

REQUEST FOR INFORMATION
REGARDING THE DEVELOPMENT OF THE
I-35 NORTHEAST EXPANSION (I-35 NEX) PROJECT
TEXAS DEPARTMENT OF TRANSPORTATION

RFI Issuance Date: March 15, 2019

RFI Written Responses Due: April 5, 2019 at 12:00 noon Central

The Texas Department of Transportation (“TxDOT”) is seeking information to assist in the development and procurement of the I-35 NEX Project (“Project”). This Request for Information (“RFI”) is issued solely to obtain information to assist TxDOT. It does not constitute a Request for Qualifications (“RFQ”), a Request for Proposals (“RFP”) or other solicitation document, nor does it represent a commitment to issue an RFQ or an RFP in the future. This RFI does not commit TxDOT to contract for any supply or service whatsoever. TxDOT will not pay for any information provided or reimburse any cost or expense incurred in response to this RFI. Written responses to this RFI are due on April 5, 2019 at 12:00 noon Central.

1. OVERVIEW

TxDOT intends to issue an RFQ for the Project in May 2019. Through this RFI, TxDOT is seeking industry feedback regarding specific issues concerning the Project and procurement of the Project prior to the issuance of an RFQ, if any. The purpose of this RFI is to solicit written responses from individual prime contractors or design-build teams with experience in developing large transportation infrastructure projects that may be interested in developing the Project. Following TxDOT’s review of the responses, TxDOT intends to offer respondents the opportunity to participate in one-on-one meetings concerning the issues identified in this RFI. Prospective industry participants are encouraged to review TxDOT’s rules regarding organizational conflicts of interest in Title 43 of the Texas Administrative Code, Chapter 9, Subchapter I, § 9.155.

A. Purpose of RFI

The information received from RFI respondents will be used to assist TxDOT with the preparation of any resulting RFQ, RFP, and design-build contract (“DBC”) for the Project. **Please note that while a response to this RFI is not a pre-requisite to participating in any resulting procurement process, potential respondents are encouraged to respond to this RFI.**

B. Industry Meetings

After receipt and analysis of the responses to the RFI, TxDOT intends to hold one-on-one meetings with potential offerors for the development of the Project. The meetings will be held in San Antonio in April 2019. TxDOT will notify interested prime contractors and design-build teams by e-mail of the assigned timeslot and location for their one-on-one meeting in advance of the meeting. **Parties interested in attending a one-on-one meeting regarding the Project must indicate their interest in their response to this RFI.** Any party requesting a one-on-one meeting must identify any current team members so that TxDOT may review potential conflict issues regarding TxDOT personnel and consultants attending the meeting. In addition, Proposers that have identified team members are encouraged to submit a common RFI response with their team members and participate in a single one-on-one meeting as a team.

TxDOT understands the written responses to the RFI are preliminary and based on limited information available at the time of issuance of the RFI. During the one-on-one meetings, TxDOT encourages participants to engage in frank and open discussions regarding the Project and questions raised in the RFI. To that end, TxDOT will require participants in the meetings to acknowledge the confidentiality of the discussions by executing confidentiality agreements.

2. PROJECT DETAILS

A. Project Scope

The Project consists of approximately 15.4 miles of non-tolled improvements along I-35 from approximately I-410 South to Farm-to-Market Road (FM) 1103. TxDOT is considering developing the Project in stages. It is envisioned the DBC will require development of a Base scope and may include one or more deferred work components (each a “DWC”).

Project improvements will include:

Base: I-410 North to FM 3009 – the construction of: additional elevated mainlanes comprised of two general purpose (“GP”) lanes and one High Occupancy Vehicle (“HOV”) lane in each direction from I-410 North to FM 3009; two additional direct connectors at the I-410 North interchange to connect to the I-35 North elevated lanes, along with operational improvements along approximately three miles of I-410; and four direct connectors for the State Loop (“SL”) 1604 western connections to the I-35 elevated lanes at the I-35/SL 1604 interchange, along with operational improvements along approximately two miles of SL 1604.

DWC North: FM 3009 to FM 1103 – reconstruction to provide at-grade additional mainlanes from FM 3009 to FM 1103 comprised of one GP lane and one HOV lane in each direction, along with operational improvements between FM 3009 and FM 1103 to include ramp revisions, frontage road improvements, and intersection improvements.

DWC South: I-410 South to I-410 North – the construction of: additional elevated mainlanes comprised of two GP lanes and one HOV lane in each direction; four additional direct connectors at the I-410 South interchange to connect to the I-35 elevated lanes, along with operational improvements along approximately four miles of I-35; and two additional direct connectors at the I-410 North interchange to connect to the I-35 South elevated lanes.

I-35 is a major north-south transportation corridor critical for moving people and goods. Portions of this Project are among the 100 most congested roadways in Texas. The proposed improvements would manage vehicle congestion, promote efficient use of existing transportation facilities, minimize impacts to the natural and built environment, and complement other modes of transportation and economic development initiatives in the region.

