

**LOUISIANA DEPARTMENT OF  
TRANSPORTATION AND  
DEVELOPMENT**

**REQUEST FOR PROPOSALS**

**TO ENGAGE IN A**

**COOPERATIVE ENDEAVOR FOR**

**PRIVATE FERRY OPERATIONS**

**(Lower Algiers-to-Chalmette, Canal Street-to-Algiers Point,  
and Gretna-to-Canal Street Ferry Service Lines  
in Orleans, Jefferson, and St. Bernard Parishes)**

**RFx # 30000001294**



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## **1. INTRODUCTION AND GENERAL INFORMATION**

This Request for Proposals (RFP) is seeking qualified Proposers for the operations and maintenance of the Crescent City Connection ferry system, including development at and around the ferry terminals and landings. The operator's role is further defined in the scope of services in Section 3.3 (General Scope and Cooperative Endeavor Agreement Form and Methodology).

The Louisiana Department of Transportation and Development (LA DOTD), through its Crescent City Connection Division (CCCD) currently operates and maintains three ferry lines that link the east and west banks of the Mississippi River in and around the City of New Orleans. The LA DOTD is exploring the opportunity of privatizing the Ferry Services.

### **1.1 OVERVIEW OF THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT AND THE CRESCENT CITY CONNECTION DIVISION**

In 1952, the Mississippi River Bridge Authority (MRBA) was established as an independent body that constructed and operated the first span of the Crescent City Connection bridge. The first span was completed in 1958, causing a steep decline in the ridership on the already existent ferries, which were private at the time. In 1959, the MRBA took over the Canal Street-to-Algiers Point ferry line and acquired the Gretna ferry line in 1965. In 1969, the MRBA created the Chalmette-to-Lower Algiers ferry line. In 1975, the operations of the MRBA were transferred to the LA DOTD as the CCCD. As of January 1, 2013, the CCCD will no longer exist as a separate division of the LA DOTD, and operations currently conducted by the CCCD will be folded into the LA DOTD's day-to-day operations.

The potential assets currently in the ownership of the LA DOTD to be considered under the terms of this RFP are as follows:

- Active terminal buildings at Algiers Point, Canal Street, and Gretna with potential for development;
- An inactive terminal building at Jackson Avenue with potential for development;
- Landings at Chalmette and Lower Algiers (no terminal buildings) with potential for development;
- A ferry maintenance facility near the Lower Algiers landing;
- Six ferry vessels:
  - The Louis B. Porterie;
  - The Thomas Jefferson;
  - The Saint John;
  - The Sen. Alvin T. Stumpf;
  - The Capt. Neville Levy; and
  - The Col. Frank X. Armiger; and
- Seven barges in total.

## **2. ABBREVIATIONS AND DEFINITIONS**

This Request for Proposals includes abbreviations and specific defined terms as indicated below.

## 2.1 ABBREVIATIONS

BAFO	Best and Final Offer
CCCD	Crescent City Connection Division
CEA	Cooperative Endeavor Agreement
CFR	Code of Federal Regulations
CPA	Certified Public Accountant
DBE	Disadvantaged Business Enterprise
FCC	Federal Communications Commission
FTA	Federal Transit Administration
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
JV	Joint Venture
LA DOTD	Louisiana Department of Transportation and Development
MOU	Memorandum of Understanding
MRBA	Mississippi River Bridge Authority
NTP	Notice to Proceed
RFP	Request for Proposals
SEC	Securities and Exchange Commission
TSA	Transportation Security Administration
US	United States
USCG	United State Coast Guard

## 2.2 DEFINITIONS

“**Addenda**” means supplemental additions, deletions, and modifications to the provisions of the RFP after the date of issuance of the RFP.

“**Best and Final Offer**” or “**BAFO**” means a supplement to the Proposal submitted at the request of the LA DOTD allowing a responsive Proposer determined to be in the Competitive Range the opportunity to clarify its initial Proposal and/or submit additional information requested by the LA DOTD and/or desired by the Proposer, and submit a revised Proposal, including Financial Value Proposal. A request for Best and Final Offer (BAFO) follows Discussions between the LA DOTD and the Proposers in the Competitive Range.

“**Communications**” means exchanges between the LA DOTD and Proposers, after receipt of Proposals, leading to the establishment of the Competitive Range.

“**Competitive Range**” means the list of the most highly rated Proposals, based on initial Proposal ratings, that have a reasonable chance of being selected. The Competitive Range is based on the rating of each Proposal against all evaluation factors.

“**Cooperative Endeavor Agreement**” or “**CEA**” means the written agreement between the LA DOTD and the selected Proposer setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the scope of services. The Cooperative Endeavor Agreement (CEA) includes the Cooperative Endeavor Agreement Documents (CEA Documents); the selected Proposer’s Proposal; the Notice to Proceed (NTP); and any

amendments that are required to complete the performance of the CEA in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

**“Cooperative Endeavor Agreement Documents”** or **“CEA Documents”** means the individual parts of the CEA and all provisions required by law to be inserted in the CEA whether actually inserted or not. Whenever separate publications are referenced in the CEA Documents, it is understood to mean the publication, as amended, current on the date of issuance of the RFP, unless otherwise noted.

**“Discussions”** means written or verbal exchanges that take place after the establishment of the Competitive Range with the intent of allowing the Proposer to revise its Proposal and/or submit a BAFO.

**“Ferry Service”** means the three ferry lines currently operated by the LA DOTD's CCCD - the Chalmette-to-Lower Algiers ferry line, the Canal Street-to-Algiers Point ferry line, and the Gretna-to-Canal Street ferry line.

**“Proposal”** means the offer (in response to the RFP) of the Proposer for the performance of the CEA, when executed and submitted in the prescribed format and on the prescribed forms. The Proposal is executed and submitted in two parts in response to this RFP: the Business Service Concept Proposal and the Financial Value Proposal.

**“Proposer”** means a single legal entity submitting a Proposal.

**“Reference Documents”** means the documents provided with and so designated in the RFP. The Reference Documents are not CEA Documents and are provided to the Proposers for informational purposes only.

**“Request for Proposals”** or **“RFP”** means the written solicitation issued by the LA DOTD seeking Proposals to be used to identify the Proposer offering the best value to the LA DOTD. The RFP includes any appendices and Reference Documents.

**“Technical Leveling”** means bringing one Proposer's Proposal up to the level of other Proposals through successive rounds of Discussions by pointing out weaknesses in that Proposer's diligence, competence, or inventiveness.

**“Technical Transfusion”** means disclosure of technical information from one Proposal resulting the improvement of a competing Proposal.

### **3. OVERVIEW OF THE SCOPE AND COOPERATIVE ENDEAVOR AGREEMENT OPPORTUNITY**

#### **3.1 COOPERATIVE ENDEAVOR AGREEMENT GOALS**

The LA DOTD's goals for this CEA are as follows:

- A) The LA DOTD's goal is to work with an operator and/or developer that will be the most advantageous and provide the greatest value to the state and its taxpayers;

- B) The service provided under a CEA must be reliable. On-time sailings are required to maintain customer confidence in the system;
- C) The operator must maintain a high level of customer service, including the cleanliness, safety, and security of both the ferries and the terminals/landings;
- D) The operator must work closely and maintain good relationships with stakeholders at both the federal and local level;
- E) The operator is encouraged to work with the area transportation authorities to find opportunities for system interoperability;
- F) The operator should explore all opportunities to stimulate and induce economic development or other improvement of the existing assets; and
- G) The operator and the LA DOTD must have a smooth, efficient, and expeditious transition of operations from the state to the operator.

