

Proposer Questions about the Joint Transportation Committee's P3 RFP, and JTC's Answers

May 19, 2011

- 1. A proposer had previously set up a meeting with an individual from the WSDOT P3 Program later this month, and asked if the WSDOT was off limits during this procurement period.**

Answer: As long as the discussion concerns P3s generally and the status of WSDOT projects, etc., such conversations with WSDOT are permissible. However, any questions about the RFP and the study would not be permissible in such conversations with WSDOT.

- 2. What is the precise P3 model contemplated by the JTC (e.g., Design Build, Design Build Operate Finance)? The model applied has a major impact on decision criteria and depth of inquiry.**

Answer: This study is intended to educate legislators and others about the various P3 models, their similarities and differences and how they compare to conventional project design and financing. As such, there is no precise P3 model contemplated by the JTC in this study.

In conducting the study, Task 4 – the Table-Top Exercise -- asks the consultant to analyze each of the five projects to determine which are potential P3 candidates, and for those that are, the type of P3 that may best suit each project. The RFP notes that the exercise shall identify the type of information for the various projects that may still be needed to undertake a more thorough analysis of P3 suitability.

- 3. Is there an ID (reference) number for this RFP?**

Answer: No. JTC studies do not carry specific ID (reference) numbers.

- 4. The RFP asks for a paper copy of two examples from each proposer. This would result in a deluge of paper. Would an electronic copy of each suffice in the interests of conserving natural resources?**

Answer: As stated in the RFP, JTC would like to receive one paper copy of two samples of previous work similar to this project, and an electronic copy. If there are voluminous technical appendices or papers, these may be submitted electronically.

- 5. The RFP schedule makes no provision for questions. When might we expect answers to the above?**

Answer: RFP Section IX, A(10) addresses questions about the RFP. They were to be submitted via e-mail to sonia.plasencia@leg.wa.gov between May 9 and May 17. Responses will be transmitted by May 19th to all Bidders who have submitted a Letter of Intent to Bid.

6. For the purposes of making partnering arrangements, could you send us a list of the consultants that you have sent this RFP to?

Answer: No. JTC does not share its mailing list with consultants.

7. Will the financial feasibility evaluation for the 5 identified projects utilize existing revenue projections or will sketch or preliminary level traffic and revenue forecasts need to be prepared as part of the scope of this RFP?

Answer: The study envisions using existing data or data readily accessible at no or low cost. This is noted in three places in the RFP:

- The study purpose (p. 3), "*This study will not be developing the additional project-level information that may be needed to fully evaluate P3 suitability.*"
- Task 2 (g). "*Basic Financial Feasibility. Using information already at hand, consider the basic project economics at the conceptual level*"
- Task 3 (b). "*For this study, the consultant shall attempt to use project and financial information readily accessible at no or low cost, rather than requiring new studies and data collection (such as additional traffic and revenue analysis). The need for additional or refined data or information may be noted as a caveat;*"

Consultants may note that their analysis and modeling strictly relies upon available data and information (including traffic & revenue studies and forecasts). Consultants may point out the limitations of the current available work and the need for additional project information.

8. In case forecasts need to be prepared, would a firm conducting them be precluded from participating in future WSDOT RFPs for higher level project specific studies or from joining a private group pursuing a P3?

Answer: The study envisions using existing data or data readily accessible at no or low cost. So it is not anticipated that detailed cost or revenue forecasts will need to be prepared.

Also, as noted in Part IX Instructions to Bidders, A Submission of Proposal (11) *WSDOT has advised that performing this study will not preclude a firm from bidding on a potential P3 project WSDOT may propose in the future.*

9. **Section B states... “The Letter of Submittal and the attached Certification and Assurances form (Exhibit B) must each be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Bidder and any proposed subcontractors”. Please verify that the Prime alone is required to sign the Letter of Submittal and Certification and Assurances form (Exhibit B).**

Answer: That is correct. The Prime alone is required to sign the Letter of Submittal and Certification and Assurances form (Exhibit B).

