Kosciuszko Bridge Project, Phase 1
(BIN 1075699)

DESIGN-BUILD PROJECT

PIN X731.24, Contract D900011

Request for Qualifications

Addendum #2

February 15, 2013
Modifications to the Request for Qualification
Kosciuszko Bridge, Phase 1
Design-Build Project
Contract # D90011

General Instructions:
Delete the entire Request for Qualifications, General Instructions, and substitute the attached revised Request for Qualifications, General Instructions.

Delete Pages B-1, B-2 and B-3 of the Request for Qualifications, General Instructions, Appendix B, Format and Organization for Statement of Qualifications, and substitute the attached revised Pages B-1, B-2 and B-3.

Delete Page C-i of the Request for Qualifications, General Instructions, Appendix C, SOQ Forms, and substitute the attached revised Page C-i.

Delete Form DBE, Form B, Form L-1 and Form S of the Request for Qualifications, General Instructions, Appendix C, SOQ Forms, and substitute the attached revised Form DBE, Form B, Form L-1 and Form S.

Add the attached form NOI, Proposer’s Notice of Intent to Submit SOQ, to the Request for Qualifications, General Instructions, Appendix C, SOQ Forms.

Delete the entire Request for Qualifications, Appendix D, Abbreviations and Definitions, and substitute the attached revised Request for Qualifications, Appendix D, Abbreviations and Definitions.

No other provision of the solicitation is otherwise changed or modified.

Note to Proposers:
Differences between the Final RFQ and the Final RFQ, Addendum #2, documents have been identified as follows:

- Brackets have been inserted on the left-hand margin of the pages to indicate where changes have been made to the documents; and
- Text additions have been shown in underlined red font and text deletions have been shown in crossed out red font.
Kosciuszko Bridge Project, Phase 1
(BIN 1075699)

DESIGN-BUILD PROJECT

PIN X731.24, Contract D900011

REQUEST FOR QUALIFICATIONS

GENERAL INSTRUCTIONS

Addendum #2 February 15, 2013
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1.0 INTRODUCTION AND GENERAL INFORMATION

This Request for Qualifications (RFQ), issued by the New York State Department of Transportation (the “Department”), seeks Statements of Qualifications (SOQs) from qualified firms (“Proposers”) interested in performing design, construction, quality control, construction inspection and other identified activities to complete Phase 1 of the Kosciuszko Bridge Project (the “Project”). The Project involves the construction of a new 1.1-mile long eastbound (or Queens-bound) bridge structure, which will be built parallel to and on the eastbound side of the existing bridge with sufficient width to carry all traffic until Phase 2 of the project is complete. The Project will also include the demolition of the existing Kosciuszko Bridge. Phase 1 will allow the Department to shift all traffic off the existing bridge and onto the new eastbound bridge structure. Phase 2, which will involve the construction of a new westbound (Brooklyn-bound) bridge structure built within the footprint of the existing Kosciuszko Bridge, will be issued as a separate future contract.

The Department seeks Proposers who are qualified and prepared in all respects to undertake the complete design and construction of the Project. SOQs will only be accepted from Proposers intending to provide all required services for the Project. The Department will not consider responses from firms not offering to provide all required services.

This RFQ is the first step of a two-step best value procurement process. In order to be invited to proceed to the second step of the procurement process, which is responding to a Request for Proposals (RFP), a Proposer must provide a timely response to this RFQ and be shortlisted by the Department for the Project as described herein.

This RFQ is issued pursuant to the Department’s authority under the Infrastructure Investment Act, 2011 N.Y. Laws ch. 56 (the Act). The Act authorizes the Department and other specified authorized state entities to use design-build contracts for capital projects related to the State’s physical infrastructure, subject to the requirements set forth in the Act.

1.1 ABBREVIATIONS AND DEFINITIONS

Refer to Appendix D for abbreviations and definitions of capitalized terms used in this RFQ.

1.2 PROJECT GOALS AND OBJECTIVES

The Department’s goals and objectives for the Project are to:

1. Ensure the long-term vitality of the new eastbound bridge structure by:
   a) Providing for sufficient strength and stability compliant with current engineering design standards;
   b) Providing for a durable structure to survive extreme natural events, including earthquakes and hurricanes;
   c) Providing for a durable structure to survive extreme manmade events, including blasts, fires, vehicular overloads and vehicular accidents; and
d) Providing for a serviceable structure with a life span in excess of 75 years before major maintenance is required.

2. Improve transportation operations and safety on the new eastbound bridge structure by:
   a) Ensuring compliance of horizontal and vertical geometry with current engineering design standards;
   b) Providing for horizontal geometry that maximizes sight distances;
   c) Providing for vertical geometry that reduces roadway grades;
   d) Providing for lane and shoulder widths that meet current engineering design standards; and
   e) Providing for security infrastructure to monitor bridge operations and ensure improved emergency response.

3. Maximize the public investment in the new eastbound bridge structure by:
   a) Providing a cost-effective solution that maximizes value over the lifespan of the new structure;
   b) Reducing future maintenance requirements and operating costs;
   c) Maximizing the use of existing right-of-way;
   d) Minimizing effects on residential neighborhoods and business communities;
   e) Minimizing impacts on the environment, including natural resources and open spaces;
   f) Protecting cultural, historic and archaeological resources;
   g) Minimizing traffic disruption by maintaining six (6) lanes of traffic on the BQE during construction, with no detours or diversion of traffic to the local streets;
   h) Minimizing navigational impacts in Newtown Creek during construction;
   i) Maintaining navigational clearance in Newtown Creek;
   j) Providing a cable-stayed Main Span structure that provides strong aesthetic value and maintains the gateway between Brooklyn and Queens; and
   k) Allowing for future construction of the new parallel westbound bridge structure within the existing right-of-way.

4. Deliver the Project safely, on schedule and within budget.

5. Provide best value to the Department.

1.3 ROLE OF THE DEPARTMENT

In the context of the Project, the Department is responsible for:

   A) Obtaining the appropriate environmental clearances and other permits, as detailed in the RFP, except those specifically assigned to the Design-Builder;
   B) Overall project administration;
   C) Contract procurement and administration;
D) Preparation of the RFQ and RFP, evaluation of SOQs and Proposals, determination of the Short-List and selection of the Best Value Design-Builder;

E) Identification of the Department’s Designated Project Manager as the single point of contact for all communications during the design and construction phase;

F) Quality Assurance (QA) Oversight and audit of Design-Builder design and construction, including QA and Verification Sampling and Testing;

G) Independent Assurance;

H) Providing information for inclusion in the RFP allowing Proposers to adequately prepare their Proposals;

I) Providing for all rights-of-way and easements identified in the RFP;

J) Securing, if necessary, agreements with utility companies;

K) Final acceptance of the Work and payment for Work performed; and

L) DBE program oversight and compliance review.

At the Department’s sole discretion, the Department may use consultants to fulfill one or more of the responsibilities noted in this Section 1.3 provided that the Department will be responsible for overseeing the performance of any such consultants.

1.4 PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES AND PROJECT STATUS

The Kosciuszko Bridge Project addresses the operational and structural deficiencies associated with the Kosciuszko Bridge, which carries a 1.1-mile segment of the Brooklyn-Queens Expressway (BQE, Interstate 278) over Newtown Creek between Morgan Avenue in Brooklyn and the Long Island Expressway (LIE, Interstate 495) Interchange in Queens. The bridge is a vital link in the region’s transportation network, serving commuter and local traffic, as well as a significant amount of commercial traffic that is prohibited from neighboring parkways.

The change in use over the last half century has taken its toll on the structure. Despite comprehensive repairs by the Department over the last two decades, the structural condition of the Kosciuszko Bridge is deteriorating. The most recent Biennial Inspection Report indicates that many structural elements of the bridge exhibit severe deterioration and require extensive repair or full replacement. The bridge’s high traffic volumes, narrow shoulders, vertical grades and non-standard sight distances result in high accident rates and excessive delays to traffic.

Based on its review of the potential impacts of the proposed project, the Department completed an Environmental Impact Statement (EIS) that identified and evaluated the social, economic and environmental impacts of possible solutions for the Kosciuszko Bridge Project. The Draft EIS was published in March 2007, summarizing the need for improvements to the Kosciuszko Bridge. Based on the analyses presented in the Draft EIS and comments received at the Public Hearings following its publication, the Department completed the Final EIS and Record of Decision (ROD) that identified a bridge replacement alternative as the selected alternative. The ROD documented specific strategies and enhancements to mitigate the environmental impacts associated with the selected alternative. The Final EIS and ROD were signed by the Federal
Highway Administration (FHWA) on November 25, 2008 and March 9, 2009, respectively. Design approval was granted by FHWA on March 20, 2009. A Reevaluation Statement was approved by FHWA in June 2011 that addressed environmental impacts due to various structure type alternatives. The reevaluation concluded that the EIS and ROD are still valid and that no update to these documents is necessary based on the impacts of the structure types studied. More recently, the Department has completed Structure Justification Reports (SJRs) that describe the structural alternatives that were considered for the replacement of the various segments and structure types of the Kosciuszko Bridge, identifying the strengths and weaknesses of each option. In addition, a Value Engineering Study and 40% Design Plans have been developed for the bridge replacement project.

A Cable-Stayed structure will be required for the new Main Span. Proposers will be required to design and build a new eastbound bridge structure that maintains the overall geometry, alignment and profile for the entire project length as defined in the SJRs and Preliminary Structure Plans. The Proposers shall propose structure types for the remaining segments of the Kosciuszko Bridge. These alternatives will be subject to approval by the Department, provided they are consistent with the requirements contained in the RFP, and that they maintain six (6) lanes of traffic on the BQE and current access ramp capacities throughout construction.

Several environmental investigations completed for the project have identified contaminated soil and groundwater across much of the Project site. In addition to these general project-wide impacts, specific sources of contamination include the Greenpoint Underground Oil Spill, the Meeker Avenue Chlorinated Solvent Plume, the former Phelps Dodge Refining Site, a Class 2 Inactive Hazardous Waste Site, and Newtown Creek, a Federal Superfund site. The contamination is documented in the Contaminated Materials Report prepared for the Project. Disposal and handling requirements will be included in the RFP.

Proposers should be aware that not all properties acquired by the Department for the Project have been vacated at the present time. The Department is continuing to pursue means 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 Draft RFP.

The Department is conducting a due diligence study to identify the need for a Project Labor Agreement (PLA). If after review of the due diligence study, the Department decides to use a PLA, the Department will negotiate a PLA for the Project which will become part of the terms of the Contract.

Refer to Appendix A for a detailed description of the Project and information regarding the Proposer’s responsibilities and other information regarding the status of the Project.

1.5 PROJECT SCHEDULE

The current anticipated date of Contract Award is in August 2013 and the anticipated Contract Duration is up to 54 months. Interim milestones for the project will be established. Refer to Section 2.2 for information regarding the procurement schedule.
1.6 CONTRACT TYPE
The Contract will be a lump sum Design-Build contract.

1.7 PAYMENT AND LIQUIDATED AND/OR GENERAL DAMAGES
The Contract will provide for a method of periodic payments.

The Contract may provide for the assessment of liquidated damages for failure to meet interim milestones, deadlines or provisions. If so, details will be provided in the RFP.

1.8 GOVERNING LAW
The laws of the United States and the State of New York govern the RFQ, RFP and the Contract.

1.9 QUALITY ASSURANCE/QUALITY CONTROL
The Design-Builder will be required to plan, implement and provide a Quality Control Program for both design and construction.

The Design-Builder’s Quality Control Plan must follow the requirements of 23 CFR Part 637 and the Contract Documents. In addition, the Design-Builder’s Quality Plan shall follow the Design and Construction Quality Plan Format provided in the RFP. The Department will review and approve the Design-Builder’s Quality Control Plan to assure that it meets the guidelines and minimum requirements established by the Department. The Design-Builder shall maintain ownership of the Plan, shall be fully responsible for its execution, and shall maintain sole responsibility for the quality of the Work. As part of the acceptance procedure, the Department will conduct verification sampling and testing on all material testing as well as conduct audits, in-depth inspections, and reviews of all Work to ensure workmanship, and that in-process and completed Work, meets contract requirements.

The Design-Builder will be required to have, as part of the Design-Build Team, a Quality Manager who will be responsible for the preparation and implementation of the Quality Control Plan and for ensuring it’s compliance for both design and construction. This individual shall be a direct report to senior management of the Design-Builder.

For design, the Quality Manager shall ensure that the design firm on the Design-Build Team implements the quality control procedures specified in the Design-Builder’s Quality Control Plan for design activities.