### **3.2 ROLE OF THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

In the context of the CEA, the LA DOTD is responsible for the following activities:

- A) Development of minimum CEA requirements that will meet the needs of the LA DOTD and its passengers, while reflecting national best practices;
- B) Administration of the CEA to ensure the continued delivery of operational excellence and investment in people, infrastructure, and marine vessels throughout the life of the CEA; and
- C) Engagement as a committed customer and partner, dedicated to providing significant enhancement to the Ferry Service.

### **3.3 GENERAL SCOPE AND COOPERATIVE ENDEAVOR AGREEMENT FORM AND METHODOLOGY**

#### **3.3.1 Scope of Services**

The scope of services for the CEA will primarily focus on the operations and maintenance of the LA DOTD's Ferry Service. It is also anticipated that the CEA will include opportunities for the operator to explore development at and around the terminal and landing locations. Additional detail regarding the scope of services is set forth in Appendix A.

#### **3.3.2 Form of the Proposed Cooperative Endeavor Agreement**

The form of the CEA is included in Appendix B, and reflects the standard requirements of the State of Louisiana for a CEA as well as the LA DOTD's experiences successfully operating the fourth largest ferry system in the country.



### **3.3.3 Reference Documents**

Reference Documents, including plans contained therein and/or so designated elsewhere in the RFP, will not be CEA Documents and are provided to the Proposers for informational purposes. Reference Documents are provided by the LA DOTD for use in the Proposer's Proposal preparation, at the Proposer's discretion.

## **3.4 GOVERNING LAW**

### **3.4.1 State Law**

The laws of the State of Louisiana will govern the RFP and CEA. Specifically, the LA DOTD has the authority to enter into CEAs under the Louisiana Constitution of 1974, Article 7, §14(C), with public or private entities for a public purpose.

### **3.4.2 Federal Law**

It is anticipated that the Federal Transit Administration's (FTA) federal cross-cutting requirements will apply to the CEA, and that Proposers will be required to make federal certifications and assurances. The projected list of anticipated federal cross-cutting requirements is provided below. It is each Proposer's responsibility to ensure that it will be able to comply with federal certifications and assurances. Non-compliance with federal cross-cutting requirements may render a Proposer non-responsive and disqualify the Proposer from further consideration.

- A) Fly America;
- B) Energy Conservation;
- C) Clean Water;
- D) Lobbying;
- E) Access to Records and Reports;
- F) Federal Changes;
- G) Clean Air;
- H) Recycled Products;
- I) No Government Obligation to Third Parties;
- J) Program Fraud and False or Fraudulent Statements and Related Acts;
- K) Termination;
- L) Government-Wide Debarment and Suspension;
- M) Privacy Act;
- N) Civil Rights Requirements;
- O) Breaches and Dispute Resolution;
- P) Transit Employee Protective Agreements;
- Q) Disadvantaged Business Enterprise;
- R) Incorporation of Federal Transit Administration Terms;
- S) Drug and Alcohol Testing;
- T) Buy America Requirements;
- U) Cargo Preference Requirements;
- V) Davis-Bacon and Copeland Anti-Kickback Act;

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- W) Contract Work Hours and Safety Standards Act;
- X) Bonding Requirements; and
- Y) Seismic Safety Requirements (if any of the capital improvements involve vertical construction).

In addition, if a Proposer proposes development at landing or terminal sites under the CEA, additional federal cross-cutting requirements may apply, including the following:

- 1) Americans with Disabilities Act compliance;
- 2) Personal and organizational conflicts of interest;
- 3) Metropolitan and statewide planning requirements;
- 4) National Environmental Policy Act of 1969 requirements;
- 5) Environmental Justice requirements;
- 6) Council on Environmental Quality requirements;
- 7) National Historic Preservation Act requirements; and
- 8) Uniform relocation requirements.

Forms for the federal certifications and assurances are included in Appendix D.

### **3.4.3 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS**

Disadvantaged Business Enterprises (DBE) requirements apply to this CEA, and the LA DOTD has adopted a DBE Program to provide DBEs opportunities to participate in the business activities of the LA DOTD as service providers, vendors, the operator, subcontractors, advisors, and consultants. The LA DOTD has adopted the definition of DBEs set forth in 49 CFR 6.5. The Proposer's DBE compliance obligations are governed by all applicable federal DBE regulations, including 49 CFR Part 26, as well as applicable requirements set forth in the CEA Documents and the LA DOTD's DBE Program document.

The DBE participation goal for the Project is **no goal**% for the CEA. Each Proposer shall submit a certification concerning DBE requirements (Form DBEC - Ferry CEA, *see* Appendix D) with its Proposal. Failure to provide the required DBE certification will be considered a breach of the Proposal requirements and will render a Proposal non-responsive.

### **3.5 INSURANCE, BONDING, AND LICENSING**

The selected Proposer may use multiple insurance providers to provide the various types of insurance identified in the CEA; however, the selected Proposer must use one single insurance provider for each type of insurance. The types of insurance, insurance limits, and named insured will be commensurate with the CEA and its level of risk. Details of the insurance requirements are provided in the CEA.

Prior to the execution of the CEA with the selected Proposer, all legal entities and personnel participating in this procurement must obtain all licenses and permits and take all necessary steps to conduct business in the State of Louisiana and perform under the CEA, including obtaining necessary United States Coast Guard (USCG), Federal Communications Commission (FCC), and Transportation Security Administration (TSA) licensing.

#### **4. PROPOSAL SUBMISSION PROCESS**

##### **4.1 RULES OF CONTACT**

The rules of contact are designed to promote a fair, unbiased, legally defensible Proposal submission process. The LA DOTD is the single source of information regarding the CEA and this RFP. The following rules of contact will apply during RFP solicitation and Proposal evaluation and selection process, and commenced on the date of the issuance of the RFP. Contact includes face-to-face, telephone, facsimile, Electronic-mail (E-mail), or formal written contact. Any contact determined to be improper, at the sole discretion of the LA DOTD, may result in disqualification:

- A) A Proposer or any of its team members must not communicate with another Proposer or its team members with regard to the CEA, this RFP, or either Proposer's Proposal, except that subcontractors that are shared between two or more Proposers may communicate with their respective Proposer team members so long as those Proposers establish a protocol to ensure that the subcontractor will not act as a conduit of information between Proposers. Contact among Proposer organizations is allowed during LA DOTD sponsored informational meetings and site visits;
- B) The Proposers shall correspond with the LA DOTD regarding this RFP only through the LA DOTD's and Proposer's designated representatives;
- C) The Proposers shall not contact any LA DOTD employees, including, department heads; members of the selection committee; and any official who will participate in the selection decision except through the process identified above. Contact between Proposer organizations and LA DOTD employees is allowed during LA DOTD sponsored informational meetings and site visits;
- D) Any contact determined to be improper may result in disqualification, at the sole discretion of the LA DOTD;
- E) Any official information regarding the RFP and CEA will be disseminated from the LA DOTD's designated representative identified in Section 4.4 (Procurement Schedule); and
- F) The LA DOTD will not be responsible for any verbal exchange or any other information or exchange that occurs outside the official process specified herein.

##### **4.2 NON-PUBLIC PROCESS**

The LA DOTD will maintain a process to ensure confidentiality for the duration of this RFP solicitation and Proposal evaluation and selection process.

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Further, if the Proposer submits information in its Proposal that it wishes to protect from disclosure, the Proposer must do the following:

- A) Clearly mark all proprietary or trade secret information as such in its Proposal at the time the Proposal is submitted and include a cover sheet stating “DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION” and identifying each section and page which has been so marked;
- B) Include a statement with its Proposal justifying the Proposer’s determination that certain records are proprietary or trade secret information for each record so defined;
- C) Submit one copy of the Proposal that has all the proprietary or trade secret information deleted from the Proposal and label such copy of the Proposal “Public Copy” or certify in its cover letter that the Proposal contains no proprietary or trade secret information; and
- D) Upon notice from the LA DOTD that a request for release of information has been received, the Proposer shall immediately defend any action seeking release of the records it believes to be proprietary or trade secret information and indemnify, defend, and hold harmless the LA DOTD and the State of Louisiana and its agents and employees from any judgments awarded against the LA DOTD and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the LA DOTD’s cancellation or termination of this solicitation or subsequent execution of a CEA. In submitting a Proposal, the Proposer agrees that this indemnification and duty to defend survives as long as the confidential business information is in possession of the LA DOTD.

