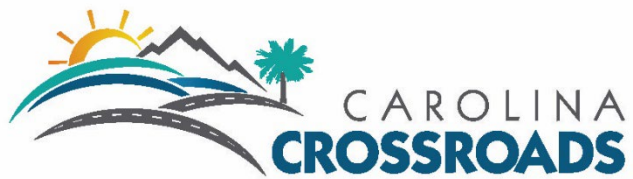


April 20, 2022



Request for Information—Risk-Sharing Strategies Under Consideration

CAROLINA CROSSROADS – PHASE 3

Contents

Introduction	2
Disclosure and Disclaimer	2
Project Overview	3
Current Risk Mitigation Strategies	4
1. Rights-of-Way Acquisition	4
2. Environmental Permitting	4
3. Utility Management.....	4
4. Railroad Coordination and Right of Way.....	5
Other Procurement-Related Information / Topics	6
1. Statement of Qualifications (SOQ) Scoring.....	6
2. Stipends	6
3. DBE Committal Requirements.....	6
4. Design-Build Agreement & Request for Proposals	6
5. Innovation and Added Value, Quality Credits, and Committals Matrix	6
Risk Allocation Opportunities	7
1. ATC Process for Interchange Modifications.....	7
2. Performance-based Criteria.....	7
3. Price Adjustment Clause Provisions	8
4. Utility Coordination – SCDOT Liaison (relative to uncooperative utilities)	8
5. Risk Register Meetings vs. Scope Validation.....	8
General Inquiries Related to Potential Risk Allocation.....	9

Introduction

The South Carolina Department of Transportation (SCDOT) is in the planning and development stages of procurement documentation for Phase 3 (Project) of the Carolina Crossroads project. Due to the size and scope of work for the Project, SCDOT is considering certain strategies to address concerns with risk allocation between SCDOT and the Contractor, along with providing information to contractors regarding the status of active risk mitigation associated with the Project. The intent of this document is to explore these topics with industry to determine whether they may necessitate new contract language or approaches to better identify, quantify and/or share the risk between SCDOT and the Contractor. Following each risk topic is a summary of the issues and concerns along with questions to obtain feedback and help determine whether contract administration changes aimed at reducing the contracting industry's risk would in fact be pursued by SCDOT.

The intent of the statements and questions below is to spur conversation during one-on-one meetings and to gauge the industry's perspective on the best approach to achieve the risk sharing objectives that SCDOT is considering for the Project. Please feel free to comment on any topic or question within this document or topics not mentioned in this document; you do not need to limit responses to those topics that have follow-up questions. Written responses prior to or during the one-on-one meetings are not required; however, any written responses provided to SCDOT will become public record for the Project.

The topics in this document are arranged in no particular order and you are encouraged to prioritize the topics and let us know which topics you would like to discuss.

Disclosure and Disclaimer

All materials and information submitted in response to this Request for Information (RFI), and any materials delivered to SCDOT during one-on-one meetings, are subject to FOIA.

If a respondent has special concerns about the confidentiality of materials and information that it desires to make available to SCDOT, but which the Respondent believes is exempted from disclosure under FOIA, such Respondent shall specifically and conspicuously designate that material and information in writing and by placing "CONFIDENTIAL" on the portion of such page affected, together with a concise written explanation as to why the information is exempt from disclosure under FOIA. No oral designations of any kind will be accepted. Blanket written designations that do not identify the specific materials and information are not acceptable and may be cause for SCDOT to treat the entire response as public information. SCDOT may disclose the contents of all responses to this RFI, except to the extent exempt from FOIA. By delivering a response, as well as by registering and participating in a one-on-one meeting with SCDOT, each Respondent consents to such disclosure and expressly waives any right to contest such disclosure. In determining whether to release documents, the SCDOT will rely on Respondent's marking of each page or portions of pages of documents as being "Confidential".

SCDOT reserves to itself all rights available to it under applicable law, including but not limited to the unqualified right, at any time and in its sole discretion, to change or modify this RFI, to reject any and all information, to seek clarification of information, to request additional information, and to undertake communications with one or more Respondents or others who, at

any time subsequent to the deadline for submissions to this RFI, may express an interest in the subject matter hereof.

