

Johnson County Gateway Phase 2

Request for Qualifications



KDOT Project: 435-46 KA-1002-04



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1) INTRODUCTION AND GENERAL INFORMATION

This Request for Qualifications (RFQ) seeks Statements of Qualifications (SOQs) from Proposers to design, construct, and perform other identified activities for the Johnson County Gateway Phase 2 Project.

SOQs will be accepted only from Proposers that have assembled a team capable of providing all services and improvements necessary to complete the Project. Responses from individual engineering, construction, or consultant firms not prepared to provide all required services and improvements will not be accepted.

1.1 Abbreviations and Definitions

The following abbreviations and capitalized terms used in this RFQ shall have the meanings indicated below.

1.1.1. Abbreviations

ASQ	American Society for Quality
CFR	Code of Federal Regulations
DBE	Disadvantaged Business Enterprise
EA	Environmental Assessment
EEO	Equal Employment Opportunity
FHWA	Federal Highway Administration, U.S. Department of Transportation
IA	Independent Assurance
ISO	International Organization for Standardization
ITP	Instructions to Proposers
KDOT	Kansas Department of Transportation
KORA	Kansas Open Records Act
MOT	Maintenance of Traffic
NTP	Notice to Proceed
PI	Public Information
QA	Quality Assurance
QC	Quality Control
RFP	Request for Proposals
RFQ	Request for Qualifications
R/W	Right(s) of Way
SOQ	Statement of Qualifications

1.1.2. Definitions

Affiliate:

1. Any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Proposer or any Principal Participant; or

2. Any Person for which 10 percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by
 - a. the Proposer;
 - b. any Principal Participant; or
 - c. any Affiliate under part (1) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

Contract: Depending on the context: (i) the Design-Build Contract, or (ii) collectively, the Contract Documents, which establish the rights and obligations of the Department and the Design-Builder.

Contract Amount: The full compensation for the Work and all other obligations to be performed by the Design-Builder under the Contract Documents.

Contract Documents: The Contract, General Provisions, General Requirements, Project Requirements, Agreements, Contract Drawings, the Department’s Standard Specifications and Standard Drawings, any Addenda, all provisions required by law to be inserted in the Contract, whether actually inserted or not, and the Proposal, to the extent that it meets or exceeds the requirements of the other Contract Documents.

Day: Calendar day, as in each and every day shown on the calendar, beginning at 12:01 a.m. and ending at midnight.

Department or KDOT or Secretary: The Kansas Department of Transportation.

Design-Build: A project delivery methodology by which the Department contracts with a single firm that has responsibility for the design and construction of a project under a single contract with the Department.

Design-Builder: The Person selected pursuant to the RFP that enters into the Contract with the Department to design (or furnish the design) and construct the Project.

Design-Builder-Related Entities: Design-Builder, Designer, Major Participants, Subcontractors, their employees, agents and officers and all other Persons for whom the Design-Builder may be legally or contractually responsible.

Designer: The Principal Participant or Major Participant who has primary responsibility for design services for the Project.

Disadvantaged Business Enterprise (DBE): A for-profit small business concern as defined in 49 CFR Part 26 that is certified as such by the Department.

Independent Assurance (IA): Activities that represent an unbiased and independent evaluation of all the sampling and testing procedures, personnel and equipment used in the Quality Program. The Independent Assurance for the Project will be performed by the Department or the Department’s representative.

Key Personnel: The persons, employed by the Proposer and/or Design-Builder-Related Entities, determined by the Department as being essential and important to the management and delivery of the Project, subject to revision in accordance with the Contract Documents.

Lead Principal Participant: The Principal Participant who is designated by the Proposer as having the lead responsibility for managing the Proposer’s organization.

Major Participant: A Principal Participant, Designer, or Subcontractor responsible for performing more than 15 percent of the design of the Project or a Principal Participant or Subcontractor responsible for performing more than 20 percent of the construction of the Project.

Notice to Proceed (NTP) 1: A first written notice issued by the Department to the Design-Builder to proceed with certain limited Work on the date specified therein, as described in the RFP.

Notice to Proceed (NTP) 2: A written notice issued by the Department to the Design-BUILDER to proceed with the remainder of the Work on the date specified therein, as described in the RFP.

Oversight: All actions by the Department necessary to provide confidence that all material is incorporated in the Work, the Work complies with the Contract, and all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions may include, but are not limited to, regular and spot audits, verification tests, and sampling checks and reviews of Design-BUILDER's Quality Program and related outputs. The Department, or a firm retained by the Department, will perform such Oversight.

Owner: The Person who owns something. This can be, but is not limited to, the Department, local public authority, third party, or private property owner.

Person: Any individual or a corporation, partnership, sole proprietorship, joint stock company, joint venture, unincorporated association, union, committee, club, or other organization or legal entity.

Principal Participant: Any of the following entities:

1. The Proposer;
2. Any joint venture, partner, or member of the Proposer if the Proposer is a joint venture, partnership, limited liability company, or other form of association; and/or
3. Any Person holding (directly or indirectly) a 15 percent or greater interest in the Proposer.

Project: The improvements to be designed and constructed by the Design-BUILDER and all other Work products to be provided by the Design-BUILDER in accordance with the Contract Documents.

Proposal: The proposal submitted by a Short-Listed Proposer in response to the RFP.

Proposer: A Person submitting a Statement of Qualifications for the Project in response to this RFQ.

Quality Assurance (QA): All planned and systematic actions by the Design-BUILDER necessary to provide confidence and to certify to the Department that all Work complies with the requirements of the Contract Documents and that all materials incorporated in the Work, all equipment used, and all elements of the Work will perform satisfactorily for the purpose(s) intended. Such actions include reviews, inspections, and tests.

Quality Control (QC): The total of all activities performed by the Design-BUILDER, Designer, Subcontractors, producers, or manufacturers to ensure that all Work meets Contract requirements. QC includes design reviews and checks, inspection of material handling and construction, calibration and maintenance of sampling and testing equipment, working plan review, document control, production process control, and any inspection, sampling, and testing done for these purposes. Quality Control also includes documentation of QC efforts.

Quality Program: The overall QC, QA, and associated activities performed by the Design-BUILDER and Design-BUILDER-Related Entities to ensure that all Work complies with the Contract.