Proposers and the LA DOTD agree that any records pertaining to this RFP and Proposal evaluation and selection will remain confidential until CEA execution, with the exception of any executive summary, unless such records are proprietary or trade secret information. Should the LA DOTD receive a request for the release of information not already protected prior to CEA execution, the Proposer, whose information is requested, will defend and hold harmless the LA DOTD as set forth in Section 4.2(D).

### **4.3 INELIGIBLE FIRMS AND ORGANIZATIONAL CONFLICTS OF INTEREST**

The Proposer is responsible for disclosing all potential organizational conflicts of interest in its Proposal. A potential organizational conflict of interest may occur in any of the following instances:

- A) When a Proposer is unable, or potentially unable, to provide impartial and objective assistance or advice to the LA DOTD due to other activities, relationships, contracts, or circumstances;

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- B) Where a Proposer has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract; or
- C) Where, during the conduct of an earlier procurement, a Proposer has established the ground rules for this RFP and Proposal evaluation and selection by developing specifications, evaluation factors, or similar documents.

The Proposer is required to provide information concerning potential organizational conflicts of interest in its Proposal. If a potential or real organizational conflict of interest is determined to exist that cannot be neutralized or mitigated, the firm or firms subject to the potential or real organizational conflict of interest will be ineligible to propose. Any determinations rendered by the LA DOTD regarding organizational conflicts of interest will be final.

In addition, any firm that is rendered ineligible due to any state or federal action is ineligible to participate with any Proposer. A Proposer must not submit a Proposal, nor will a Proposal be considered, if the Proposer or any of its members are on any State of Louisiana's agency disqualification list or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of submission of the Proposal or CEA execution. If a subcontractor identified in a Proposer's Proposal is placed on any State of Louisiana's agency disqualification list or is debarred by the LA DOTD, any other agency of the State of Louisiana, or the federal government on the date of the submission of the Proposal or CEA execution, the LA DOTD specifically reserves the right to require the affected Proposer to replace the disqualified or debarred subcontractor prior to that Proposer's Proposal being considered.

### 4.4 PROCUREMENT SCHEDULE

The following represents the current schedule for the Proposal submission process. The schedule is subject to change at the discretion of the LA DOTD.

Activity	Due Date
Issue Request for Proposals	July 18, 2012
Pre-Proposal Informational Meeting and Site Visit	August 7, 2012
Final Date for Receipt of Proposer's Questions	October 30, 2012
Issue Date for Final Addendum and/or Answers to Proposer's Questions	November 7, 2012
Proposal Due Date	November 13, 2012
Presentations/Interviews (optional)	December 4 to 6, 2012
Announcement of Competitive Range, Discussions, and BAFOs (optional)	December 10 to 21, 2012
Cooperative Endeavor Agreement Execution	January 31, 2013

### 4.5 PROPOSER QUESTIONS AND ANSWERS

The LA DOTD will only consider questions submitted in writing by Proposers regarding the RFP. All such requests must be submitted in writing in the format shown on Form Q, Proposer's Question Request, (Appendix D) to Cheryl Duvieilh, Executive Counsel, via E-mail at [Cheryl.Duvieilh@LA.gov](mailto:Cheryl.Duvieilh@LA.gov).

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No requests for additional information to any other LA DOTD office, consultant, or employee will be considered. If the LA DOTD determines that a change to the RFP is needed, all responses will be in writing and shall be delivered without attribution to all Proposers.

Only requests received by 2:00 p.m. (Central Time) on the date specified in Section 4.4 (Procurement Schedule) will be addressed.

Questions must include the requestor's name, address, E-mail, and telephone number and the Proposer he/she represents.

A response to questions will be issued and sent to all recipients of this RFP not later than the date identified for final addendum and/or answers to Proposer's questions specified in Section 4.4 (Procurement Schedule).

### **4.6 REQUEST FOR PROPOSALS ADDENDA**

If necessary, the LA DOTD will issue Addenda to modify conditions or requirements of this RFP to recipients of this RFP not later than the date identified in Section 4.4 (Procurement Schedule).

### **4.7 PRE-PROPOSAL INFORMATIONAL MEETING AND SITE VISIT**

A pre-Proposal informational meeting and subsequent site visit will be held from 9:00 a.m. to 5:00 p.m. (Central Time) on Tuesday, August 7, 2012, at the Crescent City Connection Division Headquarters offices, located at 2001 Mardi Gras Boulevard, New Orleans, LA 70174-6297. Attendance at the pre-Proposal informational meeting and subsequent site visit is optional. However, Proposers must inform the LA DOTD of their intention to attend the pre-Proposal informational meeting and site visit in order for appropriate accommodation to be made. Attendance must be confirmed to Cheryl Duvieilh at [Cheryl.Duvieilh@LA.gov](mailto:Cheryl.Duvieilh@LA.gov) no later than July 31, 2012. Each Proposer is limited to no more than four representatives at the pre-Proposal informational meeting and site visit.

## **5. PROPOSAL SUBMITTAL REQUIREMENTS**

### **5.1 DATE, TIME, AND LOCATION OF RECEIPT**

All Proposals must be received no later than 2:00 p.m. (Central Time) on the Proposal due date specified in Section 4.4 (Procurement Schedule). The Proposals must be clearly identify RFx # 30000001294 and be identified as "PROPOSALS FOR LA DOTD FERRY SERVICES." Submittals must be enclosed in sealed containers and identify the Proposer's official name and address in the upper left hand corner. Late submittals will not be considered.

The Proposals will be submitted to the following address:

Cheryl Duvieilh  
Executive Counsel  
Louisiana Department of Transportation and Development  
Room 303-A

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1201 Capitol Access Road  
Baton Rouge, LA 70802-4438.

Each Proposer will be responsible for obtaining a written receipt appropriate to the means of delivery from the LA DOTD office specified in this Section 5.1 at time of delivery of its Proposal. It is the Proposer's sole responsibility to ensure delivery of its Proposal to the LA DOTD at the time and place specified herein and the LA DOTD will have no liability or responsibility therefore.

### 5.2 FORMATTING REQUIREMENTS

The Proposal must be limited to no more than 75 pages in Sections 2 through 9 of the Business Service Concept Proposal and Section 2 of the Financial Value Proposal (*see* Appendix C), including required forms but exclusive of dividers. The 75 page limit excludes the information submitted in response to Sections 5.3.3.1 (Legal) and 5.3.4.1 (Financial). One signed original copy and nine copies of the Proposals must be provided. The signed original copy must be identified as the original on the cover(s) and marked as "Copy 1 of 10 Copies." All copies must be provided in loose-leaf binders. Bound copies will not be accepted. Each copy must be identified on the cover(s) as "Copy # of 10 Copies." The document must be organized to correspond with the outline presented in Appendix C.

### 5.3 PROPOSAL ORGANIZATIONAL AND CONTENT REQUIREMENTS

This section describes the specific information that must be included in the Proposal. An outline of the required format for the Proposal is provided in Appendix C. Required forms for the Proposal are contained in Appendix D.

