



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
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DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.
SECRETARY

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January 31, 2007

Interested Design Builders:

RE: Contract No. 26-073-03
Federal Aid Project No. BRN-S050(14)
Replacement of Bridge 3-156 on SR-1 over Indian River Inlet
Sussex County

Attached is Addendum No. 8 to the RFP for the referenced contract consisting of the following:

1. Twelve (12) pages, Form RCF, Responses to Form CF, Q46 through Q67, new, to be added the Scope of Services Package, ITP.
2. Two (2) pages, Instruction To Proposers, Appendix A, Technical Proposal Instructions, pages A-2 and A-3, revised, to be substituted for the same pages in the Scope of Services Package, ITP.
3. Three (3) pages, Instruction To Proposers, Appendix C, Proposal Forms, Proposal Certification, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents.
4. One (1) page, Instruction To Proposers, Appendix C, Proposal Forms, Form NS, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents.
5. Thirty Seven (37) pages, Part 2 – DB Section 107 – Legal Relations and Responsibility to Public, pages i and ii, pages 1 through 35, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents. (Note: Pages 6 through 35 are replaced due to pagination changes)
6. Three (3) pages, Part 2 – DB Section 109 – Lump Sum Price, Progress, and Payment, pages 27 through 29, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents.

7. Two (2) pages, Part 3 – Design Requirements and Performance Specs, Warranty Requirements, pages 1 and 2, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents. (Part 3 sequence pages 129 and 130.)
8. Fifteen (15) pages, Part 4 - DB Special Provisions, 605500 - Cable Supported Bridge System Requirements, Pages 6 of 20 through 20 of 20, revised, to be substituted for the same pages in the Scope of Services Package, Contract Documents. (Part 4 sequence pages 50 through 64.)

Please note the revisions listed above and submit your Proposal based upon this information.

Very truly yours,

A handwritten signature in black ink, appearing to read "John V. Eustis, Jr.", written in a cursive style.

John V. Eustis, Jr.
Contract Services Administrator

:jve, jr.
attach.

FORM RCF

SCOPE OF SERVICES PACKAGE RESPONSE COMMENT FORM

Q No.	Part Number	Section Number	Comment(s)	Reserved for Response
Q46	Part 2	DB 109-13	<p>In follow-up to discussions at pre-proposal meetings, and in an attempt to keep design-builder contingencies low for DelDOT's benefit, please consider the substitute language below for DB Section 109-13. Will this language be acceptable?</p> <p>109-13 Force Majeure Events (Proposed)</p> <p>[Delete Section DB 109-13 and replace with the following]</p> <p>109-13 Force Majeure Events</p> <p>The Department will be responsible for and agrees that it shall issue Change Orders for the following purposes:</p> <p>A) Compensate the Design-Builder for reasonable and verifiable additional costs incurred arising from force majeure events; and</p> <p>B) Extend the completion deadlines impacted as a result of any delay to critical path activities reflected on the Baseline Progress Schedule caused by a force majeure event. Design-Builder shall be responsible to demonstrate to the Department that the delay to the critical path is attributable solely to the force majeure event.</p> <p>C) "<i>Force Majeure</i>" shall mean an event or</p>	<p>Addressed in Addendum No. 8</p>

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			<p>circumstance which prevents Design-Builder from performing its obligations under this Contract, which event or circumstance (a) was not anticipated as of the date of the Contract, (b) is not within the reasonable control of Design-Builder, (c) does not result from the fault or negligence of the Design-Builder, (d) the Design-Builder is unable to overcome or avoid or cause to be avoided by the exercise of reasonable care, and (e) includes, but is not limited to, the following events:</p> <ul style="list-style-type: none"> <li data-bbox="680 748 1383 1149">(1) acts of God (including fires, floods, hurricanes, tornados, earthquakes or other significant and unusual natural catastrophes) occurring at the project site or at the places of manufacture of Project components (so long as such components require greater than sixty (60) days to be manufactured and fabricated) including their transportation routes; <i>excluding, however,</i> inclement weather (including, rain, snow, ice, high winds and extreme heat) experienced from time to time; <li data-bbox="680 1187 1383 1403">(2) Any Governmental Authority having jurisdiction over the Work suspends or otherwise prohibits the conduct of the Work, <i>excluding, however,</i> (1) any actions by any Governmental Authority resulting from the breach or alleged breach by the Claiming 	