Request for Proposals (RFP): A written solicitation issued by the Department to the Short-Listed Proposers seeking Proposals to undertake the Project and to be used to identify the Short-Listed Proposer offering the best value to the State. The RFP is issued only to Persons who are on the Short-List.

Request for Qualifications (RFQ): The written solicitation issued by the Department seeking SOQs to be used to identify the Short-List of the most highly qualified Proposers to receive the RFP for this Project.

Short-List: The list of those Proposers that have submitted SOQs that the Department determines, through evaluation of the SOQ, are the most highly qualified Persons and will be invited to submit Proposals in response to an RFP.

State: The State of Kansas.

Statement of Qualifications (SOQ): The information prepared and submitted by a Proposer in response to this RFQ.

Subcontractor: A subcontractor or subconsultant on the Proposer's team that will be responsible for elements of the Work.

Work: All duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including but not limited to, the administrative, design, engineering, quality control, quality assurance, relocation, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, labor, materials, equipment, documentation, and other efforts necessary or appropriate to achieve Final Acceptance of the Project, except for those efforts which the Contract Documents specify will be performed by the Department or other Persons. In certain cases the term is also used to mean the products of the Work.

1.2 Project Description, Goals, and Values

The Johnson County Gateway is considered to be the interchange area of the I-435/I-35/K-10 highway network. It is one of the most congested interchange areas in the State, carrying approximately 230,000 vehicles each day. The economic vitality of the region relies on the continuity and efficiency of the transportation system. Projected traffic growth, however, threatens the future ability of the network to provide the kind of safe and timely travel that best serves the transportation and economic development needs within the region and the State.

The Department recently completed a study of the area that identified areas of major congestion, an accident rate well above the statewide average, and infrastructure nearing the end of its service life. Based on that study, the Department has developed an improvement plan to better handle current and future traffic demands, accommodate public transportation, and support economic development as the region continues to grow.

In May 2010, the Kansas Legislature passed Transportation Works for Kansas (T-WORKS), a 10-year transportation program. As part of that program, the legislature approved the use of an alternative delivery method on one project in Johnson or Wyandotte County. Because of its size and complexity, the Johnson County Gateway Phase 2 was selected as the alternative delivery project. Subsequently, Design-Build was chosen as the delivery method.

The Johnson County Gateway interchange improvement area is generally described as follows:

- I-435 from 87th Street to US 69 Highway
- I-35 from just south of I-435 to just north of 95th Street
- K-10 Highway from Woodland Road to I-435

For additional information on the Johnson County Gateway Phase 2 Project, visit www.jocogateway.com.

1.2.1. Project Goals

The Department's goals and objectives for the Project are as follows:

1. Successfully deliver to Kansas its first major Design-Build transportation project
2. Deliver Johnson County Gateway Phase 2 within the T-WORKS budget
3. Provide the highest value capacity improvements
4. Minimize travel delays during construction
5. Complete Johnson County Gateway Phase 2 by Summer 2017

1.2.2. Values

The Department values successfully delivering its first major Design-Build transportation project. To achieve this goal, it is important this Project be delivered within budget and on or ahead of schedule, maximizing the scope of improvements in the Johnson County Gateway interchange area while minimizing impacts to the traveling public. To this end, the Department strongly values the following:

1.2.2.1. Scope

1. Implementation of as many improvements as possible to the interchange area
2. Creative, innovative solutions that address the highest priority traffic problems that exist today
3. Minimizing overall congestion within the Project area
4. Strategic replacement of aging infrastructure within the Project area
5. Compatibility of future phases of the interchange area that minimize future rework and minimize the remaining scope of work to complete the ultimate improvements
6. Constructing high quality improvements that minimize maintenance needs throughout their respective design lives

1.2.2.2. Maintenance of Traffic

1. The efficient movement of traffic through the interchange area during construction
2. Minimizing the number and duration of full and partial roadway closures, particularly to mainlines
3. Maintaining access to businesses and residences
4. The early completion of usable portions of the Project

1.3 Role of the Department

The Department has performed, or intends to perform, certain activities to varying extents. The following list of these activities is for informational purposes only and may be modified by the RFP:

1. Certain acquisitions of R/W and temporary and permanent easements to the extent identified in the RFP
2. Establishment of certain utility, railroad, environmental, and other agreements and permits to the extent identified in the RFP
3. Certain FHWA approvals to the extent identified in the RFP
4. Certain relocation of selected utilities prior to construction to the extent identified in the RFP
5. Certain preliminary subsurface utility engineering (SUE) to the extent identified in the RFP
6. Certain remediation of selected undermined areas to the extent identified in the RFP
7. Certain geology data report(s), borings, and other various geotechnical data to the extent identified in the RFP
8. Certain preliminary design concept and survey information to the extent identified in the RFP

The Department's performance of these activities shall in no way relieve the Design-Builder of any of the terms of the RFP. At the Department's sole discretion, it may use its consultants in fulfilling the Department's rights and responsibilities noted throughout this RFQ.

1.4 Role of the Design-Builder

The selected Design-Builder will be responsible for furnishing all labor, materials, plans, equipment, services, and support facilities necessary to design and construct the Project, including but not limited to the following:

1. Project-related public information and communication activities which support the Department's public involvement program
2. Coordination with Project stakeholders, other contractors, utility owners, and the BNSF Railway
3. Design and construction Quality Control
4. Design and construction Quality Assurance
5. Coordination with Owner-performed Oversight
6. Environmental mitigation and compliance monitoring
7. Certain environmental permitting
8. Additional environmental investigations, monitoring, and training associated with or resulting from Design-Builder's activities
9. Preliminary engineering, such as surveys and geotechnical investigations
10. Remediation of harmful and hazardous materials (design and construction)
11. Drainage and erosion control
12. Required clearances, licenses, and permits for areas relating to Design-Builder Work, including Work sites and storage areas, both on and off site
13. Utilities coordination and (when required) relocation, and protection of existing utilities
14. Maintenance of the Project, excluding snow removal, within the Work area during the Contract period.

The Design-Builder, its Major Participants, and its Principal Participants, will be responsible for performing a combined minimum of 30 percent of the Contract Amount with their own organizations.

1.4.1. Design and Construction Requirements

1.4.1.1. Design

The Project shall be designed using MicroStation to current Department, AASHTO, FHWA, and/or municipal standards as applicable and/or amended in the RFP. While a preliminary design concept has been developed for the Project, the Design-Builder will be encouraged to develop alternative solutions through a process defined in the Instructions to Proposers. The Design-Builder will also need to demonstrate the Project is compatible with the ultimate improvements for the Johnson County Gateway interchange area.

