Interim Questions and Answers
Webinar Q&A and Round One Questions through March 28, 2018
(Question #1 Through Question #35)

WEBINAR QUESTIONS

**Question #1:** Will you respond to questions submitted after the deadline?
**Answer:** Only if doing so is in the best interest of the state. NYSDOT will acknowledge and consider any questions received after the RFP’s question submittal deadline but is under no obligation to respond. After careful consideration of the late question, if NYSDOT publicly responds to the question, additional time to submit proposals may be granted. Questions received just before the deadline for proposal submission will only be considered if doing such will lead to cancellation of the RFP otherwise no public response will be forthcoming.

**Question #2:** Did any vendors get demo’d before the RFP was released?
**Answer:** Yes, by the NYS Office of Information Technology Services (ITS). During preparation of its business case, ITS searched the Internet to identify vendors with publicly available ROW COTS products and demo’d several vendors to gather further information. Some time afterwards, NYSDOT publicly released a Request for Information and after due consideration of the very informative responses received, chose not to request demos from RFI respondents.

**Question #3:** Do I need to submit completed PLL forms (RFP Attachment 8) now or in my proposal?
**Answer:** Completed Procurement Lobbying Law (PLL) forms must be submitted as part of your proposal. If an interested party intends to contact NYSDOT and submit questions, it is recommended that such entity submits completed PLL at that time. It is not necessary to submit PLL forms before participating in the pre-proposal webinar event which is open to the public.

**Question #4:** Are there any external stakeholders associated with the project?
**Answer:** Yes. While most stakeholders are internal to NYSDOT, the external stakeholders are: Citizens and Businesses, NYS Jurisdictional Agencies, Office of the State Comptroller, Office of General Services, and NYS Attorney General. Please see Figure 1 ‘Required ROW/RE IT System Stakeholders’ located on the RFP page 13.
**Question #5:** Is the cost of software license fees included in calculating MWBE participation percentages?

**Answer:** Yes. For RFP Attachments 11 and 12, the percentage of MWBE participation (as well as the percentage of SDVOB participation) is calculated based on total proposed cost (per Attachment 7). A proposed total cost must include all proposed costs, including software license fees.

**Question #6:** In Attachment 1, can you please explain: A) Instruction #4? B) Column E ‘Reference in Technical Proposal’?

**Answer:** A) Instruction #4 states that: “Within each of the responses, identify which requirements from Attachment 1 Functional Requirements will be met.” While this instruction appears in Attachments 1-6, for Attachment 1, this pertains to descriptions of how a requirement is met presented elsewhere within your proposal; or should your Attachment 1 response group several Attachment 1 requirements, then identify which specific Attachment 1 requirements are being met by your grouped response. B) When completing RFP Attachment 1, please use Column E to indicate where within your proposal your description regarding how Attachment 1 requirement(s) have been met. The default is to present this information in Attachment 1. Presenting this information elsewhere is allowed as long as you tell us where to find it.

**Question #7:** You mentioned that there will be three Project Managers – could you please explain what this means?

**Answer:** For the C037711 project, once Notice to Proceed has been issued, there will be three Project Managers: One from NYSDOT, one from NYS ITS and one from the selected Consultant.

**Question #8:** In the lower portion of the ‘Cost of Services’ tab in Attachment 7 ‘Cost Proposal’ can you please explain the applicability of the ‘cost of regulatory compliance services requirement’?

**Answer:** In Attachment 7’s Cost of Services’ tab, rows 58 through 109 contain extraneous information which shall be removed from the RFP. The information presented in Rows 112-114 is relevant and will be relocated to just below row 55.

**Question #9:** How can MWBEs or SDVOBs get in touch with interested prime consultants?

**Answer:** NYSDOT will shortly release its List of Interested Parties, which contains contact information from all parties who have officially expressed interest in the C037711 RFP opportunity.

**Question #10:** I have the announcement from the website with the login details. Do I need to provide any additional information to register for this event?

**Answer:** No. You can prepare and submit the RFP Response Back form as well as completed PLL forms at this time or submit such in your proposal.
ROUND ONE QUESTIONS (After Webinar):

**Question #11:** The RFP states that NYSDOT recorded the webinar. In addition to publishing answers to vendor questions asked at that meeting, can NYSDOT also publish the actual recording?

**Answer:** The pre-proposal webinar recording failed. NYSDOT will release answers to questions.

**Question #12:** RFP Section 3.5 – URL for guidelines throwing two errors – please send correct URL / hyperlink: [https://www.its.ny.gov/tables/technologypolicyindex](https://www.its.ny.gov/tables/technologypolicyindex) - this site is not secure – error code ‘DLG_FLAGS_SEC_CERT_CN_INVALID’. We select go to webpage – and receive this error: ‘(404) Page not found’. Can this be fixed?