No Respondent or any other person or entity shall have any rights against SCDOT arising from the contents of this RFI, the receipt of information, or the incorporation in or rejection of information contained in any response or in any other document. SCDOT makes no representations, warranties or guarantees that the information contained herein or on the project website, or in any addenda hereto or thereto, is accurate, complete, or timely or that such information accurately represents the conditions that would be encountered during the performance of any subsequent contract issued from a separate procurement. The furnishing of such information by SCDOT shall not create or be deemed to create any obligation or liability upon it for any reason whatsoever; and each Respondent, by submitting its information, expressly agrees that it has not relied upon the foregoing information, and that it shall not hold SCDOT liable or responsible therefore in any manner whatsoever.

Project Overview

The general scope of Phase 3 (Project) is to reconstruct the system interchange of I-26 and I-20 and complete the reconstruction of the I-26/I-126 system interchange which was started in Phase 1. The reconstruction of the system interchanges will require extensive widening to parts of I-26 and I-20 and modifications to the adjacent interchanges which were not addressed in previous phases, namely the I-26 Interchange with St. Andrews Road and the I-20 Interchange with Bush River Road. The widening of I-26 will extend from just west of St. Andrews Road to the limits of Phase 1 improvements between the Saluda River and US 378. The widening of I-20 will extend from east of the US 378 interchange to the limits of the Phase 2 improvements between I-26 and the US 176 (Broad River Road) interchange. The widening of the interstates and the interchange improvements will also require construction of numerous bridges, at least one noise barrier wall, and extensive relocation of frontage roads and reconnection of local roads.

The Project aims to accomplish several goals and objectives, which include, but are not limited to the following:

- Reducing or eliminating multiple weaving segments along I-20, I-26 and I-126 in the proximity to the off- and on-ramps of crossing road interchanges and between all three freeways
- Lengthening merge segments
- Separating system-to-system traffic flow
- Improving interchange ramp termini at arterial and collector roads to reduce crash risk through geometric modifications.

Current Risk Mitigation Strategies

The following strategies represent ways that SCDOT is working to move the project forward and reduce risks in all phases. The strategies below have been fully implemented or partially implemented as noted below, and SCDOT intends to continue to pursue implementing these strategies.

1. Rights-of-Way Acquisition

SCDOT has conducted right of way acquisitions as a robust program phased to align with the phased procurement schedule. SCDOT will take on the responsibility of acquiring the right of way necessary to construct the Refined Recommended Preferred Alternative (RRPA) and intends to complete the right of way acquisition of all necessary tracts within Phase 3 prior to contract execution with the Contractor. SCDOT will also be responsible for acquisition of Contractor Designated Right of Way and will commit to an acquisition duration for each property during the ATC process. The Design Build Agreement will include relief event provisions for properties which exceed the prescribed acquisition duration period.

2. Environmental Permitting

SCDOT has assumed the responsibility for obtaining approval of a Conditional Individual Permit. This 15-year USACE 404 Permit and Compensatory Mitigation Plan was secured on September 22, 2020 (permit number SAC-2015-01080). A provision of the USACE 404 Permit requires that each phase of the project to prepare and submit a Section 404 Permit Modification that details the specific compensatory impacts relative to the phase-specific final design. A Section 404 Permit Modification for Phase 3 will be a responsibility of the awarded Contractor.

The Compensatory Mitigation Plan required the acquisition of property and preservation and restoration activities associated with the approved mitigation plan. SCDOT purchased a large preservation tract between 2018-2020 and commenced restoration and construction activities in May 2021 (per the approved mitigation plans) with substantial completion achieved in February 2022. Any additional mitigation needs associated with the Project will be the responsibility of SCDOT through this existing mitigation bank.

3. Utility Management

SCDOT has conducted up-front utility coordination since 2019, and several utilities have signed Memoranda of Agreement with SCDOT for in-contract relocations as a part of Phase 1 and Phase 2, successfully including many telecommunications and wet utilities. SCDOT is in the process of continued coordination with utility companies to encourage in-contract status specific to Phase 3. SCDOT anticipates many of these same telecommunications and wet utilities from Phase 1 and Phase 2, including the potential of others, to sign Memoranda of Agreement for Phase 3. SCDOT will provide criteria and other necessary requirements for these in-contract utility relocations within the Phase 3 RFP documents. The awarded Contractor will be responsible for all continued coordination, design and construction of these in-contract utility relocations upon execution of contract and Notice to Proceed. For those utility companies that self-perform relocations, SCDOT will develop a shared cost and schedule risk relief regime.