1.4.1.2. Construction

It is anticipated the Project will be constructed within the acquired R/W. The Project must be constructed so as to maintain regional traffic level of service and access to businesses and residences throughout the construction process, as identified in the RFP.

1.5 Project Schedule and Status

1.5.1. Project Schedule

The anticipated time of Design-Builder selection is January 10, 2014, with completion by July 31, 2017. See Section 2.2 for the procurement schedule.

1.5.2. Project Status

The Department has performed, or intends to perform certain activities to varying extents. The following is a status of these activities for informational purposes only and may be modified by the RFP:

1. Permitting: The Department has developed information to acquire permits required for part, or all, of a preliminary design concept. The following permits are anticipated to be acquired by NTP1. (This list is not all inclusive of permits required for the Project.)

- a. United States Army Corps of Engineers (USACE) 404 Permit
 - b. Federal Emergency Management Agency (FEMA) Conditional Letter of Map Revision (CLOMR)
 - c. Kansas Department of Health and Environment (KDHE) 401 Water Quality Certification
 - d. Kansas Department of Agriculture (KSDA) Division of Water Resources (DWR) Floodplain Fill Permit
 - e. Kansas Department of Agriculture (KSDA) Division of Water Resources (DWR) Stream Obstruction Permit
2. Agency Approvals: The Department has developed information to acquire Federal Highway Administration (FHWA) documentation required for a preliminary design concept. The following approvals are anticipated to be acquired by the Department. (This list may not be all inclusive of FHWA documentation required for the Project.)
- a. Break-in-Access Request
 - b. Categorical Exclusion
 - c. Certain Design Exceptions
3. Right of Way: The Department has developed information to acquire R/W required for part of a preliminary design concept. It is anticipated that this R/W will be available to the Design-Builder by NTP1.
4. Utilities: Subsurface Utility Engineering (SUE) has been performed for major utilities that may potentially be affected by, or are in the vicinity of, the Project. The Department anticipates including copies of master utility agreements in the RFP that establish constraints and responsibilities for impacted utilities.
5. Geotechnical: It is anticipated that certain geology data report(s), borings, and other various geotechnical data will be provided in the RFP.
6. Traffic Data: It is anticipated that certain traffic volume maps, origin/destination information, travel demand model(s), and other various traffic data will be provided in the RFP.

Neither the status of these activities nor the Department's performance of these activities shall in any way relieve the Design-Builder of any of the terms of the RFP.

1.6 Contract Type

The Contract will be a "fixed-price, best-design" Design-Build Contract.

1.7 Governing Law

Federal and Kansas State laws govern the RFQ, RFP, and the Contract.

1.8 Quality Assurance/Quality Control

The Design-Builder will be required to plan, implement, and maintain a Quality Program for the Work. This program shall be developed by the Design-Builder to meet ISO 9001 standards. The ISO 9001 registration is not required. The Design-Builder's Quality Program must follow the requirements of 23 CFR Part 637 and the Contract Documents.

The Design-Builder will be required to retain the services of qualified independent firm(s) to perform Quality Assurance, independent from production and Quality Control. All QA personnel shall be employed by one of the qualified independent firms and shall not perform any other role on the Project.

The Department will establish and maintain an Oversight organization to monitor and perform audits of the Design-Builder's Work (including management, design, construction, and maintenance activities), the Quality Control program, and the Quality Assurance program, in order to verify the quality of the Work.

The Department will maintain an Independent Assurance (IA) program for all activities that represent an unbiased and independent evaluation of all the sampling and testing personnel, procedures, and equipment used in the Quality Program. The IA for the Project will be performed by the Department or the Department's representative.

1.9 Insurance, Licensing, and Permits

The Department will require the Design-Builder to provide specified insurance, the details of which will be provided in the RFP.

All Persons participating in this procurement or the Contract must obtain all licenses and permits and take all necessary steps to conduct business in the State of Kansas and perform the Work required under the Contract, including proposing and carrying out contracts consistent with the laws of the State of Kansas. If not incorporated in Kansas, the Proposer must register with the Secretary of State's office to do business in Kansas as a foreign corporation. The Proposer shall appoint an individual or organization, other than a government employee, as the corporation's process agent.

The Designer is required to be a Professional Engineer licensed in the State of Kansas at the time of or prior to submittal of Proposal in accordance with Section 2.2.

All licensed professionals, required to be licensed for the Project, are required to be licensed in the State of Kansas at the time of, or prior to, NTP1, in accordance with Section 2.2.

All other certifications for the Project shall be acquired at the time of, or prior to, NTP2, in accordance with Section 2.2.

1.10 KDOT Pre-Qualification Process

All Principal Participants and Major Participants shall be KDOT Pre-Qualified Contractors or Consultants for all classifications of work for which they intend to perform. Information on KDOT Contractor and Consultant Pre-Qualification is available here: www.ksdot.org/hwycont.asp and www.ksdot.org/descons.asp, respectively.

KDOT Pre-Qualification will not be required at the time of SOQ submittal and will not be used to evaluate SOQs. Within 30 Days of the Short-List being published, all Short-Listed Proposers shall submit to the Department Director of Operations all information required in order to become KDOT Pre-Qualified. Short-Listed Proposers shall coordinate with the Department, as needed, to verify and validate Pre-Qualification information to the extent deemed necessary by the Department until Pre-Qualifications requirements have been satisfied.

Short-Listed Proposers that are not able to become KDOT Pre-Qualified shall not be allowed to submit Proposals and shall not receive a stipend payment(s) or any other compensation for Proposal preparation efforts in accordance with Section 6.2.

1.11 Rules of Contact

The following rules of contact shall apply during the period between issuance of the RFQ and issuance of the RFP.

The rules are designed to promote a fair, unbiased, legally defensible procurement process. The Department is the single source of information regarding the Contract procurement.