10. **Technical Approach states ... “Section II of this RFP, not to exceed ten pages. This page limitation does not include resumes, qualifications, work samples, Letter of Submittal or signed Certifications and Assurances form.” Please verify if there are any page limitations to Sections I, III, IV and/or IV.**

Answer: The Instructions to Bidders in Section IX, C. Proposal Format limits only the description of proposed approaches to Tasks 1-7 of the Scope of Work, Section II. This limit is 10 pages. There is no page limit to the other elements of the Proposal Format.

11. **Might we request an extension of the due date in order to have sufficient time to prepare our best proposal?**

Answer: The due date for proposals is May 25th, and will not be extended.

12. **Article IX.A.2 requires that bidders include two samples of previous work similar to this type of project. Some of the information are proprietary work product, legal advice, or financial models which are the property of our clients. Disclosure of such information could potentially raise ethical and contractual issues. How will the JTC address this issue?**

Answer: Section XII, Proprietary Information, lays out the limited circumstances under which a portion of a proposal may be designated confidential. It should be noted that the RFP contains an incorrect code citation; RCW 42.56 is the principal public records statute. The entire proposal of the successful bidder will be subject to public disclosure laws regardless of any claim of confidentiality, as stated in Section XII. It is JTC's practice that the proposal attached to the resulting contract does not include the examples of prior work. Provisions are included in Section XII addressing a bidder's ability to obtain a court order to prohibit disclosure of parts of

its proposal prior to the execution of the contract; however, Section XII also notes that a delay in the execution of the contract to accommodate a petition to the courts will not be allowed.

- 13. The RFP requires detailed cost proposals to be included in the proposal. Legal and financial advisors, who may serve as subconsultants on a team, typically do not bill their services in this manner and may not have systems in place to do so. Similar to other contracts the state of Washington has for similar services, can these subconsultants services be billed on a lump sum basis or hourly basis?**

Answer: Costs for the subconsultants shall be included in the proposal submitted by the Prime consultant. Section IX, Instructions to Bidders, C(4) addresses the Cost Approach. Any expenses anticipated by the subconsultants shall be included as provided in this Cost Approach. If it is not feasible to include hourly rates for legal and financial advisors, the prime may include a lump sum for these services in the proposal. However, the JTC prefers the Cost Approach as stated in the RFP, including hourly rates, the number of work hours, and names for each person performing the tasks. Consultants are advised to adhere to these provisions as closely as possible.

- 14. Paragraph 7 of Exhibit B of the RFP states that the consultant certifies and assures that the "submission of the attached proposal constitutes acceptance of ... the attached sample contract and general terms and conditions." In addition to the general terms and conditions provided in Exhibit A of the RFP, can the JTC provide a sample contract for review?**

Answer: There are six parts to the standard JTC contract:

- Personal Services Contract, Special Terms and Conditions. Sample is included below.
- Exhibit A – General Terms and Conditions, as included in the RFP
- Exhibit B – The Request for Proposals
- Exhibit C – The Scope of Work, as agreed to by the JTC and the Consultant
- Exhibit D – The successful bidder's original proposal
- Exhibit E – The Project Budget

**PERSONAL SERVICES CONTRACT
FOR
*INSERT STUDY NAME***

**STATE OF WASHINGTON
JOINT TRANSPORTATION COMMITTEE**

**PO Box 40937
3309 Capitol Blvd. SW**

SPECIAL TERMS AND CONDITIONS

1. THIS CONTRACT is made by and between the **Joint Transportation Committee**, hereinafter referred to as "JTC" and "*insert contractor name*", hereinafter referred to as the "**Contractor**", *insert study name*.

2. CONTRACTOR: *Insert name*

ADDRESS: *Insert address*

Federal Employer Identification No.: *Insert number*

Washington Uniform Business Identification No.: *Insert number*

3. **SCOPE OF PROJECT**

Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the JTC and the CONTRACTOR, and specific obligations of both parties. Exhibit A is, by this reference, incorporated into this contract.