For construction, the Design-Builder will be required to have, as part of the Design-Build Team, a Professional Engineering Firm to perform Construction Inspection, and a Materials Testing Firm or Laboratory to sample and test materials as specified in the Quality Control Plan and/or as required by the project specifications. The Professional Engineering Firm performing Construction Inspection and the Materials Testing Firm or Laboratory may be the same company or separate companies, but in either case, the Professional Engineering Firm
performing Construction Inspection and the Materials Testing Firm or Laboratory must be independent of the Designer(s), Constructor(s) Design-Build and any of the other Principal Participants that are included in the Proposer’s proposed team. In addition, the Professional Engineering Firm performing Construction Inspection and the Materials Testing Firm or Laboratory shall not be an equity participant on the Design-Build Team.

The Professional Engineering Firm performing Construction Inspection will be required to inspect all construction operations of the Design-Builder for conformance to the Design-Build plans, specifications, and the requirements of the RFP. They will also act as a field review component during construction as plans are being developed to ensure that what the Designer is providing will actually work from a constructability standpoint. The Professional Engineering Firm’s inspection, measurement, and testing activities must adhere to, and be in accordance with, all of the requirements set forth in NYSDOT Policies, manuals, engineering bulletins, engineering instructions, the RFP, and the Quality Control Plan.

Unless otherwise modified in the RFP, the Department will furnish at its own expense, off-site inspections and testing of steel, cement, asphalt, concrete and asphalt aggregates, concrete sewer and drainage pipe, and such other materials as are customarily tested by Department forces or by separate contracts.

The Materials Testing Firm or Laboratory shall report to and support the Professional Engineering Firm performing Construction Inspection.

The Construction Inspection Professional Engineering Firm will report to the Design-Build Quality Manager and shall coordinate with the Department’s Quality Assurance Engineer.

The Professional Engineering Firm will enforce the specifications and identify in a timely manner local conditions, methods of construction, errors on the plans, or defects in the work or materials which would conflict with the quality of work, and conflict with the successful completion of the project.

All records must be kept in accordance with the Manual of Uniform Record Keeping (MURK) and the RFP. The Professional Engineering Firm must take all measurements and collect all other pertinent information necessary to prepare a project diary describing the progress of the work, specific problems encountered, daily inspection reports, survey notes, photographs of various phases of construction, and other pertinent data, records and reports which may be required by MURK or the RFP for proper completion of records of the contract. The Professional Engineering Firm will be required to prepare the above mentioned project diary and daily inspection reports using the Site Manager Program. Access to the Site Manager Program will be provided by the Department.

The Department will establish and maintain its own Quality Assurance organization and/or utilize an independent Quality Assurance organization to conduct verification sampling and
testing on all material testing, oversee and/or perform quality audits, in-depth inspections of the
Design-Builder’s management, design, construction and maintenance activities, the Design-Builder’s Quality Control procedures and verify the quality of the final product. The Department may utilize an independent Consultant to perform Quality Assurance of the Design-Builder’s designs. If the Department should process a solicitation for a Quality Assurance contract, a Firm may submit proposals for both the Design-Build and Quality Assurance contracts. However, any firm that is shortlisted on the Design-Build contract will automatically be removed from consideration on the QA contract.

No Construction will begin nor shall payments be made before the Design-Builder’s Quality Control Program is approved by the Department.

1.10 INSURANCE, BONDING, LICENSING AND SECURITY

Details regarding insurance requirements for the selected Design-Builder will be specified in the RFP. The Department will require the selected Design-Builder to provide evidence of insurance by certified copy of complete policy or policies endorsed.

Each Proposer submitting a Proposal will be required to provide a Proposal Bond or other form of security acceptable to the Department, as specified in the RFP. The Design-Builder will be required to provide Performance and Payment Bonds and/or other security acceptable to the Department as provided in the RFP.

Prior to Contract execution, all Persons participating in the procurement and/or the Contract must obtain all certificates of authorization, licenses and permits and take all necessary steps to conduct business in the State of New York and perform the Work required under the Contract, including proposing and carrying out a contract consistent with the laws of the State of New York.

1.11 RULES OF CONTACT

The following rules of contact shall apply during the Contract procurement process, which began upon the issuance of the Notice of Interest in this RFQ and will conclude with the execution of the Contract. The rules are designed to promote a fair, unbiased, legally defensible procurement process. Contact includes face-to-face, telephone, facsimile, electronic mail (e-mail) or formal written communication.

The specific rules are as follows:

A) Potential responders are advised that under New York State Finance Law Section 139-j, communication on procurements can be made only to designated contact persons. The Department’s Designated Representative for the procurement is:

Peter Russell
Attention: Kosciuszko Bridge Project
Office of Contracts Management
New York State Department of Transportation
The above named person, as the Department’s Designated Representative for this procurement, shall be the Department’s single point of contact and source of information for this procurement;

B) After the Short-List is announced, neither a Proposer on the Short-List nor any of its team members may communicate with another shortlisted Proposer or members of another shortlisted Proposer’s team with regard to the Project or the Proposals. However, a shortlisted Proposer may communicate with a Subcontractor that is on both its team and another shortlisted Proposer’s team, provided that each shortlisted Proposer has obtained a written certification from the Subcontractor that the Subcontractor will not act as a conduit of information between the teams;

C) Unless otherwise specifically authorized by the Department, or in this RFQ, a Proposer may contact the Department only through the Department’s Designated Representative and only in writing by mail or e-mail. The Proposer’s contacts with the Department shall only be through a single representative authorized to bind the Proposer;

D) Communications between Proposers and the Department’s team of staff and consultants is allowed during any joint workshops and meetings organized by the Department;

E) Contact between each Proposer and the Department (questions and responses to questions) shall only be through the Department’s Designated Representative and that Proposer’s designated representative;

F) Neither a Proposer nor its agents may contact employees of the Department, or its consultants under contract to assist with the preparation of the RFQ, including staff members, members of the SOQ evaluation committee(s) and any other person who will evaluate SOQs, regarding the Project, except through the process identified above;

G) Neither a Proposer nor its agents may contact any federal or State official, or stakeholder staff regarding the Project. Stakeholder staff includes employees of:

1) FHWA; and

2) State and federal agencies engaged in the Project or otherwise having jurisdiction over the Project.

H) Any contact by a Proposer determined to be improper may result in disqualification of the Proposer. If the Department determines that an impermissible contact has been made by a Proposer, that Proposer cannot be awarded the contract.

The Department will post information regarding the contract on its web site (www.dot.ny.gov/kbridge). Proposers are advised to monitor the web site regularly. The Department will not be notifying potential proposers of posted information, including Addenda to the RFQ and/or the RFP.
Unless confirmed in writing by the Department’s Designated Representative, the Department will not be responsible for or bound by: (1) any oral communication, or (2) any other information or contact that occurs outside the official communication process specified herein.

1.12 PROPOSERS QUESTIONS

The Department will consider questions submitted in writing by Proposers regarding the RFQ, including requests for clarification and requests to correct errors. All such requests must be submitted in writing (sent via mail or e-mail) to the Department’s Designated Representative.

Only written requests (sent via mail or e-mail) will be considered. No oral requests will be accepted. No requests for additional information or clarification to any other Department office, Consultant, employee or the FHWA will be considered. All responses to Proposer questions of the RFQ will be disseminated only by posting on the Department’s web site. Responses will not indicate which Proposer raised particular questions. Responses to questions will not be mailed out.

Only questions received by 12:00 pm (midday) Eastern Standard Time on the date specified in Section 2.2 will be addressed.

Questions must include the requestor’s name, address, telephone number and e-mail address, and the Proposer that he/she represents.

For the sake of clarity, the Department may consolidate or rewrite questions, and may post multiple sets of questions and answers. The last response will be posted on the Department’s web site not later than seven (7) calendar days prior to the SOQ Due Date.

1.13 RFQ ADDENDA

If necessary, the Department will issue addenda to modify conditions or requirements of this RFQ. Addenda will be disseminated only by posting on the Department’s web site. Addenda will not be mailed out. Proposers are advised to visit the Department’s web site regularly to check for addenda. The final addendum will be posted on the Department’s web site (https://www.dot.ny.gov/kbridge) not later than seven (7) calendar days prior to the SOQ Due Date. If an additional addendum is required within seven (7) days of the SOQ due date, the SOQ Due Date shall be revised such that there will be seven (7) days from the final addendum to the SOQ due date.

It is anticipated that the Department may also use the Department’s web site to present general market-related inquiries and to receive replies to these inquiries from industry practitioners. These general questions-and-answers would not form part of the SOQ process for the Project, and any replies received would not be included within the SOQ evaluation for any Proposer.

1.14 NOTIFICATION OF FIRMS ON THE SHORT-LIST
Each Proposer will be notified officially whether or not it has been selected for the Short-List. The Short-List will be posted on the Department’s web site after all shortlisted firms have been notified. Notifications may be expected no later than the date specified in Section 2.2.

1.15 COSTS

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, including attending any briefing(s), workshop(s) or meeting(s), and/or providing supplemental information.

1.16 ORGANIZATIONAL AND CONFIDENTIALITY REQUIREMENTS

A) Only prospective Proposers who are capable of completing the Project in its entirety will be eligible for the Short-List; and

B) Proposer organizations, including Principal Participants, Constructor(s), Designer(s), Construction Inspection Professional Engineering Firm(s), Materials Testing Firm(s) or Laboratory(Laboratories) and all Key Personnel identified in the SOQs submitted by Proposers must remain intact for the duration of the procurement process and the subsequent Contract. A shortlisted Proposer may propose substitutions for participants, however, such changes will require written approval by the Department, which approval may be granted or withheld in the Department’s sole discretion. Requests for changes to the Request for Proposals must be made in writing no later than 14 calendar days prior to the due date for submittal of Proposals. Requests by shortlisted Proposers for changes in any of the Principal Participants or Design-Build Team members will be particularly scrutinized. The Proposer should carefully consider the make-up of its team, prior to the submittal of the SOQ, to reduce the likelihood of occurrence of any such changes during the Proposal period and throughout the term of the Contract.

1.17 PROPOSAL STIPEND

The Department will provide payment of a stipend to Proposers on the Short-List who submit a Proposal in response to the RFP, subject to certain stipulations. The Proposer selected for contract award will not be eligible for such payment. Details and a sample contract will be provided in the RFP. No Proposer will be obliged to accept an offer of a stipend. Any Proposer that declines to accept payment of a stipend will be required to sign a waiver to its right to payment.

1.18 BUY AMERICA

The Project is subject to Buy America policies, which require a domestic manufacturing process for all steel or iron products that are permanently incorporated in a Federal-aid highway or bridge construction project. The regulations permit a minimal use of foreign steel and iron in the amount of $2,500 or one-tenth of one percent, whichever is greater, to be used in the Project. At a Proposer’s request, the Department may, but will not be obligated to, seek a waiver of Buy America requirements if grounds for such waiver exist. The Proposer will be required to comply with the applicable Buy America requirements unless such waiver is sought and granted. The RFP will require Proposers to provide appropriate certifications regarding compliance with Buy America requirements.
1.19 IRAN DIVESTMENT ACT OF 2012

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. This act may be viewed in its entirety at http://www ogs.ny.gov/about/regs/docs/ida2012.pdf. Pursuant to SFL § 165-a (3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). The list may be found on the OGS website at: http://www ogs.ny.gov/about/regs/docs/ListofEntities.pdf

By submitting a Proposal in response to the RFP or by assuming the responsibility of a Contract awarded hereunder, the Proposer (or any assignee) certifies that, it will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list.

Additionally, any Design-Builder seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the Department receive information that a Design-Builder (or any assignee) is in violation of the above-referenced certification, the Department will offer the Design-Builder (or any assignee) an opportunity to respond. If the Design-Builder (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Department shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Design-Builder in default.

The Department reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

1.20 PRE-SOQ INFORMATIONAL MEETING

A Pre-SOQ informational meeting for the Project was held on January 10, 2013 in New York State. Details of the Pre-SOQ informational meeting, including time and venue, were announced on the Department’s web site. Attendance by potential Design-Build Teams at the Pre-SOQ informational meeting was recommended. Interested parties should have forwarded questions in advance to the Department’s Designated Representative so they may be addressed at the Pre-SOQ informational meeting.

1.21 NOTICE OF INTENT OF SOQ SUBMISSION

Proposers intending to submit a Statement of Qualifications in response to this RFQ are requested to submit Form NOI to the Department’s Designated Representative (section 1.11(A) above) via e-mail no less than five business days before the SOQ Due Date stated in section 2.2 below.
2.0 PROCUREMENT PROCESS

2.1 OVERALL PROCUREMENT PROCESS

The process for procurement of the Contract will use best value as a basis of selection. The Department intends to award the Contract to the Proposer who provides the Proposal with the best combination of price and quality factors.

