

**LOUISVILLE-SOUTHERN INDIANA OHIO RIVER BRIDGES
PROJECT
DOWNTOWN CROSSING**

Design Build Procurement

DRAFT Instructions to Proposers

Revised 4/30/2012



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Appendix A – Form PP (Proposal Price)

Appendix B – Form AOR (Acknowledgement of Receipt)

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1 GENERAL

The Request for Proposal Documents consist of the following: Request for Qualifications (RFQ), Instructions to Proposers (ITP), General Conditions (GC), Project Scope (PS), Project Scope Appendices, and Addenda.

Addenda to the RFP may be issued. Any addenda issued by Kentucky Transportation Cabinet (KYTC) will be posted on the Division of Construction Procurement website:

<http://transportation.ky.gov/Ohio-River-Bridges/Pages/default.aspx>

1.1 CERTIFICATE of ELIGIBILITY

Design Build Teams (DBT) must apply for and receive KYTC prequalification and possess a Certificate of Eligibility as provided in regulations published by KYTC according to Kentucky Revised Statutes (KRS) Section 176.140.

KYTC reserves the right to disqualify or refuse to place a DBT on the eligible bidder's list for a project for any of the following reasons:

- A. Failure to comply with any prequalification regulations of the KYTC;
- B. Default under previous contracts;
- C. When a bidder's existing, uncompleted contracts and subcontracts with KYTC are behind schedule to the extent that they might hinder or prevent prompt completion of any additional contracts;
- D. When either the actual progress for all of a bidder's existing grade and drain; or grade, drain, and surfacing; or bridge contracts and subcontracts is 20 percent or more behind the scheduled progress for the contracts and subcontracts, or when any one of the bidder's contracts or subcontracts is 30 percent or more behind schedule;
- E. When the average actual progress for all of a bidder's surfacing or resurfacing, seeding, signing, or other miscellaneous contracts and subcontracts is 50 percent or more behind the scheduled progress or when any one of these contracts or subcontracts exceeds the original Contract time or completion date without significant cause;
- F. Failure to reimburse the Commonwealth for monies owed on any previously awarded contracts, including those contracts where the prospective bidder is party to a joint venture and the joint venture fails to reimburse the Commonwealth for monies owed;
- G. Failure to reimburse the Commonwealth for monies owed for plans and Bid Proposal forms; or
- H. Federally suspended or debarred pursuant to Executive Order 12689, Executive Order 12549, or the related regulations promulgated by the Office of Management and Budget.

The KYTC will resume placing the DBT on the eligible bidder's list for projects after the DBT improves its operations to the satisfaction of the Engineer.

1.2 DISQUALIFICATION

KYTC may consider any of the following reasons sufficient for the disqualification of a DBT and the rejection of the DBT's Proposal(s):

- A. More than one Technical Proposal or Price Proposal for the same project submitted by an individual, firm, or corporation under the same or different name; or
- B. Evidence of collusion among bidders. KYTC shall not recognize participants in such collusion as bidders for any future KYTC work until KYTC reinstates such a participant as a qualified bidder. Collusive bidding is a violation of the law and may result in criminal prosecution, civil damage actions, and state and federal administrative sanctions.

1.3 PROCESS AGENT

Every corporation doing business with the KYTC shall submit evidence of compliance with KRS Chapter 271B and file with the KYTC the name and address of the process agent upon whom process may be served.

Every individual residing in another state, or members of a co-partnership who reside in another state, doing business with KYTC shall file with KYTC the names and addresses of at least two persons residing in Kentucky upon whom process may be served.

When any change is made in any such corporation's, individual's, or co-partnership's process agent, the corporation, individual, or co-partnership shall immediately file with KYTC a statement of the change. The former agent shall remain agent for the purpose of service of process until the DBT files a statement with the KYTC designating the new agent.

A DBT made up of more than one entity shall also designate process agents for each of its components, in compliance with the KRS Chapter cited above, at the time of submitting a Technical Proposal. The DBT shall update this information with KYTC if it should change at any time during the length of the Contract. Each component of a DBT joint venture shall register with the Kentucky Secretary of State's Office as either an in-state or foreign corporation.

1.4 EXAMINATION of RFP DOCUMENTS

The DBT shall examine the site of the proposed work, the RFP Documents, and addendums posted to the KYTC's website before submitting the Technical and Price Proposals. By submitting a Technical or Price Proposal, the DBT agrees that the submission is prima facie evidence that the DBT has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the Contract.

Professing ignorance or a misunderstanding regarding requirements of the work by the DBT or any subcontractor or supplier does not in any way serve to modify the provisions of the Contract. Consider

existing field conditions, utilities, soil characteristics, traffic control, and other jobsite characteristics as requirements of the Contract to be dealt with accordingly.

1.5 RIGHT-OF-WAY ACCESS and ADDITIONAL FIELD INVESTIGATION

Prior to Award of the Contract, if the DBT determines that field investigations, geotechnical investigations, or subsurface investigations are necessary to properly Bid the Work, it is the responsibility of the DBT to perform such investigations and analyses at its sole expense. The DBT shall request right-of-way access from KYTC or the Indiana Department of Transportation (INDOT) prior to performing any field investigations. The DBT shall obtain an Application for Encroachment Permit (Form TC99-1(A)) from KYTC; or a Cut Road, Miscellaneous permit from INDOT. Form TC99-1(A) is available at:

<http://transportation.ky.gov/Permits/Pages/Applications-Forms.aspx>

Applicable forms shall be submitted to KYTC or INDOT for approval seven Calendar Days in advance of the requested field investigation date. The DBT shall coordinate with KYTC or INDOT to determine if traffic control is necessary. Proposed maintenance of traffic plans in accordance with KYTC or INDOT's permit requirements shall be submitted for approval a minimum of seven Calendar Days in advance and shall include the hours and days personnel will be in KYTC's or INDOT's right-of-way. Maintenance of traffic will be the responsibility of the DBT with approval from KYTC or INDOT.

INDOT Seymour District
Permits Manager
Travis Mankin
812-524-3944
tmankin@indot.IN.gov

If the DBT needs information along local streets, then the DBT will need to contact the local jurisdiction to obtain permission. The local jurisdiction contacts are as follows:

Louisville Metro
Mr. Jeremy Raney PE
Louisville Metro Public Works and Assets
444 South 5th Street
Louisville KY 40202
(502)-574-5810
Jeremy.Raney@louisvilleky.gov

City of Jeffersonville
Andy Crouch, PE
City Engineer
City of Jeffersonville
500 Quartermaster Court

Jeffersonville, IN 47130
(812) 285-6476 Office
(812) 280-4703 Fax
acrouch@cityofjeff.net

Town of Clarksville
Street Department Commissioner
Brad Cummings
107 Roy Cole Drive
Clarksville, IN 47129
812-283-8233

The DBT shall be responsible for obtaining permission for any access to private property.

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2 SELECTION PROCEDURE

2.1 VALUE BASED SELECTION

The selection of a DBT will be based upon the technical quality of its Technical Proposal, the DBT's proposed schedule, compliance with the project's disadvantaged business enterprise (DBE) goals, and the price contained in its Price Proposal.