B. Project Cost

TxDOT's current estimate for the Project scope as described above is approximately \$1.938 billion. This estimate does not include TxDOT costs for right of way acquisition and certain other TxDOT administrative costs, but is inclusive of all other costs to design and construct the Project, including utility relocations and costs associated with design-build contractor's independent quality assurance. This cost estimate reflects the currently developed schematic under environmental study in 2019 dollars.

C. Project Delivery

It is envisioned the DBC will require development of a Base scope and any DWCs that are authorized and funded at execution of the DBC and any remaining DWCs will be added to the scope of work by TxDOT through issuance of notice(s) to proceed as they are authorized. Issuance of any notices to proceed with design and construction of DWCs will be at TxDOT's sole discretion.

It is currently contemplated that two DWCs will be provided for in the DBC and such DWCs will be referred to as "DWC South" and "DWC North," respectively. If issued, the DWC notices to proceed may be staggered or simultaneous. The issuance of a notice to proceed for one DWC will not guarantee the issuance of a notice to proceed for the other DWC. No notice to proceed with a DWC will be issued after substantial completion of the Base scope. There will be no compensation to the design-build contractor for a DWC unless and until the applicable notice to proceed is issued.

The estimated design and construction cost for the Base scope is \$915 million and the estimated design and construction duration from notice to proceed to final acceptance is 56 months.

The estimated design and construction cost for DWC South is \$630 million and the estimated design and construction duration from notice to proceed to final acceptance is 56 months.

The estimated design and construction cost for DWC North is \$393 million and the estimated design and construction duration from notice to proceed to final acceptance is 44 months.

Proposers will be required to provide separate pricing for the Base scope and each DWC in their price proposals. Evaluation of the price proposal will include pricing for the Base scope and all DWCs.

The deadline for completion of each DWC will be tied to the date on which the notice to proceed for the applicable DWC was issued.

The design-build contractor will be required to provide maintenance for specified elements of the Project through a capital maintenance contract ("CMC"). The CMC will consist of three five-year optional terms, exercisable by TxDOT, in its sole discretion. The CMC will commence upon final acceptance of the Base scope. Maintenance of the Base scope and each DWC will commence upon final acceptance of the applicable portion of the Project. The design-build contractor will be required to maintain the Base scope and each DWC for up to 15 years from final acceptance of the Base scope.

D. Proposal Price

Funding is approved for executing the DBC and issuing the notice to proceed for design and construction of the Base scope in August 2020. TxDOT anticipates obtaining authorization for issuing notice(s) to proceed for DWC South and/or DWC North in August of 2020, 2021 or 2022.

TxDOT intends to receive proposers' responses to the RFP in April 2020, including fixed pricing for the Base scope, DWC South and DWC North.

The price for the Base scope in the price proposal will be valid for 180 days following proposal submittal. If TxDOT has executed a DBC but has not issued a notice to proceed for the Base scope within that time, the Base scope price will be adjusted based on changes to the Engineering News Record Construction Cost Index ("ENR CCI") in a manner consistent with TxDOT's programmatic DBC.

The price for DWC South and DWC North will be valid for 540 days following proposal submittal. If TxDOT has not issued a notice to proceed for DWC South or DWC North within that time period, the price for the DWC for which a notice to proceed has not been issued will be escalated from day 540 until the date the applicable notice to proceed is issued. Escalation will be based on changes to the ENR CCI from day 540 until the applicable notice to proceed is issued in a manner similar to that in TxDOT's programmatic DBC.

TxDOT intends to reserve the right to issue notice to proceed for DWC South or DWC North until substantial completion of the Base scope occurs.

E. Security Obligations

For design-build projects procured under Chapter 223, Subchapter F of the Texas Transportation Code, TxDOT must require payment and performance bonds or an alternative form of security (or a combination of both) in an amount equal to 100% of a project's construction costs unless TxDOT determines it is impracticable for 100% security to be provided.

For the Project, TxDOT anticipates requiring payment and performance bonds in the amount of 100% of the construction cost, estimated at \$1.638 billion for the Base scope and DWCs. The payment and performance bonds are to be valid from the issuance of the notice to proceed with the work until final acceptance, when they will be replaced by a warranty bond in a lesser amount.

In the event TxDOT elects to proceed with a staged approach, at contract execution, TxDOT will require payment and performance bonds in the amount of 100% of the cost to construct the work that is authorized for construction at execution of the DBC (which would include the Base scope and may also include one or more DWCs, the "initial scope of work"). To the extent that any DWCs are not authorized at contract execution, upon issuance of a notice to proceed for a DWC, the payment and performance bonds will automatically increase to include the construction value of the DWC for which the notice to proceed was issued.

In addition to the payment and performance bonds, TxDOT will establish tangible net worth requirements for the design-build contractor. In the event the design-build contractor does not meet the tangible net worth requirements, the design-build contractor will be required to provide one or more guarantees from its guarantor(s) so that the total tangible net worth of the design-build contractor and its guarantor(s) equals or exceeds the tangible net worth requirement.