The procurement process will include two (2) steps:

A) RFQ (determination of Short-List); and
B) RFP (selection of Design-Builder from Proposers on the Short-List who submit Proposals).

Evaluation of the SOQs will be based on information submitted in the SOQs or otherwise available to the Department and will involve both pass/fail and quality evaluation factors. Evaluation of the Proposals will be based on information submitted in the Proposals or otherwise available to the Department, and will involve both pass/fail and a combination of price and quality evaluation factors. Proposers should note that both the SOQ and Proposal must be self-contained, i.e. all of the information necessary to make a complete and comprehensive evaluation must be contained within the Proposer's Proposal. Proposers should not assume that any Department staff that will be involved in the evaluation of the SOQs or Proposals will have general knowledge of the firms or its Key Personnel.

2.1.1 RFQ

The purpose of the RFQ is to allow the Department to determine the Short-List of Proposers that will be invited to submit Proposals for the Project. In order to be eligible for evaluation, SOQs submitted in response to this RFQ must include information addressing each pass/fail and quality evaluation factor identified herein. Refer to Section 4.0 for SOQ submittal requirements and evaluation factor objectives and requirements.

2.1.2 RFP

The purpose of the RFP is to allow the Department to select the Best Value Design-Builder for the Project. The RFP will provide specific instructions on what to submit, the evaluation factors, the objectives and requirements for evaluation and the evaluation rating guidelines for the RFP step of the procurement. It is anticipated that the RFP will initially be issued as a draft, with the intent of engaging the Proposers on the Short-List in its review before finalization. For informational and team-building purposes, the following summarizes elements of the RFP evaluation and proposal package as currently anticipated by the Department:

A) Evaluation factors for the RFP will include, but not be limited to:

1) Pass/Fail:
   a) Legal (including compliance with state licensing requirements);
   b) Financial (review of updated financial documentation, surety commitments, etc.);
   c) Administrative (responsiveness of Proposal);
   d) DBE Compliance; and
e) Price Proposal (including provision of a Proposal Bond).

2) Quality (these factors may also include sub-factors):
   a) Key Personnel and Firm Coordination;
   b) Management Approach;
   c) Technical Solutions;
   d) Project Support;

3) Price

B) Information to be submitted in the Proposals will include, but not be limited to:

1) Qualifications and experience. The roles and responsibilities of the Principal Participants, Constructor(s), Designer(s), Construction Inspection Professional Engineering Firm(s), and the Materials Testing Firm(s) or Laboratory(Laboratories); their relationship in the organization, their roles, their responsibilities, and the communication protocol utilized.

2) Legal documents demonstrating ability to enter into a Contract with the Department;

3) Proposal Bond;

4) Specified certificates and representations;

5) Description of management approach, with emphasis on managing and producing a quality Project, involving public and environmental sensitivity and including: schedule, organization, strategies for design and construction management (including hauling and access); and plan for environmental compliance, design and construction quality, safety, construction phasing, and subcontracting;

6) Technical concepts with emphasis on innovations (as appropriate), successful history of material design methodologies, quality, durability and maintainability, including: highway geometrics, bridge structures, pavement, constructability, construction staging and duration, minimizing disruption to the travelling public, landscaping aesthetics, environmental mitigation, geotechnical and utility relocations;

7) Schedule, with emphasis on expediting construction and minimizing disruptions to the travelling public, including: design and construction activities, critical path, construction staging, detours and activity durations;

8) A letter of commitment for Key Personnel;

9) Price Proposal;

10) Specified design documents and conceptual diagrams/sketches; and

11) Records which demonstrate achieving the DBE goal or the good faith efforts towards achieving or exceeding the contract DBE goal.

While price is an important factor in the RFP step of the procurement, quality factors will also be significant in determining the best value for the success of the Project. The RFP requirements and evaluation and selection procedures are designed to allow the Department to conduct a comprehensive evaluation of quality in addition to considering the price offered, thus allowing the Department to determine which Proposal is the best value. At the end of the evaluation of
the Proposals, the Department will perform an assessment of the price and the quality factors and shall identify the Proposer that has offered the most advantageous (best value) Proposal. The Department does not currently intend to request revised Proposals following initial evaluations, but reserves the right to do so. The evaluation process will be described in more detail in the RFP.

The description of RFP terms and conditions contained herein, including the anticipated scope of services, evaluation factors and submittal requirements, is preliminary and subject to modification in the RFP.

### 2.2 PROCUREMENT SCHEDULE

The following represents the current schedule for the Project. The schedule is subject to change at the discretion of the Department.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft RFQ Released</td>
<td>December 21, 2012</td>
</tr>
<tr>
<td>Pre-SOQ Informational Meeting</td>
<td>January 10, 2013</td>
</tr>
<tr>
<td>Final RFQ Released</td>
<td>January 23, 2013</td>
</tr>
<tr>
<td>Final date for receipt of Proposer’s questions</td>
<td>February 18, 2013</td>
</tr>
<tr>
<td>Issue date for Final Addendum to the RFQ and/or answers to Proposer’s questions</td>
<td>February 14, 2013</td>
</tr>
<tr>
<td>SOQ due date</td>
<td>February 28, 2013</td>
</tr>
<tr>
<td>Shortlisted DB Teams Announced</td>
<td>Early/Mid March, 2013</td>
</tr>
<tr>
<td>Draft RFP Issued</td>
<td>Mid/Late March, 2013</td>
</tr>
<tr>
<td>Final RFP Issued</td>
<td>Mid/Late April, 2013</td>
</tr>
<tr>
<td>Proposal due date</td>
<td>Mid June, 2013</td>
</tr>
<tr>
<td>Selection of Best Value</td>
<td>Late July, 2013</td>
</tr>
<tr>
<td>Execute Contract</td>
<td>August/September 2013</td>
</tr>
<tr>
<td>Notice to proceed</td>
<td>September/October 2013</td>
</tr>
</tbody>
</table>

### 3.0 EVALUATION PROCESS FOR THE SOQ

#### 3.1 EVALUATION OBJECTIVES

The objective of the RFQ step of the procurement is to create a Short-List of the most highly qualified Proposers with the general capability (quality, financial and management), capacity and experience necessary to successfully undertake and complete the Work for the Project. The Design-Builder will have primary responsibility to plan, design, manage and control the Project and to complete the Project on or ahead of schedule and on or under the Proposer’s price. The Department expects high responsibility standards of the Design-Builder, and this is reflected in the quality evaluation factors of this RFQ and will be reflected in the RFP and the Contract.

#### 3.2 REVIEW AND EVALUATION OF THE SOQ
The information submitted in accordance with the RFQ will be evaluated in accordance with both the pass/fail factors listed in Section 3.3.1 and the quality evaluation factors provided in Section 3.3.2. These evaluation factors are further defined in Section 4.4.2.

3.3 EVALUATION FACTORS FOR THE RFQ PHASE

The Department has identified the following factors and/or sub-factors that are of particular importance to the Department. This information is provided here to assist Proposers in organizing their teams and preparing their SOQ.

3.3.1 Pass/Fail Evaluation Factors

A) The pass/fail evaluation factors are:

1) Legal;
2) Financial;
3) Backlog and Capacity;
4) Proposal responsiveness; and
5) Vendor Responsibility.

B) Pass/Fail ratings will be based on the following criteria:

1) Demonstrated capability to enter into a contractual relationship with the Department and a declaration of willingness to do so;
2) Demonstrated capability to provide required bonds and guarantees and meet other financial requirements of undertaking and completing the Work;
3) Demonstrate sufficient capacity, considering current, committed and potential workload and past level of contract activity, to successfully complete the design and construction of the Project;
4) Proper identification of all Principal Participants, Constructor(s), Designer(s), Construction Inspection Professional Engineering Firm(s), as well as the Materials Testing Firm(s) or Laboratory(Laboratories);
5) Determination that the Principal Participants Design-Build Team members are responsible vendors; and
6) Proper submittal of the required information per the requirements of the RFQ.

If a Proposer passes all pass/fail evaluations, its SOQ will be further evaluated using the factors for quality rating detailed in Section 3.3.2. If a Proposal fails any single pass/fail requirement resulting in a Deficiency, the SOQ will be declared unacceptable, the quality factors will not be rated and the Proposer will not be included on the Short-List.

3.3.2 Quality Evaluation Factors

The quality evaluation factors are:

A) Organization and Key Personnel: Demonstrated experience in the successful management of design and construction on Design-Build projects. Demonstrated ability
to manage all aspects of the Contract, successfully integrate the various parts of its organization, and coordinate with the Department in a cooperative and functional manner. Demonstrated experience, relevant to the complexity and composition of the anticipated Project, of proposed key staff: Project Manager, Design Manager, Bridge (Main Span) Lead Designer, Construction Manager and Quality Manager;

B) Experience of the Firms: Demonstrated experience relevant to the complexity and composition of the anticipated Project and the experience of Principal Participants. Relevant experience of each Principal Participant with emphasis on Design-Build, quality compliance, bridge structures, bridge rehabilitation and reconstruction, construction methods and materials;

C) Project Understanding: Knowledge and understanding of specific Project issues and risks and the issues, benefits and responsibilities associated with Design-Build contracts; and an explanation of how the Proposer will ensure success of the Work and the Project; and

D) 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); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; and record of DBE participation.

During this evaluation, ratings will be assigned for various sub-factors (see Section 4.4.2) within each quality evaluation factor. The ratings assigned to each sub-factor will be compiled to determine an overall quality evaluation factor rating. The ratings assigned to the quality evaluation factors will be compiled to determine an overall quality rating for the SOQ.

Ratings for each quality evaluation factor, sub-factor and the overall quality rating for the SOQs will be based on the following rating criteria:

**EXCEPTIONAL:** The Proposer has provided information relative to its qualifications which is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no Weaknesses.

**GOOD:** The Proposer has presented information relative to its qualifications which is considered to exceed stated objectives/requirements and offers a generally better than acceptable quality. Weaknesses, if any, are very minor.

**ACCEPTABLE:** The Proposer has presented information relative to its qualifications, which is considered to meet the stated objectives/requirements, and has an acceptable level of quality. Weaknesses are minor and can be corrected.
**UNACCEPTABLE:** The Proposer has presented information relative to its qualifications that contains Significant Weaknesses and/or Deficiencies and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive. Weaknesses/Deficiencies are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

The evaluators may also use a plus (+) or minus (-) suffix to further differentiate the strengths or limitations within a quality rating.

Any SOQ that receives a rating of UNACCEPTABLE in one or more quality evaluation factors shall receive an overall SOQ rating of UNACCEPTABLE and the Proposer submitting such SOQ will not be included in the Shortlist.

### 3.3.3 Relative Importance of Quality Evaluation Factors

Each of the quality evaluation factors listed in Section 3.3.2 will be assigned equal importance in the evaluation of the SOQs:

- Organization and Key Personnel;
- Experience of the Firms;
- Project Understanding; and
- Past Performance.

### 3.4 REQUESTS FOR CLARIFICATION BY THE DEPARTMENT

The Proposer shall provide accurate and complete information to the Department. If information is not complete, the Proposer’s Proposal will be considered non-responsive. If the information provided requires clarification, the Department will notify the Proposer and request that the clarification be submitted within 24 hours specified time frame. Proposers will not be allowed to participate further in the procurement of the Project until all information required is provided. Any insufficient statements or incomplete affidavits will be returned directly to the Proposer by the Department with notations of the insufficiencies or omissions and with a request for clarifications and/or submittal of corrected documents. If a response is not provided, within the time frame specified by the Department, the SOQ may be declared non-responsive.

The Department may waive technical irregularities in the form of the SOQ that do not alter the quality or quantity of the information provided.

The Department may, at its sole discretion, request clarifications from Proposers during the SOQ evaluation and Short-List process.

All requests and responses shall be in writing by mail or e-mail. Responses shall be limited to answering the specific information requested by the Department.
The Department does not anticipate conducting interviews during the RFQ phase, but reserves the right to do so. If the Department elects to conduct interviews, the Proposers shall be notified in writing.

Proposers must submit follow-up responses to inquiries by the Department. Responses shall be submitted to the address indicated below within 24 hours three (3) days of receipt of the request from the Department except as otherwise specified in writing by the Department. Responses shall be submitted to the Department’s Designated Representative.

In the event that a material error is discovered in the RFQ during the SOQ evaluation process, the Department will issue an addendum to the RFQ and provide all Proposers an opportunity to submit either a new or a revised SOQ based upon the corrected RFQ.

3.5 DETERMINATION OF THE SHORT-LIST

The Department will establish a Short-List for the Project of an appropriate number (as determined by the Department) of the most highly qualified Proposers in order to ensure adequate competition (typically a minimum of three (3) and maximum of five (5)). Neither the overall ratings nor the ranking of the Proposers on the Short-List will be disclosed to Proposers during the procurement process.