The specific rules are as follows:

1. After submittal of SOQs, no Proposer or any of its team members may communicate with another Proposer or members of another Proposer's team with regard to the Project or the SOQs, except that a Proposer may communicate with a Person that is on both its team and another Proposer's team, so long as those Proposers establish a protocol to ensure that such Person will not act as a conduit of information between the teams.
2. Contact between the Proposers and the Department shall only occur through the Department's and Proposers' designated representative(s).
3. The Proposers shall not contact State officials or Department employees, including Department heads, members of the evaluation committee(s), and any official who will evaluate SOQs, regarding the Project, except through the procedures established in this RFQ.
4. Any contact determined to be improper, at the sole discretion of the Department, may result in disqualification.
5. All official communication regarding the Johnson County Gateway Phase 2 Project will be disseminated from the Department office on Department letterhead or via e-mail from the Department-designated representative(s).
6. The Department will not be responsible for any oral communication or any other information or contact that occurs outside the official communication process specified herein.

1.12 Proposer Requests for Clarifications

The Department will consider requests for clarification submitted via e-mail by Proposers regarding the RFQ. All requests must reference the specific section(s) of the RFQ applicable to the request and must be submitted by e-mail to the attention of Burt Morey, Kansas Department of Transportation, at the following e-mail address:

jocogateway@ksdot.org

No oral requests will be considered. No requests for additional information or clarification to any other Department office, consultant, employee, or the FHWA will be considered.

Only requests received by the date specified in Section 2.2 will be addressed. Requests will not be accepted by phone.

Requests must be titled "Proposer RFQ Request for Clarification(s)" on the Subject heading line. All requests submitted by a Proposer shall be from a single individual, who shall identify the Proposer they represent and who shall be the single point of contact as required by Section 4.4.1.

A response to requests for clarification will be issued without attribution and sent to all recipients of this RFQ.

1.13 RFQ Addenda

If necessary, the Department will issue, to recipients of this RFQ, Addenda to modify conditions or requirements of this RFQ.

1.14 Notification of Firms on the Short-List

Each Proposer will be notified in writing whether or not it has been selected for the Short-List. Notifications may be expected no later than the date specified in Section 2.2.

1.15 Costs

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, including attending briefing(s) and providing supplemental information.

1.16 Organizational Conflicts; Ineligible Firms

The Proposer's attention is directed to 23 CFR Section 636 Subpart A and in particular to Subsection 636.116 regarding organizational conflicts of interest. Section 636.103 defines "organizational conflict of interest" as follows:

"Organizational conflict of interest means that because of other activities or relationships with other Persons, a Person is unable or potentially unable to render impartial assistance or advice to the Owner, or the Person's objectivity in performing the Contract Work is or might be otherwise impaired, or a Person has an unfair competitive advantage."

The Proposer is prohibited from receiving any advice or discussing any aspect relating to the Project or the procurement of the Contract with any Person with an organizational conflict of interest. Proposers must include a full disclosure of all potential organizational conflicts of interest in their SOQ, including all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest, as required by 23 CFR 636.116.

Each of the following circumstances shall be deemed an organizational conflict of interest disqualifying the affected Proposers:

1. Participation by any of the following Persons on more than one Proposer's team: Principal Participant, Major Participant, or Designer
2. Participation by an Affiliate of any such Person identified in clause (1) above, on another Proposer's team

All Proposers affected by the conflict of interest will be disqualified, even if a Proposer is unaware of the conflict of interest, or if the Person or Affiliate causing the conflict is intended to have a different or lesser role than that described above.

By submitting its SOQ, each Proposer agrees that if an organizational conflict of interest is thereafter discovered, the Proposer must make an immediate and full written disclosure to the Department that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Department may, at its sole discretion, disqualify the Proposer from the procurement process. In such case, the Proposer shall lose any claim or right to the Proposal stipend identified in Section 1.18 or any other compensation from the Department. If the Proposer was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the Department, the Department may terminate the Contract for default.

Members of the Department's project management team that have assisted with this procurement may not participate on any Proposer team. Proposers shall disclose all present or planned contractual arrangements with HNTB Corporation, Charlotte Robinson, and URS Corporation. Identify planned efforts to avoid, neutralize, or mitigate any potential conflict of interest between such entity's or person's role for KDOT on the Johnson County Gateway Phase 2 Project and such other contractual arrangement(s) with the Proposer.

No Person that has been barred or suspended from bidding or is otherwise ineligible for State contracts may participate on any Proposer team. Proposers will be required to certify, and indicate exceptions to, the following at the time of submitting both its SOQ and its Proposal and the Department, in its sole discretion, may reject an SOQ on the basis of any such exception:

1. Proposer is not currently suspended, debarred, voluntarily excluded, or disqualified from bidding by any federal or state agency.
2. Proposer has not been suspended, debarred, voluntarily excluded, or disqualified from bidding by any federal or state agency within the past three years.
3. Proposer does not have a proposed debarment pending.
4. Proposer, within the past three years, has not been convicted or had a civil judgment rendered against them by a court of competent jurisdiction in any matter involving fraud, anti-trust violations, theft, official misconduct, or other offenses indicating a lack of business integrity or business honesty.
5. Proposer is not currently indicted or otherwise criminally or civilly charged by a federal, state, or local government with fraud, anti-trust violations, theft, official misconduct, or other offenses indicating a lack of business integrity or business honesty.
6. Proposer has not had one or more federal, state, or local government contracts terminated for cause or default within the past three years.

1.17 Organizational and Confidentiality Requirements

Completion Capability: Only prospective Proposers capable of completing this Project in its entirety will be eligible for the Short-List.

Minimum Requirements: The Proposer must meet all legal, financial, and SOQ responsiveness and pass/fail requirements described in Section 3.3.1.

Non-Disclosure Requirement: The Proposer may be given access to records that are confidential under State laws, solely for the purpose of performing the required services under the Contract. The Proposer shall be required to sign a non-disclosure statement prior to its receipt of such documents obligating each employee, agent, or Subcontractor of the Proposer not to make inappropriate use of or improperly disclose any of the contents of such documents.

Non-Public Process: The procurement will be conducted in accordance with the Kansas Open Records Act, 45-201, et seq. All records related to this procurement shall be treated as confidential to the extent allowed by K.S.A. 45-221i. All records related to this procurement, including, but not limited to, SOQs, Evaluation and Short-List Procedures, Proposals, Evaluation and Selection Procedures, and any records created during the evaluation and selection process, will remain protected records until the Contract has been executed by all necessary officials of the Design-Builder and the State, except for the Department's right to publically disclose certain information about the SOQs, such as the name and member of each team.

