



TRANSBAY JOINT POWERS AUTHORITY

REQUEST FOR PROPOSALS No. 20-06 General Engineering Consultant Services

QUESTIONS & ANSWERS

The following questions were received related to the above-referenced RFP:

1. *Ref: Various sections (Examples – Sections 6.1.2; 6.1.3; 6.1.4; 6.2; and 6.3), the terms “Respondent”, “Respondents”, and “Respondent firm” are used numerous times in the RFP.*
 - *Is the term “Respondent/Respondents” meant to include the entire responding team (prime and subconsultants)*
 - *Is the term “Respondent firm” meant to signify the firm priming the contract?*

“Respondent”, “Respondents” and “Respondent firm” refer to the prime firm(s) providing proposal(s) for this RFP 20-06.

2. *Ref: RFP Page 1 of PDF Key RFP Dates, Submission of Questions are due August 14, 2020 and that answers will be provided on August 19, 2020. Will the TJPA accept questions prior to that date and will they answer questions as they receive them or wait to post all answers on the 19th?*

Questions received prior to August 14 will be accepted and all answers to questions will be posted on August 19, 2020 by close of business day.

3. *Ref: RFP Section 6 PROPOSAL REQUIREMENTS, “Proposals shall adhere to the format and page limitations described below in Section 6.1.” If we included tabs to divide sections, will those be counted toward any page limitation?*

No.

4. *Ref: RFP Section 6 PROPOSAL REQUIREMENTS, “Proposal shall [be] published in 8½ x 11-inch letter format” Could the organizational chart, tables, or other full-page graphics, be 11”x17”? If so, would 11x17 be counted as 1 page?*

Yes, 11” x 17” pages may be used and will count as 1 page.

5. *Ref: RFP Section 6.3 Other Required Documents, “Respondents shall complete the forms described below and submit them as part of the Proposal. Required forms are included in Attachments 4 and 5” Can you confirm if these required documents are to be submitted by the prime firm or are subconsultant firms required to submit signed forms as well?*

Confirmed, “Other Required Documents” are required to be completed and submitted by the prime firm for this RFP 20-06.

6. *Ref: RFP Section 1 INTRODUCTION, “The Agreement will be for a four-year base term with two additional three-year extension options” The RFP indicates the agreement is for a maximum total of 10 years. However, one of the reference documents indicates 12 years for a possible timeframe of construction. Please indicate if we should base our cost proposal on the RFP term of 10 years maximum.*

Cost proposals will be based upon a four-year base term with two additional three-year extension options.

7. *Ref: RFP Section 7.2 Step Two: Interview Could you provide a detail on the oral interview format (in-person/virtual) or types of presentation materials Finalist Respondents could present to the panel.*

Oral interview format will be virtual, and Respondents selected for interviews will be provided with meeting information as well as types of materials that will be required based upon written proposals submitted.

8. *Ref: RFP Section 5 “Minimum Required Skills and Experience”, Item 1 states the following, “Demonstrate substantial experience in joint development and in working out negotiated solutions to conflicts and problems between subsurface public infrastructure facilities and affected abutting properties.” Can the TJPA please clarify what is meant by “joint development”. In addition, is the “joint development” separate from the “negotiated solutions” or is the TJPA looking for “negotiated solutions” in “joint development” projects?*

“Joint Development” refers to private, public partnerships to work in a collaborative setting with all project stakeholders.

9. *Ref: Section 7 of the Model Professional Services Agreement (PSA) provides that the Contractor invoice on a monthly basis. PSA Section 5 states that no payment shall “become due to the Contractor until the Services required under this Agreement are received from the Contractor and approved by the Executive Director as being in accordance with this Agreement,” but does not provide a time period for payment. Will the TJPA consider adding payment terms to the PSA, such as “Payment shall be made within thirty (30) days of receipt of Contractor’s acceptable invoice and approval of such services provided therein”?*

Refer to RFP 20-06 Section 10, paragraph 3.

10. *Ref: PSA - PSA does not contain a standard of care to be taken by the Contractor in performance of its services. A defined standard of care is integral to a Contractor's assessment of the overall risk of a project and insurers will provide professional liability coverage only to the extent of the standard of care generally accepted in the industry. Will the TJPA consider adding the standard generally accepted in the engineering industry: "In the performance of its Services under this Agreement, the Contractor shall perform with the reasonable care and skill ordinarily taken by engineering professionals performing similar work in the same location."*

Refer to answer to question 9.

11. *Ref: PSA Section 17, the Contractor will be liable for all indirect and consequential damages suffered by the TJPA as a result of the Contractor's actions or errors, but under PSA Section 18 the TJPA expressly removes itself from all liability to the Contractor for the same if suffered by the Contractor. Because indirect and consequential damages are impossible to assess, for the benefit of Contractors providing more accurate pricing to the TJPA, is the TJPA willing to delete Section 17 and to revise Section 18 to provide a mutual waiver of indirect and consequential damages other than the Contractor being liable for liquidated damages as may be provided by Section 19?*

Refer to answer to question 9.