3.6 SHORT-LIST PROTEST

The decision of the Department on the Short-List and the subsequent award of the Contract shall be final and shall not be appealable, reviewable or reopened in any way, except as provided in Section 5.0. Persons and entities participating in the RFQ phase of this procurement shall be deemed to have accepted this condition and other requirements of this RFQ.

Subject to applicable New York law, contents of SOQs, less proprietary information, to the extent protected under applicable New York State law, will become public information upon execution of the Contract.

4.0 REQUIREMENTS OF SOQ SUBMISSION

4.1 SUBMITTAL REQUIREMENTS

All SOQs must be received at the Department’s submittal address no later than 12:00 pm (midday) Eastern Standard Time on the SOQ Due Date specified in Section 2.2.

The front cover of the SOQs must be clearly marked with the Project name, Proposer name, and date of submittal, marked “Confidential” and enclosed in one or more sealed containers. Late submittals will not be considered, consistent with State law requirements.

Where multiple containers are used by a Proposer to submit an SOQ, the Proposer shall label each container “Package # of ##” where # denotes the number of the container, and ## denotes the total number of containers being submitted by the Proposer.
4.2 SUBMITTAL ADDRESS

Submittals shall be submitted by either mail or hand delivery to the following address:

Peter Russell
Attention: Kosciuszko Bridge Project
Office of Contract Management
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, NY 12232, USA

Each Proposer shall be responsible for obtaining a written receipt appropriate to the means of
delivery from the Department office specified in this Section 4.2 at time of delivery of its SOQ. It
is the Proposer’s sole responsibility to ensure delivery of its SOQ to the Department by the time
and at the place specified herein, and the Department shall therefore have no liability or
responsibility.

4.3 PAGE LIMIT, FORMAT AND QUANTITIES

Refer to Appendix B for details of page limits, requirements for the formatting of SOQ
submissions and details of the number of copies to be submitted.

4.4 CONTENT OF SOQ

This Section 4.4 describes the specific information that must be included in the SOQ. An outline
of the required format for the SOQ is provided in Appendix B. Required forms for the SOQ are
contained in Appendix C. Any material modification to the forms may result in the SOQ being
declared non-responsive.

Proposers should provide brief, concise information that addresses the objectives and the
requirements of the Project consistent with the evaluation factors described in Section 4.4.2.
Lengthy narratives containing extraneous information are discouraged. If the Proposer’s
organization has not yet been formed, information regarding the future organization shall be
provided as appropriate to allow the Department to determine whether the future organization
will meet applicable requirements once it is formed.

4.4.1 Cover Letter

The Proposer shall provide a cover letter (no more than two pages) indicating its desire to be
considered for the Project and stating the official names and roles of all Principal Participants
and Design-Build Team members. The Proposer shall identify a single point of contact for the
Proposer and the address, telephone and fax numbers, and e-mail address, where questions
should be directed. Authorized representative(s) of the Proposer’s organization shall sign the
letter. If the Proposer is not yet a legal entity or is a joint venture or general partnership,
authorized representatives of all Principal Participants shall sign the letter.
The Proposer shall attach to the cover letter the completed acknowledgment of receipt form (Appendix C Form AOR), acknowledging receipt of the RFQ and any addenda and/or responses to questions issued by the Department.

4.4.2 Evaluation Factor Objectives and Requirements

In providing an SOQ, Proposers should be guided by the overall Project goals and objectives in Section 1.2 and the specific RFQ objectives and requirements listed in Sections 4.4.2.1 through 4.4.2.8, which provide Proposers with the Department’s expectations. The SOQ evaluation ratings of Section 3.3 will reflect how well a SOQ responds to the requirements and meets or exceeds the objectives for each of the evaluation factors.

4.4.2.1 Legal – (Pass/Fail)

A) Objective:

1) To confirm the Proposer is or will be legally constituted, able to submit a Proposal and enter into the Contract, complete the Work, and that the members of the Proposer’s team either hold or commit to obtaining all required Professional Licenses.

B) Requirements and information to be provided in Section 5 of the SOQ:

1) Form L-1 (Appendix C), Proposer’s Organization Information, for the Proposer’s organization.

C) Requirements and information to be provided in Section 5 of the SOQ if the Proposer is a joint venture or partnership of different firms:

1) Identity of the Lead Principal Participant of the entity (Form L-1, Appendix C);

2) Percent equity share held by each member (Lead Participant column of Form L-1, Appendix C); and

3) An express statement from each of the equity members of the entity as to their joint and several liabilities in accordance with Section 1.10.

D) Requirements and information to be provided in Section 4 of the SOQ:

1) Submit notarized Power of Attorney for each Principal Participant indicating the authority to bind the Principal Participant’s representative to sign for that Principal Participant the submitted SOQ;

2) Submit notarized Power of Attorney from each Principal Participant indicating the authority of the Proposer’s designated point of contact to sign documents for and on behalf of the Proposer’s organization; and

3) Use Form L-3 (Appendix C) to submit a copy of the Certificate of Authorization to provide Engineering Services issued by the New York State Education Department for the appropriate team members, or submit documentation on Form L-3 (Appendix C) demonstrating the ability to obtain said Certificates and licenses, in accordance with the New York State Education Law, Title VIII, Articles 130, 145, 147 and 148.
E) Requirements and information to be provided in Section 4 of the SOQ if the Proposer is a joint venture or partnership of different firms:
   1) If the Proposer has already been legally constituted, full details of the organizational structure and supporting organization/formation documents including a copy, as applicable, of the joint venture agreement, limited liability company operating agreement or partnership agreement; and
   2) If the Proposer has not yet been legally formed, a description of the proposed legal structure and draft copies of the underlying documents, including:
      a) All significant terms of the joint venture or partnership, including the rules relative to the administration of the joint venture, limited liability company or partnership, including dealing with deadlock situations;
      b) Description of how the joint venture, limited liability company or partnership will operate administratively and technically;
      c) A teaming agreement or comparable document setting forth the equity members’ agreement to form the organization; and
      d) If a Proposer has not yet been legally formed at the time of the submission of their Proposal to the Department, the Proposer must be legally formed before the Department will Award or execute a Contract with the Proposer. If there is a delay, for any reason whatsoever, in the forming of the legal entity, the Award, contract execution and the notice to proceed will be postponed until the legal entity is fully formed. The resulting delay shall not change any of the contractual intermediate or final completion dates in the Contract and Proposal and liquidated damages will be assessed for each day the intermediate or final completion dates are not met. If the Proposer has not yet been legally formed within 7 calendar days of submission of the Proposal to the Department, the Department may, at its discretion, reject the Proposal and proceed to award the Contract to the Proposer having the apparent next best value Proposal.
      3) An express statement from each of the equity members of the entity as to their joint and several liabilities in accordance with Section 1.10.

F) Procurement Lobby disclosures for the Proposer or, if the Proposer has not yet been formed, for each of its proposed members, in the two forms provided at:
   which shall be presented in Section 4 of the SOQ.

4.4.2.2 Financial – (Pass/Fail)

A) Objective:
   1) To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the Project, including bonding capacity and the capability to effectively manage the scheduled cash flow as well as any unanticipated cash flow needs of the Project; and
2) To identify Proposers with sufficient capacity, considering current committed and potential workload, and past level of contract activity, to successfully complete the design and construction of the Project.

B) Requirements and information to be submitted – Surety Letter(s):

1) Provide financial statements for the Proposer and equity members of Proposer for the three most recent fiscal years, audited by a certified public accountant in accordance with generally accepted accounting principles (GAAP). If the Proposer is a newly formed entity and does not have independent financial statements, financial statements for the equity members will be sufficient (and the Proposer shall expressly state that the Proposer is a newly formed entity and does not have independent financial statements). Financial statements shall be provided in U.S. dollars. Proposers are advised that if any equity member of the selected Proposer’s team does not have audited financials, the Department may require a guaranty of the Contract to be provided by a separate entity acceptable to the Department. Required financial statements shall include:
   a. Opinion letter (auditor’s report);
   b. Balance sheet;
   c. Income statement;
   d. Statement of changes in cash flow; and
   e. Footnotes.

2) If any entity for which financial information is submitted as required hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their annual report on Form 10-K. For all subsequent quarters, provide a copy of any report filed on Form 10-Q or Form 8-K which has been filed since the latest filed Form 10-K.

3) Provide information regarding any material changes in the financial condition of the Proposer and each of its equity members for the past three years and anticipated for the next reporting period. If no material change has occurred and none is pending, the Proposer and/or equity member, as applicable, shall provide a letter from its chief financial officer or treasurer so certifying.

4) Provide a letter from the chief financial officer or treasurer of the entity or certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities.

5) Include financial information as described above for each proposed guarantor. Proposers are advised that the Department may, at its discretion based upon the review of the financial statements included in the SOQ, specify that an acceptable guarantor is required as a condition of a Proposer’s placement on the Shortlist, in which event the Proposer will be required to provide information regarding the proposed guarantor as required by the Agencies, before a decision will be made regarding placement on the Shortlist.

6) Information shall be packaged separately for each separate entity with a cover sheet identifying the name of the organization, its role in the Proposer’s organization and North American Industry Classification System (NAICS) Code.

7) Provide a Financial Analysis, certified by a Certified Public Accountant, of the
Financial Statements noted above in item #1. Such Financial Analysis shall include the following ratios:

a. Liquidity
   i. Quick Ratio
   ii. Current Ratio
b. Profitability
   i. Profit Margin
   ii. Return on Assets
   iii. Return on Equity
c. Debt
   i. Debt Ratio
   ii. Debt-Equity Ratio
   iii. Cash Flow to Debt Ratio
d. Cash Flow
   i. Free Cash Flow/Operating Cash Flow Ratio
   ii. Cash Flow Coverage Ratio (Short-Term Debt Coverage)

8) Provide a letter from a surety or insurance company indicating that the Proposer is capable of obtaining Proposal, Performance and Payment Bonds covering the Design-Build Contract;

9) The bonding/security capacity levels in Table 4.1 represent minimum levels necessary to pass the Pass/Fail criteria of Section 3.3.1 for the Contract;

10) The surety or insurance company submitting such letter must be rated AA-/Aa3 by two nationally recognized rating agencies or at least A-VII by A.M. Best and Company, be listed on Treasury Department Circular 570 and be on the list of companies approved by the State of New York;

11) The letter must specifically state that the surety/insurance company has evaluated the team’s backlog and work-in-progress in determining its bonding capacity and the letter must expressly identify the team’s amount of current backlog and utilized bonding capacity; and

12) Letters indicating “unlimited” bonding/security capability are not acceptable.

<table>
<thead>
<tr>
<th>Proposal Bond/Security</th>
<th>Payment Bond/Security</th>
<th>Performance Bond/Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>5% of Proposal Amount</td>
<td>100% of Contract Amount</td>
<td>100% of Contract Amount</td>
</tr>
</tbody>
</table>

C) The Contract amount is not anticipated to exceed $550 million.
4.4.2.3 Backlog and Capacity – (Pass/Fail)

A) Objective:

To identify Proposers with sufficient capacity considering current, committed and potential workload and past level of contract activity, to successfully complete the design and construction of the Project.

B) Requirements and information to be submitted:

Submit Form B (Appendix C), Backlog Information, for each Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory. Limit backlog information to the office(s)/division(s) of the firms that will be performing Work on the Project.

4.4.2.4 Vendor Responsibility – (Pass/Fail)

A) Objective:

1) To identify Proposers with firms and/or personnel with a history of financial, legal, integrity, or performance issues that could adversely impact the Project generally.

B) Requirements and information to be submitted:

1) Vendor Responsibility Questionnaire: All firms of the Design-Build team shall submit a Vendor Responsibility Questionnaire (VRQ). Construction Contractors shall supply the CCA-2 form. See Appendix C. Note the VRQ form used by the New York State Thruway Authority is not sufficient. The VRQ may also be submitted on-line using the OSC VendRep system, and include a receipt of submission in the SOQ instead of a hard copy of the VRQ.

4.4.2.5 Organization and Key Personnel

A) Objective:

1) To identify Proposers that can manage all aspects of the Contract in a satisfactory, timely, and effective manner, successfully integrate the various parts of its organization, and coordinate with the Department in a cooperative and functional manner; and

2) To identify specific Key Personnel with demonstrated experience and expertise, and a record of producing satisfactory work on projects of a similar nature to this Project.