2.1.1 Technical Proposal

Technical Proposals shall be evaluated by the Technical Proposal Advisory Group. The Technical Proposal Advisory Group includes a group of professionals involved in the RFP procurement process and could include KYTC, INDOT or Federal Highway Administration (FHWA) employees or consultants. The Technical Proposal Advisory Group shall review the submitted Technical Proposals to determine if they are responsive to the requirements of the RFP.

Each responsive Technical Proposal shall be evaluated and scored by the members of the KYTC Scoring Committee on the basis of the criteria provided in this ITP. The KYTC Scoring Committee includes the following KYTC representatives and corresponding areas:

David Moses, PE	State Highway Engineers Office
Andy Barber, PE	Louisville Southern Indiana Ohio River Bridges (LSIORB) Deputy Project Manager
Tim Layson, PE	Division of Construction
David Waldner, PE	Division of Environmental Analysis
Robert Farley, PE	Division of Highway Design – Advisory Only
Joseph Plunk, PE	District 3 Bowling Green, Branch Manager for Project Development
Kevin Sandefur, PE	Division of Structure Design
Bart Asher, PE	Division of Structure Design, Geotechnical Branch
Keith Damron, PE	Division of Planning
Melvin Bynes	Office of Civil Rights and Small Business Development

The KYTC Scoring Committee may be assisted by any number of subgroups and/or subject matter experts within KYTC, INDOT, FHWA, other involved agencies, and/or contracted by the KYTC.

KYTC reserves the right to replace any member of the KYTC Scoring Committee at its discretion.

DBTs, their agents, and representatives shall not discuss the Project, the RFP, or their Proposals with any member of the KYTC Scoring Committee or any KYTC employee, except as expressly permitted in the RFP documents. KYTC reserves the right to refuse to consider a DBT's Proposal if a DBT violates this provision.

A Technical Proposal shall be declared non-responsive if it fails to meet the following criteria:

- A. Achieve a Technical Proposal score as defined below; or
- B. Achieve a passing rating on any pass/fail requirement.

Failure to achieve a total Technical Proposal score of at least 70 shall render a Technical Proposal non-responsive.

A score of less than 70 in any of the Evaluation Criteria listed in ITP Sections 3.3 through 3.10 will render a Technical Proposal non-responsive, except a Technical Proposal which achieves:

- A. A score between 60 and 70 percent in a single category,
- B. A 70 percent or above in all other categories, and
- C. At least 70 points overall

shall be considered responsive.

If KYTC finds that it is in the best interest of the Cabinet, KYTC reserves the right, in its sole discretion, to waive defects in the Technical Proposal.

2.1.2 Price Proposal

The Price Proposal for the Project shall be submitted separately from the Technical Proposal. The Price Proposals will be publicly opened on October 15, 2012 at 4:15 pm. The Price Proposal will reflect the requirements of the Project Scope and the prospective DBTs Technical Proposal. The Technical Proposal Score will be announced prior to the opening of the Price Proposals.

If KYTC finds that it is in the best interest of the Cabinet, KYTC reserves the right, in its sole discretion, to waive defects in the Price Proposal.

2.1.3 Value Based Formula Used for Selection

Scoring of the Technical Proposal, Price Proposal, and DBE plan shall be combined using a normalized weighted formula as follows:

$$S_B = 100 [0.25 (T_B/T_H) + 0.70 (P_L/P_B) + 0.05(D_B/D_H)]$$

Where

P_B = DBT's Price Proposal

P_L = Lowest Price Proposal (all DBTs)

S_B = DBT's Overall Score (Technical Proposal and Price Proposal)

T_B = DBT's Technical Proposal Score

T_H = Highest Technical Proposal Score (all DBTs)

D_B = DBT's DBE Score (as described in Section 4 of this ITP document)

D_H = Highest DBE Score (all DBTs)

The DBT's Overall Score (S_B) will be rounded to a tenth of a point. Rounding of Scores to the nearest tenth of a point will be accomplished by the round-up method: e.g., 75.45, 75.46, 75.47, 75.48, and 75.49 would be rounded up to 75.5; and 75.41, 75.42, 75.43, and 75.44 will be rounded to 75.4.

The DBT with the highest overall score shall be recommended to the KYTC Awards Committee for Contract Award. In the event that two or more DBTs achieve the same rounded final score (S_B), the "tied" DBT with the lowest Price Proposal (P_B) shall be recommended to the KYTC Awards Committee for Contract Award. If both the rounded final score and the Price Proposal are "tied" then the DBT with the lowest number of Calendar Days, "B," to complete the Project work shall be recommended to the KYTC Awards Committee.

The KYTC Awards Committee has final authority to determine the best interests of the Cabinet in awarding (or not awarding) the Contract.

2.1.4 DBT's Price Proposal

The following is an explanation of the formula to be used to determine the DBT's Price Proposal used in the value based equation in section 2.1.3 above.

DBT's Price Proposal = $P_B = A + (B \times C)$ where:

A = DBT Contract Bid amount in dollars

B = Calendar days to complete the Project

C = Daily value = \$80,000 per Calendar Day

"A" is the DBT's Bid amount and shall be used for payment. The DBT shall provide bonds in this same amount.

"B" shall be based upon the difference between the date the DBT plans to complete the Project and the Notice to Proceed date. For purpose of computing "B", the Notice to Proceed is considered to be March 1, 2013. The Project completion date shall be no later than June 30, 2018. Therefore, the maximum number of "B" days allowed is 1,947 days. "B" shall be provided in the Price Proposal, Form PP. "B" plus the Notice to Proceed date equals the DBT's Completion Date. Calendar days should be estimated to the nearest whole day. The DBT shall not change "B" number of days after submittal of the Price Proposal.

The DBT shall be assessed a disincentive in the amount of \$80,000 per day for each Calendar Day after the DBT's Completion Date that the Project work is not completed.

KYTC will also provide an incentive payment of \$40,000 per calendar day for each calendar day the DBT completes the Project before the DBT's Completion Date. The total incentive payment will be capped at \$12 million.

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3 TECHNICAL PROPOSALS

3.1 INCORPORATION of TECHNICAL PROPOSAL

All Technical Proposal elements that exceed the requirements of the Bid Documents (i.e., can reasonably be interpreted as offers to provide higher quality items or additional services) shall be incorporated by reference into the awarded DBT’s Contract requirements.

3.2 TECHNICAL PROPOSAL EVALUATION

The Technical Proposal shall be developed using narratives, tables, charts, plots, drawings, and sketches as appropriate. The purpose of the Technical Proposal is to document the proposed DBT’s understanding of the Project; its selection of appropriate design criteria; and its approach for completing all design, quality management, and construction activities. The design approach shall reflect a single unified design concept for the Project and shall demonstrate:

- A. That the proposed design meets KYTC’s general and project specific criteria;
- B. That the proposed design meets project goals; and
- C. How the DBT will perform design checking and deliver quality plans.