Organizational and Personnel Changes: Proposers are advised that, in order for a Proposer to remain qualified to submit a Proposal after it has been placed on the Short-List, its organization, including all Principal Participants, Major Participants, Designer, and Key Personnel identified in the SOQ, must remain intact for the duration of the procurement process. A Proposer may propose substitutions for participants after the SOQ submittal. However, such changes will require prior written Approval by the Department, which Approval may be granted or withheld in the Department's sole discretion. The Proposer should carefully consider the make-up of its team prior to submittal of the SOQ to reduce the likelihood of any such changes during the Proposal period and thereafter throughout the term of the Contract.

Public Information: All records pertaining to this procurement will become public information after execution of the Contract, unless such records are determined to be protected under KORA. Any records marked as protected by a Proposer in its SOQ or, if Short-Listed, in its Proposal will be returned to the unsuccessful Proposers after the Contract with the Design-Builder has been executed and delivered.

1.18 Proposal Stipend

The Department will provide a stipend in the amount of \$500,000 for each Short-Listed Proposer not chosen as the successful Short-Listed Proposer that submits a responsive Proposal.

2) PROCUREMENT PROCESS

2.1 Overall Procurement Process

The process for procurement of the Contract will be in accordance with laws and rules of the State of Kansas, using a “fixed-price, best-design” basis of selection. The intent of the Department is to award the Contract to the Short-Listed Proposer that provides the Proposal with the best transportation solution (best design) for a fixed-price.

The procurement process will include two steps:

1. RFQ: Determination of Short-List
2. RFP: Selection of Design-Builder, from the Short-Listed Proposers that submitted responsive Proposals

In determining the Short-List, the Department will consider information submitted in the SOQs and information that is otherwise available to the Department.

2.1.1. RFQ

SOQs submitted in response to this RFQ must include a response to each pass/fail and technical evaluation factor. The Short-List of Proposers that will be invited to submit Proposals will be determined based on evaluation of pass/fail and technical factors set forth herein. This RFQ sets out what is required during the RFQ step of the procurement (see Section 4).

At the end of the SOQ evaluations, the Department will determine the Short-List. Proposers on the Short-List will then be invited to provide Proposals.

2.1.2. RFP

The RFP will provide further specific instructions on what to submit, the evaluation factors, the objectives and requirements for evaluation, and the evaluation rating guidelines for the RFP step of the procurement.

Potential Proposal submittal requirements may include the following:

1. Pass/Fail
 - a. Legal
 - b. Financial
 - c. Responsiveness of Proposal
 - d. Certain Technical Solutions
 - e. Quality Program
 - f. DBE Involvement
2. Evaluation Criteria
 - a. Project Scope
 - b. Maintenance of Traffic
3. Price allocation of fixed-price

The successful Short-Listed Proposer for the Project will fully understand the Project goals and the Design-Build procurement process to deliver a Proposal that provides to the Department and the citizens

of Kansas outstanding transportation solutions within the available budget. The procurement process will use a multi-phased discussion process to develop innovative solutions that may include the Short-Listed Proposers defining the Project's scope, approach to managing traffic, approach to quality, and schedule.

2.2 Procurement Schedule

The following represents the current Project Schedule. The Project Schedule is subject to change at the sole discretion of the Department.

<i>Activity</i>	<i>Due Date</i>
Release RFQ	March 20, 2013
Last Day for receipt of Proposer's requests for clarification	April 3, 2013
SOQs due	April 17, 2013
Publish Short-List	May 8, 2013
Release Draft RFP	May 22, 2013
KDOT Pre-Qualification Information due	June 7, 2013
Last Day for industry review period comments	June 12, 2013
Release Final RFP	June 28, 2013
Licenses for Designers due	December 2, 2013
Proposals due	December 2, 2013
Selection of Design-Builder	January 10, 2014
All licenses due	February 21, 2014 (Estimated)
Execute Contract	February 21, 2014 (Estimated)
All certifications due	May 2014 (Estimated)

3) EVALUATION PROCESS FOR THE SOQ

3.1 Evaluation Objectives

The objective of the RFQ step of the procurement is to create a Short-List of the most highly qualified Proposers with the general (legal, technical, financial, and management) capability, capacity, and experience necessary to successfully undertake and complete the Work. The Design-Builder will have

primary responsibility to plan, design, manage, and control the Project and to complete construction of the Project on or ahead of schedule. Specific objectives relating to each of the pass/fail and technical evaluation factors listed in Section 3.3 are included in Sections 4.4.2.1 through 4.4.2.5 of this RFQ.

3.2 Review and Evaluation of the SOQ

The information submitted in accordance with Section 4 will be evaluated in accordance with both the pass/fail factors listed in Section 3.3.1 and the technical factors provided in Section 3.3.2.

3.3 Evaluation Factors for the RFQ/SOQ

This Section 3.3 outlines the evaluation factors for the RFQ phase of the procurement. This information is intended to assist Proposers in organizing their teams and preparing their SOQs.

3.3.1. Pass/Fail Evaluation Factors

The pass/fail evaluation factors are as follows:

1. **Legal:** The Proposer has presented evidence showing the make-up of its organization and that its organization has the legal ability to enter into and perform the Contract, to design and build the Project, and to comply with State licensing requirements.
2. **Financial:** The Proposer has demonstrated the ability to provide the required bonds and meet other financial requirements of undertaking and completing the Work.
3. **SOQ Responsiveness:** The Proposer's SOQ does not deviate from the RFQ requirements in any material respect.

If a Proposer passes all of the pass/fail evaluation factors, its SOQ will be further evaluated using the technical evaluation factors in Section 3.3.2. An SOQ that fails to achieve a "pass" rating on any pass/fail element will be rated Unacceptable, which will result in the technical evaluation factors not being rated and the Proposer not being included on the Short-List. The Department may allow certain deficiencies in the SOQs relating to the above factors to be corrected through clarifications, as described below, but shall have no obligation to do so.

3.3.2. Technical Evaluation Factors

The technical evaluation factors are as follows:

1. **Organization and Key Personnel (40 Points):** The proposed organization's Principal Participants, Major Participants, and Designer for the Project with emphasis on Key Personnel with a record of producing quality work on projects of similar size and complexity.
2. **Experience of the Firms (40 Points):** Demonstrated experience relevant to the size, complexity, and composition of the anticipated Project, and the experience of the Principal Participants, Major Participants, and Designer, with emphasis on Design-Build; quality compliance; highway and highway structures; complex interchanges; complex structures; and construction using innovative designs, methods, or materials.
3. **Past Performance (20 Points):** Demonstrated record of performance over the past five years for Principal Participants, Major Participants, and Designer, including (i) claims history (to include litigation, disputes arbitrated, performance and payment claims brought against the Surety, termination for cause, suspension for cause, defaults, and claims brought under the False Claims Act); (ii) disciplinary action; (iii) safety record; (iv) client references; and (v) awards, citations, and commendations.