B) Requirements and information to be submitted in Section 5 of the SOQ:

1) Organization chart and communication structure among the Principal Participants (the Construction Firm(s), the Design Firm(s), the Construction Inspection Professional Engineering Firm(s), Materials Testing Firm(s) or Laboratory(Laboratories), and specific Key Personnel;
2) Resumes outlining experience and qualifications of specified Key Personnel. Resumes shall have the page limit per person specified in Appendix B. In addition, Form R – Summary of Individual’s Experience shall be submitted. The content of each resume, and the sequence of presentation, shall be as listed below:

a) Proposed role on Project;
b) Relevant licenses and registrations;
c) Total years of professional experience and years of experience performing the work the individual would perform on this Project;
d) Relevant project experience including project names, locations and total construction costs; the individual’s start and end dates on each project; the individual’s role on each project; the duties performed on each project; and the owner’s current contact information, including telephone numbers and e-mail addresses;
e) History of employment with participant;
f) Project role, if any, in the projects listed on Form E-1 for firms;
g) Percent time allocated/committed to the Project;
h) If more than one key position is to be filled by the same individual, so indicate; and
i) Three (3) references including the name, position, company, or agency and current telephone number and e-mail address for each reference. References shall be owners or clients for whom the individual has performed project work for in the past eight (8) years and shall not be current or past employers of the individual.

3) Verification of certification for a Project Safety Manager who shall be OSHA certified.

4) Verification that the Materials Testing Firm or Laboratory is AASHTO certified.

C) Requirements for Key Personnel:

1) Key Personnel are preferred to have experience on projects of a similar scope, type of work, and complexity as this Project and should meet the following qualifications. Proposed staff with less qualification than stated below will receive a reduced rating compared to staff that meet or exceed the stated qualifications. Any requirements described as “shall have …” or “shall be …” are determined to be minimum response requirements.

a) Project Manager: Shall have a minimum of 20 years demonstrated experience in transportation construction and should have 10 years demonstrated experience as a project manager for construction of major transportation and infrastructure projects with similar type of work, and complexity as this Project, including projects constructed in urban areas, with
environmental sensitivity, compressed timeliness and community information requirements. Such experience in construction and management-of-construction should include at least one (1) construction project having a construction value in excess of $200,000,000. The Project Manager, who preferably should have Design-Build experience and have extensive project management experience, can hold only this one Key Personnel position. It is preferred, but not required, that this individual be licensed as a Professional Engineer in the State of New York.

b) **Design Manager:** Shall be licensed as a Professional Engineer in the State of New York, shall be an owner or employee of the design firm and shall have a minimum of 15 years demonstrated experience in managing design for multi-disciplinary infrastructure, highway and bridge projects of similar scope and complexity as this Project. The Design Manager, who should have Design-Build experience, should have specific experience with highway design, bridge design (preferably including steel and concrete superstructures, continuous multi-span bridges, curved bridges and Cable-Stayed bridges), complex foundations, earth retaining structures and drainage structures, on projects of similar type.

c) **Resident Engineer:** Shall be licensed as a Professional Engineer in the State of New York and shall have demonstrated at least 15 years experience in bridge and highway construction inspection. Experience with NYSDOT projects preferred. The Resident Engineer may be a member of the Independent Construction Inspection Firm, or may be an individual or a member of another subcontracting firm, but shall not be an employee of either the Design firm or the Constructor.

d) **Bridge (Main Span) Lead Designer:** Shall be licensed as a Professional Engineer in the State of New York and shall 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.

e) **Foundations 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 foundation design, including deep foundations, high capacity foundations, seismic design of drilled shafts and piles, and bridge foundations.

f) **Environmental Compliance Manager:** Shall have a minimum of 10 years demonstrated experience in the environmental permitting process and associated requirements, environmental design, and construction management and compliance on large, complex transportation projects with complex environmental permitting requirements and commitments. This experience should be in relation to federal permitting requirements and environmental regulatory agencies and should preferably also include
experience of New York State permitting requirements. The Environmental Compliance Manager should have experience in managing others in environmental activities, with highway and bridge engineering drawings and concepts, and working cooperatively and effectively with design engineers and construction staff.

g) **Construction Manager**: Should preferably be licensed as a Professional Engineer in the State of New York and should have a minimum of 15 years of demonstrated construction experience in civil works projects with experience in managing the site work of bridge construction projects. Experience should include work of the nature anticipated in the Project, and should preferably include Design-Build contracts.

h) **Quality Manager**: Should have demonstrated experience in bridge design and major infrastructure construction with at least 10 years experience in quality assurance and quality control activities, including preparation and implementation of Quality Plans and procedures for design and construction. The Quality Manager can hold only this Key Personnel position. The Quality Manager shall have experience of quality systems based on ISO 9001, and preferably should have experience with the quality systems of the Department.

### 4.4.2.6 Experience of the Firms

**A. Objective:**

1) To identify the best Design-Build teams available with demonstrated experience, expertise, capacity in, and record of producing quality Work on projects similar in nature to this Project;

2) To identify Proposers that have:

   a) Experience in successfully managing and constructing major transportation and infrastructure projects of the type and complexity of this Project, preferably including at least one (1) Cable-Stayed structure of similar span length and scope;

   b) Experience in successfully completing Design-Build projects of the type, scope and complexity of this Project;

   c) Superior records of completing contracts on time and within budget;

   d) Experience in successfully managing the construction of a Cable-Stayed bridge, multi-span viaducts, major highways in urban areas, with complex environmental permitting requirements and conditions, in active community areas, managing the maintenance of traffic and supporting public information aspects of projects of the complexity of this Project;

   e) Records of managing contracts to minimize delays, claims, dispute proceedings, litigation and arbitration; and
f) Experience in successfully completing major transportation and infrastructure projects in highly urbanized areas.

3) To identify Proposers whose design team has successfully managed and completed the design of complex infrastructure projects and who have a record of developing designs that are cost effective, innovative and sustainable;

4) To identify Proposers who will effectively manage all aspects of the Contract in a quality, timely and effective manner and will integrate the different parts of its organization collectively and with the Department in a cohesive and seamless manner;

5) To identify Proposers that have the technical and management experience and expertise to plan, organize, execute the design and construction and assure the quality and safety of the Project; and

6) To identify Proposers whose Design and Construction Inspection Professional Engineering Firms preferably have past NYSDOT experience;

7) Verification that the Materials Testing Firm or Laboratory is AASHTO certified.

B. Requirements and information to be submitted:

1) 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. Describe those projects having a scope comparable to that anticipated for the Project.

4.4.2.7 Project Understanding

A) Objective:

1) To identify those Proposers demonstrating an understanding of the management, technical, environmental and maintenance of traffic issues and risks associated with the Project; and

2) To identify those Proposers demonstrating an understanding of how the Design-Build process and the Proposer’s organization will contribute to the success of the Project and meeting the Department’s Project goals and understanding of the risk sharing and the teaming relationship between the Design-Builder and the Department.

B) Requirements and information to be submitted:

1) Identify and discuss three (3) critical risks for this Project, focusing on what the Proposer’s team considers the most relevant and critical to the success of this Project in order to achieve the Project goals. Provide a narrative for each risk that describes why the risk is critical, indicates the impact the risk will have on the Project and discusses the mitigation strategies the Proposer’s team shall implement to address the risk. Describe the role that the Proposer expects the Department or other agencies may have in addressing these Project risks; and
2) Briefly describe how the Proposer will use its organization and the Design-Build process to ensure a Project meeting the objectives as stated in the RFQ, considering the Department’s Project goals listed in Section 1.2. The Proposals should describe as a minimum how the Proposer will manage the logistics of the design and construction of the Project, and how the firms and personnel will communicate and collaborate to deliver a quality Project.

### 4.4.2.8 Past Performance

**A) Objective:**

1) To identify Proposers with firms or personnel that have successfully completed projects on time and on or under budget, including bridge and major transportation and infrastructure projects, that were similar in scope and complexity as this Project;

2) To identify Proposers with firms or personnel with a history of legal and financial problems that could adversely impact the Project generally;

3) To identify Proposers with a record of providing a safe work environment; and

4) To evaluate the record of DBE compliance for each firm included in the SOQ in terms of achieving or making good faith efforts towards achieving past contract DBE goals.

**B) Requirements and information to be submitted:**

1) Narrative: Provide a narrative containing the information requested in subparagraphs below for each Principal Participant and Design-Build Team member. If an entity has no record of relevant past performance or if the information relative to a category is not available enter a declarative statement to that effect. For each instance of liquidated damages, provide the owner’s name and the name of its current representative (and current phone and fax numbers) who can be contacted for additional information. With respect to the information solicited in this Section 4.4.2.8, failure to provide this information, conditional or qualified submissions to requests or questions posed (such as “to our knowledge”, “to the extent of available information”, “such information is not readily available”, “such information is not maintained in the manner requested”, etc.), incomplete or inaccurate submissions or non-responsive submissions may, in the sole discretion of the Department, lead to a low evaluation rating for this evaluation factor or result in a deficiency that would cause the Department to declare the SOQ non-responsive. The required narrative shall include:

   a) Project Descriptions: Provide a narrative describing past performance on up to three projects, including bridge and major transportation and infrastructure projects, preferably in highly urbanized settings, that are similar in scope, type and complexity as this Project;

   b) Claims, dispute proceedings, litigation and arbitration proceedings: Provide an explanation for any claims, dispute proceedings, litigation
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and arbitration proceedings 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 (for Design-Bid-Build Projects); listed in the Vendor Responsibility Questionnaire submitted in Volume 1 of the SOQ; and

c) Liquidated damages: Describe any contract, listed in the Vendor Responsibility Questionnaire submitted in Volume 1 of the SOQ, which resulted in assessment of liquidated damages against any Principal Participant and Design-Build Team member involving amounts in excess of $25,000 for any one project over the past 7 calendar years. Describe the causes of the delays and the amounts assessed. Describe any outstanding damage claims by or damages due and owing to any owner/agency.

2) Safety: Submit Form S (Appendix C), Safety Questionnaire, for each Design-Build Team Member in accordance with the instructions at the top of the Form; for each Firm meeting criterion listed in Section 1.16 B);

3) Experience Modification Rate: Each firm on the Proposer’s team shall submit a letter from their current workers compensation insurance carrier stating the expiration date of the policy and the current EMR rate; and

4) DBE Program Experience: Submit Form DBE (Appendix C), Record of DBE Program Experience – Tables 1-5, for each Principal Participant, Constructor, and the Designer and Construction Inspection Professional Engineering Firm, reflecting record of compliance with DBE requirements in their contracts for the past three (3) years. Distinguish between goal attainment verses good faith effort compliance.

5.0 PROTESTS

This Section 5.0 sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes or does not follow the exclusive protest remedies set forth in this RFQ, it shall indemnify, defend and hold the Department, its directors, officers, officials, employees, agents, representatives and consultants, harmless from and against all liabilities, expenses, costs (including attorneys’ fees and costs), fees and damages incurred or suffered as a result of such proposer’s actions. The submission of an SOQ by a Proposer shall be deemed the Proposer’s irrevocable and unconditional agreement with such indemnification obligation.

5.1 WRITTEN PROTESTS ONLY

All protests must be in writing, whether during the pre-award, award, or post-award phases of the procurement process. Protests shall be submitted to the Protest Official designated below with a copy also sent to the Department’s Designated Representative:

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Any protest not set forth in writing within the time limits specified in these procedures is null and void and shall not be considered. Protests regarding this RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Department in an effort to remove the grounds for protest.

The Protest Official may, in his/her discretion, discuss the protest with the protestors prior to issuance of the Protest Official’s written decision. The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by the Protest Official or his/her designee, whose decision shall be final and conclusive. The Protest Official or his/her designee shall issue a written decision regarding any protest to each Proposer.

5.2 PROTEST CONTENTS

A) All Protests must include:

1) The name and address of the Proposer;
2) The Contract number;
3) A detailed statement of the nature of the protest and the grounds on which the protest is made;
4) All factual and legal documentation in sufficient detail to establish the merits of the protest; however, the protesting Proposer must rely exclusively on facts included in its SOQ submission; no new information that could have been submitted in the SOQ will be considered as part of the Protest; and
5) A summary of the remedy being requested.

B) The protestor must include information demonstrating a violation of a specific law, regulation or provision of this RFQ;

C) The Department will not be obligated to postpone the SOQ Due Date or Short-List announcement in order to allow a protestor an opportunity to correct a deficient protest or appeal, unless otherwise required by law or regulation; and

D) If the protest is denied, the protestor shall be liable for the Department’s costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the Department as a consequence of the protest. If the protest is granted, the Department shall not be liable for payment of the protestor’s costs, including, but not limited to, legal and consultant fees and costs.

