:
If the CCA-2 or other VR Questionnaire is being submitted as a paper copy in the SOQ, it may be enclosed in a sealed envelope and securely bound into the correct section of the SOQ.

Question #51:
The Pre-RFQ Informational Meeting PowerPoint 1/11/12 contains Questions & Answers pertinent to the role of the Construction Inspection Team. The PowerPoint states in the answer to Question #3, “the DB Team hires a Consultant inspection team . . . and they cannot be part of the equity portion of the Design-Build team.” However, the answer needs further clarification. Construction inspection (including jobsite material testing) and laboratory material testing is often performed by a single firm in order to provide efficient and cost effective services to the client. We do not see a conflict of interest between the two functions. Can the CI firm and the Lab Testing Firm be the same entity, since the two functions go hand in hand?

Response:
Yes.

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
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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:
Answer pending.

Question #53:
Clause 1.4 – Please provide a list of firms conflicted from competing on a DB Team because of their previous work on the K-Bridge conceptual design and EIS (pg 6).

Response:
The conflicted firms are identified in Section 6.1 Department’s Rights, letter q, number 9.

Question #54:
Clause 1.4 – Is the DB Team responsible for design of mitigation measures that are to be enumerated in the RFP (pg 7)?

Response:
The project will require the construction of a cap, including fencing and drainage, on a portion of the former Phelps Dodge Refining Site, a Class 2 Inactive Hazardous Waste Site, that will be impacted by the construction. The cap will need to be installed by the Design Builder before construction on and adjacent to the area to be capped can begin. The Department is coordinating with the New York State Department of Environmental Conservation (NYSDEC) on the design of the cap. The Department is planning to provide a NYSDEC-approved cap design, including any special requirements, as part of the RFP.

Question #55:
Clause 1.4 – Please advise what relief is available to the DB Team should the properties not be available to support the planned construction (pg 7).

Response:
The Department is continuing to pursue all means necessary to have all occupied properties vacated by the Notice to Proceed date. An update to the status of occupied properties will be provided in the RFP.

Question #56:
Clause 1.4 – When will the determination be made on the desirability of a PLA (pg7)?
Response:
A determination will be made prior to the release of the Draft RFP to the Shortlisted Firms.

Question #57:
Clause 1.9 – Will the Department seek input from the DB Team on preferred QA Design Consultants to oversee the DB Team’s design (pg 9)?
Response:
No.

Question #58:
Clause 1.10 – Will the Department require a project specific professional indemnity policy for this project (pg 10)?
Response:
Yes, the minimum amount will be identified in the Draft RFP.

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:
Answer pending.

Question #60:
Clause 2.1.2 – What is the relative importance that the Department will attach to price versus technical merit in the evaluation criteria?
Response:
Price is considered 50% of the overall rating and Technical Rating is considered 50% of the overall rating in the selection of “Best Value”.

Question #61:
Clause 2.1.2 – Other than NYS and FHWA employees, will any other entity be engaged in the selection process as a voting member or adviser (pg 15)?
Response:
Not as a voting member but potentially as an advisor, but that is still under discussion within the Department.
Question #62:
Clause 4.4.2.1 and 4.4.2.5C)(1)b)– Please confirm that professional engineer/architect registration in NYS is not a precondition for submitting the qualifications document and that registration prior to submission of the RFP meets the professional registration requirements of this clause (pg 23 & 27).

Response:
The professional engineer/architect shall be a licensed Professional Engineer in the State of New York at the time the Proposer’s Proposal is submitted.

Question #63:
Clause 4.4.2.1 and Appendix B - Please clarify the required submittal format for the SOQ. Appendix B lists Form L-3 being required under Section 4 of Volume 1 and Form L-1 being required under Section 5 of Volume 2; however, on Page 23 of the RFQ it states that Form L-1 is required in Section 4 and Form L-3 in Appendix A.

Response:
As stated in the Final version of the RFP, Form L-3 is to be submitted in Section 4 (Volume 1). Form L-1 shall be submitted in Section 5 as noted in Appendix B. The RFQ – General Instructions shall be amended to reflect this.

Question #64:
Clause 4.4.2.6.B - Please refer to draft RFQ page 30, Section 4.4.2.6.B which states “Using form E-1 (Appendix C), Project Description, provide no more than three (3) past project descriptions per each Construction Inspection Professional Engineering Firm, and the Materials Testing Firm or Laboratory, and no more than five (5) for each construction firm and design firm.” If the proposer is a joint venture, may each of the participating parties (being construction firms) submit no more than five (5) projects each or is the joint venture limited to no more than five (5) projects as a whole? Please clarify.

Response:
For the purpose of fairness to all DB Firms competing, the joint venture is restricted to submission of no more than five (5) projects. The numbers indicated in Section 4.4.2.6 apply to all submissions whether they be joint ventures, multiple design firms, joint ventures in Construction Inspection, etc.

Question #65:
Clause 3.3.3 - The relative importance of the Quality Evaluation Factors is given, but no points or weighting percentage is assigned to these factors. Will the weighting for each of the Quality Evaluation Factors be included in the Final RFQ?

