



Reservoir Renovation Project – Response to Questions

July 12, 2010

Tampa Bay Water is providing the following responses to questions received at the Pre-Statements of Qualifications meeting, held on Monday, June 28, 2010, and subsequently, to help inform prospective design-build entities of the Agency's procurement approach to the Reservoir Renovation Project. These responses reflect Tampa Bay Water's position at this time and are accurate to the extent possible and intended to provide additional clarity to the Request for Qualifications (RFQ) documents. In some instances similar questions were asked by more than one party; to the extent possible those questions and their responses have been consolidated. The Agency reserves the right to revise its position on any matters related to the procurement.

Please note an Addendum No. 1 to the Request for Qualification package, will be posted to the site at which the Request for Qualifications is posted.

Statement of Qualifications/Reservoir/General

Question 1. The Request for Qualifications (RFQ) indicates that Tampa Bay Water will not provide a stipend to unsuccessful shortlisted firms. Since the Agency is seeking a firm fixed price at the Request for Proposal (RFP) stage, a substantial effort will be required by shortlisted design-build entity to advance the design and prepare Technical and Price Proposals. Would Tampa Bay Water reconsider providing a stipend to unsuccessful shortlisted firms?

Response: Tampa Bay Water has carefully studied the cost-benefits of providing a stipend to unsuccessful shortlisted firms and after due consideration the Agency has decided against providing any compensation to Respondents participating in the RFQ and RFP phases of the Competitive Procurement Process for this Project.

Question 2. Does the Agency have sufficient funding available for the Project?

Response: Tampa Bay Water has funds available to cover the Design Period Services and will issue Revenue Bonds to cover the Construction Period Services funding. The Agency will provide timely availability of required funding for the Project. In the event the Agency is unable to secure the necessary funding for construction in a timely manner, the firm fixed price will be adjusted to compensate for any schedule delays due to unavailability of required funding.

Question 3. The RFQ document (Ref: Page 10—Preparation of the Design Package) requires that the Engineer of Record must be employed by the design-build entity. Must the Engineer of Record be an employee of the design-build entity or will a contractual relationship suffice?

Response: The Engineer of Record can be either an employee of the design-build entity, Prime Team Member, or retained through a contractual arrangement, approved by Tampa Bay Water, for the purpose of this Project. This issue will be clarified in an Addendum to the RFQ document.

Question 4. When will Tampa Bay Water make the decision regarding whether or not to expand the storage capacity of the existing Reservoir as part of this Project? Would the storage capacity expansion be limited to a “vertical” solution?

Response: In the RFP document, Tampa Bay Water may ask for an expansion alternative so the Board can examine the costs against capacity and reliability. If the Agency decides to seek proposals to add new storage capacity as part of this Project, the shortlisted design-build entities will be requested to submit a Base Proposal for the Reservoir Renovation Project and a Alternative Proposal for an incremental increase in storage capacity.

Question 5. Does the existing Reservoir have a bottom liner?

Response: The bottom of the reservoir is not lined. There is a geomembrane and soil-bentonite cut-off wall within and below the embankment respectively, which provide downstream seepage control.

Question 6. Is there an operational plan that limits the reservoir filling and draining rate, and will it be shared with the teams pursuing the design-build contract?

Response: There is an Operation & Maintenance Plan (O&M Plan) that was developed under the Environmental Resource Permit (ERP) special condition 99 for the Florida Department of Environmental Protection (FDEP) permit – i.e. it is part of the ERP Permit for the Reservoir. Tampa Bay Water will share permit-related documentation with the shortlisted design-build entities.

Question 7. How complete does each team need to be for the purpose of submitting a Response to the RFQ?

Response: At minimum, Respondents are required to identify any Minority Business Enterprise (MBE) members and all Prime Team Members for which points can be awarded by the selection committee. See definition of Prime Team Members on Page A-2 of the RFQ.

Question 8. If short-listed, will each design-build entities score received during the SOQ process be carried through or factored into the RFP process?

Response: Scores and evaluations of SOQs will not be carried over to the RFP stage.

Question 9. Would Tampa Bay Water consider short listing fewer than five qualified design-build entities at the RFQ stage?