The Technical Proposal shall be evaluated on how well each of the following items is addressed:

<i>Part</i>	<i>Evaluation Criteria</i>	<i>Maximum Points</i>
A	Project Organization and Management	10
B	Roadway Design Concepts	15
C	Bridges, Structures, and Geotechnical Concepts	15
D	Conceptual Traffic Management Plan	15
E	Aesthetic and Environmental Compliance	15
F	Construction (includes Construction Management Plan, Quality Plan, and Safety Plan)	20
G	Utility (including Railroads) Plan	5
H	Public Involvement and Communication	5
I	Prequalification	Pass/Fail
TOTAL – Technical Proposal		100

The Technical Proposal shall be organized in Parts as indicated.

Technical Proposal content requirements are found in the following sections as well as within the Project Scope.

3.3 PROJECT ORGANIZATION and MANAGEMENT (PART A)

Demonstrate an integrated team approach between the team members including the contractors, designers, subcontractors, DBE firms, and KYTC. Describe the team's experience on delivering major interstate-to-interstate interchanges and/or major river structures projects and utilizing the design-build delivery method. Describe the qualifications and experience of the Key Personnel assigned to the project, specifically how they have performed these tasks on previous projects and how they will collaborate for the LSIORB Downtown Crossing.

Provide a project organization chart for the Project, showing the relationships between DBT Management and Key Personnel shown on the chart and the functional relationships with other critical participants on the DBT.

Describe the DBT's concept of design management and construction management and how they interrelate with the other elements of the DBT's organization for the Project. Identify a staffing plan including specific responsible personnel and organizational units. Provide a design and construction organization chart, as a subset of the project organization chart, for the Project showing the relationships between functions shown on the chart and the functional relationships with subconsultants and subcontractors. The chart shall also indicate how the DBT intends to divide the Project into work segments to enable optimum construction performance.

At a minimum, the Technical Proposal should address personnel assigned to manage design development in the following areas:

- A. Project Manager*
- B. Design Manager*
- C. Highway Design Lead Engineer*
- D. Structural Design Lead Engineer*
- E. Roadway Engineering
- F. Geotechnical Engineering
- G. Drainage Engineering
- H. Maintenance of Traffic Engineering
- I. Traffic Engineering
- J. ITS Integration
- K. Lighting Engineering
- L. Environmental Compliance Manager
- M. Utility Coordinator
- N. Aesthetic and Enhancement Manager

At a minimum, the Technical Proposal should address personnel assigned to manage the construction for the following areas:



- A. Project Manager*
- B. Construction Manager *
- C. Quality Control Manager for Construction Materials
- D. Roadway Construction
- E. Bridge Construction
- F. River Bridge Construction
- G. Drainage and Environmental Construction
- H. Maintenance of Traffic
- I. Public Safety
- J. Project Safety
- K. Utility and Railroad Coordination
- L. Environmental/Permits/Erosion Control
- M. Public Involvement Manager*

* Must be the same as the previously submitted statements of qualifications (SOQ). As stated in the RFQ, Key Personnel may not at any time be removed, replaced, or added without written approval of KYTC. Requests for removal, replacements, and additions shall be submitted in writing. To qualify for approval, the written request shall document that the qualifications of the proposed replacement or addition will be equal to or better than those of the Key Personnel submitted in the SOQ. KYTC shall use the criteria specified in the RFQ to evaluate all requests.

Describe the qualifications and experience of the individuals assigned to these tasks and describe the specific management tasks they will perform. Include information relative to each individual’s familiarity with the proposed project and similar projects.

Individuals must be currently employed by a member of the DBT.

KYTC shall use the following criteria to distribute Project Organization and Management points:

<i>Component of Project Organization and Management</i>	<i>Percentage of Proposed Project Organization and Management Points</i>
A.1 Project Organization	40
A.2 Project Management Plan	40
A.3 DBT Experience on projects of similar complexity	20

3.4 ROADWAY DESIGN CONCEPTS (PART B)

The Technical Proposal shall address the following issue:

1. Demonstrate an understanding of the Project criteria, Basic Configuration, and mandatory elements for both the Kentucky and Indiana approaches to the Downtown Crossing.

KYTC will use the following criteria to distribute Roadway Design Concepts points:

<i>Component of Roadway Design Concepts</i>		<i>Percentage of Proposed Roadway Design Concepts Points</i>
B.1	Kentucky Approaches	75
B.2	Indiana Approaches	25

3.5 BRIDGES, STRUCTURES and GEOTECHNICAL CONCEPTS (PART C)

Bridges, structures, and geotechnical concepts are critical components of the LSIORB Downtown Crossing. The Project includes a new cable stayed Ohio River Bridge, improvements to the existing JFK Bridge, numerous new bridges, bridge widening, and retaining walls in Kentucky and Indiana. As a minimum, the Technical Proposal shall address the following issues:

1. Describe any specific design features that would reduce the need for maintenance or would make inspection/maintenance procedures more efficient, safer, and/or less costly.
2. Discuss solutions to manage the risks associated with proposals based on limited design information:
 - a. Demonstrate experience managing risk with similar proposals.
3. For the I-65 Ohio River Bridges (Item C.1 in the following table):
 - a. Demonstrate the approach to designing the cable stayed bridge major river crossing.
 - b. Demonstrate the approach to re-decking of the JFK Bridge using phased construction.
 - c. Describe how the proposed structures will minimize the long term maintenance costs to KYTC.
 - d. Describe how the proposed structures will accommodate the future maintenance functions, including but not limited to, control of roadway drainage, replacement of the deck joints and seals, replacement of the bearing, partial deck replacement, stay cable replacements, and lighting.
 - e. Describe how the proposed structures will minimize the resources necessary to perform the inspections required by National Bridge Inspection Standards (NBIS).
 - f. Describe the cable protection system including future maintenance requirements and construction quality assurance procedures on the new cable stayed Ohio River Bridge.
 - g. Describe the approach to ensure member redundancy and discuss the design of any fracture critical members.
 - h. Indicate the proposed method for constructing the foundations as shown on the proposal plans. Include discussion of anticipated cofferdams, shoring, dewatering, causeways, and other temporary works necessary to complete installation of the foundation systems.
4. For all other bridge structures and all retaining walls (Item C.2 in the following table):



- a. Describe how the proposed structures will minimize the long term maintenance cost to KYTC and INDOT.
 - b. Describe how the proposed structures will accommodate the future maintenance functions, including but not limited to, control of drainage, replacement of the deck joints and seals, replacement of the bearings, and future deck replacements.
 - c. Describe how the proposed structures will minimize the resources necessary to perform the inspections required by NBIS.
5. Describe how the DBT will perform and manage the geotechnical challenges associated with the project (Item C.3 in the following table):
- a. Discuss settlement of embankments and ways the DBT intends to address.
 - b. List expected geotechnical issues anticipated and the anticipated approach that will be used to resolve those issues. Indicate if any of the proposed solutions will require additional maintenance or monitoring during the life of the facility. Indicate if the proposed solution(s) will restrict future construction adjacent to the structures, including installation and repair of utilities. If any solutions will require underground easements outside the proposed right of way, the location and size of these easements must be identified.
 - c. Indicate the experience of the geotechnical engineer and the contractor in designing and installing the proposed geotechnical solutions and foundation systems identified in “b” above. State if geotechnical specialty subcontractors are proposed for design and/or installation of the geotechnical solutions or foundation systems.

