

North Carolina Turnpike Authority

NCTA Policy on PPP's

Pursuant to N.C. Gen. Stat. § 136.89.183(13) and § 136-89.194(c), as amended, the North Carolina Turnpike Authority ("NCTA") may solicit for conceptual or detailed proposals from private entities who wish to develop, design, establish, finance, construct, operate, and/or maintain a Turnpike Project (as defined in N.C. Gen. Stat. § 136-89.181) in accordance with the procedures set forth herein.

These procedures are not intended to limit or otherwise apply to NCTA's procurement of goods and services in the ordinary course of its operations, for which NCTA may seek private participation in accordance with N.C. Gen. Stat. § 136-89.194(b).

NCTA may solicit for proposals in accordance with these procedures if:

- (1) The authorization applies to an individual project;
- (2) NCTA has concluded, and documented in writing, that the alternative contracting method is necessary because the Turnpike Project cannot be completed utilizing the procedures of Article 2 of Chapter 136 of the General Statutes within the necessary time frame or available funding or for other reasons NCTA deems in the public interest, including, but not limited to that such an approach has the potential to accelerate cost-effective delivery of the project or promote innovative approaches to carrying out the project;
- (3) NCTA has provided, to the extent possible, for the solicitation of competitive proposals prior to awarding a contract; and
- (4) The approved alternative contracting method provides for reasonable compliance with the disadvantaged business participation goals of § 136-28.4.

NCTA may exercise broad discretion in selecting projects for solicitation of proposals and in evaluating proposals in accordance with the criteria developed by NCTA which may include public need, technical and financial feasibility, transportation efficiency, cost effectiveness, and acceleration of project delivery. The selection process must appreciate economy and potential savings to the public, but proposal selection will be determined on a best-value basis rather than on a lowest responsible bidder determination.

North Carolina Turnpike Authority

Unsolicited Proposals

NCTA is not required to respond to unsolicited proposals and shall not as a matter of policy do so.

NCTA does however encourage parties to suggest projects for implementation pursuant to these rules that they believe have merit and meet the requirements of § 136-89.194(c) and these rules.

Selection of Projects for Solicitation of Proposals

In selecting projects for which to solicit proposals NCTA will give precedence to projects that will satisfy one or more of the following:

- Projects for which a private partner's investment will fulfill a critical financial need.
- Projects that will address an urgent state-or regional identified transportation need in a manner that will materially advance the project delivery time-frame in light of available levels of current or anticipated levels of funding and existing transportation plans.
- Projects for which planning, reliable feasibility determinations, comparable, successful prior projects or case studies demonstrate a strong potential to attract private investment.
- Projects for which there is a demonstration of clear and substantial public support.
- Projects that will benefit from innovative construction approaches that will result in shorter build time, reduced construction cost or improved function in comparison to conventional approaches.

RFQ – What information is requested?

NCTA expects to utilize a two step process which first seeks a request for qualifications (RFQ) before issuing a project request for proposals (RFP). While it is expected that RFPs will only be issued to entities that have been selected in the RFQ process, NCTA may issue a joint RFQ and RFP, in appropriate circumstances.

If authorized by the Board to issue an RFQ for an eligible project, NCTA will set forth the basic criteria for professional experience, technical competence, capability and financial resources to complete a proposed project, and such other information as NCTA considers relevant or necessary in the RFQ and will publish it as required by applicable

North Carolina Turnpike Authority

law and regulations and NCTA policy. NCTA may also elect to furnish the RFQ directly to businesses in the private sector that NCTA otherwise believes might be interested and qualified to participate in the project which is the subject of the RFQ. The RFQ may require that information be supplied on forms of general application.

NCTA, after evaluating the submissions received in response to an RFQ, will identify those entities that will be considered qualified to submit conceptual or detailed proposals for a proposed project. In evaluating the submissions, NCTA will consider such qualities that NCTA considers relevant to the project, which may include the private entity's financial condition, management stability, technical capability, experience, staffing, and organizational structure. The RFQ will include the criteria used to evaluate the submissions and the relative weight given to the criteria. NCTA shall advise each entity providing a submission whether or not it is on the "short-list" of qualified entities.

What will be included in the RFP?

NCTA may solicit for conceptual or detailed proposals from private entities that have been short-listed through the RFQ process who wish to design, construct, improve, maintain and/or operate all or part(s) of the Proposed Project.

The RFP may require the submission of detailed documentation regarding the project, including, but not limited to:

- (1) additional information regarding the proposer's qualifications and demonstrated technical competence;
- (2) the feasibility of developing the project as proposed;
- (3) detailed engineering or architectural designs;
- (4) the proposer's ability to meet schedules;
- (5) a detailed financial plan, including costing methodology, cost proposals, and project financing approach; or
- (6) any other information NCTA considers relevant or necessary.