**Answer:** The correct address is [https://its.ny.gov/tables/technologypolicyindex](https://its.ny.gov/tables/technologypolicyindex) which can also be found in RFP Section 3.7.

**Question #13:** RFP Section 3.7 – paragraph 7 – Where can we find the document that spells out compliance with ‘New York State Enterprise Information Security Office (EISO).’ Can a link to this reference be provided?

**Answer:** The [New York State Enterprise Information Security Office (NYS EISO) policies can be found at](https://its.ny.gov/eiso/policies/security).

**Question #14:** To calculate licensing options, we would like to know how many users you expect will use the new system. For each platform, how many users will be entering data vs read only?

- Example: Web users: 100 / 300 (100 = # of users entering data, 300 = # of users with read only access)
- Excluding public access portals
- Web users
- GIS users
- Mobile users

**Answer:** Web users: assume 200 DOT users and 80 DOT consultants annually entering data, up to 1,000 citizens annually accessing the system to submit and view application data and up to 50 DOT users with read only access; GIS users: to be determined – for RFP purposes; assume 100; Mobile users: assume 100 appraisers entering data.

**Question #15:** Attachment 19 – NYS Office of ITS RT Cluster: Release Management Overview. Can you please confirm that this is solely managed and resourced by NYSDOT, with assistance from Consultant as requested?

**Answer:** Release and deployment management is managed by the NYS Office of Information Technology Services (ITS) on behalf of NYSDOT, with assistance from the selected Consultant.

**Question #16:** Attachment 3 – Project Plan & Staffing Requirements, PP4: Please confirm that the reference to DBE refers to MWBE and SDVOB, or is there another RFP requirement for a separate DBE component in addition to the MWBE and SDVOB goals fixed?
**Answer:** All references to ‘DBE’ anywhere in Attachment 3 is erroneous and shall be replaced by ‘MWBE’. There is no DBE requirement to RFP #C037711.

**Question #17:** Attachment 3 – Project Plan & Staffing Requirements, PP6: Attachment 3.1 is missing, please supply Attachment 3.1. t fixed?

**Answer:** Reference to Attachment 3.1 is erroneous and is stricken from the C037711 RFP. Please provide a resume for all key personnel offered. The C037711 RFP has no prescribed resume template. Please limit resumes to two pages. The two page limit does not apply to presenting relevant project information.

**Question #18:** Attachment 3 – Project Plan & Staffing Requirements, PP7: We have found that with today’s technical tools of phone conferences and screen sharing we can reduce total cost of the project by working together with NYSDOT to come up with a minimal onsite schedule. Can you please confirm that we can propose an alternative onsite schedule with our RFP response and still satisfy RFP responsiveness?

**Answer:** Yes, NYSDOT is open to use of technology to facilitate service delivery and reduce the cost of such service delivery. However, it is still required for key personnel to be on site during delivery of more critical service items.

**Question #19:** Attachment 7 / Instructions tab / #11 Include all Attachment 8 Cost Proposal information in your Cost Proposal submission. We are guessing that this is either a typo (should be Attachment 7) or should be removed. Can you please confirm?

**Answer:** The instructions should reference Attachment 7. Referencing attachment 8 is a typo.

**Question #20:** Attachment 7 / Cost of Services: Activities and associated Payment Schedule (column D) is a Waterfall methodology. Our best practices (and lowest cost) utilize a more agile approach to the entire project. We would like to propose an agile project methodology that would also alter the payment schedule and percentages of each milestone. Can you please confirm that an agile approach with a revised proposed payment schedule is acceptable in our RFP proposal?

**Answer:** In their technical proposal, vendors are allowed to propose a plan and method which features whichever method works best for their offered approach and is in the State’s best interest to pursue (all other offers included). For a proposed Agile method, NYSDOT expects to receive a proposed payment plan based on the applied Agile method’s schedule of deliverables, such that payment can be rendered after NYSDOT acceptance of Agile-delivered product. Any proposed Agile method and cost would be evaluated per the RFP’s pronounced proposal evaluation process.

**Question #21:** RFP 4.6.1 – Cost Proposal Submittal / Method of Payment (page 25). Referring to sentence starting with ‘License fees shall be paid via…’ Our COTS solution’s license fee is typically due up front at the beginning of the project because the COTS solution will be installed for use by NYSDOT personnel during the implementation process. We are open to negotiating a balanced schedule of payments across the implementation process. Can you please confirm that we can propose a revised licensee fee payment schedule in our RFP proposal?