The ratings assigned to the technical evaluation factors will be compiled to determine an overall quality rating for the SOQ. Ratings for each technical evaluation factor and the overall rating for the SOQ will be based on the following:

EXCEPTIONAL (90-100%): The Proposer has provided information relative to its qualifications that is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. SOQ includes significant strengths and few, if any, minor weaknesses.

GOOD (75-89%): The Proposer has presented information relative to its qualifications that is considered to exceed stated objectives/requirements and offers a generally better-than-acceptable level of quality. Any weaknesses are minor.

ACCEPTABLE (60-74%): The Proposer has presented information relative to its qualifications that is considered to meet the stated objectives/requirements and has an acceptable level of quality. Any weaknesses are balanced by strengths.

UNACCEPTABLE (below 60%): The Proposer has presented information relative to its qualifications that contains significant weaknesses and/or deficiencies and/or an unacceptable level of quality. The SOQ fails to meet the stated objectives and/or requirements, and/or lacks essential information, and is conflicting and/or unproductive. Weaknesses are significant and there are few, if any, strengths.

3.4 Department Requests for Clarification

The Proposer shall provide accurate and complete information to the Department. If information is not complete, the Department may declare the SOQ non-responsive, which will bar the Proposer from being Short-Listed.

The Department may waive technical irregularities in the Proposer's SOQ that do not alter the quality or quantity of the information provided.

The Department may, at its sole discretion, request clarifications and/or supplemental information from Proposers during the SOQ evaluation and Short-List process. Any insufficient statements or incomplete affidavits will be returned directly to the Proposer by the Department with notations of the insufficiencies or omissions and with a request for clarifications and/or submittal of corrected, supplemental, or missing documents. If a response is not provided, the SOQ may be declared non-responsive.

All requests and responses shall be in writing and delivered via e-mail or as otherwise specified in the Department's request for clarification. Responses shall be limited to answering the specific information requested by the Department. Responses shall be submitted within three Days of receipt of the request from the Department except as otherwise specified in writing by the Department.

3.5 Determination of the Short-List

The Department will Short-List up to four of the most highly qualified Proposers. Failure to achieve a Short-List of at least two Proposers may result in re-solicitation.

3.6 Challenge

The decision of the Department on the Short-List shall be final and shall not be appealable, reviewable, or reopened in any way, except as provided in Section 5. Parties participating in the RFQ phase of this procurement shall be deemed to have accepted this condition and all other requirements of this RFQ.

4) SOQ SUBMITTAL REQUIREMENTS

4.1 Date and Time of Receipt

All SOQs must be received no later than 2:00 p.m. (Central Time) on the day specified in Section 2.2.

The SOQs must be enclosed in sealed containers. Late submittals will not be considered and will be returned unopened to the address indicated on the cover of the package.

4.2 Submittal Address

SOQs shall be delivered to the following address:

Kansas Department of Transportation
Attn: Mr. David Nagy, P.E.
Contracts Engineer
Dwight D. Eisenhower State Office Building
700 SW Harrison Street
Topeka, KS 66603-3745

Each Proposer shall be responsible for obtaining a written receipt appropriate to the means of delivery from the Department office specified in this Section 4.2 at the time of delivery of its SOQ. It is the Proposer's sole responsibility to ensure delivery of its SOQ to the Department at the time and place specified herein, and the Department shall have no liability or responsibility therefore.

4.3 SOQ Requirements

Eight individually numbered, bound hard-copies and one DVD containing a single bookmarked PDF file of the SOQ shall be submitted. At least one SOQ copy shall contain original signatures and be marked as "Original" on its cover. Each SOQ shall, at a minimum, reference the Project name [Johnson County Gateway Phase 2] and number [435-46 KA-1002-04] on its cover and within the cover letter. Additional requirements for the SOQ are described in Appendix A.

4.4 Content of SOQ

This section describes the specific information that must be included in the SOQ. Required forms for the SOQ are contained in Appendix A. Any material modification to the forms may result in the SOQ being declared non-responsive.

Proposers should provide brief, concise information that addresses the objectives and the requirements of the Project consistent with the evaluation factors described in Section 4.4.2.

If the Proposer submits information in its SOQ that it believes to be protected records under KORA and that it wishes to protect from disclosure, the Proposer must do all of the following:

1. Clearly and conspicuously mark all financial information, trade secrets, or other information customarily regarded as confidential business information as such in its SOQ at the time the SOQ is submitted, and include a cover sheet identifying each section and page which has been so marked. The identification for such information should be marked "Confidential Business Information."
2. Include a statement with its SOQ justifying the Proposer's determination that certain records are protected for each record so defined.
3. Defend any action, at its sole expense, that seeks the release of the records the Proposer believes to be protected, and indemnify, defend, and hold harmless the Department and the State, their agents, and employees from any judgments awarded against the Department or the State in favor of the

party requesting the records, including any and all costs connected with that defense. This indemnification survives the Department's cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting an SOQ, the Proposer agrees that this indemnification survives as long as the protected records are in possession of the Department or the State.

Unless otherwise provided by law, confidential business information provided to the Department is not subject to inspection at any time by third persons under 45-221, KORA.

4.4.1. Cover Letter

The Proposer shall provide a letter indicating its desire to be considered for the Project and stating the official names and roles of all Principal Participants, Major Participants, and Designer. The Proposer shall identify a single point of contact for the Proposer and the address, telephone numbers, and e-mail address where requests for clarifications should be directed. Authorized representatives of the Proposer's organization shall sign the letter. If the Proposer is not yet a legal entity, or is a joint venture or general partnership, authorized representatives of all Principal Participants shall sign the letter.

Proposer shall attach the completed Form A to the cover letter acknowledging receipt of the RFQ, any Addenda, and responses to requests for clarifications issued by the Department.