The RFP will provide detailed instructions on how the proposal must be completed, executed and submitted. Proposers may be required to give an oral presentation of their proposal.

Proposals should be prepared simply and economically, providing a concise description of the private entity's ability to complete the proposed project. Emphasis will be placed on completeness and clarity of content.

NCTA may, in appropriate circumstances and subject to available funding, offer to pay a stipend or other compensation to unsuccessful proposers in return for rights to utilize ideas contained in their proposals.

North Carolina Turnpike Authority

Proposal Evaluation Criteria

The proposals will be evaluated by NCTA based on those evaluation criteria that NCTA deems appropriate for the project, which may include the reasonableness of any financial plan submitted by a proposer, the reasonableness of the project schedule, reasonableness of assumptions (including those related to ownership, legal liability, law enforcement, and operation and maintenance of the project), forecasts, financial exposure and benefit to NCTA, compatibility with other planned or existing transportation facilities, compliance with the disadvantaged business participation goals of N.C. Gen. Stat. § 136-28.4, likelihood of obtaining necessary approvals and other support, cost and pricing, toll rates and projected usage, scheduling, environmental impact, manpower availability, use of technology, governmental liaison, and project coordination, with attention to efficiency, quality of finished product and such other criteria, including conformity with NCTA policies, guidelines and standards, as may be deemed appropriate by NCTA to maximize the overall performance of the project and the resulting benefits to the state.

Specific evaluation criteria and requests for pertinent information will be set forth in the RFP.

Proposal review and private entity selection

Based on the evaluation and the evaluation criteria described above, and set forth in the RFP, NCTA will rank all proposals that are complete, responsive to the RFP, and in conformance with the requirements of the RFP, and may select the private entity whose proposal offers the apparent best value to NCTA as reflected in the evaluation criteria as set forth in the RFP.

Award may be subject to the successful completion of negotiations, any necessary federal action, execution by the NCTA Executive Director of the development, operating and/or financing agreement, and satisfaction of such other conditions that are identified RFP. The proposers will be notified in writing of NCTA's rankings and make the rankings available to the public.

Negotiations

NCTA will attempt to negotiate a development, operating and/or financing agreement with the apparent best value proposer to design, develop, finance construct, reconstruct, extend, expand, maintain, and/or operate the project. If a development, operating and/or financing agreement satisfactory to NCTA cannot be negotiated with that proposer, or if, in the course of negotiations, it appears that the proposal will not provide NCTA with the overall best value, NCTA will formally end negotiations with that proposer and, in its sole discretion, either:

North Carolina Turnpike Authority

- reject all proposals;
- modify the RFP and begin again the submission of proposals; or
- proceed to the next most highly ranked proposal and attempt to negotiate a development and/or financing agreement with that entity in accordance with this paragraph.

Protection against disclosure

All qualifications submittals or proposals submitted to NCTA become the property of NCTA and may be, except as provided by NC law, subject to the Public Information Act.

If a proposer has special concerns about information it desires to make available to NCTA, but which it believes constitutes a trade secret, proprietary information or other information excepted from disclosure, the proposer should specifically and conspicuously designate that information as such in its proposal. The proposer's designation shall not be determinative of the trade secret, proprietary, or exempted nature of the information so designated as a matter of law.

Reservations

NCTA reserves all rights available to it by law in administering these rules, including without limitation the right in its sole discretion to:

- Withdraw an RFQ or an RFP at any time, and issue a new request.
- Reject any and all qualifications submittals or proposals at any time.
- Terminate evaluation of any and all qualifications submittals or proposals at any time.
- Suspend, discontinue, or terminate negotiations with any proposer at any time prior to the actual authorized execution of a development agreement by all parties.
- Negotiate with a proposer without being bound by any provision in its proposal
- Request that a proposer to include aspects of unsuccessful proposals for that project in the development agreement on mutually acceptable terms.
- Request or obtain additional information about any proposal from any source;
- Modify, issue addenda to, or cancel any RFQ or RFP;
- Revise, supplement, or withdraw all or any part of these guidelines.

North Carolina Turnpike Authority

Final Agreement

Prior to developing, financing and/or operating a transportation facility, the private entity selected must enter into an agreement with NCTA. Each agreement will define the rights and obligations of NCTA and the respective private entity with regard to the project. NCTA will seek such policy, legal, financial, and technical advice as may be required to successfully negotiate the agreement(s).

The foregoing procedures are intended to apply to solicitations for private participation in Turnpike Projects in lieu of any other policies regarding project selection or procurement procedures adopted from time to time by the Board, unless otherwise expressly indicated in such policies or procedures.