Proposers should provide brief, concise information that addresses the objectives and the requirements consistent with the evaluation factors described in Sections 5.3.3 (Business Service Concept Proposal: Evaluation Factor Objectives and Requirements) and 5.3.4 (Financial Value Proposal: Evaluation Factor Objectives and Requirements). **Lengthy narratives containing extraneous information are discouraged.**

#### 5.3.1 Cover Letter

The Proposer must provide a one-page letter indicating its desire to be considered for the CEA and stating the official names and roles of all members on its team. The Proposer must identify a single point of contact for the Proposer and the address, telephone number, and E-mail address where questions should be directed. Authorized representatives of the Proposer's organization must sign the letter. If the Proposer is a Joint Venture (JV) or general partnership or other group, authorized representatives of all proposed members of the JV or general partnership must sign the letter.

The Proposer shall attach the Acknowledgment of Receipt (Appendix D) acknowledging receipt of the RFP and any Addenda and/or responses to questions issued by the LA DOTD.



### 5.3.2 Executive Summary

An Executive Summary highlighting the positive elements of the Proposer's Proposal must be included with the Proposal. The Executive Summary will not be considered confidential and, as such, should not contain any confidential proprietary or trade secret information. After the receipt of Proposals but prior to execution of the CEA, the Executive Summary of any or all Proposers may be made public, at the sole discretion of the LA DOTD.

### 5.3.3 Business Service Concept Proposal: Evaluation Factor Objectives and Requirements

In providing the Business Service Concept Proposal, Proposers should be guided by the goals in Section 3.1 (Cooperative Endeavor Agreement Goals) and the objectives associated with each evaluation factor. An objective is stated for each evaluation factor to provide Proposers the expectations of the LA DOTD. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The Proposal evaluation ratings of Section 6.1.1 (Evaluation Factors for the Request for Proposals/Proposals) will be based on how well the Proposal responds to the requirements and meets or exceeds the goals and the objectives for each of the evaluation factors.

#### 5.3.3.1 Legal

A) Objective

To identify legally constituted Proposers able to submit responsive Proposals and enter into the CEA and perform under the CEA.

B) Requirements and information to be provided in Section 1 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

- 1) The Proposer must execute Form L-1, Proposer's Organization Information, (Appendix D) for the Proposer's organization;
- 2) Evidence of the Proposer's or its members', if it is a JV or partnership, registration with the Louisiana Secretary of State indicating that the Proposer is registered to do business in the State of Louisiana;
- 3) If the Proposer is a JV or partnership, the Proposer must include the following:
  - a) Percent equity share held by each member. Each member of a JV or partnership must be an equity partner in the organization; and
  - b) An express statement from each of the equity members of the entity as to their joint and several liability; and
  - c) Full details of the organizational structure and supporting organization/formation documents including a copy, as applicable, of



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the JV agreement or partnership agreement or, if the JV agreement or partnership agreement has not yet been executed among the parties, a draft of such JV agreement or partnership agreement or a Memorandum of Understanding (MOU) stating the terms of such JV agreement or partnership agreement; and

- 4) Notarized Power(s) of Attorney
  - a) If the Proposer is a JV or general partnership, notarized Power(s) of Attorney for each member of the JV or general partnership, indicating the authority of the member's representative to sign for that member; and
  - b) Notarized Power(s) of Attorney from each Proposer's member indicating the authority of the Proposer's designated point of contact identified on Form L-1 (Appendix D) to sign documents for and on behalf of the Proposer's organization;
- 5) Evidence that the Proposer, or one or more members of the Proposer, holds the appropriate licenses pursuant to Title 46 of the Code of Federal Regulations (CFR) and Title 33 of the CFR, including appropriate FCC and TSA licenses, or a commitment signed by authorized representatives of the Proposer and its members, if relevant, to become licensed prior to award of the CEA;
- 6) The Non-Collusion Form (Appendix D) certifying that the Proposal is not the result of, and has not been influenced by, collusion;
- 7) Form DBEC - Ferry CEA, Disadvantaged Business Enterprise Certification, (Appendix D) concerning Disadvantaged Business Enterprise (DBE) requirements;
- 8) The Certification of Restrictions on Lobbying (Appendix D), certifying that no federal appropriated funds have been or will be paid for lobbying activities and no other funds have been paid or will be paid to influence governmental decisions regarding the CEA;
- 9) The Buy America Certificate (Appendix D), certifying compliance with the Buy America requirements of the Surface Transportation Assistance Act of 1982, as amended, and FTA Buy America regulations;
- 10) The Cargo Preference - Use of United States Flag Vessels (Appendix D), certifying the use of United States (US) flag commercial vessels when shipping equipment, materials, or commodities;
- 11) The Certification Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion from Transactions Financed in Part by the U.S. Government (Appendix D), certifying that the Proposer and

none of its principals are excluded or disqualified from participating in this transaction; and

- 12) A disclosure of any potential organizational conflicts of interest, as further explained at Section 4.3 (Ineligible Firms and Organizational Conflicts of Interest), including disclosure of all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest. The disclosure must state how the Proposer's interests, or those of its chief executives, directors, or any proposed subcontractors may result, or could be viewed as, an organizational conflict of interest. If the LA DOTD determines that an actual or potential conflict of interest exists that cannot be avoided, neutralized, or mitigated, that Proposer will not be eligible for selection.

### 5.3.3.2 Level of Service Plan

#### A) Objective

To ensure that a Proposer is selected the provides the minimum level of service required on the Chalmette-to-Lower Algiers ferry line and, if feasible, additional service at any of the ferry lines at the Proposer's offering.

#### B) Requirements and information to be submitted in Section 2 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

The Proposer must identify each ferry line it is proposing to operate, individually identifying the ferry lines as follows:

- 1) Chalmette-to-Lower Algiers;
- 2) Canal Street-to-Algiers Point; and
- 3) Gretna-to-Canal Street.

The Proposer must offer to operate the Chalmette-to-Lower Algiers ferry line at the minimum service level identified in Appendix A, Section 3.1. Proposers that provide service at the Canal Street-to-Algiers Point or Gretna-to- Canal Street ferry lines, in addition to that minimally required at the Chalmette-to-Lower Algiers ferry line, will be given greater consideration. Proposers should note, however, that under Act No. 865, which was passed during the 2012 Regular Session of the Louisiana State Legislature, funds could be allocated to the Algiers-Canal Street Ferry Fund for use on the Canal Street-to-Algiers Point ferry line. The Algiers-Canal Street Ferry Fund would not be available prior to January 1, 2013.

The Proposer must explain the level of service it will provide for each ferry line which it has proposed to operate, including the following relevant topics:

- a) Hours of service;
- b) The frequency of crossings;
- c) The size of the vessels to be used;
- d) Whether the service will be vehicular or pedestrian service;
- e) The number of vessels per route, including plans for any identifiable peak traffic hours, and the number of stand-by vessels per route;
- f) Special event sailings; and
- g) Outlines of the safety and security plan for the proposed Ferry Service.

**5.3.3.3 Terminal and Landing Use Plan**

A) Objective

To ensure that Proposers consider and utilize the terminals and landings to the fullest extent possible to provide economic benefit to the ferry lines, customers, and local communities.

B) Requirements and information to be submitted in Section 3 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

The Proposer shall provide a preliminary terminal and landing use plan that identifies any proposed improvement opportunities for each of the terminal and landing locations. The preliminary terminal and landing use plan may address any of the following topics:

- 1) Any planned modifications to the docks, shelter, queuing areas, and fare collection necessary to address safety, reliability or efficiency;
- 2) Development of the terminal space and landings;
- 3) Subleasing within the terminals to concessionaires and vendors;
- 4) Leases of advertising space at the terminals or on the ferries;
- 5) Provision of special event services at the terminals and landings;
- 6) Exploration of tourist activities; or

- 7) Other revenue enhancing activities for consideration by the LA DOTD.

**5.3.3.4 Customer Service Plan**

- A) Objective

To identify Proposers that will provide robust customer service and public relations during the course of the CEA, including involvement with advisory boards and stakeholders.