Response: Tampa Bay Water desires to have at least three shortlisted design-build entities submit proposals at the RFP stage. As such, the Agency intends to short list no more than

five qualified Respondents to advance to the RFP stage to result in three Proposals being received.

Question 10. What is the role of the peer review team during the RFP stage?

Response: Ranking of design-build proposals and a recommendation for the preferred proposer is the responsibility of Tampa Bay Water's Selection Committee and not the Peer Review panel. The Peer Review panel will assist Tampa Bay Water in the evaluation of the Technical Responses submitted at the RFP stage, and provide professional opinions and observations regarding the various design-build proposals' anticipated conformance with the project's design criteria.

Question 11. Tampa Bay Water has an active RFP for the C.W. Bill Young Regional Reservoir Maintenance Contract. Does the current RFP for maintenance contract conflict with this Project?

Response: No. Tampa Bay Water anticipates awarding the maintenance contract, procured under the Reservoir Maintenance Contract RFP, for a period of two years. The period of performance is not anticipated to overlap the maintenance and monitoring activities to be performed by the successful Reservoir Renovation design-build entity. The design-build entity will be responsible for performing Maintenance and Monitoring Period Services as further discussed in Section 2.5.3 of the RFQ. The RFP document will provide additional information regarding the design-build entity's responsibilities during the Maintenance and Monitoring period.

Question 12. Appendix B Agreement for Facility Renovation Work provision 11. TERM 11, INITIAL TERM OF AGREEMENT, 11.1.1 EFFECTIVE DATE, RENEWAL and TERMINATION RIGHTS. Please clarify that the option to renew the Maintenance and Monitoring Period beyond the initial 5 year warranty period will be at the mutual agreement of the Owner, Contractor and Surety and that the decision by any of these parties not to extend the initial 5 year warranty period will not be grounds for default under the contract and bonds.

Response: The renewal option set forth in Section 11.2 is at Tampa Bay Water's election and shall be under the same terms and conditions including the option to renew, subject to escalation, unless other terms and conditions are agreed to by the Parties. Tampa Bay Water will consider comments from interested design-build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Documentation/Reports/Testing

Question 13. Is there a catalogue of existing documentation for surveying, mapping, laboratory testing, field explorations, instrumentation, instrumentation readings, and reports during the reservoir design and construction?

Response: Directions to obtain information available via the Agency's Records Department have been posted on the website. If the Respondents are interested in obtaining additional historical information, the Agency suggests that Respondents should

specifically outline what information is requested and submit to the Records Department. The Agency will provide requested information, if available, in a timely manner.

Question 14. What is the process for obtaining information about various geo-technical studies performed by Tampa Bay Water?

Response: Interested design-build entities can request copies of geo-technical reports and information on the Regional Reservoir through Tampa Bay Water's Records Department. Please note that some information is not available in electronic format and a charge may be applied by the Records Department. To obtain copies of geo-technical reports and information, submit a request to:

Records Department
Tampa Bay Water
2575 Enterprise Road
Clearwater, FL 33763
Phone: 727-796-2355
Fax: 727-791-2388
Email: records@tampabaywater.org

Question 15. If short-listed, will the design-build entity be allowed to perform field testing, i.e., cores, borings, test pits, etc., on the reservoir during the proposal stage?

Response: The RFQ Respondents will be requested to submit the anticipated verification or additional field investigation and testing plan which they would implement to support their design proposal if shortlisted and selected as the design-build entity to design and construct the renovation. The shortlisted firms will refine this plan during the RFP response process. Tampa Bay Water is anticipating that the selected design-build entity will perform the field investigation as the first activity during the design and permitting process (June 2011 through June 2012).

The RFP proposals are anticipated to be based on the existing data available in the reports and investigations conducted during the original design process and as part of the renovation investigations (short term and long term repair). These public documents are available from Tampa Bay Water. The Regional Reservoir water level is anticipated to be at or near its maximum pool elevation, 136.5 ft (NGVD) from the present time through June 2011.

A lowering of the water level may occur between December 2010 and June 2011 to elevations between 136.5 ft. and 120 ft., but this cannot be determined at this time, and will depend on rainfall, water supply requirements, and other operational requirements as determined by Tampa Bay Water. It should be noted that the Agency expects that the Reservoir will continue to function normally during the Design Period Services; as such, opportunity to conduct field testing may be limited to maximum pool elevation, and that field investigations and testing shall not interfere with Reservoir operations.