KYTC will use the following criteria to distribute Bridges, Structures, and Geotechnical Concepts points:

<i>Component of Bridges, Structures, and Geotechnical Concepts</i>	<i>Percentage of Proposed Points</i>
C.1 Ohio River Bridge Crossings	50
C.2 All other bridge structures and retaining walls	30
C.3 Geotechnical challenges	20

3.6 CONCEPTUAL TRAFFIC MANAGEMENT PLAN (PART D)

The DBT shall have experience managing traffic involving a major urban interstate to interstate interchange. The Technical Proposal shall address the following issues:

1. Provide a Conceptual Traffic Management Plan.
2. Demonstrate experience in implementing similar traffic management plans.

The KYTC will use the following criteria to distribute Conceptual Traffic Management Plan points:

<i>Component of Traffic Management Plan</i>	<i>Percentage of Proposed Traffic Mgmt. Points</i>
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D.1	Conceptual Traffic Management Plan	70
D.2	Experience in implementing similar traffic management plans	30

3.7 AESTHETICS and ENVIRONMENTAL COMPLIANCE (PART E)

The LSIORB project has a history of incorporating local input and opinion into the decision making process. The DBT shall be required to continue this process for the Downtown Crossing and shall include the following in the technical proposal:

1. Submit an Aesthetics and Enhancement Management Plan that describes how the DBT intends to fulfill the requirements of the Project Scope. Summarize the DBT’s approach to incorporating aesthetics and enhancements throughout project development and incorporating stakeholder and public feedback into the final design. Define the responsibilities and authority of the Aesthetics and Enhancements Manager. Describe the proposed range of options or alternatives (narrative discussion, sketches, graphics, renderings) that the DBT will present to the stakeholders and public for feedback and selection. See Project Scope Section 9 for additional details.
2. Demonstrate how the DBT proposes to maintain environmental compliance and meet commitments from environmental documents included in Project Scope. See Project Scope Sections 6 and 7 for additional details.

KYTC shall use the following criteria to distribute Aesthetic and Environmental Compliance points:

<i>Component of Aesthetic and Environmental Compliance</i>		<i>Percentage of Proposed A&E Points</i>
E.1	Aesthetic and Enhancement Management Plan	70
E.2	Maintain environmental compliance and meet commitments	30

3.8 CONSTRUCTION (PART F)

The Technical proposal shall address the following construction issues:

1. Provide a brief narrative description of the DBT’s overall plan for constructing the Project. Describe the construction concept that will be used for each construction phase. Specifically describe how traffic will be maintained. Describe in general the anticipated construction work for each phase.
2. Provide a narrative description of the DBT’s proposed major buildable units and how these will be constructed in the phasing described above. Provide a schedule showing when the major buildable units will be constructed. Discuss project risks and approach to address risks.



3. Describe the DBT’s approach to achieve quality expectations. Describe the relationship between the construction and inspection functions.
4. Describe the safety considerations specific to this Project. Discuss the firm's overall approach to safety.
5. Describe the proposed coordination with owners of utility facilities and railroads. Demonstrate that the DBT has considered TRIMARC, utilities, railroads, permitting, constructability, and maintenance of traffic activities (including river traffic) in determining the proposed construction schedule.
6. Describe the DBT’s plans and procedures to ensure timely deliveries of materials to achieve the project schedule. Include information with respect to anticipated fabrication times. Also describe anticipated staging areas needed.
7. Describe how the DBT will coordinate with the third party tolling integrator.

KYTC shall use the following criteria to distribute construction points:

<i>Component of Construction</i>		<i>Percentage of Construction Points</i>
F.1	Construction Sequencing and Logistics	40
F.2	Approach to achieving quality	20
F.3	Coordination with utilities, railroads, permitting, maintenance of traffic (MOT), and tolling integrator	20
F.4	Safety	20

3.9 UTILITY (INCLUDING RAILROADS) PLAN (PART G)

Both public and private utilities including railroads are present throughout the footprint of the LSIORB Downtown Crossing. The DBT shall be required to coordinate with the utility and railroad companies.

The Technical Proposal shall address the following utility issues:

1. Describe the proposed coordination with utility and railroads owners. Demonstrate that the DBT has considered utilities and railroads in determining the proposed construction schedule.

KYTC shall use the following criteria to distribute Utilities points:

<i>Component of Utilities</i>		<i>Percentage of Proposed Utilities Points</i>
G.1	Utility and Railroad Coordination Plan	100

3.10 PUBLIC INVOLVEMENT and COMMUNICATION (PART H)

The LSIORB project involves numerous interested parties and shall require expertise in performing community outreach, public involvement, and public information.



The Technical Proposal shall address the following:

1. Describe the DBT’s approach to establishing and maintaining a positive relationship with residents, businesses, institutions, organizations and others inconvenienced by construction. Public Involvement and Communication shall describe how the DBT will handle public involvement during the design and construction phases. Describe how the DBT will address involvement for the entire community as well as for specific considerations for historic preservation interests as specified in the First Amended Section 106 Memorandum of Agreement for the Project. Address how the DBT will coordinate with KYTC public involvement staff including during initiation of tolling.
2. Describe the role of the DBT’s Public Involvement Manager. The Public Involvement Manager must be the same as that in the previously submitted SOQ.

The KYTC shall use the following criteria to distribute Public Involvement and Communication points:

<i>Public Involvement and Communication Components</i>		<i>Percentage of Public Involvement and Communication Points</i>
H.1	Public Involvement and Communication	100

3.11 PREQUALIFICATION (PART I)

Provide the following information for construction prequalification work items anticipated in the Proposal. KYTC construction prequalification work items can be found on KYTC’s Division of Construction Procurement website

<i>Work Item Code</i>	<i>Work Item Description</i>	<i>Contractor/Subcontractor(s) to Perform the Work</i>

Provide the following information for all designer prequalification categories listed in the RFQ.

<i>Prequalification Category</i>	<i>Consultant/Subconsultant to Perform the Design Work</i>

A Technical Proposal that fails to meet prequalification requirements will be judged non-responsive.

3.12 ADDENDA

Acknowledge receipt of all Project addenda by including Form AOR found in Appendix B of this document.

3.13 TECHNICAL PROPOSAL SCORING

The following table provides a general indication of anticipated scoring of each evaluation criteria.