- B) Requirements and information to be submitted in Section 4 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

The Proposer shall provide a detailed description of its customer service plan for the Ferry Service, including the following information:

- 1) Interaction with any Ferry Service advisory boards;
- 2) Stakeholder involvement; and
- 3) Strategy for planning, marketing, and sales, including the following:
  - a) Strategy for public relations;
  - b) The procedure for complaint management;
  - c) Advertisement and notice of schedules and changes thereto;
  - d) Usage of social media; and
  - e) Handling of service disruptions.

**5.3.3.5 Maintenance Plan**

- A) Objective

To ensure that Proposers have a logical and complete plan for the maintenance of movable and immovable assets necessary for the Ferry Service.

- B) Requirements and information to be submitted in Section 5 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

The Proposer shall provide a narrative describing its maintenance plan for the movable and immovable assets subject to the Ferry Service. The narrative plan shall describe, at a minimum, the following requirements:

- 1) An in house maintenance staffing plan or plans to contract maintenance to an external company;
- 2) A preventive maintenance plan (diagnostic);
- 3) A plan to handle emergency repairs;
- 4) A capital maintenance plan (compliance with USCG requirements);
- 5) Terminal maintenance (routine custodial services); and
- 6) A plan to bring terminals to a state of good repair.

**5.3.3.6 Mobilization and Transition Plan**

- A) Objective

To ensure that Proposers mobilize and transition the operation of the ferry lines in a manner that will minimize any service disruptions to the public and the LA DOTD.

- B) Requirements and information to be submitted in Section 6 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

The Proposer will provide a plan for the mobilization and transition of its forces under the CEA, including the following items:

- 1) The mobilization and transition time frame;
- 2) Preparation of all operational plans required by the LA DOTD and other regulatory and oversight agencies;
- 3) Plans to comply with regulatory and safety requirements;
- 4) Development of informational technology and other systems;
- 5) Hiring, training, and retention of employees;
- 6) Development of procedures and internal guidelines;

- 7) Transitioning equipment and facilities to the operator in a manner seamless to the LA DOTD and its customers;
- 8) Use of any new vessels or other equipment; and
- 9) Continuous activity at the maintenance facility with no impacts on customer service.

**5.3.3.7 Experience of the Firms**

A) Objective

To identify the best firms available with demonstrated experience and expertise in and record of performing quality work under operating conditions and with responsibilities similar in nature to the CEA.

B) Requirements and information to be submitted in Section 7 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

- 1) Using Form E-1, Past Experience, (Appendix D) the Proposer must provide no more than ten and a minimum of two descriptions of past experience or operating contracts per each member firm of the Proposer's team demonstrating past experience. The Proposer must describe experience addressing the following requirements:
  - a) Operation of USCG inspected vessels over the past five years, at a minimum;
  - b) Operation of ferry transit systems over the past five years, at a minimum;
  - c) Successful mobilization/transition of a previous privatization effort;
  - d) Profitability in a post-privatization operation;
  - e) Operation of vehicle carrying vessels;
  - f) Operation of pedestrian carrying vessels;
  - g) Operation of passenger vessels inspected in accordance with 46 CFR – Subchapter H;
  - h) Development and implementation of Vessel Security Plans or Facility Security Plans in accordance with 33 CFR – Parts 104 and 105; and
  - i) Development opportunities.

The Proposer must include a reference for each experience cited, including telephone number and E-mail address. References must have been directly involved as a representative for the work performed by the Proposer under the contract. The LA DOTD reserves the right to contact the reference specifically named by the Proposer in its Proposal or any other additional references as deemed appropriate by the LA DOTD, including references suggested by the Proposer's named references or references known to the LA DOTD through its own knowledge of the transportation industry.

- 2) Using Form E-2, Subcontractor Information, (Appendix D) the Proposer must identify subcontractors (including consultants) the Proposer plans to use, to the extent they are known, indicating what type of work such subcontractor is anticipated to perform. The Proposer must submit a maximum one-page summary of experience for each listed subcontractor, including consultants. Proposers must provide an explanation of the rationale for the inclusion of the subcontractor.

#### **5.3.3.8 Past Performance**

- A) Objective

To ensure that Proposers with firms or personnel with a history of legal, financial, or safety problems do not adversely impact the CEA generally.

- B) Requirements and information to be submitted in Section 8 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

Using Form PP, Past Performance, (Appendix D) the Proposer must provide the information requested below. If a Proposer has no record of relevant past performance, or if the information relative to a category is not applicable, the Proposer shall enter a declarative statement to that effect on Form PP. If the record of relevant past performance is not available, the Proposer will receive a technical rating of "one" for this factor as set out in Section 6.2.2 (Rating Guidelines). The Proposer should attach additional sheets to Form PP as necessary. For each instance of litigation, claim, dispute proceeding, arbitration, assessment of liquidated damages, or termination for cause or default, the Proposer must provide the property's name and the name of its current representative (and current telephone number and E-mail address) who can be contacted for additional information. With respect to the information solicited in this Section 5.3.3.8, failure to provide this information, conditional or qualified submissions to requests or questions posed (i.e., "to our knowledge," "to the extent of available information," "such information is not readily available," or "such information is not maintained in the manner requested,"), incomplete or inaccurate submissions, statements directing the LA DOTD to contact a Proposer's attorney, or non-responsive submissions may, in the sole discretion of

the LA DOTD, lead to a lower evaluation rating for this evaluation factor or may result in rejection of the Proposal.

1) Claims, Dispute Proceedings, Litigation, and Arbitration Proceedings

The Proposer must provide a list of all claims, dispute proceedings, litigation, and arbitration proceedings involving amounts in excess of \$1 million and related to performance in which the Proposer or any member of the Proposer's team has been involved during the past five years. The Proposer or any member of the Proposer's team must include all claims, dispute proceedings, litigation, and arbitration proceedings initiated by owners and federal, state, and local regulatory agencies against the Proposer or any member of the Proposer's team or all claims, dispute proceedings, litigation, and arbitration proceedings initiated against owners and federal, state, and local regulatory agencies by third parties and in which the Proposer or any member of the Proposer's team was involved. The Proposer and/or member of the Proposer's team must indicate whether the claim, dispute proceeding, litigation, or arbitration proceeding was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to the participant. The Proposer and/or member of the Proposer's team must indicate any unresolved, outstanding claims, dispute proceedings, litigation, and arbitration proceedings;

2) Termination for Cause or Default

The Proposer must describe the conditions surrounding any contract (or portion thereof) entered into by the Proposer or any member of the Proposer's team over the past five years that has been terminated for cause or default or which required completion by another party. The Proposer and/or member of the Proposer's team must describe the reasons for termination and the contract amounts involved;

3) Disciplinary Action

The Proposer must indicate any disciplinary action taken against the Proposer or any member of the Proposer's team within the past five years by the Occupational Safety and Health Administration, the USCG, any environmental or governmental agency, or licensing boards, including suspension from the right to propose/bid or removal from any proposer/bid list, or any other entity, agency or regulator (including, but not limited to, foreign entity, agencies or regulators); and

4) Safety Issues/Accidents

The Proposer must disclose any major accidents or events related to the provision of ferry services in which the Proposer or any member of the Proposer's team was involved in the last ten years, in which one or more



persons was killed or more than one person was seriously injured, as well as any event in the last ten years that might reasonably call into question the Proposer's and/or member of the Proposer's team's ability to safely perform the CEA. For purposes of this RFP, the term "accident" is not limited to incidents in which a collision occurred.

**5.3.3.9 Organization**

A) Objective

To identify Proposers that will effectively manage all aspects of the CEA in a quality, timely, and effective manner and will integrate the different parts of its organization collectively and with the LA DOTD in a cohesive and seamless manner.