Response:
No, the weighting of the quality/technical factors is equally weighted. This was clarified in the Final RFQ.
Question #66:
Clause 1.6 - We understand that NYSDOT seeks a lump sum bid for this DB project that includes the environmental mitigation work. At the pre-qualification meeting on January 10, 2013, NYSDOT indicated that a unit price contract for environmental remediation would not be acceptable. Please confirm that the design builder can rely on information to be provided by the Department to define the nature and location of the contamination. This will be necessary to establish a lump sum price that does not include a large risk contingency.

Response:
The presence and extent of contaminated materials within the project site is well documented in the Draft Contaminated Materials Investigation Findings Report, which is available on the Department’s Project website. The information is considered sufficient for Proposers to estimate the effort associated with handling and disposal of contaminated and hazardous materials. In addition, a Contaminant Management Plan and Construction Health and Safety Plan will be made available with the RFP.

Question #67:
Appendix B Format and Organization For Statement of Qualifications – In an effort to be more environmentally-friendly, can the single-sided requirement be changed to allow for double-sided?

Response:
The single-sided requirement remains unchanged and is as stated in Appendix B.

Question #68:
Appendix B Format and Organization For Statement of Qualifications – Will the Department allow 11x17 sheets for elements of the response that are large (e.g. organization chart)

Response:
11” x 17” sheets may only be used for the Organizational Charts, and must be folded accordion-style to fit inside the binder.

Question #69:
The Department added General Instructions: Section 1.21 requiring Proposers to submit Form NOI via email no less than five business days before the SOQ Due Date, however Form NOI wasn’t included as part of the Final RFQ. Can the Department please provide the form?

Response:
Form NOI will be provided in an Addendum.
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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:
Answer pending.

Question #71:
Section 4.4.2.1.C on page 23 of the Final RFQ states Form L-1 and documentation from each equity member, if a joint venture, is required. Appendix B, page B-1 directs proposers to include Section 4-Legal in Volume 1: Administration Submission, but page B-3 directs proposers to include Legal Form L-1 in Volume 2: Technical Submission. Please clarify if Form L-1 and other documentation required per Section 4.4.2.1 C should go in Volume 1: Administration Submission with Legal Section 4 or if it should go in Volume 2: Technical Submission, Organization and Key Personnel Section 5.

Response:
See the response to Question #63.

Question #72:
Section 4 Legal: If the proposer’s team is a joint venture, is Form L-1 required for each lead principal participant or can proposers submit one form with all lead principal participant’s information compiled?

Response:
A single Form L-1 shall be submitted, indicating all Principal Participants and their percentage equity shares.

Question #73:
Appendix B, page B-3 Section 6 prescribes a maximum 15 Form E-1 pages to reflect experience of the firms. Section 4.4.2.6.B on page 31 indicates a maximum of three Form E-1’s for each Construction Inspection (CI) and Materials Testing (MT) firm and a maximum of five for each construction and design firm, which is at least 16 E-1 Forms when considering the four types of firms. Since some joint venture teams have multiple lead principal participants for construction in addition to the design, CI, and MT firms, will you eliminate the limit of 15 and allow proposers to submit consistent with what is stated in the submittal requirements Section 4.4.2.6.B?
Response:
Yes. Appendix B will be revised to be consistent with ITP, General Instructions, Section 4.4.2.6.B.

Question #74
The definition for “Designer” means Principal Participant, yet the definition of Principal Participant is limited to the Proposer. Please clarify.

Response:
A Principal Participant is not limited to the Proposer. Please refer to the definition for Principal Participant included in Appendix D.

Question #75:
In the interest of starting preliminary design work on the RFP response, can the department issue DRAFT *.dgn plans in the state they are in prior to the Draft RFP. Our team understands that the plans will change between now and then. However, with a short time period to develop our design information from March to June, we can start with the information available now.

Reference questions and responses:
Question #7:
Are the preliminary 40% design plans (i.e. civil, drainage, etc.) listed under section 3.0, page A-6, available for review? Only the “preliminary structure plans” are listed on the website.
Response:
25% preliminary plans have been posted on the Department’s Project web site. The 40% design plans are in progress and will be made available once they are complete, but will be posted no later than the date the Draft RFP is issued.

Question #8:
Will the preliminary 40% design plans be available in dgn or pdf format?
Response:
The 40% design plans will be made available in both dgn and pdf formats.

Question #15:
Do we already have 40% drawings or are there more to be issued?
Response:
The Preliminary Structural Plans have been posted to the Department’s Project web site. The full 40% plans, which will include civil, structural, utility, drainage and work zone traffic control plans, are in progress and will be made available once they are complete, but will be posted no later than Draft RFP.
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Response:
Survey mapping (.dgn) files have been posted to the Department’s Project website. The 40% design plans are still in progress and will be made available once they are complete, but will be posted no later than the date the Draft RFP is issued.

Question #76:
Please clarify the response to Question #18. Federal Regulations allow DBE credit if the DBE is providing a “commercially useful function”. Subcontractors to the Design-Builder using DBE subcontractors can still provide for commercially useful functions.