Definition	Scoring Range (percentage)
The Technical Proposal demonstrates an approach that is considered to significantly exceed the RFP requirements and objectives in a beneficial way (providing advantages, benefits, or added value to the Project) and that provides a consistently outstanding level of quality. Must have a significant strength or number of strengths and no weaknesses.	90-100
The Technical Proposal demonstrates an approach that is considered to exceed the RFP requirements and objectives in a beneficial way (providing advantages, benefits, or added value to the Project) and offers a generally better than acceptable quality. Must have strengths and no significant weaknesses.	80-89
The Technical Proposal demonstrates an approach that is considered to meet the RFP requirements and objectives and offers an acceptable level of quality. It has strengths even though minor or moderate weaknesses exist.	70-79
The Technical Proposal demonstrates an approach that is marginally acceptable.	60-70
The Technical Proposal demonstrates an approach that contains no strengths and contains minor or significant weaknesses.	0-60

Points may be assigned to the nearest tenth of a point.

3.14 FORMAT of TECHNICAL PROPOSALS

Technical Proposal text shall be limited to 75 pages. An unlimited number of additional exhibits, plans, schedules, and figures will be accepted as appendices; however, the DBTs are encouraged to be as concise as possible. The technical proposal shall include preliminary plans in accordance with the following:

Roadway plans shall be at a 30 percent level of completion per General Conditions Section 113 and shall at a minimum include the following:

- Layout Sheet – includes index of sheets

- Typical Sections (typical sections shall be provided that reflect the provided options for either asphalt and/or concrete)

- Geometric Detail Sheets (As applicable)

- Plan and Profile Sheets (Project limits, alignments and profiles, major drainage features, roadside barrier locations, right-of-way)

- Construction Detail Sheets – as needed

Conceptual Maintenance of Traffic Plans (typical sections, plans, profiles, construction phasing details, traffic control devices)

*Critical Cross Sections

Structure Plans shall include the following:

Cable Stayed Crossing

- I. Title Sheet
- II. Layout Sheet
- III. Anchor Pier plan and Elevation
- IV. Tower Plan and Elevation
- V. Foundation Plans
- VI. Typical Section
- VII. Framing Plan
- VIII. Stay Cable Connection schematic
- IX. Deck Details
- X. Bearing types and locations
- XI. Joint Type and Size
- XII. Preliminary Erection Procedure

John F. Kennedy (I-65 Bridge) redecking

- I. Title Sheet
- II. Layout Sheet
- III. Typical Section
- IV. Floorsystem Modifications(if required)
- V. Bridge Deck Layout
- VI. Joint Type and Size
- VII. Construction Phasing

Other Bridges

- I. Title Sheet index and Notes
- II. Layout Sheet
- III. Abutment plan and elevation, wing wall elevation view, expected foundation types
- IV. Pier elevation views and sections, including expected foundation types
- V. Typical Section
- VI. Preliminary Framing Plan (as applicable)
- VII. Construction Phasing (as applicable)

Retaining Walls

- I. Preliminary retaining wall Layout with summary of wall types and expected foundation types

Major Drainage Structures

- I. Master plan showing type, size, and location

*Indicates Optional Item.

In addition, the DBT shall submit a KYTC Design Executive Summary and an INDOT Level One Design Criteria Checklist. Any design element in the Technical Proposal that is a revision to the element provided in the contract documents shall be noted.

A page shall be 11 inches by 17 inches printed on one side only. The font shall be at least 12 point in Times New Roman. Margins shall be at least 1 inch all around. If dividers are used and contain project information, they shall be counted towards the maximum number of pages. Foldout pages are not allowed.

Submissions exceeding the page limitations or failing to follow the section format instructions outlined above shall be rejected.

Graphics shall conform to the other format requirements listed.

Submit 25 sequentially numbered paper copies (one of which shall be unbound) of the Technical Proposal and two identical CDs/DVDs or USB flash drives containing the Technical Proposal in PDF format.

The Technical Proposals shall be submitted to KYTC Division of Construction Procurement using the following address:

Ryan Griffith, PE, Director
Division of Construction Procurement
Transportation Cabinet Office Building
200 Mero Street
Frankfort, KY 40622
Phone: 502-564-3500
Email: ryan.griffith@ky.gov

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4 DBE and WORKFORCE/EEO PROJECT PLAN

DBTs shall submit a comprehensive, written plan describing how they will meet the LSIORB Downtown Crossing DBE and Workforce/Equal Employment Opportunity (EEO) Project Plan in accordance with 49 CFR Part 26 and 41 CFR Part 60 that meets or exceeds the eight (8) percent DBE expenditure goal and 15 percent minority workforce utilization goal and 10 percent female workforce utilization goal. Failure to submit the DBE and Workforce/EEO Project Plan shall cause a Proposal to be deemed non-responsive. DBEs shall be utilized in all phases of the project including consultants, subcontractors, and suppliers. The DBT shall ensure subcontractor compliance with their equal employment opportunity obligations.

DBE/Workforce project plans will be evaluated on the following:

1. Demonstrated ability to meet or exceed the eight (8) percent DBE expenditure goal, inclusive of how they will identify: Kentucky and Indiana certified DBEs whom perform/provide professional services, equipment, materials and supplies; their potential scope of work; potential dollar amount; and the percentage of the total project. DBTs may cite past experience, mentoring, partnering, or other types of relationships with DBEs as evidence of capability. In addition to identifying certified DBEs, the DBT shall provide a DBE subcontracting plan that includes, but may not be limited to: examples of sub-agreements to be utilized with Kentucky and Indiana certified DBEs; example of a DBE subcontracting plan procurement and expenditure report; a dispute resolution process; a process for effective and timely communications with DBE subcontractors; assistance with insurance and bonding; a process for managerial and technical performance reviews, feedback, and improvement; and an explanation of the invoice and payment process.
2. Demonstrated ability to meet or exceed the 15 percent minority workforce utilization goal and 10 percent female workforce utilization goal, inclusive of how they will identify minority and female persons and on the job training provisions. DBTs may cite past experience, mentoring, or other types of relationships with minority and female persons as evidence of capability.

<i>DBE and Workforce/EEO Project Plan Components</i>		<i>Percentage of DBE/Workforce Project Plan Points</i>
4.1	Demonstrated ability to meet or exceed DBE expenditure goal	50
4.2	Demonstrated ability to meet or exceed workforce utilization goal	50

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5 ORAL INTERVIEWS

5.1 CONTENT

All short-listed DBTs shall participate in an oral interview. The oral interview will last no more than 90 minutes.

Oral interviews shall not be used to fill in missing or incomplete information in the written Technical Proposal. The Cabinet will ask the DBTs specific questions relative to their Technical Proposals. Follow-up questions from the Cabinet will be permitted. The DBT will not make a formal presentation.

The oral interview shall not be scored separately. The interview is used solely for the Cabinet to seek clarification of the DBT's Technical Proposal. Topics or issues not addressed in the written Technical Proposal shall not be discussed during the oral interview. The Price Proposal shall not be discussed. DBTs will not be permitted to ask the Cabinet questions.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter. Request for accommodations must be made one week in advance of the meeting, to allow time to arrange the accommodation.

5.2 ATTENDEES

The following Key Personnel from each DBT shall attend the oral interview: Project Manager, Design Manager, Structural Design Lead Engineer, Highway Design Lead Engineer, Construction Manager, DBE/EEO Project Plan Coordinator, Public Involvement Manager, and up to five other individuals at the DBT's or KYTC's discretion.