B) Requirements and information to be submitted in Section 9 of the Business Service Concept Proposal (*see* Appendix C to this RFP for Proposal section organization)

- 1) An organizational chart of the Proposer of its management structure for its New Orleans operation;
- 2) An organizational chart demonstrating how the Proposer will interact with both the LA DOTD and the Proposer's "home" office; and
- 3) A discussion of the Proposer's chain-of-command and decision-making process and authority with regard to this CEA.

**5.3.4 Financial Value Proposal: Evaluation Factor Objectives and Requirements**

The Financial Value Proposal will be subject to an independent cost/price analysis. Proposers may be required to supply additional pricing information. Additional information may include personnel cost elements, including, direct salary (hourly rates by individual position), overhead on salary (expressed as a verifiable rate), direct non-salary (travel or subcontractor work directly related to this CEA), and proposed profit. Failure to submit accurate cost data upon request, or to allow the LA DOTD to verify the same, may result in rejection of the Proposal.

In providing the Financial Value Proposal, Proposers should be guided by the goals in Section 3.1 (Cooperative Endeavor Agreement Goals) and the objectives associated with each evaluation factor. An objective is stated for each evaluation factor to provide Proposers the expectations of the LA DOTD. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The Proposal evaluation ratings of Section 6.1.1 (Evaluation Factors for the Request for Proposals/Proposals) will be based on how well the Proposal responds to the requirements and meets or exceeds the goals and the objectives for each of the evaluation factors.

**5.3.4.1 Financial**

A) Objective

To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the CEA.

B) Requirements and information to be submitted in Section 1 of the Financial Value Proposal (*see Appendix C to this RFP for Financial Value Proposal section organization*)

The Proposer shall provide financial statements for the Proposer and members of the Proposer's team for the three most recent Fiscal Years (FY), audited by a Certified Public Accountant (CPA) in accordance with US Generally Accepted Accounting Principles (GAAP). Financial statements must be provided in US dollars.

Credit ratings must be supplied for each entity to the extent such entities have credit ratings. If no credit ratings exist, include a statement specifying that no credit ratings exist for the entity.

The Proposer shall package the information separately for each separate entity with a cover sheet identifying the name of the organization and its role in the Proposer's organization. The information required in this Section 5.3.4.1(B) will not count toward the page limit.

**5.3.4.2 Utilization of Public Funds**

A) Objective

To identify Proposers with Financial Value Proposals that consider the available public funds and the Proposer's rate-setting and other revenue approaches.

B) Requirements and information to be submitted in Section 2 of the Financial Value Proposal (*see Appendix C to this RFP for Financial Value Proposal section organization*)

1) Request for Public Funds

The following public funds are anticipated to be the maximum available for the use of the selected Proposer, based upon appropriation, federal grant negotiation, and fund availability at both the state and federal level. Greater consideration will be given to those Proposers that use less than the maximum amount of public funds available.

- a) An annual payment not-to-exceed \$4 million for ferry operations and maintenance, with certain elements to be indexed over the term of the CEA as negotiated with the selected Proposer; and

- b) A one-time capital payment not-to-exceed \$3 million in local and Transportation Enhancement funds to upgrade existing terminals and landings.

If the Proposer opts to utilize all or any portion of the local and Transportation Enhancement funds referenced in Section 5.3.4.2(B)(1)(b) above, it should be noted that the selected Proposer will be required to competitively select lower tier subcontractors under state law in the performance of the work and will be required to provide 100% performance and payment bonds and a five percent retainage bond for the value of the work associated with upgrades of the existing terminals and landings.

The LA DOTD also anticipates the availability of capital funds not-to-exceed \$16 million in Congestion Mitigation and Air Quality and state funds to purchase new or upgrade existing ferries. The LA DOTD would conduct the acquisition of new ferries or services to upgraded existing ferries, but would work with the selected Proposer to determine the type of ferry or services to be acquired.

The Proposer shall indicate the maximum amount of public funds it will request for each year of the CEA for each of the identified public funds in (a) through (b) above. If the Proposer does not intend to utilize any public funds identified in (a) through (b) above, it must affirmatively state its intention.

The Proposer's request should be based upon the Level of Service Plan set forth pursuant to Section 5.3.3.2 (Level of Service Plan) and other commitments made under the Business Service Concept Proposal.

- 2) Rate Setting and other Revenue

The Proposer shall set forth a brief narrative stating its rate-setting methodology, what revenue it will use to make up any funding shortfalls, and any other specific financial approaches it will use to ensure that no interruptions in ferry operations will occur.

## **6. EVALUATION AND SELECTION PROCESS**

Proposals submitted in response to this RFP must include a response to each evaluation factor.

The purpose of the RFP is to select a Proposer with the capability and experience necessary to successfully undertake and complete the performance of the CEA. The operator will have primary responsibility to operate and maintain the LA DOTD's Ferry Service. The LA DOTD has set high responsibility standards for the operator that are reflected in the evaluation factors of this RFP and the CEA. Specific objectives relating to each of the evaluation factors are listed in Sections 5.3.3 (Business Service Concept Proposal: Evaluation Factor Objectives and

Requirements) and 5.3.4 (Financial Value Proposal: Evaluation Factor Objectives and Requirements) of this RFP.

## 6.1 REVIEW AND EVALUATION OF THE PROPOSAL

The information submitted in accordance with Section 5 (Proposal Submittal Requirements) will be evaluated in accordance with the pass/fail evaluation factors listed in Section 6.1.1.1 (Pass/Fail Evaluation Factors), the Business Service Concept Proposal rated evaluation factors provided in Section 6.1.1.2 (Business Service Concept Proposal Rated Evaluation Factors), and the Financial Value Proposal rated evaluation factor provided in Section 6.1.1.3 (Financial Value Proposal Rated Evaluation Factors).

When determining the “best value,” the Business Service Concept Proposal and Financial Value Proposal will be equally important.

### 6.1.1 Evaluation Factors

The LA DOTD has identified the following evaluation factors that are of particular importance to LA DOTD. This information is provided here to assist Proposers in organizing their teams and preparing their Proposals.

#### 6.1.1.1 Pass/Fail Evaluation Factors

The pass/fail evaluation factors are as follows, and will be rated on the included criteria:

- A) **Legal.** The Proposer has presented evidence showing its organization has the legal ability to enter into and perform the CEA.
- B) **Financial.** The Proposer has demonstrated an ability to meet financial requirements of undertaking and performing the CEA.

If a Proposer passes all pass/fail evaluations, its Proposal will be further evaluated using the factors for rating in Sections 6.1.1.2 (Business Service Concept Proposal Rated Evaluation Factors) and 6.1.1.3 (Financial Value Proposal Rated Evaluation Factors). Failure of any single pass/fail requirement may result in rejection of the Proposal.

#### 6.1.1.2 Business Service Concept Proposal Rated Evaluation Factors

The Business Service Concept Proposal rated evaluation factors will be consider in the following order of importance, with weighting as identified, and will be rated on the included criteria:

- A) **Level of Service Plan (50%).** The Proposer has demonstrated a level of service that provides the minimum level of service required on the Chalmette-to-Lower Algiers ferry line and, if feasible, additional service at any of the ferry lines at the Proposer's offering.
- B) **Terminal and Landing Use Plan (10%).** The Proposer has proposed a preliminary terminal and landing use plan that considers and utilizes the terminals

and landings to the fullest extent possible to provide economic benefit to the ferry lines, customers, and local communities.