Question 16. What firms or individuals, if any, are conflicted (precluded) out of serving on a potential design-build entity?

Response: Respondents should refer to Chapter 6.0—Terms and Conditions for firms that may have a potential conflict of interest. Please note that it is the responsibilities of the Respondents to have their team members verify that they meet requirements outlined in the RFQ.

Financials/Security Package/Insurance/Deductibles/Etc.

Question 17. For the design-build joint venture arrangements, where a member of the joint venture relies on a parent company to demonstrate financial capability to perform the required services, whose financial statements are required?

Response: The Respondents are required to submit copies of audited financial statements for the design-build entity and Prime Team Members in accordance with information provided in Section 4.3, Part C—Financial Submission of the RFQ. Additionally, financial statements of a parent company or affiliate company should be submitted if a member of a design-build entity/joint venture is a Prime Team Member and relying on a parent company to demonstrate financial capability of the Respondent.

Question 18. Do the financial statements have to be in English and in U.S. dollars?

Response: Yes.

Question 19. There is a requirement to provide a guaranty during the Design and Construction Period from an entity that meets the "Tangible Net Worth" requirements. Please clarify what those "Tangible Net Worth" requirements are.

Response: For the purpose of this Project, Tangible Net Worth is an amount sufficient to support the obligations associated with the Parent Guarantee.

Question 20. There is a five-year Maintenance and Monitoring obligation. The cost of this obligation will be substantial if the bond amount is kept at 100% for three years and 50% for the last two years. It is more typical to see a reduced penalty bond in the 10-25% range to secure these types of obligations. The contract performance security requirements (i.e. performance and payment bonds, letters of credit, warranty bond, parental guarantee, etc.) are stringent compared to the industry norm, and increase the Project cost.

Response: The contract security package requirements were developed in accordance with direction provided by Tampa Bay Water's Board of Directors. The Agency recognizes the costs associated with various contract security instruments and is prepared to pay for it to protect the public interest. Tampa Bay Water will consider comments from interested design-build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Question 21. Section 2.5.6 of the RFQ requires the design-build entity to obtain multiple forms of security for both the Design and Construction and the Maintenance and Monitoring Periods:

- 100% Performance and Payment Bonds
- 20% Letter of Credit
- Corporate Guaranty

Please clarify which instrument will be primary, which will be secondary, and which will be tertiary. As the design-build entity will ultimately guarantee all three forms of security, documents need to clearly state that the Owner can only recover for one source. As the forms of security all come from independent parties, the order of precedence needs to be clarified to avoid overpayments to the Owner. It also seems that these forms of security are somewhat redundant. Typically bidders have the option of providing 100% performance and payment 100% bonds or a 100% letters of credit guaranteeing performance and a 100% payment bond, but not both. We'd recommend a similar change on this procurement as well.

Response: The contract security package requirements were developed in accordance with the direction provided by Tampa Bay Water's Board of Directors. Tampa Bay Water will provide additional information for the contract security requirements at the RFP stage, including information about an order in which these security instruments will be called in the event of a design-build entity's default.

Question 22: We will be unable to submit a SOQ for this procurement due the requirement to provide a Letter of Credit in the amount of 20% of the cumulative Design Period and Construction Period expenditures per Section 2.5.6 of the RFQ. We respectfully request that Tampa Bay Water consider dropping this requirement.

Response: The contract security package requirements were developed in accordance with direction provided by Tampa Bay Water's Board of Directors. Tampa Bay Water will consider comments from interested design build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Question 23. In the draft agreement, Schedule 12-5, Professional Liability Insurance, details the requirement for a project specific policy. Section 2.5.6, Liability, Insurance, Bonds and Letters of Credit, of the RFQ states that the insurance requirements are the same for the Design and Construction Period and Maintenance and Monitoring Period. Therefore, the project specific policy will be required for the entire maintenance and monitoring period, correct?

Response: Yes. The insurance requirements for the Design, Construction and Maintenance and Monitoring Periods are as set forth in Schedule 12.