Additionally, all wet utilities that qualify for the Utility Bill have been included in Phase 1 and Phase 2 as funded in-contract relocations that are under the direct control of the awarded contractors. SCDOT is in the process of continued coordination with the wet utilities affected by

Phase 3 to encourage in-contract status. SCDOT anticipates all affected wet utilities within Phase 3 to be in-contract. The awarded Contractor will be responsible for all continued coordination, design and construction of these in-contract utility relocations upon execution of contract and Notice to Proceed.

4. Railroad Coordination and Right of Way

SCDOT has conducted coordination with CSX regarding their ROW and single track that crosses Phases 1 and 3. For Phase 3, SCDOT is considering a similar risk management approach as was outlined in the Phase 1 RFP.

In Phase 1, SCDOT included provisions in the RFP requiring a 15-month construction access hold-off after the approval of ROW plans to allow time to secure any railroad property rights and any needed construction agreement.

Additionally, in Phase 1 SCDOT stipulated that it would cost/risk share by paying for the first \$1,000,000 in CSX railroad services, including flagging operations and design reviews.

Lastly, in Phase 1 any provable delays in the CPM schedule caused by CSX delays would, under defined circumstances, be entitled to time relief and shared cost relief. The Contractor is responsible for additional costs in the first 90 days, 50/50 share for costs incurred in days 91-180, and SCDOT bears cost burden beyond 180 days.

Other Procurement-Related Information / Topics

The following topics are specific to procurement-related changes that SCDOT intends to evaluate and may implement for the Project.

1. Statement of Qualifications (SOQ) Scoring

SCDOT has historically included the SOQ score (from the RFQ stage) as a criterion in the determination of the final scoring of each technical and cost proposal. For this Project, SCDOT intends to evaluate and revise the RFP scoring criteria to eliminate the SOQ score from the weighted criteria formula.

2. Stipends

A stipend will be awarded to each of the responsive, yet unsuccessful, short-listed proposers following the technical and cost proposal submittals. Based on industry feedback and project complexity, SCDOT intends to evaluate the overall value of the stipend to be awarded.

3. DBE Committal Requirements

SCDOT anticipates a 12.1% DBE total project goal. SCDOT anticipates a 0.2% portion of that goal which must be met by using certified DBE firms in the Professional Services industry. The remaining 11.9% would be met in any trade in support of constructing or designing the project.

4. Design-Build Agreement & Request for Proposals

SCDOT is in the process of developing a new Design-Build Agreement for the Project. The new agreement aims to reflect more national and industry-recognized formats and provisions with the intent of more clearly defining risk allocation for the Project.

SCDOT also aims to reformat the standard layout and organization of the Request for Proposal (RFP). The proposed organization of the RFP will include:

- Instructions to Proposers
- Design-Build Agreement
- Design Build Agreement Exhibits – necessary forms and certifications
- Technical Provisions – project requirements, design and construction criteria (project information reflected in Exhibits 3-8 of previous RFPs)
- Technical Provision Attachments – supplemental project requirements and criteria (reflected as Attachment B in previous RFPs), and,
- Project Information Package – ancillary project documents for information.

5. Innovation and Added Value, Quality Credits, and Committals Matrix

SCDOT is considering several changes to Quality Credit scoring through Innovation and Added Value. These potential changes could include but are not limited to the methods for the award of Quality Credits; owner delineation of Project Goals; and the addition of a requirement for a proposer-defined Commitment Matrix including cost and schedule benefits as the exclusive determiner of items eligible for Quality Credits.

Risk Allocation Opportunities

SCDOT is considering the following strategies and is posing the general inquiries below to address certain risk allocation treatments for the Project.

