

TEXAS TRANSPORTATION COMMISSION

Dallas County

MINUTE ORDER

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Dallas District

Transportation Code, Chapter 223, Subchapter F prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code, § 223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$150 million or more.

On May 24, 2018, by Minute Order 115220, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and potential maintenance of Interstate Highway 635 from US 75 to I-30 in Dallas County (I-635 LBJ East Project). The department has agreed to “grandfather” and permit the reconstruction of the existing one tolled managed lane in each direction as part of the project scope. The project will include the full reconstruction and widening of the facility from eight to ten general purpose lanes and the full reconstruction of the two existing tolled managed lanes, for a total of 12 general purpose and tolled managed lanes, construction of continuous frontage roads, and improvements to the I-635/I-30 interchange.

The department issued the RFQ on June 8, 2018. Four proposer teams responded to the RFQ. Following the department’s evaluation of the qualifications statements, the best qualified teams will be short-listed and requested to submit detailed proposals to develop, design, construct, and potentially maintain the project.

Transportation Code § 223.246 and 43 TAC § 9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the I-635 LBJ East Project and to request detailed proposals from the short-listed teams to develop, design, construct, and potentially maintain the I-635 LBJ East Project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require the department to pay an unsuccessful private entity that submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in the proposal. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount, the stipulated amount must be stated in the RFP, and it may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the I-635 LBJ East Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

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The I-635 LBJ East Project was environmentally cleared through the department's receipt of a finding of no significant impact on January 30, 2003. Approval of an environmental reevaluation was received on April 24, 2017.

Transportation Code, § 228.051 provides that the commission, by order, may designate one or more lanes of a segment of the state highway system as a toll project or system. Minute Order 114492, dated February 25, 2016, previously designated the project as a toll project on the state highway system.

IT IS THEREFORE ORDERED by the commission that the department is authorized to issue an RFP to develop, design, construct, and potentially maintain the I-635 LBJ East Project in Dallas County.

IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the I-635 LBJ East Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build contract.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build contract, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$1,900,000.

IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the I-635 LBJ East Project procurement documents.

Submitted and reviewed by:


Director, Project Finance,
Debt & Strategic Contracts Division

Recommended by:


Executive Director

115259 JUL 26 '18
Minute Date
Number Passed