**Answer:** The RFP requires that an arrangement where the selected Consultant shall install all required licensed up front, that once installed successfully, the vendor may bill
NYSDOT for up to 40% of the total license cost. NYSDOT and NYS OITS will test, develop and progress the project towards its acceptance stage. Once formal acceptance has been granted, then payment for the remaining license balance (60%) is rendered. If a vendor is offering a per-seat license in lieu of an Enterprise license, then the 40-60 rule still applies since no production use by NYSDOT will occur until after formal acceptance has been approved. For a per-user license, the number of licenses assigned to users gets set on an annual basis and monitored on a monthly basis. Proposers are allowed to propose and include a payment schedule based on their offered business model per NYSDOT’s licensing policies; each such offer shall be evaluated to determine which proposal provides the state with the best value.

Question #22: Exhibit F ‘Other Requirements’, page 118, subsection 1 ‘Subcontractors’, 1.1 “The Consultant shall select all subcontractors or suppliers through a process of competitive bidding or multi-source price review.” Is it required for MWBE and/or SDVOSB subcontracting to ALSO follow and document a competitive bid, multi-source price review?

Answer: While NYSDOT prefers prospective consultant to secure the services through a competitive process, this is not a requirement pertains to construction contracts (“…for the purchase of materials and equipment…”), and such is not required regarding the process of selecting MWBEs to be a subconsultant in your proposal.

Question #23: RFP page 26 states “No exceptions to any of the draft contract’s terms and conditions will be entertained by NYSDOT. Conditional bids will be deemed non-responsive.” This restriction may limit the number of qualified vendors that can bid. Will NYSDOT reconsider allowing vendor exceptions to select terms and conditions?

Answer: As was mentioned during the pre-proposal webinar, it is a firm proposal requirement that each proposer accept all of the RFP’s draft contract’s terms and conditions ‘as-is’. However, each interested party has an opportunity, during the RFP’s pre-proposal phase, to submit questions regarding the contract’s objectionable terms for the state to consider prior to the final release of answers. It is each proposer’s responsibility to let NYSDOT know ASAP regarding any terms or conditions which will lead to submission of a conditional offer. Acceptance of a conditional offer is not giving all competing for contract award fair and equitable treatment.

Question #24: RFP 2.3 – Contract Terms and Rate Adjustments (page 12). Typical agreements that base future increases on Producer Price Index (PPI) allow for the higher of either the PPI or a reasonable percentage. The STATE is requiring the lower of the two to be used for future pricing. That seems unfair when inflation costs for Consultant may raise above the limit of 2%. Is STATE agreeable to changing the language to use the PPI directly without a limit of 2%?

Answer: The reason for the bifurcated rule is PPI can swing into the negative territory, therefore the 2% test provides an acceptable minimum, subject to current market conditions. Setting this rule in this manner provides all interested vendors with an opportunity to account for future cost of doing business when preparing their cost proposals; it also makes this portion of the playing field level for all competing vendors.

**Answer:** Thank you for pointing out the inoperative link. The contract will be updated to include the following working link: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions.

**Question #26:** Draft Contract: The way we develop most features for client’s requirements like NYSDOT’s RFP is to incorporate that work directly into our base product via developing new configurability which allows clients to stay on our COTS solution instead of a developed custom solution. That means ‘Developed Software’ as defined in the draft contract (Attachment 17) is not separated from our ‘Consultant-Owned / Proprietary Software’ / COTS source. As such, we would need to adjust all references to Developed Software and source in the Contract and exhibits to be Proprietary and not available to NYSDOT except through an Escrow 3rd party agreement. Can we mutually discuss and adjust during contract finalization?

**Answer:** No, conditional offers are not acceptable. In regards to this question, the RFP’s draft contract remains unchanged.

**Question #27:** Draft Contract, Articles 4.4.1 Scope Changes, 4.5 Extra Work, 4.6 Disputed Work: Please confirm we can mutually discuss and adjust during contract finalization. We believe any scope change or extra work clauses need to reference the work that is outside the definition of ‘Scope of Services’. Need to add ‘mutually agree’ on work outside of the Scope of Services, instead ‘The STATE shall be the sole judge as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work’. Can these draft contract items be changed?

**Answer:** No, the RFP’s draft contract remains unchanged regarding the items raised in this question. These items pertain to changes to the contract’s scope after award/after contract approval. The State will work with the selected Consultant to resolve any matters which may arise during the course of the contract regarding these items.

**Question #28:** Draft Contract, article 11.4 FWHA license: Based on if the selected licensing approach (cost savings) will be a user-licensed solution, we propose the following language – ‘Under the FHWA Grant Agreement, the FHWA has reserved a royalty-free, perpetual, transferable, nonexclusive, and irrevocable license to reproduce, publish, modify, or otherwise use in any media which exists currently or in the future, and to when additional authorized users licenses under this Agreement’s conditions are followed and allow others to use any such copyrightable work produced under this Agreement with Federal funds, for Federal Government purposes.’?

**Answer:** Federal terms and conditions are non-negotiable. However, this term is not applicable at this time since the State intends not apply any federal funding to contract #C037711, that the State intends to fund contract #C037711 with 100 percent state funds.