Members of the KYTC Scoring Committee and others as deemed appropriate by KYTC will attend each oral interview. Additional subject matter experts may also attend the interviews. Elected officials shall not be permitted to attend.

5.3 PROCEDURE

The Cabinet intends to conduct all interviews on the same day. The Cabinet will terminate the interview promptly at the end of the allocated time.

KYTC will audio tape, videotape, and/or use a court reporter to document the oral interviews.

All interviews will be held at the Kentucky Transportation Building at 200 Mero Street, Frankfort, Kentucky.

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6 INNOVATIVE TECHNICAL CONCEPT (ITC)

6.1 DEFINITION

An Innovative Technical Concept (ITC) is a change to the Project Scope that provides a solution that is equal to or better than what is required by the scope as determined by the KYTC. The ITC process allows for innovation, increased flexibility, time reductions, and cost savings to ultimately obtain the best value for the public.

ITCs that require modifications to the Environmental Documentation shall not be approved.

Where the Contract Documents reference specific patented, proprietary material; or semi finished or finished article, product, or item for incorporation into the work, the DBT may submit an ITC for approval of an alternative material, article, product, or item that meets or exceeds the requirements and intent of the Contract work, provided that the material, article, product, or item is equal or better in quality, performance, and function, based upon documented engineering analysis.

ITCs are not intended to replace pre-bid questions.

6.2 ITCs THAT REQUIRE ADDITIONAL RIGHT-OF-WAY

A proposed design that requires additional right-of-way acquisition to implement is a change to the Project Scope and requires an ITC submittal and approval by KYTC. ITCs requiring additional right-of-way acquisition may be considered provided that the ITC meets the requirements of the environmental document including remaining within the environmental footprint and project schedule. Please refer to Section 3.7 of the Project Scope for additional requirements as it relates to the submittal of an ITC for consideration by KYTC.

6.3 SUBMISSION REQUIREMENTS

DBTs may submit ITC documents for consideration by the KYTC. Each ITC may include multiple issues to be considered by KYTC. The DBTs shall clearly identify each individual portion of the ITC proposal that is a proposed change to the Project Scope. One electronic copy (PDF format) on DVDs or USB flash drives and 15 paper copies (one of which shall be unbound) of each ITC are to be submitted to the KYTC. DBTs shall sequentially number each paper copy. The ITC's are to be submitted to the following address:

Ryan Griffith, PE, Director
Division of Construction Procurement
Transportation Cabinet Office Building
200 Mero Street
Frankfort, KY 40622
Phone: 502-564-3500
Email: ryan.griffith@ky.gov

6.4 EVALUATION of ITCs

ITCs are approved by the KYTC at its discretion and the KYTC reserves the right to reject any ITC submitted.

KYTC shall attempt to evaluate all ITCs and ITC reconsiderations within 14 calendar days of receipt. However, this timeframe cannot be guaranteed, particularly for complex or unusual concepts. KYTC will either accept or deny all ITCs no later than 30 days before proposals are due.

KYTC shall not consider any change that would require excessive time or cost for review, evaluation, or investigation.

6.5 CONTENTS

ITCs shall contain the following information:

- A. Description: A detailed description of the ITC including specifications and conceptual drawings.
- B. Usage: A description of where and how the ITC would be used on the project.
- C. Deviations: References to all requirements in the Project Scope that are inconsistent with the proposed ITC, an explanation of the nature of these deviations, and a request for approval of such deviations.
- D. Analysis: An analysis justifying the ITC and demonstrating why modifications or revisions to requirements of the Project Scope should be allowed. Include information on how the ITC meets or exceeds the project goals.
- E. Traffic and Safety Impacts: A discussion of the impacts the ITC will have on vehicular traffic and safety, including an operational analysis, if relevant.
- F. Maintenance of Traffic Impacts: A discussion of the impacts the ITC will have on maintenance of traffic during construction including any impacts on other roadways due to diversion of traffic on proposed or potential detour
- G. Environmental Impacts: A discussion of how the ITC is in accordance with the approved Environmental Documents and permits.
- H. Right-of-Way: A discussion of additional right-of-way acquisition needed to implement the proposed ITC, including estimated costs for right-of-way acquisition
- I. Utilities: A discussion of utility (public and private) impacts.
- J. Maintenance: A discussion of the long term maintenance of the proposed ITC.
- K. History: When applicable, a detailed description of other projects on which the proposed ITC has been used, including contact information (name, title, phone number, address, and email) for project owners that can confirm ITC implementation.
- L. Inspection: Any additional testing and inspection requirements.
- M. Schedule: A discussion of project schedule impacts, including design, construction, right-of-way acquisition, utility relocation, and permitting issues.

Incomplete ITC submittal packages shall be returned by KYTC without review or comment. They may be resubmitted before the deadline for ITC submittals.

6.6 ONE-ON-ONE MEETINGS

Each short-listed DBT shall be permitted to request one-on-one pre-ITC meetings with KYTC to discuss issues within the Draft RFP and potential ITCs. Meetings will last no more than two hours. The location of the meetings will be determined by the nature of the ITC. The meetings will be held once every two weeks on Wednesdays beginning May 9, 2012 through July 16, 2012.

Short-listed DBTs shall submit a request for a meeting by the Friday in advance of the proposed meeting date. The request must include the issues that the DBT wishes to discuss and/or a general description of the involved ITC concepts in enough detail for the KYTC to select appropriate individuals to attend the meeting. KYTC attendees may participate by teleconference or videoconference.

One purpose of one-on-one meetings is to provide DBTs with a general overview of the KYTC's assessment of a proposed ITC's viability. No final decisions will be made. Verbal communications, including one-on-one meetings, will be considered non-binding.

Discussions during one-on-one meetings shall be confidential.

6.7 KYTC RESPONSE

KYTC shall review all ITCs and respond with one of the following determinations:

- A. The ITC is approved and may be included in the DBT's Technical Proposal.
- B. The ITC is approved subject to conditions. The ITC may be included in the DBT's Technical Proposal provided that all approval conditions have been met. Failure to clearly demonstrate that all conditions have been met may render the DBT's Technical Proposal non-responsive.
- C. The ITC is not approved in its present form, but may be resubmitted for reconsideration. The reconsideration request must address all Advisory Group comments, questions, and concerns. Reconsideration requests must meet all ITC submission and content requirements.
- D. The ITC is not approved. Inclusion of the ITC in the Technical Proposal will render the Technical Proposal non-responsive.
- E. The proposal is not an ITC.

The KYTC may, at its discretion, request additional information or clarification regarding a proposed ITC and/or conduct one-on-one meetings with DBTs to discuss their ITC. Verbal communications regarding ITC proposals shall be considered non-binding.

6.8 INCORPORATION INTO TECHNICAL PROPOSAL

The DBT may incorporate zero, one, or more approved ITCs (or conditionally approved ITCs, if all conditions are met) into their Technical Proposal. The Technical Proposal must clearly state which ITCs have been incorporated and indicate what, if any, conditions are met. The Price Proposal shall reflect all incorporated ITCs.