1. ATC Process for Interchange Modifications

SCDOT secured an approved Interchange Modification Report (IMR) for this project. SCDOT desires that any proposed changes to the design that affect traffic operations and the approved IMR would be vetted during the procurement process in order to allow for design innovation while mitigating risks associated with approval of revisions to the IMR after award of the contract. SCDOT intends to have designated meeting times during procurement for discussion of proposed changes that affect the IMR. Updates to and obtaining approval of the IMR will be the responsibility of the Contractor.

Questions to explore and understand the Contractor's perspective related to this risk sharing strategy:

- A. If you have had any experience with this concept, can you share your perspective on how this strategy could reduce risk for both parties?
- B. Do you have any specific ideas on how this can be accomplished effectively during the procurement?

2. Performance-based Criteria

SCDOT has historically utilized primarily prescriptive design criteria and specifications for past design-build projects. SCDOT is currently considering the expanded usage of performance-based criteria and specifications for this Project, specifically for maintenance of traffic, traffic analysis and potentially other elements.

Questions to explore and understand the Contractor's perspective related to this risk sharing strategy:

- A. What elements of the Project could benefit the most from performance-based criteria?
- B. Regarding maintenance of traffic, what performance metrics would you recommend that would allow for increased safety and efficiency during construction?
- C. Discuss your willingness to compensate SCDOT for user costs associated with relaxed restrictions.

3. Price Adjustment Clause Provisions

SCDOT currently has standard provisions for price adjustment clauses of fuel and asphalt adjustments and is currently utilizing asphalt indexing for Phase 1 and Phase 2. Price adjustment provisions include formulas designed to address problems and can protect both SCDOT and contractors from price fluctuations. Price adjustment formulas allow contractors to offer more realistic prices at the time of bidding.

As a result of recent and potential cost escalation factors and anticipated duration of the Project, SCDOT is considering using price adjustment clause provisions in the procurement of labor, equipment and materials. SCDOT is currently evaluating price adjustment formulas, trigger values, and the use of annual and cumulative cap.

Questions to explore and understand the Contractor's perspective related to this risk sharing strategy:

- A. Would increasing the opportunity of available price adjustment clause provisions interest your team on this project, given the anticipated duration of the Project?
- B. What price adjustment clause(s) would provide most equitable and reliable risk allocation (for SCDOT and Contractor) given the current market conditions?

4. Utility Coordination – SCDOT Liaison (relative to uncooperative utilities)

In this strategy, SCDOT would provide a direct facilitator to assist the Contractor as a liaison with utility owners that may be uncooperative and/or unresponsive with the ultimate goal of minimizing delays and to help resolve conflicts in a timely manner.

Questions to explore and understand the Contractor's perspective related to this risk sharing strategy:

- A. Do you have any experience on other projects where this strategy (or similar strategy) may have been employed and if so, specific examples of how this may have benefited the Project?

5. Risk Register Meetings vs. Scope Validation

SCDOT is examining the addition of confidential Risk Register Meetings during procurement and the use of a Scope Validation period post award. The intent of each of these considerations is to elicit better communication of risks between SCDOT and each Proposer.

Questions to explore and understand the Contractor's perspective related to this risk sharing strategy:

- A. Do you have any experience on other projects where this strategy (or similar strategy) that allowed for better risk elicitation during procurement that may have been employed and if so, specific examples of how this may have benefited the Project?

General Inquiries Related to Potential Risk Allocation

1. A copy of the current Quality Assurance Plan (QAP) is available at the following link for review; <https://www.scdot.org/business/carolina-crossroads-phase3.aspx>. What refinements, edits or changes in the process would you offer that may provide benefit to the Project and execution of the work?
2. Are there any other risk-sharing strategies that you believe should be considered for the Project, or strategies that have been applied successfully on projects in other states that could be evaluated for inclusion into this Project?
3. Please recommend specific steps that SCDOT could take to motivate innovation and reduce contingency for Project risks – either through incentive/disincentive clauses, risk/reward sharing mechanisms in the Project agreement, award fees, or other mechanisms you have utilized on similar projects.
4. SCDOT is investigating the approach to partnering and effective strategies for issue resolution at the project level by way of implementing a Project-Specific Dispute Resolution Board. Please provide information on any past experience with this approach (or similar approach) and/or your thoughts on the effectiveness of Project-Specific Dispute Resolution Boards.