12. *Ref: PSA Section 19 implies that Liquidated Damages may be applicable. Considering that the Agreement will be for bid package design services and engineering support services, rather than for construction or design-build services which typically involve project milestones and liquidated damages, is the TJPA willing to delete the language relating to liquidated damages? If not, in order for the Contractors to properly assess the overall project risk and provide the most accurate pricing to the TJPA, can the TJPA add to the PSA the daily monetary amount of LDs that may be assessed under the Agreement?*

Refer to answer to question 9.

13. *Ref: PSA The PSA does not contain a Force Majeure clause. Force Majeure clauses are common elements of construction and engineering contracts. Considering how the current COVID-19 pandemic suspended similar services and of construction projects in many states, the potential of such stoppages occurring again is not low. Is the TJPA willing to add a Force Majeure clause to the PSA whereunder the Contractor shall not be liable for delays or work stoppages as a result of Acts of God, Force Majeure such as civil unrest, pandemics, epidemics, restrictive quarantines, government mandates and actions, and other events beyond the control of the Contractor, so long as the Contractor reasonably mitigates any foreseeable damages, costs and expenses and such delays or damages, costs or expenses resulting therefrom are not the result of Contractor's negligence.*

Refer to answer to question 9.

14. *Ref: PSA Section 28 states that TJPA will take ownership of all Works for Hire “in connection with the Services performed under this Agreement.” The PSA does not account for the Contractor’s pre-existing works that are brought to the Project and/or utilized in performance of the Services. Is the TJPA willing to add language substantially similar to the following: “All rights, title and interest in any and all works of the Contractor or its subcontractors which is brought to the Project or utilized in performance of the Services but which pre-exists the effective date of this Agreement shall remain the sole property of the Contractor or its subcontractor, as the case may be, and the TJPA shall be granted a non-exclusive, worldwide, royalty-free, limited license to use such pre-existing works for the purpose(s) of the Project.”*

Refer to answer to question 9.

15. *Ref: PSA - The PSA does not take into account possible cost increases due to changes in laws and regulations. Many states and localities have experienced sudden government mandates relating to PPEs, daily health screenings by employers, etc. since the outbreak of the COVID-19 pandemic. Is the TJPA willing to add language to the PSA which will allow for a price adjustment, due to a change in law or regulation enacted or ordered after the effective date of the Agreement, which increases the cost of the performance of the services?*

Refer to answer to question 9.

16. *Ref: PSA Section 5, Compensation Item b states “Hourly rates or fixed fee by deliverable for services are to remain fixed during the entire contract period, including any option periods, pursuant to Appendix B.” Does this mean that the TJPA will not allow increases in the rates over the possible 7 year period of the Contract, and that the Proposer should use average rates over the 7 year period?*

Refer to answer to question 9.

17. *Ref: Appendix B, Fees states the following: “The above hourly rates [OR] fees per deliverable shall include all incidental expenses of the Contractor, including the costs of toll telephone calls, document binding, filing fees, express mail, delivery charges, courier service, in - and out-of-house photocopying, charges for sending facsimiles, transportation, travel, automobile rental, taxicab fares, parking, meals, secretarial services, printing, photographs, renderings, maps, Internet, computer, overhead, administration, and other costs and charges incurred by the Contractor or the Contractor’s subcontractors.” This statement seems to indicate that the TJPA will not reimburse for items listed above, which are typically invoiced as Other Direct Costs, and that the Proposers should include said costs in their overall hourly rates. Is this correct?*

Refer to answer to question 9.

18. *Ref: Appendix B, Fees states the following: "Direct costs actually incurred by the Contractor in performing the Services are subject to reimbursement if such costs are pre-approved by TJPA in writing. Contractor will not mark up such allowable costs and a receipt or invoice must be submitted documenting allowable costs. Any allowable travel costs must be consistent with TJPA's Travel Policy." Can the TJPA expand on what these "Direct costs" might be, as they have eliminated many of the typical Other Direct Costs in the preceding bullet item?*

Refer to answer to question 9.

19. *Ref: TJPA diagrams. The Intercity Bus Facility is indicated in TJPA diagrams to extend from Beale Street eastward to Main Street. Is this the correct location assumption for this building?*

Yes.

20. *Ref: RFP Section 6.2 Fee Proposal requires the Proposer to "Submit a proposed annual budget range for performing the services in this RFP Section 4, Project Development." It goes on to say, "Provide separate classification and rate tables for the services in RFP Section 4, Project Procurement, and RFP Section 4, Engineering Support." No mention is made to providing any costs or rates for Project Management. Is the Proposer to include Project Management tasks in the Fee Proposal for Project Development phase and rate tables for the Project Procurement and Engineering Support phases? If the Proposer is to include a Fee Proposal for Project Management during the Project Development phase, how are they to handle the scope items listed in Item 6 As-Requested Services?*

Respondents will provide classifications and rates for project management during all phases of work. Classifications and rates should be consistent for all phases and scopes of work.