- C) **Customer Service Plan (10%).** The Proposer has demonstrated a customer service plan that provides robust customer service and public relations during the course of the CEA, including involvement with advisory boards and stakeholders.
- D) **Maintenance Plan (10%).** The Proposer has demonstrated a maintenance plan that is a logical and complete plan for the maintenance of movable and immovable assets necessary for the Ferry Service.
- E) **Mobilization and Transition Plan (5%).** The Proposer has proposed a mobilization and transition plan that minimizes any service disruptions to the public and the LA DOTD.
- F) **Experience of the Firms (5%).** The Proposer has identified and demonstrated the operating conditions and responsibilities, experience and expertise in and a record of performing quality work and innovation under contracts similar in nature to the CEA.
- G) **Past Performance (5%).** The Proposer has demonstrated that it and its members do not have a history of legal, financial, or safety problems that could adversely impact the CEA generally.
- H) **Organization (5%).** The Proposer has identified an organization that will effectively manage all aspects of the CEA in a quality, timely, and effective manner that will integrate the different parts of its organization collectively and with the LA DOTD in a cohesive and seamless manner.

### 6.1.1.3 Financial Value Proposal Rated Evaluation Factors

The Financial Value Proposal rated evaluation factor is **Utilization of Public Funds** and will be rated on the included criteria of whether the Proposer has identified a Financial Value Proposal that considers the available public funds and appropriate rate-setting and other revenue approaches.

### 6.1.2 Rating Guidelines

The Business Service Concept Proposal Rated Evaluation Factors and the Financial Value Proposal Rated Evaluation Factors identified in Sections 6.1.1.2 and 6.1.1.3, and elements thereof, will be evaluated in accordance with the guidelines provided in this Section 6.1.2 by each member of the Selection Committee.

The Business Service Concept Proposal Rated Evaluation Factors and Financial Value Proposal Rated Evaluation Factors and elements thereof will be rated by each member of the Selection Committee using the following ratings.

The Chair of the Selection Committee will subsequently average the ratings of all members of the Selection Committee for each Business Service Concept Proposal Rated Evaluation Factor and Financial Value Proposal Rated Evaluation Factor.

The Chair of the Selection Committee will then conduct mathematical calculations, taking into account each Business Service Concept Proposal Rated Evaluation Factor score and weight, to determine the Business Service Concept Proposal overall ratings for each Proposer. Since the Financial Value Proposal has only one rated evaluation factor, the averaged rating of the Financial Value Proposal Rated Evaluation Factor will be the overall rating of the Financial Value Proposal.

The Chair of the Selection Committee will then add the overall Business Service Concept Proposal rating and overall Financial Value Proposal rating to determine the final Proposal Rating for each Proposer.

Ratings for each rated evaluation factor will be based on the following rating criteria:

***FIVE:*** The Proposer has provided information which is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no weaknesses.

***THREE:*** The Proposer has presented information which is considered to exceed stated objectives/requirements and offers a generally better than acceptable quality. Weaknesses, if any, are very minor and no correction is necessary.

***ONE:*** The Proposer has presented information which is considered to meet the stated objectives/requirements and has an acceptable level of quality. Weaknesses are minor and can be readily corrected.

***ZERO:*** The Proposer has presented information that contains significant weaknesses and/or unacceptable quality. The Proposal fails to meet the stated objectives and/or requirements and/or lacks essential information and/or is conflicting and/or unproductive. Weaknesses are so major and/or extensive that a major revision to the Proposal would be necessary and/or are not correctable.

The LA DOTD may waive minor irregularities in the form of the Proposal that do not alter the quality or quantity of the information provided.

## **6.2 PRESENTATIONS AND INTERVIEWS**

The LA DOTD may utilize presentations and/or interviews during the evaluation and selection process if, at the sole discretion of the LA DOTD, it is considered to be in the LA DOTD's best interest. If the LA DOTD determines that presentations and/or interviews are in its best interest, the LA DOTD will notify all or a short-list of the most highly qualified Proposers of the decision to utilize presentations and/or interviews and schedule the presentations and/or interviews in such a way as to not unduly delay the Proposal evaluation and selection process.

The LA DOTD reserves the right, in its sole discretion, to conduct multiple rounds of presentations and/or interviews, if it deems necessary to do so, with one or more Proposers.

### **6.3 COMMUNICATIONS**

Communications may be required as part of the Proposal evaluation and selection process. The purpose of Communications is to address minor or clerical revisions in a Proposal in preparation for declaration of a Competitive Range. During the process of evaluations there may be instances where meaningful evaluation cannot take place or proceed or where an erroneous evaluation might occur without seeking Communications. In such cases, the LA DOTD will submit a request for Communications in writing to the Proposer stating the information needed and a date and time by which the information must be provided. The Proposer shall provide the requested information in writing by the date and time indicated. If Communications are not timely received, the Proposer's ratings may be adversely affected and/or the Proposal may be rejected.

### **6.4 COMPETITIVE RANGE**

The LA DOTD may determine a Competitive Range. The LA DOTD will determine a Competitive Range, if it chooses to do so, after a careful analysis of the Business Service Concept and Financial Value Proposals. The Competitive Range would include all Proposers that have a reasonable chance of being selected. Borderline Proposals will not be excluded from further consideration if the Proposers have a reasonable chance of being listed if meaningful Discussions are conducted and appropriate improvement is achieved. Proposals that would be excluded from further consideration include a Proposal that, after the initial evaluation, is rated "zero" for any rated evaluation factor, a fail for any pass/fail evaluation factor, or a Proposal that for any other reason is under consideration for rejection.

### **6.5 DISCUSSIONS**

The LA DOTD may, at its sole discretion, conduct written and/or verbal Discussions with any of the Proposers in the Competitive Range regarding the content of their Proposal. If Discussions are held, they will be held with all Proposers in the Competitive Range.

#### **6.5.1 Purpose**

If the LA DOTD determines that Discussions are required, they will be conducted for the following purposes:

- A) Advising the Proposers of weaknesses and/or deficiencies in their Proposals (relative to the RFP);
- B) Attempting to resolve any uncertainties, thereby obtaining any significant additional understanding concerning the Proposal;



- C) Resolving any suspected mistakes by calling them to the attention of the Proposers as specifically as possible without disclosing information concerning other competing Proposals or the evaluation process; and
- D) Providing the Proposers a reasonable opportunity to submit any further Proposal information.

### **6.5.2 Procedures**

The following specific procedures will apply:

- A) Information disclosed by Proposers in the Competitive Range during Discussions will not be made public until after execution of the CEA;
- B) Discussions may be written and/or verbal; and
- C) No indication will be made to any Proposer of the evaluation status of any other Proposer or Proposal.

During Discussions, LA DOTD personnel involved in the Discussions will not engage in conduct that:

- 1) Favors one Proposer over another or engages in "Technical Leveling" or "Technical Transfusion";
- 2) Reveals a Proposer's Financial Value Proposal without that Proposer's permission. However, the LA DOTD may inform a Proposer that its Financial Value Proposal is considered by the LA DOTD to be non-competitive and reveal the results of the analysis supporting that conclusion;
- 3) Reveals the names of individuals providing reference information about a Proposer's past performance; or
- 4) Knowingly furnishes selection information in violation of the LA DOTD's procurement policies and the laws of the State of Louisiana.

### **6.5.3 Proposal Revisions and/or Best and Final Offers**

Although the LA DOTD reserves the right to issue a request for Proposal revisions (including BAFOs), the LA DOTD is under no obligation to do so. The LA DOTD may make its selection based on the initial Proposals submitted.

If the LA DOTD requests Proposal revisions and/or BAFOs, Proposers in the Competitive Range may be informed of and requested and/or allowed to revise their Proposals, including correction of any weaknesses, minor irregularities, and/or errors identified to the Proposers by the LA DOTD following initial evaluation of the Proposals. The request for Proposal revisions and/or BAFOs will allow adequate time for the Proposers to revise their Proposals. Upon receipt of the Proposal revisions and/or BAFOs, the process of evaluation will be repeated. The process will consider the revised information and re-evaluate and revise ratings as appropriate. Although this RFP allows for Proposal revisions and/or BAFOs, all efforts will be made to make a selection



based on initial Proposals. If Discussions are held, the LA DOTD will attempt to limit the selection process to a single BAFO following Discussions. If a Proposal revision and/or BAFO is requested of a Proposer, and that Proposer opts to not submit a Proposal revision and/or BAFO, that Proposer's original Proposal or most recent Proposal revision, as appropriate, will be treated as its BAFO.