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			<p>Party of any applicable Law and any Permit); and (2) any delay, rejection or other adverse action (including the imposition of conditions) taken with respect to any Permit for the Work to be acquired by the Claiming Party after the Effective Date;</p> <p>(3) War, epidemics, or blockades;</p> <p>(4) Acts of terrorism or sabotage;</p> <p>(5) Any change in governmental rule or change in the judicial or administrative interpretation of or adoption of any new governmental rules which are materially different with governmental rules in effect on the date the date of the Contract;</p> <p>(6) Strikes, job actions, work stoppages or slowdowns or labor disputes (“Labor Disputes”) of any type which could not have been avoided by the reasonable action of the Contractor. Contractor shall be responsible for any Labor Disputes among its labor forces which resulted from its own acts or inaction or any acts or inaction of its Subcontractors or suppliers for whom Contractor is responsible;</p> <p>(7) The discovery at, near, or on the site of any archaeological, paleontological, biological, or</p>	

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			<p>cultural resources or hazardous or contaminated substances, provided that the existence of such resources or substances was not disclosed by the Department;</p> <p>(8) Civil unrest other than union activity; and</p> <p>(9) Any other event which has a material impact upon the Project Cost or Project Schedule which was not anticipated by the Parties on the date of this Contract, is beyond the reasonable control and without the fault or negligence of the Design-Builder and which cannot be fully mitigated through the reasonable efforts of the Design-Builder.</p>	
Q47	Part 2	DB 107-2.2.A	<p>Please note that the language regarding Professional Liability (Part 2 DB 107-2.2.A) requires that the "...policy shall protect against any negligent act, error, or omission arising out of the professional services that includes coverage for acts by others for whom the Design-Builder is legally responsible. The policy shall apply to the activities of all design, engineering, and construction management professionals assigned to the Project." This language appears to be requiring that the policy be a project specific policy in the name of the Design-Builder and including all subs. We propose that the Owner amend the requirement to accept the Designer's practice policy or a project specific policy purchased by the Designer as well as policies from</p>	<p>The requirements suggest a Contractor Controlled Insurance Program.</p> <p>The section is modified in Addendum No. 8 to remove the requirement for "vicarious liability coverage."</p>

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			<p>any other subcontractors providing Professional Services.</p> <p>Also, the requirements indicate that the policy shall contain an endorsement that provides DelDOT and the State with vicarious liability coverage. We propose to delete this requirement. Is this acceptable?</p>	
Q48	Part 2	DB 107-2.2.C	<p>In reference to the Commercial General Liability requirements (Part 2 DB 107-2.2.C), the last sentence of this specification reads “The Design-Builder shall be the named insured, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible, whether occurring on or off the Site;” This appears to be an incomplete sentence; please clarify the intent.</p> <p>Also, to include all these parties as Named Insureds, a Contractor Controlled Insurance Program (aka CCIP Wrap Up) would be required. Is that the intent? Normally, as a Contractor, we require all Subcontractors to procure the required insurance and to submit Certificates of Insurance prior to starting work – as opposed to having subcontractors covered as named insured under the General Contractor policy.</p>	<p>The intent is for the Design-Builder to provide coverage as specified.</p>

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Q No.	Part Number	Section Number	Comment(s)	Reserved for Response
Q49	Part 2	DB 107-2.2.D	<p>In reference to the Umbrella excess coverage (Part 2 DB 107-2.2.D), this section indicates that the “..limit of liability shall apply collectively and not separately for the Design/Builder and Subcontractors on the Project.” Again, this language seems to imply a requirement for a contractor controlled insurance program (CCIP) - is the intent of this language? We suggest that this be changed to clarify that the Design Builder is not providing Umbrella Insurance coverage for the Subcontractors. Is this acceptable?</p>	<p>The intent is for the Design-Builder to provide coverage as specified.</p>
Q50	Part 2	DB 107-2.2.E	<p>In reference to the Builders’ Risk Coverage (Part 2 DB 107-2.2.E) - several issues:</p> <ul style="list-style-type: none"> a. The contractor will be required to provide a builders risk policy written on an “all risks” basis with a limit equal to \$100 million. This policy is to include coverage for Earthquake and Flood with the same limits of \$100 million “...plus “soft cost expense cover...”. To include “soft cost expense” DelDOT needs to quantify exactly what they want included (somewhat itemized in the current spec) and what limit of insurance they want us to provide for this coverage. Please clarify. b. Most policies will restrict the Flood coverage to some reasonable sub limit. The region that this project is located in would be more susceptible to flood than to earthquake and we would anticipate that it would be difficult to obtain flood coverage with limits greater than \$25 million. We could probably get limits to \$100 	<p>Addressed in Addendum No. 8.</p>