Question 24. On page 134 of Agreement, you reference limits needed in the amount of \$100,000,000 aggregate stating Umbrella insurance could make up the difference. You however have an Umbrella/Excess Liability section showing \$100,000,000. I would like to clarify what limit is intended, \$100,000,000 total or \$200,000,000 total?

Response: It is assumed the question refers to Schedule 12. The umbrella/excess liability coverage is in addition to the commercial general liability limits.

Question 25. Is a Contractor Controlled Program an available option for insurance?

Response: Yes, a self insurance program that meets the requirements of Schedule 12 will be considered.

Question 26. It appears that the builder's risk requirement is only for the work going into the project. We would like this affirmed.

Response: Affirmed.

Question 27. Please confirm that you are looking for full flood, wind and quake limits. The requirement is very general and we would not want an issue later. Full flood and wind are more of a challenge in Florida.

Response: Confirmed.

Question 28. Appendix B Agreement for Facility Renovation Work Provision 3.3.3.7 Performance Bond, Payment Bond, Insurance, Letter of Credit and Guaranty Agreement appears to require a separate Design Period Performance Bond and Design Period Payment Bond be maintained throughout the Design Period; whereas, the RFQ Provision 2.5.6 Liability, Insurance, Bonds and Letters of Credit requires the Design-Build entity obtain and deliver to Tampa Bay Water the following contract performance security instruments upon fully executing the Agreement and within time specified by Tampa Bay Water: Payment Bond in the amount equal to 100% of the Firm Fixed Price; Performance Bonds in the amount equal to 100% of the Firm Fixed Price. Please clarify what Payment and Performance Bonds will be required?

Response: It is assumed the question relates to section 3.3.2.7. The definitions of the terms Design Period Performance Bond and Design Period Payment Bond identify these terms refer to "that portion" of the Performance and Payment Bonds relating to work performed during the Design Period. The Performance and Payment Bonds will cover the work performed in both the Design and Construction periods and will be in the amount of 100% of the Firm Fixed Price.

Question 29. Please define what is considered cumulative Design Period and Construction Period expenditures. Is it the direct cost of construction and design?

Response: Yes.

Question 30. Appendix B §9.2.2: The termination for convenience section only includes "work actually performed" as compensable in the event of a TFC. Because of the project size and scope, there will likely be specialty items which need to be arranged for well in advance of their incorporation into the Project. We request that items like stored materials and specialty materials be included in this section as compensable.

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Question 31. Appendix B §9.4.3 line 3: The second sentence of the notice and cure reads “Tampa Bay Water shall have thirty (60) days from such notice to commence...” The “thirty” or the “(60)” needs to be changed to eliminate the inconsistency. We request that it remain as thirty days.

Response: The correct time period is sixty (60) days.

Question 32. Will you consider higher than the \$25,000 deductible reflected in the documents?

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ’s and changes, if any, to the final Agreement will be issued with the RFP.

Question 33. Schedule 12—sample certificate page 12-4 item 6.h. of the Draft Agreement indicates that deductibles are not to exceed \$25,000 and shall require approval from Tampa Bay Water. Since deductibles are the responsibility of the Company, they should [not] be an issue for Tampa Bay Water. Please delete this section in its entirety.

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ’s and changes, if any, to the final Agreement will be issued with the RFP.

Question 34. General Conditions Section D Bonds and Insurance item 14 also indicates that the property insurance deductible may not exceed \$25,000. Again, since any deductible would be the responsibility of the Company, this should not be an issue for Tampa Bay Water. Also, a deductible so low does not seem financially cost effective for a project builders risk policy of this size. Please delete this language in its entirety (page 18-6 of the General Conditions).

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ’s and changes, if any, to the final Agreement will be issued with the RFP.

Question 35. Schedule 12 page 12-4 §6(h): According to this section, the project insurance must have a deductible no greater than \$25,000. This requirement is repeated in Schedule 18(D)(14) on page 18-6. As our deductible is much higher at \$250,000, we request that the allowable deductible be raised to \$250,000.

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ’s and changes, if any, to the final Agreement will be issued with the RFP.