6.9 DISCLOSURE

- A. If, during evaluation of an ITC proposal, the KYTC becomes aware of a deficiency in the Project Scope that would have an impact on the ability of DBTs to make a best value offer, KYTC may, at its discretion, issue an addenda to correct this deficiency.

Other than as listed in the above paragraph, all conversations related to ITC proposals between the KYTC and DBTs shall be kept confidential during the bidding process.

Once a project is Awarded, ITC proposals may be made public.

- B. All documents received by the KYTC are subject to KRS 61.870 to 61.884, also known as the Open Records Act, and are subject to release unless a statutory exception exists that exempts the documents from public release.

If any information in an ITC or Technical Proposal is to be treated as “confidential or proprietary,” the DBT must identify each and every occurrence of the information within the Proposal by:

- i. Listing the page numbers of every occurrence of the “confidential or proprietary” information on the cover sheet submitted with the ITC or Technical Proposal; and
- ii. Placing an asterisk before and after each line of the ITC or Technical Proposal that contains “confidential or proprietary” information.

“Confidential or proprietary” may include trade secrets.

Prior to Award, KYTC shall not share with, or convey to, any person the information provided by the DBT, unless disclosure is required by law or the DBT gives prior written approval for such disclosure. In the event the KYTC is required to disclose any information the DBT considers confidential or proprietary, pursuant to applicable law, KYTC shall notify the DBT in writing prior to disclosing such information. KYTC shall use reasonable efforts to give notice of disclosure at least three days in advance of release. However, upon Award, all information provided to KYTC that was used in the evaluation of the Bids will be considered a public record unless the DBT refuses to accept a Stipend (non-selected DBTs) or contract Award (selected DBT). KYTC shall not be obligated to maintain in confidence any information that is not confidential or proprietary including information that: (1) is already known by the state, (2) is or comes into the public domain through no fault of the state, (3) is independently developed by the state, or (4) comes to the state from a third party in a manner not in violation of any obligation of confidentiality by such third party to the DBT. Kentucky law generally requires that documents that contain both confidential and non-confidential information be disclosed with confidential information redacted.

7 PRICE PROPOSALS

7.1 GENERAL

The total price offered by the DBT for its Proposal for all work specified in the Contract is referred to herein as the “Price Proposal” and is indicated on Line 3 of Form PP (Price Proposal).

7.2 CONTENT

The Price Proposal shall be organized to correspond to the items listed in this section.

7.2.1 PRICE PROPOSAL

Provide a hardcopy of Form PP (Price Proposal) bearing original signature(s) by an authorized employee of the Proposer. All other methods of submitting the Price Proposal shall be considered non-responsive and ineligible for Award.

7.2.2 BID BOND

Provide a Bid Bond. The KYTC Bid Bond form is available on-line at:

<http://transportation.ky.gov/Organizational-Resources/Forms/TC%2014-14.pdf>

or by contacting the KYTC at 502-564-3500. Each Proposer shall submit a Bid Bond with its Proposal in the amount of at least five percent of the Proposal Price, issued by a surety meeting the requirements of the Contract. Alternatively, DBTs may submit cash, a certified check, or a cashier’s check payable to KYTC in this amount. A Bid Bond shall not be conditioned in any way to modify the minimum five percent required. Proposals that fail to include a Bid Bond or cash deposit in compliance with this subsection shall be deemed non-responsive and shall be rejected by KYTC.

This bond shall be submitted with the Price Proposal in the same sealed envelope and will not be opened until completion of the review of the Technical Proposals.

7.3 SUBMITTAL REQUIREMENTS

The Price Proposal and Bid Bond shall be placed into a sealed envelope clearly marked on the front as follows:

- A. Price Proposal for Downtown Crossing of the Louisville Southern Indiana Ohio River Bridges Project
- B. Submittal deadline - date and time; and
- C. DBT name, contact person, and address.

Sealed Price Proposals shall be submitted by mail or hand by the date and time (eastern) indicated in the Request for Qualifications to:

Ryan Griffith, PE, Director
Division of Construction Procurement
Transportation Cabinet Office Building

200 Mero Street
Frankfort, KY 40622
Phone: 502-564-3500

KYTC shall not accept Price Proposals by facsimile or electronic transmission. Any Price Proposal that fails to meet the deadline or delivery requirement shall be rejected and returned to the DBT without having been opened, considered, or evaluated. The Cabinet shall not be responsible for a late Bid due to failure of the DBT to allow sufficient time for delivery of the Bid.

KYTC shall not open the Price Proposal until the completion of the evaluation of the Technical Proposals.

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8 ANNOUNCEMENT and AWARD

KYTC shall publicly announce all Technical Proposal scores then Price Proposals at the time indicated in Section 2.1.2 of this ITP document.

Unless rejecting all Proposals, KYTC shall Award the Contract to the best-value DBT Proposal, without discrimination on the grounds of race, creed, color, sex, or national origin, whose Technical and Price Proposal complies with the requirements of the law, the regulations, and the Contract.

KYTC will normally Award the Contract within 10 working days after the date of receiving Price Proposals unless KYTC deems it best to hold the Price Proposals of any or all DBTs for a period not to exceed 90 Calendar Days for final disposition of Award. KYTC may hold the Price Proposal of the best-value DBT longer than 90 days if the DBT concurs. KYTC will mail the official Notice of Award to the address shown on the DBT's Certificate of Eligibility.

KYTC reserves the right to cancel the Award of any contract at any time before the execution of that contract by all parties without any liability against KYTC.

8.1 RETURN of BID BOND

KYTC shall return the Bid Bond of all except the two best-value DBTs within five Calendar Days after announcement of the Technical Proposal scores and Price Proposals. KYTC shall hold the Bid Bond of the DBT with the highest overall score and the Bid Bond of the DBT with the second highest overall score, as determined by the KYTC Awards Committee, until KYTC Awards the Contract and executes and approves the Contract and bonds of the successful DBT, or until KYTC rejects all Bid Proposals. If KYTC does not make an Award within 60 calendar days, KYTC shall return all Bid Bonds unless KYTC and the DBT concur to holding longer than 60 days.

KYTC shall not release a DBT from the obligations of the Price Proposal because of an alleged error in the preparation of the Price Proposal unless KYTC retains the DBT's Bid Bond.

8.2 REQUIREMENT of PERFORMANCE and PAYMENT BONDS

To be acceptable to KYTC, the surety must have a minimum A. M. Best rating of an "A-," be listed on the U.S. Treasury Listing of approved sureties for an amount equal to or greater than the amount of the bond, and be an admitted carrier in the Commonwealth of Kentucky. Per KRS 45A.190 (2), the DBT shall submit 100 percent Performance and Payment Bonds conditioned upon the faithful performance of the requirements of the Contract and any modifications in conformity with the Contract; payment of claims against the DBT for materials, labor, and supplies; and reimbursement to KYTC for any overpayment made on the Contract. The DBT shall maintain the Performance and Payment Bonds in full force for the time required by law. If at any time during the performance of the Contract, the surety company falls below the minimum acceptable requirements, the DBT shall file new bonds in an amount established by KYTC, within 14 calendar days of such failure to meet the minimum requirements.