5.3 PROTEST REGARDING RFQ
A) Prior to the SOQ Due Date, all protests, including protests based upon alleged restrictive specifications or alleged improprieties in any type of solicitation shall be filed with the Protest Official, not less than seven (7) calendar days prior to the SOQ Due Date;

B) The Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the RFQ process should be delayed beyond the scheduled SOQ Due Date;

C) If the Protest Official determines that the scheduled SOQ Due Date should be delayed, a notification of the delay, the reason thereof, and the new SOQ Due Date will be posted on the Department’s web site; and

D) If the protest is determined to be valid, the Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to the Department proceeding further with the RFQ.

5.4 PROTEST REGARDING SHORT-LIST DECISION

A) A protest of the Short-List decision shall be filed in writing to the Protest Official as soon as practical, but not later than seven (7) calendar days after the protestor knew or should have known it was not included on the Short-List. If the protest has been timely filed, the Protest Official will promptly make a determination in writing regarding the validity of the protest and what action with regard to the procurement, if any, is necessary;

B) If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement;

C) The Department will not proceed with the procurement for seven (7) calendar days after the decision is rendered by the Protest Official unless the protestor waives in writing its right to appeal to the Protest Official;

D) Should a protestor wish to appeal the decision of the Protest Official concerning any Short-List decision, a protestor shall follow the procedures as outlined in Section 5.5; and

E) No protest under this Section 5.4 may include any grounds for protest that could have been raised under Section 5.3.

Failure to file a notice of protest within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or shortlisting process and decisions hereunder, other than any protest based on facts not reasonably ascertainable as of such date.

5.5 RIGHT OF APPEAL

A) In the event that a protestor receives an unfavorable decision from the Protest Official, the protestor shall have the right to appeal the decision by submitting written appeal to the Commissioner within seven (7) calendar days after receipt of the decision of the Protest Official, with a copy sent to the Department’s Designated Contact Person. The provisions for the appeal are the same as set forth for Protests in Section 5.2. The
Department will appoint a Protest Committee of at least three (3) members to review the protest and the decision of the Protest Official;

B) The Protest Committee will notify the protestor in writing in a prompt manner of its decision regarding the protest and the appeal. If the protest and appeal were filed prior to the release of the Short-List, the Department will not announce the Short-List for seven (7) calendar days after the decision of the Committee; and

C) If the matter is not resolved after the appeal, the protestor may challenge a Shortlist relating to this RFQ to the Office of State Comptroller (“OSC”) pursuant to the provisions of Section 112 of the State Finance Law by submitting a written protest to the OSC Bureau of Contracts containing the specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the Shortlist.

6.0 DEPARTMENT’S RIGHTS AND DISCLAIMERS

6.1 DEPARTMENT’S RIGHTS

The Department may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFQ. The Department reserves the right, in its sole and absolute discretion, to:

a. Reject any or all SOQs;

b. Issue a new RFQ;

c. Cancel, modify or withdraw the RFQ;

d. Issue addenda, supplements and modifications to this RFQ;

e. Modify the RFQ process (with appropriate notice to Proposers);

f. Appoint a Selection Committee, evaluation teams and Selection Official to review SOQs, and seek the assistance of outside technical experts in the SOQ evaluation;

g. Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in SOQs;

h. Revise and modify, at any time before the SOQ Due Date, the factors it will consider in evaluating SOQs and to otherwise revise or expand its evaluation methodology. The Department will post any such revisions or modifications on the Department’s web site. The Department may extend the SOQ Due Date if such changes are deemed by the Department, in its sole discretion, to be material and substantive;

i. Hold meetings and exchange correspondence with the Proposers responding to this RFQ to seek an improved understanding and evaluation of the SOQs;

j. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the SOQs;
k. Waive minor weaknesses, minor informalities and minor irregularities in SOQs;
l. Disqualify any Proposer whose conduct and/or SOQ fails to conform to the requirements of the RFQ;
m. Seeks clarification of and revisions to SOQ’s;
n. Prior to opening of the SOQ’s, direct Proposers to submit modifications addressing subsequent RFQ amendments;
o. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Proposer’s SOQ and/or to determine a Proposer’s compliance with the requirements of the RFQ;
p. Disqualify any Proposer that changes its SOQ without Department written approval; and/or
q. Refuse to consider an SOQ or reject an SOQ if such refusal or rejection is based upon, but not limited to, the following:

1) Failure on the part of a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the Department (or other State agency);

2) Default on the part of a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory under previous contracts with the Department (or other State agency);

3) Unsatisfactory performance by the Proposer, a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory under previous contracts with the Department (or other State agency);

4) Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory;

5) Submittal by the Proposer of more than one SOQ for the same work under the Proposer’s own name or under a different name;

6) Existence of an organizational conflict of interest or evidence of collusion between a prospective Proposer (or any Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory) and other Proposer(s) (or Principal Participants, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory) in the preparation of an SOQ or Proposal for any Department construction project;
7) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory is responsible, which in the judgment of the Department might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded; and/or

8) Failure on the part of a Principal Participant, Constructor, Designer, Construction Inspection Professional Engineering Firm, as well as the Materials Testing Firm or Laboratory to submit and certify a Vendor Responsibility Questionnaire to the Department, or other agency prior to the SOQ Due Date.

9) Federal regulations prohibit the hiring of any person or organization that has a "conflict of interest." Proposers are required to disclose known or potential conflicts of interest in their Statement of Qualifications. Because of their prior work, the following firms have been identified as having conflicts of interest that prevent their consideration for the pending project. The Proposer may not include the services of Parsons Brinckerhoff, Hardesty and Hanover, EPM, HNA, Arcadis or MJ due to a conflict of interest based on services currently being provided to the Department related to this Project. Proposers utilizing Parsons Brinckerhoff, Hardesty and Hanover, EPM, HNA, Arcadis or MJ will be disqualified.

The RFQ does not commit the Department to enter into a Contract, nor does it obligate the Department to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a Contract. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFQ and any subsequent RFP is contingent upon sufficient appropriations and authorizations being made by the Legislature of New York, or the Congress of the United States if federal funds are involved, for performance of a Contract between the successful Proposer and the Department, and the subsequent executive enactment of these appropriations.

In no event shall the Department be bound by, or liable for, any obligations with respect to the Work or the Project until such time (if at all) as the Contract, in form and substance satisfactory to the Department, has been executed and authorized by the Department and approved by all required parties and, then, only to the extent set forth therein.

6.2 DEPARTMENT’S DISCLAIMERS

In issuing this RFQ and undertaking the procurement process contemplated hereby, the Department specifically disclaims the following:

A) Any obligation to award or execute a Contract pursuant to this RFQ; and

B) Any obligation to reimburse a Proposer for any costs it incurs under this RFQ.
In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

7.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY

7.1 POLICY

The Department shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any U.S. Department of Transportation (DOT) assisted contract or in the administration of 49 CRF Part 26.

7.2 DBE PARTICIPATION GOAL

For Federal-aid contracts, projects are subject to USDOT DBE Design-Build provisions as set forth under title 49 CFR Part 26. The Proposers shall take necessary and reasonable steps to ensure that businesses owned and controlled by socially and economically disadvantaged individuals are provided with a fair opportunity to participate in this Project.

The overall goal for DBE participation has yet to be determined for this Project and will be included in the RFP. The Department is currently in the process of securing required approvals of the proposed goal.

7.3 EQUAL EMPLOYMENT OPPORTUNITY

Discrimination in all phases of contracted employment, consultant activities, contracting activities and training is prohibited by Title VI of the Civil Rights Act of 1964, Section 162(a) of the Federal-Aid Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Justice System Improvement Act of 1979, the Americans with Disabilities Act of 1990, the Civil Rights Restoration Act of 1987, 49 CFR Part 21, and other related laws and statutes. The referenced legal citations establish the minimum requirements for affirmative action efforts and define the basic nondiscrimination provisions as required by this RFQ. Further requirements and discussions regarding Equal Employment Opportunity policies at all contracting levels will be set forth in the RFP.

8.0 CONFLICT OF INTEREST

Federal regulations prohibit the hiring of any person or organization that has a “conflict of interest.” Proposers are required to disclose known or potential conflicts of interest in their Statement of Qualifications. Because of their prior work, the following firms have been identified as having conflicts of interest that prevent their consideration for the pending project. The Proposer may not include the services of Parsons Brinckerhoff, Hardesty and Hanover, EPM, HNA, Arcadis or MJ due to a conflict of interest based on services currently being provided to the Department related to this Project. Proposers utilizing Parsons Brinckerhoff, Hardesty and Hanover, EPM, HNA, Arcadis or MJ will be disqualified.

8.09.0 COMPLIANCE WITH APPLICABLE LAWS

In connection with this RFQ and the Contract, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of this Project and the performance of the Contract.
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FORMAT AND ORGANIZATION FOR STATEMENT OF QUALIFICATIONS

The outline presented in this Appendix B shall be followed for preparing the Statement of Qualifications (SOQ). Specific content requirements for each section of the SOQ are described in the RFQ, as referenced in the outline. This format has been created to facilitate responses to the RFQ and the SOQ evaluation and Short-List process.

The SOQ will be submitted in two separate volumes. Each Volume shall consist of loose-leaf pages placed in a separate 3-ring binder. Text shall be in a standard font, a minimum of ten points in height, single-spaced. Pages shall be 8-1/2 by 11 inch white paper with simple lettered/numbered dividers for each section/subsection. Single sided pages shall be used. Number each page in each section consecutively (i.e., 1-1, 1-2; 2-1, 2-2; 3-1, 3-2, etc.). Center page numbers at the bottom of each page.

Unless indicated on a specific Form, the supplied Forms are not to be altered:

A. Photographs or external web links are not to be included in the Forms.
B. All required information must be contained in the Form. Do not reference any other Attachments or Appendices.
C. All headers and footer supplied with the Form must be included, and
D. Corporate Logos are not to be inserted.

Any Form found to be altered may, at the discretion of the Department’s Contract Management Bureau, will be removed from the SOQ before evaluation. All required information must be contained in the Forms.

A CD will also be submitted, containing two separate PDF files of Volume 1 and Volume 2. The CD will be unlocked, and not require passwords to open either of the PDF files. The CD will be located securely in the signed original Volume 1.

Volume 1: Administrative Submission

For Volume 1, only 1 signed original and 5 copies shall be submitted. Volume 1 shall be submitted separately from Volume 2. The signed original shall be identified as such on the cover(s) and shall be marked “SIGNED ORIGINAL”. Each copy shall be identified on the cover(s) as “Copy # of 5 copies.”

Volume 1 will contain the cover letter, Form AOR, and the following four sections:

A. Section 1 – Financial
B. Section 2 – Backlog/Capacity
C. Section 3 – Vendor Responsibility
D. Section 4 – Legal

Note: The Financial Information included in Section 1 may be submitted in a sealed envelope, but must be securely attached to Volume 1 of the SOQ.
<table>
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<tr>
<th>Volume 1 Section No.</th>
<th>Required Information</th>
<th>RFQ Reference</th>
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<td>• Cover Letter (maximum 2 pages); and • Form AOR Acknowledgement of Receipt.</td>
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<td>Section 1 Financial:</td>
<td>• Surety Letters.</td>
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<td>Section 2 Backlog and Capacity:</td>
<td>• Form B.</td>
<td>4.4.2.3</td>
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<tr>
<td>Section 3 Vendor Responsibility:</td>
<td>• Vendor Responsibility Questionnaire.</td>
<td>4.4.2.4</td>
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<td>Section 4 Legal:</td>
<td>• Form L-3; • Additional information if JV, LLC, or partnership; • Procurement Lobbying Law Forms (2 forms); • Legal Documents; and • Statement of joint and several liability.</td>
<td>4.4.2.1</td>
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Volume 2: Technical Submission

For Volume 2, one signed original and 10 copies shall be provided. Volume 2 shall be submitted separately from Volume 1. The signed original shall be identified as such on the cover(s) and shall be marked “SIGNED ORIGINAL”. Each copy shall be identified on the cover(s) as “Copy # of 10 copies.”

Volume 2 shall be packaged with four separate sections:

A. Section 5 – Organization and Key Personnel
B. Section 6 – Experience of the Firms
C. Section 7 – Project Understanding
D. Section 8 – Past Performance
Proposers should make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

The information shall be easily reproducible by normal black and white photocopying machines.

SOQs will become the property of the Department. Copies of each SOQ will be retained after the SOQ evaluation process for the Project files.
APPENDIX C

FORMS

Form AOR  Acknowledgement of Receipt
Form B    Backlog Information
Form E-1  Project Descriptions
Form L-1  Proposer's Organization Information
Form L-3  Authorization to Provide Professional Services in New York State
Form DBE  Record of DBE Performance
Form S    Safety Questionnaire
Form R    Summary of Individual’s Experience

VRQ      State of New York Vendor Responsibility Questionnaire. (Available on the Office of the State Comptroller’s Web site: http://www.osc.state.ny.us/vendrep/forms_vendor.htm). Only the Contractor should submit the Construction (CCA-2) form. All other firms should submit the standard For-Profit VRQ.