**Question #29:** Draft Contract, article 14 System Acceptance: The reference to ‘requirements’ needs to include the Scope of Services (defined in Definitions). Can we propose the
following language – ‘If NYSDOT determines that the System has not successfully completed the requirements as defined in Scope of Services…”’?

**Answer:** The RFP is modified as follows: Attachment 17 ‘Draft Contract,’ in Article 3 ‘Definitions,’ the definition of ‘Project’ shall be revised to read as follows (emphasis added):

"Project" means the provision or development of, testing, evaluation, deployment, maintenance and support of the Consultant-supplied Software and all System requirements hereunder for the New York Department of Transportation, inclusive of (unit price books, technical specifications, all software, services, training, and support) to be provided or developed by Consultant, as more fully described in the Scope of Services, together with the Licensed Software described in this Agreement.

The RFP is further modified as follows: Attachment 17 ‘Draft Contract,’ Article 14 ‘System Acceptance’ shall be revised to read as follows (emphasis added):

14 System Acceptance. If NYSDOT determines that the System has not successfully completed the Project requirements of the system acceptance during the System Implementation, NYSDOT shall promptly notify Consultant, in writing (hereinafter referred to as "notice of failure"), and shall specify with as much detail as possible in which respects the System does not perform properly. The Consultant shall respond within ten (10) business days with an action plan and schedule to address all issues related to the failure(s). NYSDOT may approve, require changes to, or reject the plan. If NYSDOT rejects the action plan provided by the Consultant in response to the notice of failure, NYSDOT may determine that such rejection means that the Consultant is in material default under this Agreement for the purposes of the default and termination provisions of this Agreement or may, at its sole discretion, afford the Consultant with additional opportunity to cure the default.

**Question #30:** Draft Contract, article 15.1: The reference to ‘requirements’ needs to include the Scope of Services (defined in Definitions). We propose the following language – ‘If NYSDOT notifies Consultant that any Software, System, or Service fails to conform to the requirements as defined in Scope of Services of this agreement…’ fixed?

**Answer:** Article 15.1 remains unchanged.

**Question #31:** Draft Contract, article 33: As Federal and State requirements, we would address anything outside the current Scope of Services with a Change Request process. Can we propose that the following language for the last sentence – ‘…that Federal and State requirements may change and that the changed requirements will apply to the Project as required and follow the Change Request process as defined in section 4.5 Extra Work?’

**Answer:** Article 33 remains unchanged. Any material changes to the project will be managed through the State’s standard project change request process. Material changes to the contract will require execution of a formal contract amendment.

**Question #32:** Draft contract, Appendix D: Does the ‘MWBE Utilization Plan’ mentioned in require anything more than the completion of (a) MWBE Participation Information and (b) MWBE Participation Solicitation Log?
Answer: Yes, the selected Consultant shall be required to comply with the following task which shall be added to C037711’s scope of services (Exhibit __ will be the applicable MWBE and SDVOB Participation Information tables):

**Task __ M/WBE & SDVOB Programs**

**Question #33:** Draft contract, Appendix E ‘Information Technology Infrastructure Requirements’: Since this project will be hosted on NYSDOT infrastructure, should this appendix be removed? If not, can you please document which sections apply to the Consultant’s RFP response?

**Answer:** No, Appendix E shall remain part of the RFP’s draft contract, and all of Appendix E’s provision shall apply as applicable to this project (item 19 may not apply).

**Question #34:** Draft contract: Following Appendix E, there is Exhibit A, Form B which is a duplicate of Attachment 18. This Exhibit A right after Appendix E should be removed – please confirm?

**Answer:** Exhibit A is part of the C037711 contract as referenced under Article 1 ‘Documents Forming the Agreement’. In addition, Article 38 is being revised to now reference Exhibit A as follows (emphasis added):


Annual employment reports (Exhibit A) should be submitted to the following addresses. It is recommended, however, that consultants check the agency websites annually to confirm the addresses.
Further, in Article 2, the definition of ‘Scope of Services is being revised to remove reference to Exhibit A ("Scope of Services" means Exhibit A Scope of Service Clarifications, followed by…”).

**Question #35:** Draft Contract, Exhibits B, C, D, E: The RFP does not reference these exhibits other than to say they are included. Can you please add detailed instructions for the Consultant to satisfy RFP responsiveness or confirm these are NOT needed with the initial RFP response?

**Answer:** To clarify, Exhibit B shall be NYSDOT’s entire C037711 Request for Proposals, added to the contract as an external reference. Exhibit C shall be the selected Consultant’s entire proposal added to the contract as an external reference. Exhibit D: Staffing Plan is a placeholder and shall be added to the contract after selection based on information presented in RFP Attachment 3. Exhibit E: Systems Requirements Traceability Matrix shall be added to the contract after selection and shall be the selected Consultant’s Attachments 1-6.