The surety of the Performance and Payment Bonds shall only sign a prescribed form through a duly appointed power of attorney with certifications acceptable to KYTC. The DBT shall file an attested copy of all certifications of attorneys-in-fact with the Franklin County Court Clerk prior to submission to KYTC and file a certified copy with KYTC.

All non-resident agents of Kentucky signing the bonds as representatives of a surety company shall obtain the countersignature of a licensed Kentucky agent of the insurer as required by law. All appointments of attorneys-in-fact shall contain a provision that the appointment will not be revoked without giving KYTC notice in writing at least 30 calendar days prior to the effective date of the revocation and filing same with the Franklin County Court Clerk. More than one surety may execute a bond for any one Contract, and, in such event when two or more sureties are provided on such bond, each surety shall be liable and obligated for the full amount required herein.

KYTC reserves the right to copy the surety on all of its communications with the Contractor concerning the DBT's performance, or performance deficiencies, on the project and further reserves the right to communicate directly with the surety to inform them of the DBT's performance, or performance deficiencies, on the bonded project.

9 EXECUTION of CONTRACT

Within 15 calendar days after receiving the Contract, the DBT shall execute and file it with KYTC along with the following items:

- A. The Performance and Payment Bonds required in ITP Section 8.2;
- B. Satisfactory evidence of required liability insurance General Conditions Section 107;
- C. Satisfactory evidence of compliance with ITP Section 1.3.

The DBT shall execute the Contract and bonds only on the form furnished by KYTC. Upon the filing with KYTC by the DBT of the executed Contract accompanied by the listed items, the Secretary of Transportation shall, within the period not exceeding 30 calendar days from the date of such filing, make final disposition of the Contract and, if Performance and Payment Bonds are approved, will issue a Notice to Proceed. Should KYTC withhold the Notice to Proceed in excess of the 30 calendar day period, the DBT shall have the option of accepting or rejecting the Contract without forfeiting the Bid Bond.

9.1 APPROVAL of CONTRACT

The Contract is not binding until the Secretary of Transportation executes it and certain agencies of the Commonwealth, as required by law, certify that sufficient funds are available.

9.2 FAILURE TO EXECUTE CONTRACT

The DBT's failure to execute the Contract or to comply with all requirements of ITP Section 9 within 15 calendar days after the Contract has been received by the DBT will be just cause for KYTC to nullify the Award. It is understood by both the DBT and KYTC that, in the event of the annulment of the Award, the DBT shall forfeit the amount of the Bid Bond as agreed liquidated damages to the Commonwealth; not as a penalty, but in liquidation of damages sustained. KYTC can then make an Award to the next lowest responsible DBT, readvertise the work, or take other action as provided by statute on this subject, as KYTC may elect. A DBT who forfeits a Bid Bond according to this section shall not be considered in future proposals for the same project unless there has been a substantial change in the design of the project subsequent to the forfeiture of the Bond.

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10 RIGHTS of the CABINET

KYTC reserves the right, at its sole discretion, to:

- A. Appoint evaluation committees to review Proposals;
- B. Investigate the qualifications of any DBT;
- C. Seek or obtain data from any source related to the Proposals;
- D. Require confirmation of information furnished by a DBT;
- E. Hold meetings and conduct discussions and correspondence with the DBTs to seek an improved understanding and evaluation of the responses to this RFP;
- F. Require additional information from a DBT concerning its Proposal;
- G. Seek and receive clarifications to a Proposal;
- H. Require additional evidence of qualifications to perform the Work;
- I. Modify the RFP process;
- J. Waive minor deficiencies and irregularities in a Proposal;
- K. Reject any or all of the Proposals;
- L. Cancel, modify, or withdraw the RFP;
- M. Issue a new RFP;
- N. Conduct discussions with DBTs; and
- O. Cancel a Contract signed by the DBT.

The RFP does not commit KYTC to enter into a Contract or proceed with the procurement described herein. Other than the right to receive a Stipend as described in Section 11 of this ITP, no unsuccessful DBT shall be entitled to reimbursement of its costs in connection with the RFP.

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11 PAYMENT and CONDITIONS of STIPEND

Subject to the conditions of the RFP, the Cabinet will provide a payment of \$1,500,000 to each non-selected, responsive, Short-Listed DBT. The term “payment” as used in this section shall mean \$1,500,000.

By submitting its Technical Proposal for this Project, the DBT forms a contract and agreement for its technical proposal and conceptual design with the Cabinet. Furthermore, by submitting its Technical Proposal for this Project, the DBT acknowledges that it is eligible for payment if the DBT’s proposal is not selected. The payment will be payable by the Cabinet to the DBT within 45 days after KYTC enters into contract with the successful DBT, unless payment is waived by the unsuccessful DBT.

The payment shall be due only if the DBT submits a Technical Proposal that is responsive to the RFP as defined herein. The payment shall be full and final consideration for all documents submitted in the Technical Proposal. Except for that intellectual property developed apart from or prior to DBT commencing work on the Technical Proposal for this project, KYTC shall retain an undivided joint interest in all rights and intellectual property submitted with the Technical Proposal including any intellectual property derived in the ITC(s) submitted to the Cabinet as part of the Technical Proposal.

If Technical Proposals have been submitted, but the Cabinet does not Award the contract, all responsive short-listed DBTs shall receive a payment, unless payment is waived by the DBT. If the Cabinet withdraws the contract prior to Technical Proposal submission, no payment will be made.

An unsuccessful DBT, who otherwise qualifies for the payment, may elect to waive the payment within 10 days of the Cabinet’s Award decision and retain its rights to its Technical Proposal and ITCs contained therein. By accepting payment of the Stipend, DBTs agree to waive all claims and causes of action against the Commonwealth, Indiana, and FHWA related to the Project in any way.

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APPENDIX A
FORM PP
PRICE PROPOSAL

<u>LINE NO.</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>ITEM TOTAL</u>
1.	A - Total for Design Build Work	Lump Sum	\$
	B - Number of days from March 1, 2013 to DBT Project final Completion Date	_____ Days	
2.	(B x \$80,000.00)		\$
3.	A+ (B x \$80,000) = Line 1 + Line 2= P _B		\$

DESIGN BUILD TEAM SIGNATURE

By: _____

Name: _____

Title: _____

Date: _____

Kentucky Contractor License Number: _____

Federal ID Number: _____



APPENDIX B

**FORM AOR
ACKNOWLEDGMENT OF RECEIPT OF
RFP, ADDENDA AND RESPONSES TO QUESTIONS**

NAME OF DBT

We hereby acknowledge receipt of the LSIORB Downtown Crossing RFP dated _____ and subsequent responses to questions and Addenda issued by KYTC, as listed below.

Add additional lines in tables below, if needed.

Addendum number:	Date issued by Agencies:

Responses to questions number:	Date issued by Agencies:

SIGNED	
DATE	
NAME	
TITLE	