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			<p>million by accessing excess markets, but that would greatly affect the premium cost to the project (Rough order of magnitude of 25%) . We request the flood insurance part of the Builders’ Risk Policy be a sub limit of \$25 million.</p> <p>c. Although this project is not in a high risk earthquake zone, most policies will restrict the coverage for earthquake to some reasonable sub limit such as \$10 to \$20 million. Higher limits are commercially available, but will significantly affect the pricing of the policy. We request the earthquake part of the Builders’ Risk Policy be a sub limit of \$10 million.</p>	
Q51	Part 2	DB 107-2.2.F	<p>In reference to the Environmental Insurance (Part 2 DB 107-2.2.F):</p> <p>a. Like with the General Liability and the Umbrella Excess Liability requirements, this section has a requirement that “The Design-Builder shall be the named insured, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible, whether occurring on or off the Site; and...” This appears to be an incomplete sentence that implies a requirement for a Wrap Up or contractor controlled policy (CCIP) that covers all operation of the D/B and subs. Please confirm the intent of this language.</p> <p>b. This section states” The policy shall cover professional errors and omissions related to environmental remediation Work...” It is not normal for an</p>	<p>Addressed in Addendum No. 8.</p>

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			environmental policy to cover Professional Errors and Omissions. Can this requirement be eliminated?	
Q52	Part 2	DB 107-2.2.G	In reference to Business Automobile Liability insurance (Part 2 DB 107-2.2.G), this section has the same language as above indicating that the Design-Builder shall be the named insured, its Subcontractors, and any Persons for whom the Design-Builder is legally or contractually responsible whether occurring on or off the Site. If it is the intent of this language to require a Wrap Up or contractor controlled insurance program (CCIP), for commercial auto liability insurance it is commercially unavailable. Insurers of wrap up programs specifically exclude auto liability from their programs because it is too difficult to limit the coverage and control the exposure. Auto liability should be required from the D/B and its subs, but each entity should provide their own coverage. Is this change acceptable?	Addressed in Addendum No. 8
Q53	Part 2	DB 107-2.2.1.B	Regarding Section DB 107-2.2.1.B - Renewal Policies: This section requires that the renewal certificates, including a notation that the payment of premium has been made, must be provided 30 days prior to expiration of the policies. This is difficult to provide as standard procedure is that most renewals premiums are not billed and paid until after the renewal date. We request you revise language to allow 60 days to provide insurance invoice stamped paid.	Addressed in Addendum No. 8

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Q No.	Part Number	Section Number	Comment(s)	Reserved for Response
Q54	Part 2	DB 107-2.2 (A)	Professional Liability Coverage. Since the project policy will have an “Insured v Insured” exclusion, can the specification requirement be satisfied if the policy covers all entities performing design work, but not the Design-Build JV, which will subcontract all the design work?	The requirements suggests a Contractor Controlled Insurance Program.
Q55	Part 2	DB 107-2.2 (C)	General Liability Coverage. In line 5, what does “use of contractors and subcontractors” mean? If we cover our Design-Build JV as a Named Insured on our corporate GL and Umbrella policies, can we satisfy the requirement for 5 years of completed operations extended coverage by maintaining and renewing our policies with completed operations coverage for the 5 year period? Note that the specification states that the "products-completed operations" aggregate limit is to apply per location. GL policies (unless project specific) do not work that way. What does the last sentence, after the first clause, mean?	The requirements suggests a Contractor Controlled Insurance Program.
Q56	Part 2	DB 107-2.2 (D)	Umbrella. What does “Umbrella excess coverage for its excess coverage for...” mean? The \$50MM limit by the Design-Builder is fine, but if it applies to subs, too, that is too high for most. What does “Limit shall apply ‘collectively’ and not ‘separately’ for the Design-Builder and Subcontractors” mean? Is that only applicable if we do a CCIP?	The intent is for the Design-Builder to provide coverage as specified.