The Contractor will provide all services generally described in Sections II and III of the Request for Proposal, dated *insert date*, which is attached as Exhibit B and is by this reference incorporated into this contract (hereinafter referred to as the "RFP"); and as is further described in the Scope of Work which is attached as Exhibit C and is by this reference incorporated into this contract. Additionally, the Contractor's initial proposal is attached as Exhibit D and is by this reference incorporated into this contract (hereinafter referred to as "Proposal").

4. It is agreed that Contractor's management/staff performing work under this contract are as stated in Exhibit D, Contractor's Proposal, Section III, Management Approach:

It is understood that the management/staff named in the Contractor's Proposal will be responsible throughout the period of this contract. Any changes in management/staff as noted in this section, will require written approval by the JTC.

5. Contractor warrants that staff performing work under this contract possess adequate professional proficiency for the tasks required.

6. The JTC's Project Manager is *insert name and phone number*.

The Contractor's Project Manager is *insert name and phone number*,

7. If irregularities, fraud, or other significant audit issues which may impact the project are suspected, the Contractor must immediately notify the JTC Project Manager.

8. All instances of noncompliance with state and local laws will be disclosed to the JTC Project Manager.

9. EFFECTIVE DATE AND DURATION OF CONTRACT

Subject to other contract provisions, the period of performance under this contract will be from contract execution through *insert date*, unless sooner terminated as provided herein.

10. All rights and obligations of the parties to this contract shall be subject to and governed by those Special Terms and Conditions contained in the text of this contract and the attached General Terms and Conditions, all hereby incorporated as part of this contract.

In the event of an inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- (a) Applicable federal and state statutes and regulations;
- (b) The terms and conditions of this contract;
- (c) The Contractor's final approved Work Plan;
- (d) Request for Proposal;
- (e) The Contractor's Proposal dated *insert date*, to the JTC's RFP, including all written information provided with the Contractor's Proposal;
- (f) Any other provisions of the contract whether incorporated by reference or otherwise.

11. COMPENSATION AND PAYMENT

The maximum amount to be paid to the Contractor under this contract shall be a total not to exceed ***insert dollar amount*** for the performance of all work specified in the Scope of Work as outlined in item 3 above. The Project Budget is attached as Exhibit E and is by this reference incorporated into this contract. Any travel, insurance or out-of-pocket costs are the responsibility of the Contractor and are included in the contract total. Any additional services provided by the Contractor, if any, will require a written contract amendment approved and processed through the JTC prior to beginning the additional services.

The Contractor shall submit invoices monthly for progress billings. Each invoice shall detail hours worked by staff/management, hourly rate and a brief description of services performed in the previous billing period. Payment for each progress billing shall be made upon JTC's satisfaction with the overall progress of the Contractor toward the Final Report. Final invoice payment will be based on the satisfactory acceptance of the Final Report by the JTC.

All invoices must be submitted for payment to the Joint Transportation Committee, ATTN: *insert JTC project manager's name*, PO Box 40937, Olympia, WA 98504-0937. If JTC determines that the Contractor has not made satisfactory progress in accordance with the Scope of Work, Exhibit D, it may withhold payment until the necessary work is completed to JTC's satisfaction. Payment shall be considered timely if made by the JTC within 30 days of receiving properly completed and signed invoice. The JTC may, at its sole discretion, withhold payments owed the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this contract.

12. The JTC shall have the authority to monitor the performance of the Contractor, approve actions by the Contractor, and accept or reject any deliverable provided by the Contractor.
13. If any provision of this contract shall be deemed in conflict with any statute or rule of law, such provision shall be deemed modified to be in conformance with said statute or rule of law.
14. This contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

15. This contract shall be subject to the written approval of the JTC and shall not be binding until so approved. Only the JTC shall have the express, implied, or apparent authority to alter, amend, or waive any clause or condition of this contract.

IN WITNESS WHEREOF: The Joint Transportation Committee and the Contractor execute this contract:

STATE OF WASHINGTON
JOINT TRANSPORTATION
COMMITTEE

CONTRACTOR

Signature _____

Signature _____

Representative *insert name*, Co-Chair
Title _____

Title _____

Date _____

Date _____