Form NOI  Proposer’s Notice of Intent to Submit SOQ
FORM DBE
RECORD OF DBE PROGRAM EXPERIENCE

By completing the following tables, describe your firm’s/team’s experience in making good faith efforts to meet or exceed DBE contact goals for past contracts. The Design-Builder’s past DBE experience will be evaluated based on a demonstrated record of compliance with USDOT’s DBE Program regulations for past contracts. Describe your firm’s experience in promoting opportunities for DBEs by completing Tables 1-5. This information should include:

- Demonstrated good faith efforts in having met or exceeded DBE participation goals on contracts of similar size and complexity.
- Demonstrated success in conducting outreach efforts/events including collaborating with local resources to allow for increased participation of small businesses including DBEs.
- Documented system of tracking and reporting good faith efforts to solicit DBEs proactively and ensure opportunities are communicated effectively.
- Experience coordinating and or facilitating training or mentor-protégé programs for subcontractors including DBEs.
- Demonstrated experience utilizing a broad spectrum of DBEs for work items and as material suppliers in operations that traditionally have been self-performed by contractors.
- A satisfactory record of integrity and business ethics as it relates in administering DBE program regulations.

A copy of this Form DBE shall be completed for each Principal Participant, Constructor, and Designer and Construction Inspection Professional Engineering Firm of the contract. The term “firm” includes any Affiliate including parent companies and subsidiary companies.

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<th>NAME OF PROPOSER</th>
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<th>Constructor:</th>
<th>Construction Inspection:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Other (describe):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

Form DBE - Table 1  RECORD OF DBE OUTREACH

Briefly provide examples of outreach efforts or events that your firm organized/developed which were used to expand the pool of available and interested DBEs to work on contracts under your direction. Outreach examples should relate to specific highway/bridge contracts which have occurred during the most recent 3 years.

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
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</tbody>
</table>
**Form DBE - Table 2  RECORD OF DBE SOLICITATION**

Briefly provide examples of effective techniques used by your firm to creatively and proactively solicit DBEs for specific contracts under your direction. Solicitation examples should relate to highway/bridge projects which have occurred during the most recent 3 years. Include types and frequency of solicitations as well as your follow-up procedures and response expectations.

<table>
<thead>
<tr>
<th>Example</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

**Form DBE - Table 3  RECORD OF DBE PRACTICES**

1) Describe your firm’s practice of what constitutes an acceptable proposal from a DBE. Include specific attributes of DBE firms that you evaluate.

<table>
<thead>
<tr>
<th>Example</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2) Describe your firm’s approach on which work items are identified to be performed by DBEs. Provide examples of non-traditional approaches used to find work items for DBEs on highway/bridge projects within the most recent 3 years.

<table>
<thead>
<tr>
<th>Example</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3) Describe your firm’s experience in promoting opportunities for DBEs through good faith efforts on contracts of similar complexity, within the most recent 3 years.

<table>
<thead>
<tr>
<th>Example</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

4) Explain your firm’s past experience of subcontracting a portion of the “primary work operations” to DBEs that your firm would normally performs with your own workforce, within the most recent 3 years.

<table>
<thead>
<tr>
<th>Example</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Form DBE - Table 4 RECORD OF MEETING DBE CONTRACT GOALS

Provide the information requested below for all federally funded projects completed within the most recent 3 years where the firm was the prime contractor or prime consultant. Insert more rows below if needed. For every contract where the DBE contract goal was not achieved, attach explanations.

<table>
<thead>
<tr>
<th>Contract Name &amp; Contract Number</th>
<th>DBE contract goal (%)</th>
<th>DBE attainment (%)</th>
<th>Customer Contact Information (Name/ Telephone / Email)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>
### Form DBE - Table 5  RECORD OF DBE PROGRAM INTEGRITY

List all convictions, charges and/or investigations related to allegations of DBE and MWBE fraud which have been brought against your firm or any subsidiary within the most recent 5 years. For each item listed, describe the precise reasons and circumstances which led to the charges, the outcome (if completed) and your explanation of why this happened and what your firm has done to prevent the situation from occurring again.

---
**FORM B**

**BACKLOG INFORMATION**

Insert more rows if needed.

<p>| Form B Table 1  CONTRACTS IN FORCE |
|------------------|----------------------------------|
| <strong>NAME OF PROPOSER</strong> | <strong>Proposer Entity</strong> | <strong>Name of firm</strong> | <strong>Number of contracts in force</strong> | <strong>Total contract value (US$ millions)</strong> | <strong>Value of work remaining by year (US $ millions)</strong> |
|                  |                    |                  |                               |                                            | 2013  | 2014  | 2015  |
| <strong>CONTRACTORS</strong>  |                     |                  |                               |                                            |       |       |       |
| <strong>DESIGNERS</strong>    |                     |                  |                               |                                            |       |       |       |
| <strong>CONSTRUCTION INSPECTION PROFESSIONAL ENGINEERING FIRM</strong> |                     |                  |                               |                                            |       |       |       |
| <strong>MATERIAL TESTING FIRM OR LABORATORY</strong> |                     |                  |                               |                                            |       |       |       |</p>
<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposer</strong></td>
</tr>
<tr>
<td>CONTRACTORS</td>
</tr>
<tr>
<td>DESIGNERS</td>
</tr>
</tbody>
</table>
FORM L-1

PROPOSER’S ORGANIZATION INFORMATION

Under the category “Other”, supply names of subcontractors who will provide services other than Construction, Design, Construction Inspection, or Materials Testing, and indicate the specific service the subcontractor will provide. Add additional lines if necessary.

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main office and contact details of Proposer</td>
</tr>
<tr>
<td>Main office address:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Local or regional contact details of Proposer (if different from above)</td>
</tr>
<tr>
<td>Local/regional office address:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME(S) OF PROPOSER ENTITY(IES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposer Entity</td>
</tr>
<tr>
<td>CONSTRUCTORS</td>
</tr>
<tr>
<td>DESIGNERS</td>
</tr>
</tbody>
</table>
# FORM L-1

PROPOSER’S ORGANIZATION INFORMATION

<table>
<thead>
<tr>
<th>Proposer Entity</th>
<th>Name of firm</th>
<th>Address / Telephone / Fax</th>
<th>State of Incorporation</th>
<th>Lead participant Firm’s % equity share</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONSTRUCTION INSPECTION PROFESSIONAL ENGINEERING FIRM</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MATERIAL TESTING FIRM OR LABORATORY</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
**FORM S**

**SAFETY QUESTIONNAIRE**

Form S Table 1 shall be completed by the Proposer for the Key Personnel indicated. Form S Table 2, Items 1-8 must be completed by all firms listed in the SOQ unless the firm is a Designer where they shall complete Forms S Table 2, Items 9 and 10.

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

To be completed by the Proposer. Indicate the safety record on the most recent project to which the indicated Key Personnel were assigned.

<table>
<thead>
<tr>
<th>KEY PERSONNEL</th>
<th>NAME OF MOST RECENT PROJECT</th>
<th>Total hours by all employees on that project (hours)</th>
<th>Number of lost workday cases on that project (number)</th>
<th>Number of restricted workday cases on that project (number)</th>
<th>Number of cases with medical attention only, on that project (number)</th>
<th>Number of fatalities on that project (number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Manager</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resident Engineer</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
Form S Table 2  SAFETY QUESTIONNAIRE FOR EACH FIRM

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME OF FIRM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**ITEM 1**
Provide the following information for the past 3 years:

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Total number of employee hours worked (hours)*
Do not include non-work time, even though paid.

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Number of lost workday cases (number)*

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Number of restricted workday cases (number)*

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Number of cases with medical attention only (number)*

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Number of fatalities (number)*

<table>
<thead>
<tr>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ITEM 2**
(Insert additional rows if needed)
Are internal accident reports and report summaries sent to management?
To what levels of management are accident reports/summaries sent, and how frequently?

<table>
<thead>
<tr>
<th>Management level</th>
<th>Sent?</th>
<th>If yes, frequency sent:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>


<table>
<thead>
<tr>
<th>ITEM 3</th>
<th>Do you hold site meetings for supervisors?</th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>How often do you hold site meetings for supervisors?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekly:</td>
<td>Twice a month:</td>
<td>Monthly:</td>
<td>Other (specify):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ITEM 4</th>
<th>Do you conduct Project Safety Inspections?</th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>How often do you conduct Project Safety Inspections?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekly:</td>
<td>Twice a month:</td>
<td>Monthly:</td>
<td>Other (specify):</td>
</tr>
</tbody>
</table>

| ITEM 5 | Does the firm have a Written Safety Program? | YES: | NO: |

<table>
<thead>
<tr>
<th>ITEM 6</th>
<th>Does the firm have an Orientation Program for new hires?</th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, what safety items are included in the Orientation Program for new hires?</td>
<td>(describe below)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Form S Table 2  SAFETY QUESTIONNAIRE FOR EACH FIRM

NAME OF PROPOSER

NAME OF FIRM

ITEM 7
Does the firm have a program for newly hired construction or field services staff and newly promoted staff engaged in construction or field services?

<table>
<thead>
<tr>
<th></th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
</table>

If yes, does the program for newly hired or promoted staff engaged in construction or field services include the following topics?

<table>
<thead>
<tr>
<th></th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety work practices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safety supervision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On-site meetings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency procedures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accident investigation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire protection and prevention</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New worker orientation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ITEM 8
Does the firm hold safety meetings that extend to site laborer level?

<table>
<thead>
<tr>
<th></th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
</table>

If yes, how often do you hold safety meetings that extend to site laborer level?

<table>
<thead>
<tr>
<th></th>
<th>Daily:</th>
<th>Weekly:</th>
<th>Twice a month:</th>
<th>Other (specify):</th>
</tr>
</thead>
</table>
# Form S Table 2  SAFETY QUESTIONNAIRE FOR EACH FIRM

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME OF FIRM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

## ITEM 9
Does the firm have a safety program and training for existing and newly hired staff for general safety and for field services?

<table>
<thead>
<tr>
<th></th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
</table>

If yes, does the program for newly hired or promoted staff engaged in construction or field services include the following topics?

<table>
<thead>
<tr>
<th>Safety work practices</th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office Safety meetings</td>
<td>YES:</td>
<td>NO:</td>
</tr>
<tr>
<td>Emergency procedures</td>
<td>YES:</td>
<td>NO:</td>
</tr>
<tr>
<td>Accident investigation</td>
<td>YES:</td>
<td>NO:</td>
</tr>
<tr>
<td>Fire protection and prevention</td>
<td>YES:</td>
<td>NO:</td>
</tr>
<tr>
<td>New worker orientation</td>
<td>YES:</td>
<td>NO:</td>
</tr>
</tbody>
</table>

## ITEM 10
Does the firm hold safety meetings prior to engaging in field activities on or near construction sites?

<table>
<thead>
<tr>
<th></th>
<th>YES:</th>
<th>NO:</th>
</tr>
</thead>
</table>

If yes, how often do you hold safety meetings that extend to field activities level?

<table>
<thead>
<tr>
<th>Daily:</th>
<th>Weekly:</th>
<th>Twice a month:</th>
<th>Other (specify):</th>
</tr>
</thead>
</table>

Please provide the EMR for the current insurance policy: __________________

If the rate exceeds 1.2 for the most recent year provided, a written explanation shall be provided. For Firms that do not have an EMR, due to work experience outside the US, a frequency rate table or accident incident rate or similar statistics shall be provided indicating the safety record over the last five years.

Each firm must all submit a letter from their current workers compensation insurance carrier stating the expiration date of the policy and the current EMR rate. The letter is to be included in Volume 42, Section 38 of the SOQ.
FORM NOI

PROPOSER’S NOTICE OF INTENT TO SUBMIT SOQ

Under the category “Other”, supply names of subcontractors who will provide services other than Construction, Design, Construction Inspection, or Materials Testing, and indicate the specific service the subcontractor will provide. Add additional lines if necessary.