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Q57	Part 2	DB 107-2.2 (E)	<p>Builders Risk. If a greater loss than the \$100MM policy limit (or any sub-limit) occurs, who absorbs the excess loss? What soft costs (delay damages for a covered loss) are to be covered? What minimum soft costs sub-limit is required? What wind or named storm sub-limit will be allowed? Will a storm surge sub-limit be allowed?</p>	Addressed in Addendum No. 8
Q58	Part 2	DB 107-2.2 (G)	<p>Auto. What does the last sentence of the 1st paragraph, after the first clause mean?</p>	Addressed in Addendum No. 8
Q59	Part 2	DB 107-2.2.2 (F)	<p>Note that pollution insurance is not available as “occurrence”, must be “claims made.”</p>	Addressed in Addendum No. 8
Q60	ITP	Appendix C - Forms	<p>Technical Proposal: Forms Per our review of the Instructions to Proposers, we understand that the following Forms from Appendix C, which all involve price, are not required until the Price Proposal. Please verify that these are not included with the submittal due February 7, 2007:</p> <ul style="list-style-type: none"> - Form PP – Price Proposal - Form PPS-P – Proposal Periodic Payment Schedule - Form PPS-C – Contract Periodic Payment Schedule - Form LSI – Letter of Subcontract intent - Form EPD – Escrow Agreement - Form M – Schedule of Milestones 	<p>That is correct. Refer to ITP, Appendix A for Specific Technical Proposal requirements, and Appendix B for the specific Price Proposal requirements. Form NS may also be updated in the price proposal.</p>

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Q61	ITP	Appendix A – Tech Proposal Instructions A1.0	Technical Proposal: Page Limits We assume that the required forms do not count against the 150-page limit. Please verify.	Addressed in Addendum No. 8
Q62	ITP	Appendix A – Tech Proposal Instructions A6.2.3	Please confirm that the Safety Plan is excluded from the overall 150 page limit.	Addressed in Addendum No. 8
Q63	ITP	3.6.3	Certified Copies: Page 16, Section 3.6.3 states that “One original and ten certified copies” of the Technical Proposal are due. Is it acceptable to have these certified true and correct through the stamp of a notary, or is it required to be certified by a State of Delaware Clerk of Courts?	Notary stamp certification is acceptable
Q64		DB Section 107 2.2 (C)	The specification states “If the Design-Builder's CGL insurance or other form with a general aggregate limit and products and completed operations aggregate limit is used, then the annual aggregate limits shall apply separately to the Project, or the Design-Builder.....”. Based on information from our insurance broker, in a CGL policy the products and completed operations aggregate does not apply on a per project basis. Since this requirement is not available in the market, we ask that the wording “and products and completed operations aggregate limit is used” be deleted.	Addressed in Addendum No. 8

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Q65		DB Section 107 2.2 (F)	The specification states “The policy shall cover professional errors and omissions related to environmental remediation work performed by, and environmental losses resulting from, the Design Builder or its Subcontractors ...” This type of coverage is normally covered by Professional Liability insurance and not a Pollution policy. We request this requirement be removed from Section (F).	Addressed in Addendum No. 8
Q66	Part: 4	Section: 605500 Cable-Supported Bridge System Requirements	Section 4.1 B) states that a stainless steel cap be used to protect the exposed anchor plate. Section 4.1 D) states that the anchorage assembly include a transparent cap. Please confirm that only one cap, stainless steel, is required.	Addressed in Addendum No. 8
Q67		Addendum #7	Attached is a letter from Travelers to DelDOT dated January 25, 2007, which expresses concerns with the ten (10) year warranty requirement for the “installed cable stay system” issued in Addendum # 7, as well as their overall concern with the durations of items listed in the Warranty Requirements Performance Specification section. As it would appear we will not be able to provide DelDOT with the requested bond duration we request that you consider the shorter duration of 2 years, as recommended in Travelers letter.	Addressed in Addendum No. 8