Question 36. Schedule 16: This schedule states that Tampa Bay Water intends to take advantage of the Direct Purchase Option. In short, this would allow Tampa Bay Water to purchase materials which will be incorporated into this project, free from sales tax. The Florida Department of Revenue lays out certain criteria in §12A-1.094 of its Administrative Code which must all be met if a quasi governmental agency wants to take advantage of this. The plan as laid out in Schedule 16 fails to satisfy all the criteria. Specifically, the plan fails to assume the risk of loss. According to the Code and relevant Florida Technical Assistant Advisements, “who pays for insurance on the property” is of paramount importance in determining if the quasi governmental agency has ACTUALLY

assumed the risk of loss. In the Tampa Bay Water Agreement, the Contractor pays for insurance.

We request that one of the following two changes be made; 1) Schedule 16 is amended to comply with §12A-1.094 or 2) Tampa Bay Water indemnifies the Company in the event the Florida Department of Revenue challenges the construction of their Direct Purchase provision.

Response: Tampa Bay Water has successfully implemented an approved Owner's Direct Purchase ("ODP") program for almost ten years. All requirements of the Department of Revenue have been and will be met. Changes to the draft Agreement will be considered in response to comments submitted as part of an SOQ.

Question 37. Page 85 of the Draft Agreement indicates that we are to provide certified copies of all insurance policies. Certified copies are cumbersome and labor intensive to provide. The certificates of insurance should be adequate to evidence the coverage. Please delete this requirement.

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Question 38. Schedule 12 of the Draft Agreement indicates that the general liability with limits of \$50 million per occurrence and \$100 million aggregate "...with umbrella insurance making up the difference between the policy limits of underlying policies and the total amount of coverage required." And, umbrella liability insurance is required with limits of \$100 million. Please clarify, is the total amount of insurance required \$50 million per occurrence and \$100 million aggregate for the combined limits of primary general liability and excess / umbrella liability?

Response: The umbrella/excess liability coverage is in addition to the commercial general liability limits.

Question 39. Professional Liability requirement: Is this for the main contractor or for the design professional we would hire. Perhaps both?

Response: Professional liability insurance may be provided by either the prime or a subcontracted design professional, as long as it meets the requirements of the Agreement concerning Design Work.

Question 40. Schedule 12 of the Draft Agreement indicates that Professional liability insurance is to be provided with limits of \$10 million per occurrence and \$20 million aggregate. Professional liability insurance is commonly written on a claims made basis. Please confirm that limits of \$10 million per claim and \$20 million aggregate will be acceptable.

Response: Tampa Bay Water will consider comments from interested design build entities submitting SOQ's and changes, if any, to the final Agreement will be issued with the RFP.

Question 41. The Performance Bond form in Schedule 13 for the Design and Construction period is not acceptable. More specifically in Section 5, Tampa Bay Water retains sole decision-making authority for how the Surety proceeds in the event it declares the design-build entity in default. Furthermore, the only option is to complete the Contract and pay the Owner all losses, etc. We suggest the use of a Warranty Bond Form as a Template for the Performance Bond form. The options spelled out in Section 5 of the Maintenance Bond are standard industry options other than the fact that bonding companies do not require the Obligee's consent to choose the option. The loss at that point shall be evaluated by the surety.

Response: The Performance and Payment Bond forms are standard Tampa Bay Water projects used on other projects. Otherwise, this is not a question or request for clarification but a request to change provisions in the draft Agreement. Changes to the draft Agreement will be considered in response to comments submitted as part of an SOQ.

Question 42. Please confirm when the obligations of the Performance Bond will be satisfied; at substantial completion, final punch, or after the Warranty and Monitoring period as a surcharge is applied to premium for contract time in excess of 24 months.

Response: The obligations of the Payment and Performance Bonds will be satisfied at the final completion (end of the Construction period).

Question 43. In Section 3.3.2.6 provides that the "Company" shall execute a "Construction Contract" for the Facility Renovation Work with a "General Contractor". If the general contractor and the company are the same, we would be characterized as the "Company". What is the purpose of this section the General contractor and company plan to self-perform the majority of the work required during the Construction Period.

Response: Depending on the structure of the design-build entity and the Prime Team Members selected to perform the Facility Renovation Work, this section of the draft Agreement may be modified.

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