#### **6.5.4 Best Value Determination**

The LA DOTD has determined that selection of the most advantageous Proposer will be based on a best value determination that provides the best opportunity to obtain the right operator to assure successful performance of the CEA. The LA DOTD's procedures for the evaluation and selection of Proposals were designed to provide a comprehensive evaluation of the Business Service Concept Proposal and Financial Value Proposal that will result in the selection of the most advantageous operator.

In determining the best value, the LA DOTD will determine whether the Proposals are responsive and evaluate the pass/fail and rated evaluation factors and assign an overall rating for the Business Service Concept Proposal. Then, after evaluating and assigning a rating for the Financial Value Proposal, the LA DOTD will determine the best value.

The LA DOTD will not select any Proposer that receives a rating of fail on any pass/fail evaluation factor or zero on any rated evaluation factor. The LA DOTD will not select any Proposer that the LA DOTD determines has submitted a non-responsive Proposal.

#### **6.5.5 Negotiations**

After selection but prior to execution of the CEA, the LA DOTD may, at its sole discretion, either conduct negotiations with the selected Proposer or the LA DOTD may choose not to conduct negotiations with the selected Proposer and execute the CEA with the selected Proposer based on its written Proposal and any additional information received during Discussions and Proposal revisions and/or BAFOs, if conducted.

If the LA DOTD opts, in its sole discretion, to conduct negotiations with the selected Proposer, the LA DOTD will conduct negotiations with the selected Proposer until either of the following events:

- A) The LA DOTD and the selected Proposer come to mutual agreement on the scope, contractual terms, and financial terms of the CEA and the CEA is executed; or
- B) One or both of the parties determines that the parties cannot successfully agree as to the scope, contractual terms, and/or financial terms of the CEA and negotiations are terminated.

If the parties are unable to reach agreement on the scope, contractual terms, and/or financial terms of the CEA, then the LA DOTD may, in its sole discretion, negotiate with the next most advantageous Proposer or choose to terminate the procurement in its entirety.

Once negotiations have been terminated with any Proposer, the negotiations may not be reopened with that Proposer under any circumstances.

## **7. PROTESTS**

This Section 7 sets forth the exclusive protest remedies available with respect to the selection determination of the selected Proposer. Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, shall be final and conclusive. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies set forth in this RFP, it shall indemnify, defend, and hold the LA DOTD and its directors, officers, officials, employees, agents, representatives, and consultants harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees, and damages incurred or suffered as a result of such Proposer's actions. The submission of a Proposal by a Proposer will be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

### **7.1 WRITTEN PROTESTS ONLY**

All protests must be in writing and submitted delivered to Cheryl Duvieilh (Protest Official) at either [Cheryl.Duvieilh@LA.gov](mailto:Cheryl.Duvieilh@LA.gov) or

Louisiana Department of Transportation and Development  
Room 303-A  
1201 Capitol Access Road  
Baton Rouge, LA 70802-4438.

All protests must be submitted within three calendar days from the selection of the operator. Any protest not set forth in writing within the time limits specified in these procedures is null and void and will not be considered.

### **7.2 PROTEST CONTENTS**

All Protests must include the following information:

- A) The name and address of the Proposer;
- B) The RFX number;
- C) A detailed statement of the nature of the protest and the grounds on which the protest is made; and
- D) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury.

The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it will be decided on the basis of the written submissions by the Protest Official or designee.

### **7.3 PROTEST DECISION**

The Protest Official or designee will issue a written decision regarding any protest within five calendar days, at which time the LA DOTD will not proceed with the procurement until after the written decision is issued. The decision issued in writing by the Protest Official or designee is the final decision of LA DOTD. No further right of appeal is granted herein. In accordance with FTA policy, a protestor may not appeal to FTA unless the protestor qualifies as an interested party, has exhausted all other administrative remedies, and claims that the LA DOTD has failed to follow these protest procedures. Any appeal to FTA alleging that the LA DOTD has failed to follow these procedures must be filed with FTA no later than five federal government working days after the decision is rendered by the appointed Protest Official.

## **8. LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS AND DISCLAIMERS**

### **8.1 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT RIGHTS**

The LA DOTD may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform under the CEA. The LA DOTD reserves the right, in its sole and absolute discretion, to any of the following:

- A) Rejection of any or all Proposals;
- B) Issuance of a new Request for Proposals;
- C) Cancellation, modification, or withdrawal of the Request for Proposals;
- D) Issuance of Addenda to this Request for Proposals;
- E) Modification of the Request for Proposals process (with appropriate notice to Proposers);
- F) Appointment of the selection and evaluation personnel to review Proposals and seek the assistance of outside technical experts in the Proposal evaluation, if necessary;
- G) Approval or disapproval of the use of particular subcontractors and/or substitutions and/or changes in Proposals;

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- H) Revision and modification, at any time before the Proposal due date, of the factors it will consider in evaluating Proposals and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the LA DOTD will circulate an Addendum to all registered potential Proposers setting forth such revisions and modifications;
- I) Seeking or obtaining data from any source that has the potential to improve the understanding and evaluation of the Proposals;
- J) Waiver of weaknesses, informalities, and minor irregularities in Proposals;
- K) Disqualification of any team that changes its Proposal without LA DOTD written approval; and/or
- L) Refusal to issue an RFP to a prospective Proposer and to refuse to receive or open a Proposal, once submitted, or reject a Proposal if such refusal or rejection is based upon, but not limited to, the following:
  - 1) Failure on the part of the Proposer or a member of the Proposer's team to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the LA DOTD;
  - 2) Default on the part of the Proposer or a member of the Proposer's team under previous contracts with the LA DOTD;
  - 3) Unsatisfactory performance by the Proposer or a member of the Proposer's team under previous contracts with the LA DOTD;
  - 4) Issuance of a notice of debarment or suspension to the Proposer or a member of the Proposer's team;
  - 5) Submittal by the Proposer of more than one Proposal in response to this RFP under the Proposer's own name or under a different name;
  - 6) Existence of an organizational conflict of interest or evidence of collusion between a prospective Proposer (or any member of the Proposer's team) and other Proposer(s) (or members of the Proposer's team) in the preparation of a proposal or bid for any LA DOTD contract; and/or
  - 7) Default on a contract in another jurisdiction for which the prospective Proposer or a member of the Proposer's team is responsible which, in the judgment of the LA DOTD, might reasonably be expected to hinder or prevent the prompt and full performance of the CEA.

The RFP does not commit the LA DOTD to enter into a CEA nor does it obligate the LA DOTD to pay for any costs incurred in preparation and submission of the Proposals or in anticipation of a CEA. By submitting a Proposal, a Proposer disclaims any right to be paid for such costs.

In no event will the LA DOTD be bound by or be liable for any obligations with respect to the CEA until such time (if at all) as the CEA, in form and substance satisfactory to the LA DOTD, has been executed and authorized by the LA DOTD and approved by all required parties and then only to the extent set forth therein.

**8.2 LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DISCLAIMERS**

In issuing this RFP and undertaking the Proposal submission process contemplated hereby, the LA DOTD specifically disclaims the following:

- A) Any obligation to execute a CEA pursuant to this Request for Proposals; and
- B) Any obligation to reimburse a Proposer for any costs it incurs responding to this Request for Proposals.

In submitting a Proposal in response to this RFP, the Proposer is specifically acknowledging these disclaimers.