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main office and contact details of Proposer</td>
</tr>
<tr>
<td>Main office address:</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
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<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME(S) OF PROPOSER ENTITY(IES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insert more rows below if needed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proposer Entity</th>
<th>Name of firm</th>
<th>Address / Telephone / Fax</th>
<th>State of Incorporation</th>
<th>Firm’s % equity share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constructors</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Designers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Inspection Professional Engineering Firm</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Materials Testing Firm or Laboratory</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Kosciuszko Bridge Project, Phase 1
(BIN 1075699)

DESIGN-BUILD PROJECT

PIN X731.24, Contract D900011

REQUEST FOR QUALIFICATIONS

APPENDIX D

ABBREVIATIONS AND DEFINITIONS

Addendum #2 February 15, 2013
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## TABLE OF CONTENTS

1.0 ABBREVIATIONS...............................................................................................................1

2.0 DEFINITIONS ...................................................................................................................1
This RFQ includes abbreviations and specific defined terms as indicated below.

1.0 ABBREVIATIONS

CM  Construction Manager
CQAE Construction Quality Assurance Engineer
DB  Design-Build
DBE Disadvantaged Business Enterprise
DQAE Design Quality Assurance Engineer
DM  Design Manager
DOT Department of Transportation
FHWA Federal Highway Administration
IA  Independent Assurance
ISA Initial Site Assessment
JV  Joint Venture
LSE Lead Structural Engineer
M/W/DBE Minority/Women/Disadvantaged Business Enterprise
N/A  Not Applicable
NEPA National Environmental Policy Act
PI  Public Information
PM  Project Manager
PSI Preliminary Site Investigation
QA  Quality Assurance
QC  Quality Control
QM  Quality Manager
RE  Resident Engineer
RFP Request for Proposals
RFQ Request for Qualifications
ROD Record of Decision (State & Federal)
ROW Right(s)-of-Way
SEQR State Environmental Quality Review
SOQ Statement of Qualification

2.0 DEFINITIONS

“Addenda/Addendum” means written supplemental additions, deletions, and modifications to the provisions of the RFQ after the date of Advertisement of the RFQ.

“Advertisement” means a public announcement inviting prospective Proposers to obtain an RFQ or RFP and submit an SOQ or a Proposal. The Advertisement shall include a brief description of the Work proposed to be the subject of the procurement, with an announcement where the RFQ may be obtained, the terms and conditions under which SOQs will be received, and such other matters as the Department may deem advisable to include therein.

“Affiliate” means:
A) Any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Proposer or any Principal Participant.

B) Any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:

1) The Proposer;
2) Any Principal Participant; or
3) Any Affiliate under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

“Clarifications” means a written or oral exchange of information that takes place between a Proposer and the Department after the receipt of all SOQs during the evaluation process. The purpose of Clarifications is to address minor ambiguities, omissions, errors or mistakes and clerical revisions in an SOQ.

“Commissioner” means the Commissioner of the New York State Department of Transportation.

“Conflict of Interest” means that a Person or organization: (1) had or has previously formed relationships with Persons, (2) engaged or is engaging in activities, or (3) performed or is performing services for NYSDOT or another related governmental entity concerning the Project or a related project, that afford such Person or organization with a competitive advantage, or that might otherwise impair the Person’s or organization’s objectivity, or that render such Person or organization unable, or potentially unable, to render impartial assistance or advice on the Project.

“Construction Inspection (CI)” means to inspect all construction operations and to enforce all safety measures (for employees and the traveling public) performed by the DB Contractor to ensure conformance with the contract documents. This includes performing daily inspection and testing activities in accordance with all the requirements set forth in Department policies, manuals, engineering bulletins, and engineering instructions; preparation of applicable MURK forms; preparation of monthly estimates; monitoring compliance to safety procedures, including fall protection and work zone traffic control (WZTC) requirements; monitoring compliance to environmental requirements. Construction Inspection also includes Contract Administration functions including, but not limited to keeping required records, monitoring the DB Contractor’s progress, monitoring certified payroll compliance and processing of payments, monitoring adherence to Equal Opportunity and Labor requirements contained in the contract, taking measurements as required for payment, and maintaining a contemporaneous project diary documenting conformance with the contract documents. The Scope of Work to be performed as part of the Construction Inspection task may be changed after the RFQ Phase.

“Construction Inspection Professional Engineering Firm” means an independent Engineering firm, licensed in New York State to perform Engineering Services and having experience in Construction Inspection as defined herein. This firm shall be included as part of the Proposer’s team during the RFP Phase and shall be hired by the Design-Builder to perform Construction Inspection for the Project. The Construction Inspection Professional Engineering Firm...
Firm shall report to the Design-Builder’s Quality Manager and supervise the Materials Testing Firm or Laboratory performing sampling and testing of materials.

“Construction Subcontractor” means a subcontractor on the Proposer’s Team that will be responsible for construction of the Project.

“Constructor” means a Principal Participant or subcontractor retained by the Design-Builder, who is involved in the actual construction of the Project.

“Contract” means the written agreement between the Department and the Design-Builder setting forth the obligations of the parties with respect to the Project, including, but not limited to, the performance of the Work, the furnishing of labor and materials, and the basis of payment. The Contract will include the Contract Documents and any amendments, supplemental agreements and Change Orders that are required to complete the design and construction of the Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

“Contract Documents” means the documents identified as such in the Contract, including all provisions required by law to be inserted in the Contract whether actually inserted or not.

“Deficiency” means a material failure of an SOQ to meet the Department’s requirements or a combination of significant Weaknesses in an SOQ that increases the risk of unsuccessful Contract performance to an unacceptable level.

“Department” means the New York State Department of Transportation.

“Design-Build (DB)” means a Project delivery methodology by which a single firm has responsibility for the design and construction of the Project under a single contract with the Department.

“Design-Builder” means the Person selected pursuant to the RFP that enters into the Contract with the Department to design and construct the Project (also referred to as the “Design-Build Team”).

“Designer” means a Principal Participant, specialty Subcontractor, or in-house designer, which is a professional engineering firm, licensed in the State of New York that has the primary responsibility for design services for the Project. Activities including but not limited to; civil engineering, structural engineering, ITS, electrical engineering, mechanical engineering, landscape architecture, architecture, and others, is considered work completed by a Designer.

“Design Quality Assurance Engineer” the Department’s representative with primary responsibility for monitoring and/or auditing the Design-Builder’s design and engineering activities for compliance with the Contract requirements.


“Dispute” means a matter of Contract performance or Contract compensation, including granting of extensions of time, in which there is or may be disagreement between the Design-Builder and the Department and which may involve adjustment of Contract Items or the addition
of new items to the Contract, extension of time for performance, and/or adjustments in compensation necessitated by the resolution of such disagreement.

“Equity Participant” means any Person holding (directly or indirectly) a 15% or greater interest in the Proposer.

“Independent Assurance (IA)” means activities that are undertaken in accordance with 23 CFR 637.203(a)(2), providing an unbiased and independent evaluation of all the sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Builder’s or Department’s) used in the Acceptance Program, including the Design-Builder’s QC. The Independent Assurance (IA) agent for the Project will be designated by the Department.

“Lead Principal Participant” means the Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Proposer’s organization.

“Materials Testing Firm or Laboratory” means an independent testing firm or Laboratory having experience in performing Quality Control activities as defined herein. This firm shall be included as part of the Proposer’s team during the RFP Phase and shall be hired by the Design-Builder to perform Quality Control sampling and Testing activities for the Project. Alternatively, the Materials Testing Firm or Laboratory may be a subcontractor to the Construction Inspection Professional Engineering Firm to perform Quality Control sampling and testing activities for the Project. The Materials Testing Firm or Laboratory shall report to the Construction Inspection Professional Engineering firm.

“Person” means any individual or a corporation, sole proprietorship, limited liability company (LLC), joint venture, partnership or other legal entity.

“Principal Participant” means any of the following entities:

A) The Proposer;

B) If the Proposer is a partnership, joint venture, or limited liability company, any general partner or any member of the joint venture or LLC; and/or

C) Any Equity Participant.

“Project” means the improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

“Project Manager” means the Design-Builder’s designated representative responsible for all aspects of the Work, including construction oversight, design oversight, project finances, project scheduling, etc. Disputes regarding design or construction that cannot be resolved with the designer or in the field will be brought to the attention of the Design-Builder’s Project Manager for resolution.

“Project Superintendent” means the Design-Builder’s on-site designated representative who oversees the construction of the Design-Build Contract, including directing and coordinating the activities of the Design-Builder’s workforce and all subcontractors, ensuring that the work progresses according to schedule, ensuring that material and equipment are delivered to the site on time, etc.
“Proposal” means the proposal submitted by the Proposer in response to the RFP, including any revisions thereto. If the RFP requests submittal of best and final offers, the term “Proposal” means the best and final offer submitted by the Proposer, including any revisions thereto.

“Proposer” means a Person submitting a Statement of Qualifications for the Project in response to this RFQ. In the context of responses to the RFP, the term means a firm on the shortlist that submits a Proposal.

“Quality Assurance (QA)” means all planned and systematic oversight actions by the Department necessary to provide confidence that the Design-Builder is performing QC in accordance with the Quality Plan, that all Work complies with the Contract and that all materials incorporated in the Work, all equipment, and all elements of the Work will perform satisfactorily for the purpose intended. QA includes, but is not limited to, monitoring and verification of design through auditing, spot-checking and participation in the review of the design, and monitoring and verification of construction, manufacturing/ process facilities and equipment, on site equipment and QC documentation through auditing, spot inspections and Verification Sampling and Testing at production sites and the Project Site. Quality Assurance also includes Independent Assurance, consultation and provision of written comments by the Department, documentation of QA activities, final inspection and final acceptance. The Scope of Work to be performed as part of the Quality Assurance task may be changed after the RFQ Phase.

“Quality Assurance Program” means the overall quality program and associated activities including the Department’s Quality Assurance, Design-Builder Quality Control, the Contract’s quality requirements for design and construction to assure compliance with Department Specifications and procedures.

“Quality Control” means the total of all activities performed by the Designer, Construction Inspection Professional Engineering Firm and the Materials Testing Firm or Laboratory to ensure that the Work performed by the Design-Builder conforms to the requirements of the Contract Documents. For design, Quality Control activities shall include, but not be limited to, procedures for design quality, checking, design review including reviews for constructability, and review and approval of Working Plans. For construction, Quality Control activities shall include, but not be limited to, procedures for materials handling and construction quality, inspection, sampling and testing of materials both on site and at the plant(s), field testing of materials, obtaining and verifying Materials Certifications, record keeping, and equipment monitoring and calibration. The Scope of Work to be performed as part of the Quality Control task may be changed after the RFQ Phase.

“Quality Manager” means the individual employed by the Design-Builder who is responsible for the overall Quality Control program of the Design-Builder, including the quality of management, design and construction.

“Quality Control Plan” means the Design-Builder’s plan for implementing the Design-Builder’s overall quality program and associated activities, including Design-Builder’s QC and procedures to assure and document quality of design and construction activities through reviews, inspections, testing, internal communications, and necessary interfaces with the Department.

“Reference Documents” means the documents provided with and so designated in the RFP. The Reference Documents, including Plans contained therein and/or so designated, are not
Contract Documents and were provided to the Design-Builder for informational purposes only and are relied upon at the Design-Builder’s own risk.

“Region” means one of 11 geographical subdivisions of the State used to designate or identify the location of the proposed Work.

“Regional Director” means the director, acting through the Commissioner, who is delegated the authority and responsibility to execute the total Department prescribed Work Plans for his/her respective Region.

“Request For Proposals (RFP)” means a written solicitation issued by the Department seeking Proposals (including quality and price) to be used to identify the Proposer offering the best value to the Department. The RFP will be issued only to Persons who are on the Short-List.

“Request For Qualifications (RFQ)” means the written solicitation issued by the Department seeking SOQs to be used to identify and Short-List the Proposers to receive the RFP for the Project.

“Short-List” means the list of Proposers that have demonstrated the general capacity to perform the Design-Build Contract and have assembled the most highly qualified teams for the Project, as determined by the Department in accordance with the RFQ.

“Specialty Subcontractor” means those consultants or subcontractors identified to perform Work critical to the success of the Project such as design, Construction Inspection, materials testing, demolition, environmental compliance, landscaping, or other specialty work.

“Statement of Qualifications (SOQ)” means the information prepared and submitted by a Proposer in response to this RFQ.

“Strength” means a feature or aspect of the SOQ that exceeds the minimum requirements of the RFQ and increases the chance of successful Contract performance. A significant Strength in the SOQ is a feature or aspect that exceeds the minimum requirements of the RFQ and increases the chance of successful Contract performance.

“Verification Sampling and Testing” means sampling and testing performed to validate the quality of the product. The Department, or a firm retained by the Department, will perform Verification Sampling and Testing.

“Weakness” means a flaw in the SOQ that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ is a flaw that appreciably increases the risk of unsuccessful Contract performance.

“Work” means all of the administrative, design, engineering, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation, and other duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve final acceptance of the Project and to fulfill the Design-Builder’s warranties. In certain cases, the term is also used to mean the products of the Work.
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