49 CFR 26.55 - HOW IS DBE PARTICIPATION COUNTED TOWARD GOALS?
(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

Reference question and response:

Question #18:
Will the Design Builder receive DBE credit for 2nd tier (subcontract) DBE's?

Response:
No, DBE credit will not apply to second tier contractors (subcontractors of subcontractors).

Response:
The Department will allow second tier subcontracting, for DBE credit, from the primary Design-Builder. Each subcontract must exceed $50,000,000 and no more than four (4) primary subcontracts will be allowed.

Materials suppliers are not considered subcontractors and are not subject to second tier requirements. Any materials purchased from a DBE supplier and provided to the Contract are eligible for 60% DBE credit

Question #77:
Will NYSDOT issue electronic (e.g. gINT files) of the borings used in the reports referenced below?

Reference question and response:

Question #29:
Have enough soil borings been completed to provide Proposers with sufficient soil information to complete their Proposals.

Response:
A Preliminary Geotechnical Report is available on the Project web site. This Report was developed based on the boring program completed in 2009. An
additional boring program, consisting of approximately 50 additional borings, was completed in August 2012. There is also an April 2006 Geotechnical Report that was prepared for the project during the EIS phase. The 2012 boring logs and the Geotechnical Data Report based on the 2012 boring logs will be made available with the Draft RFP. The April 2006 Geotechnical Report will be made available no later than January 25, 2013. The selected Design-Builder’s Engineer of Record is responsible for having additional subsurface investigations performed as they deem necessary and required to prepare the final design.

Response:

gINT files are not available. Boring logs will be made available in NYSDOT’s standard format using MS Word and Excel.

Question #78:

Please clarify the response to Question #35.

Reference question and response:

Question #35:

Can the main span be a Faux Cable-Stayed design?

Response:

Refer to the Key Personnel requirements and the required qualifications of the firms along with the required Forms to be submitted.

Response:

It has always been the Department’s intention to construct a functioning Cable-Stayed Bridge for the main span. The qualifications set forth in the Final RFQ specify the Bridge (Main Span) Lead Designer shall be licensed as a Professional Engineer in the State of New York and should have demonstrated at least 15 years experience in bridge design and shall have completed the design of at least one (1) Cable-Stayed Structure of similar span length and scope that has been successfully constructed.

Further in the RFQ document observe the Objectives of the “Experience of the Firms”, in particular subsection a) and d).

On Form E-1, you are to indicate whether the firm’s experience on the listed projects involved Cable-Stayed Design, and or experience in Cable-Stayed Construction.

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:
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“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:
Answer Pending

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:
Answer Pending

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:
Answer Pending

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:
Answer Pending
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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:
Answer Pending

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:
Answer Pending

Question #80:
Section 4.4.2.4 Vendor Responsibility requires that all firms submit a Vendor Responsibility Questionnaire (VRQ). Does the Department in referring to all firms require that the Designers and all subcontractors including the Construction Inspection Firm(s) and Material Testing Firm named in the SOQ be required to submit a VRQ?

Response:
Any firm listed in Form L-1.

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:
The Department requires all information (claims, dispute proceedings, litigation, and arbitration proceedings) be provided for ongoing projects
or any projects completed in the past five years. This information is required for any firm listed on Form L-1. The RFQ will be amended to reflect this language.

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 requires information about any claims, dispute proceedings, litigation, and arbitration proceedings involving a government entity and a Firm listed on Form L-1.

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:
Information shall be provided for any claim, dispute, litigation, or arbitration that involved formal legal action, though it may have been resolved before a court or board issued a formal decision.

Question #82:
Section 4.4.2.2 – “Financial” requires that the financial statements of the Proposer be packaged separately for each entity with a cover identifying the name of the organization, its role in the Proposer’s organization and North American Industry Classification System (NAICS) Code.

a) It is our understanding that the financial information is included in Volume 1 of the SOQ. Please note that this information is sensitive and considered proprietary. Therefore, we request that in the financial statements and other required information of the Proposer and equity members of the Proposer be allowed to be enclosed in a separate binder from Volume 1. This binder should be sealed as necessary to provide confidentiality. The cover pages can also be contained in Volume 1 for reference.

Response:
The Financial Statements and Financial Analysis may be submitted in a sealed envelope, which must be securely included in the SOQ, Section 1.

b) The RFQ states that we are to provide 1-original and 10-copies of our submission. Due to the sensitive and proprietary nature of the financial information, will the Department consider revising this requirement for the financial information only? We suggest that only the 1-original of the financial
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information be submitted with the SOQ to minimize the inadvertent disclosure of this information.

Response:
The original and all 10 copies must contain the same financial information.

Question #83:
Appendix B – Format & Organization Volume 2, Section 9 “Past Performance” requires a maximum of five (5) pages. Is the maximum number for each Principal Participant five (5) pages or in total, as Section 4.4.2.8.B.1 narrative requires the subparagraphs including project descriptions be included for each Principal Participant? Five (5) pages total for all Principal Participants could be an inadequate amount.

Response:
5 pages in total.