F. Current Procurement Schedule

TxDOT currently intends to procure the Project in accordance with the milestones in the following chart:

Milestone	Anticipated Date
1. Responses to RFI due	April 5, 2019 at 12:00 noon Central
2. One-on-one meetings	April 2019

3. Issue RFQ	May 2019
4. Issue draft RFP to short-listed proposers	September 2019
5. Issue final RFP to short-listed proposers	November 2019
6. Proposer submission of proposals in response to final RFP	April 2020

TxDOT reserves the right to modify the above anticipated schedule milestones at any time and for any reason.

3. INFORMATION REQUESTED

TxDOT is interested in your views on the issues raised in the following questions. In your response to this RFI, please number the answers (A1) to match the question numbers (Q1) below. In addition, please provide contact information (including name, address, phone number and e-mail address) for a single point of contact and a brief (no more than 2 page) summary of your organization and team.

Project Delivery

- Q1. Please indicate whether the estimated design and construction durations in Section 2C for the Base scope, DWC South and DWC North are realistic, and if not, please indicate your estimate of the schedule for the design and construction of these components of the Project.
- Q2. Please identify any issues raised by the size and estimated durations for the components of the Project.
- Q3. TxDOT is considering using DWCs as described in Section 2C to deliver the Project. Please identify any issues or concerns raised by delivery of this Project using DWCs.
- Q4. What are proposed solutions for overcoming these project delivery issues or concerns?

Proposal Price

- Q5. Please identify any issues or concerns raised by the price approach in Section 2D.
- Q6. What are proposed solutions for overcoming these price approach issues or concerns?

Security Obligations

- Q7. Please identify any issues or concerns raised by the proposed security approach in Section 2E.
- Q8. What are proposed solutions for overcoming these security issues or concerns?

Additional Information

- Q9. Do you have any other issues or concerns on the approaches described in Section 2 above?
- Q10. What are proposed solutions for overcoming these other issues or concerns?

4. CONFIDENTIALITY/PUBLIC INFORMATION ACT

All written correspondence, exhibits, photographs, reports, other printed material, tapes, electronic disks, and other graphic and visual aids submitted to TxDOT in response to this RFI are, upon their receipt by TxDOT, the property of the State of Texas, may not be returned to the submitting parties, and are subject to the Public Information Act, Chapter 522, Texas Government Code (the "Act"). Respondents should familiarize themselves with the provisions of the Act. In no event shall the State of Texas, TxDOT, or any of their agents, representatives, consultants, directors, officers or employees be liable to a respondent for the disclosure of all or a portion of the information submitted in response to this RFI.

If TxDOT receives a request for public disclosure of all or any portion of a response, TxDOT will use reasonable efforts to notify the applicable respondent of the request and give such respondent an opportunity to assert, in writing and at its sole expense, a claimed exception under the Act or other applicable law within the time period specified in the notice issued by TxDOT and allowed under the Act.

TxDOT will submit a request for an opinion from the Office of the Attorney General prior to disclosing any documents which might contain confidential information. The respondent shall then have the opportunity to assert its basis for non-disclosure to the Office of the Attorney General; however, it is the sole responsibility of the respondent to monitor such proceedings and make timely filings. TxDOT may, but is not obligated to make filings of its own concerning possible disclosure; however, TxDOT is under no obligation to support the positions of the respondent. Under no circumstances will TxDOT be responsible or liable to a respondent or any other party as a result of disclosing any confidential information submitted in response to this RFI, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake or negligence on the part of TxDOT or its officers, employees, contractors or consultants.

TxDOT will not advise a submitting party as to the nature or content of specific documents entitled to protection from disclosure under the Act or other Texas laws or as to the interpretation of such laws. Each respondent is advised to contact its own legal counsel concerning the effect of applicable laws to the submitting party's own circumstances.

In the event of any proceeding or litigation concerning the disclosure of any material submitted by the submitting party, TxDOT will be a stakeholder retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect thereto, and the submitting party shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that TxDOT reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable.

5. GENERAL INFORMATION

RFI Issuance Date: March 15, 2019

RFI Written Responses Due: April 5, 2019 at 12:00 Central

One-on-One Meetings: April 2019

TxDOT reserves the right to modify the above anticipated schedule milestones at any time and for any reason.

Page limits: While there is no page limit to the responses to the 10 questions in Section 3 (other than the two-page summary of the respondent's organization/team) respondents are requested to be brief and concise.

Format: Please provide one complete electronic copy of your response to this RFI in a searchable format to the Point of Contact listed below.

Questions: Questions regarding this RFI should be in writing and e-mailed to the Point of Contact listed below. TxDOT may post responses to questions on the Project website without identifying the party(ies) submitting the questions. Respondents are encouraged to submit any questions to the Point of Contact below prior to March 29, 2019.

Point of Contact:

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