4.4.2. Evaluation Objectives and Submittal Requirements

In providing an SOQ, Proposers should be guided by the Project goals and values in Section 1.2 and the objectives and submittal requirements listed in Sections 4.4.2.1 through 4.4.2.5. An objective is stated for each evaluation factor to provide Proposers with the expectations of the Department. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The SOQ evaluation ratings of Section 3.3 will be based on how well the SOQ responds to the requirements for each of the following evaluation factors.

4.4.2.1. Legal

Objective of legal evaluation is as follows:

1. To confirm that the Proposer is or will be legally constituted and able to submit Proposals, enter into the Contract, and complete the Work, and that the members of Proposer's team either have, or commit to obtain, all required licenses

The requirements and information to be provided in Section 1 of the SOQ are as follows:

1. Proposer's Organization Information (Form B) for the Proposer's organization
2. Proposer Certification (Form C) for each Principal Participant, Major Participant, and Designer covering the last five years
3. A full disclosure of all potential organizational conflicts of interest (See Section 1.16)

If the Proposer is a joint venture, limited liability company, or partnership, provide the following:

1. Identity of the Lead Principal Participant of the entity, if any (Form B)
2. Percent equity share held by each member (show in "Lead Principal Participant" column of Form B)
3. An express statement signed by each of the equity members of the entity, setting forth its agreement to be jointly and severally liable for the Proposer's obligations under its SOQ, Proposal, and the Contract

The requirements and information to be provided in Appendix A to the SOQ are as follows:

1. Submit notarized Power of Attorney for each Principal Participant authorizing the Principal Participant's representative to sign for that Principal Participant.

2. Submit notarized Power of Attorney from each Principal Participant authorizing the Proposer’s designated point of contact to sign documents for and on behalf of the Proposer’s organization.
3. If the Proposer has already been legally constituted, provide full details of the organizational structure and supporting organization/formation documents including a copy, as applicable, of the joint venture agreement, limited liability company operating agreement, partnership agreement, or articles of incorporation and bylaws.
4. If the Proposer has not yet been legally formed, provide a brief description of the proposed legal structure and draft copies of the underlying documents, including the following:
 - a. All significant terms of the joint venture, limited liability company, partnership, or corporation, including the rules relative to the administration of the joint venture, limited liability company, partnership, or corporation, including dealing with deadlock situations
 - b. Description of how the joint venture, limited liability company, partnership, or corporation will operate administratively and technically
 - c. A teaming agreement or comparable document setting forth the equity members’ agreement to form the organization

4.4.2.2. Financial

Objective of financial evaluation is as follows:

1. To identify Proposers with demonstrated capability and stability to undertake the financial responsibilities associated with the Project, including bonding.

The requirements and information to be submitted in Section 2 of the SOQ related to Surety Letter(s) statements are as follows:

1. Provide a letter from a Surety(ies) or insurance company indicating that the Proposer is capable of obtaining a Proposal Bond and Performance and Payment Bond covering the Design-Build Contract.
2. The bonding/security capacity levels in Table 4.4.2.2 – 1 represent minimum levels necessary to pass the pass/fail criteria of Section 3.3.1.

Table 4.4.2.2 – 1	
<i>Proposal Bond/ Security</i>	<i>Performance and Payment Bond/ Security</i>
\$15 million	\$300 million

3. The surety or insurance company submitting such letter shall be listed in the current United States Secretary of the Treasury, Fiscal Service, Secretary Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies. The surety or insurance company shall be issued by a Surety(ies) with an A.M. Best and Company rating level of A- or better and Class A-X or better. The Performance and Payment Bond may not be in excess of the cumulative underwriting limitation listed in the circular of the underwriting capacities of the Design-Builder’s surety companies.

4. The letter must specifically state that the Surety or insurance company has read the RFQ and has evaluated the team's backlog and work-in-progress in determining its bonding capacity. Letters indicating "unlimited" bonding/security capability are not acceptable.

The Contract Amount is anticipated to be within the range of \$250 million to \$300 million.

4.4.2.3. Organization and Key Personnel

Objectives of organization and Key Personnel evaluations are as follows:

1. To identify Proposers that will effectively manage all aspects of the Contract in a quality, timely, and effective manner and that will integrate the different parts of its organization collectively and with the Department, in a cohesive and seamless manner
2. To identify the best personnel for key management positions with demonstrated experience and expertise, and a record of producing quality work on projects of a similar nature to this Project
3. To identify Proposers with sufficient manpower and equipment resources to successfully complete the design and construction of the Project

The requirements and information to be submitted in Section 3 of the SOQ are as follows:

1. Provide the organization and communication structure among the Principal Participants, Major Participants, Designer, and Key Personnel. This information may be submitted in an 11-inch-by-17-inch organization chart.
2. Generally identify the manpower and equipment resources the team has available for the design and construction of the Project.
3. Provide requested information on Key Personnel. This information shall be submitted on the Key Personnel Information (Form D). If more than one key position is filled by the same person, so indicate. Provide three references for the Project Manager nominee and two references for all other Key Personnel. Indicate the name, position, company or agency, and current phone number and email address for each reference. References shall be owners or clients for whom the Key Personnel have performed project work in the past 10 years and shall not be current or past employers of the Key Personnel. Project Key Personnel are preferred to have experience on projects of a similar scope, nature, and complexity as this Project and shall meet the following qualifications:
 - a. **Project Manager:** Shall have a minimum of 15 years experience, including a minimum of five years Design-Build experience, in construction and management of design and construction on highway projects that included work of a similar scope, nature, and complexity as included in this Project. Project Manager shall hold a position within the Design-Builder's organization with authority to make decisions affecting any aspect of the Project.
 - b. **Construction Manager:** Shall have a minimum of 10 years experience in construction and management of construction on highway projects with similar scope, nature, and complexity as this Project. Emphasize Design-Build experience and experience with interstate highways, interstate bridges, bridge widening, and projects of similar size as this Project.
 - c. **Design Manager:** Shall be a Professional Engineer licensed in the State of Kansas, or licensed in the State of Kansas at the time of NTP1, who is an employee of the Designer and shall have a minimum of 10 years experience in managing design for multidisciplinary highway projects with similar scope, nature, and complexity as this Project. Emphasize Design-Build experience and experience with interstate

- highways, interstate bridges, bridge widening, and projects of similar size as this Project.
- d. **MOT Manager:** Shall be a Professional Engineer licensed in the State of Kansas, or licensed in the State of Kansas at the time of NTP1, and shall have a minimum of eight years experience in conceiving and implementing maintenance of traffic strategies during construction of multidisciplinary highway projects with similar scope, nature, and complexity as this Project. Emphasize Design-Build experience.
 - e. **Third-Party Manager:** Shall have a minimum of 10 years experience in coordination with third parties, including utility, railroad, and local governments, and experience in effectively communicating with design engineers and construction staff regarding requirements of the associated agreements, on highway projects that included work of a similar scope, nature, and complexity as this Project. Emphasize Design-Build experience.
 - f. **Roadway Design Manager:** Shall be a Professional Engineer licensed in the State of Kansas, or licensed in the State of Kansas at the time of NTP1, and shall have a minimum of 10 years experience in roadway design on highway projects that included work of a similar scope, nature, and complexity as this Project.
 - g. **Structures Design Manager:** Shall be a Professional Engineer licensed in the State of Kansas, or licensed in the State of Kansas at the time of NTP1, and shall have a minimum of 10 years experience in bridge design, including steel and concrete superstructures, continuous multispan bridges, and curved bridges, on highway projects that included work of a similar scope, nature, and complexity as this Project.
 - h. **QA Manager:** Shall have a minimum of eight years experience in highway design and construction including at least five years experience in quality assurance activities, including preparation and implementation of quality plans and procedures for design and construction, on highway projects that included work of a similar scope, nature, and complexity as this Project. The QA Manager shall be an ASQ certified Manager of Quality, or certified by the time of the NTP1. The QA Manager must be employed by an independent firm performing Quality Assurance on this Project and can hold only this Key Personnel position. Emphasize Design-Build experience on projects of similar size as this Project.
 - i. **Construction QA Manager:** Shall have a minimum of eight years experience in construction on highway projects that included work of a similar scope, nature, and complexity as this Project. The Construction QA Manager shall be an ASQ certified Manager of Quality, or certified by the time of the NTP2. The Construction QA Manager must be employed by an independent firm performing Quality Assurance on this Project.
 - j. **Design QA Manager:** Shall be a Professional Engineer licensed in the State of Kansas, or licensed in the State of Kansas at the time of NTP1, and shall have a minimum of eight years experience in design on highway projects that included work of a similar scope, nature, and complexity as this Project. The Design QA Manager shall be an ASQ certified Manager of Quality, or certified by the time of the NTP1. The Design QA Manager must be employed by an independent firm performing Quality Assurance on this Project.
4. Submit resumes outlining Key Personnel experience and qualifications. Resumes should highlight the following information:

- a. Proposed role on the Project and experience in the area of responsibility
- b. History of employment with firm
- c. Experience in the management, design, and/or construction of projects, especially any Design-Build projects
- d. Role, if any, in projects included in firm experience
- e. Percent of time allocated/committed to this Project

4.4.2.4. Experience of the Firms

Objectives of evaluating experience of firms are as follows:

1. To identify the best design and construction firms with demonstrated experience, expertise, capacity in, and record of producing quality Work on projects similar in nature to the Project
2. To identify Proposers that have the following:
 - a. Experience in successfully managing, designing, and constructing projects of similar size and complexity as this Project
 - b. Superior record of successfully completing contracts safely, on time, and within budget
 - c. Experience of the Principal Participants, Major Participants, and Designer working together as a team with a preference for Design-Build experience

The requirements and information to be submitted in Section 4 of the SOQ are as follows:

1. Provide a separate summary of the background and experience of Principal Participants, Major Participants, and Designer. Format the summaries at the discretion of the Proposer.
2. Project Description (Form E). Show the firm's experience by providing two to three past project descriptions for each Principal Participant, Major Participant, and Designer. Highlight experience in the past 10 years relevant to the Project. Describe those projects having a scope comparable to that anticipated for the Project. Attach the completed Form E to the respective firm's background and experience summary.
3. Subcontractor Information (Form F). Identify Subcontractors that the Proposer plans to use (to the extent they are known), indicating what portion of the Work each Subcontractor is anticipated to undertake.

4.4.2.5. Past Performance

Objectives of past performance evaluation are as follows:

1. To select Proposers whose team members and personnel do not have a history of legal and financial problems that could adversely impact the Project
2. To obtain the commitment of the Principal Participants, Major Participants, and Designer regarding representations made in the SOQ

Requirements and information to be submitted in Section 5 of the SOQ are as follows:

1. Past Performance (Form G). Provide the information requested in the subparagraphs (a-h) below for Principal Participants, Major Participants, and Designer as defined in Section 1.1.2. If a Proposer has no record of relevant past performance or if the information relative to a category is not available, enter a declarative statement to that effect on Form G. If the record of relevant past performance does not exist or is not available, the Proposer shall receive a rating of Acceptable for this factor. Attach additional sheets to Form G as necessary. For each instance or combination of litigation (whether a judgment was rendered or not), claims against a Performance and/or Payment Bond, a proceeding subject to arbitration where a judgment was rendered, assessment of

liquidated damages, notice of default or suspension (other than suspension for convenience of the owner), termination for cause, or disciplinary action, provide the Owner's name and the name of its current representative (and current phone and fax number and e-mail address) who can be contacted for additional information. With respect to the information solicited in this Section 4.4.2.5, such information shall be provided for the past five years from date of issuance of the RFQ. Failure to provide this information, conditional or qualified submissions to requirements (i.e., "to our knowledge," "to the extent of available information," "such information is not readily available," "such information is not maintained in the manner requested," and others), incomplete or inaccurate submissions, or nonresponsive submissions will lower the evaluation rating for this quality factor or result in a deficiency sufficient to cause the Department to declare the SOQ nonresponsive.

- a. **Arbitration Proceedings:** For each Principal Participant, Major Participant, and Designer, identify each arbitration claim against an owner for which a judgment was rendered.
- b. **Awards, Citations, and/or Commendations:** List awards, citations, and/or commendations for performance relevant to this Project received by each Principal Participant, Major Participant, and Designer. Describe the work for which the awards, citations, and commendations were received.
- c. **Disciplinary Action:** Indicate any disciplinary action taken against each Principal Participant, Major Participant, and Designer, by any governmental agency or licensing board, including both the suspension from the right to propose or bid and the removal from any proposer/bid list.
- d. **Liquidated Damages:** For each Principal Participant, Major Participant, and Designer, provide a list of all projects where liquidated damages were assessed by the owner. Include the number of days of delay, the total amounts due, and the cause of the delays as determined by the owner. For any liquidated damages that are currently unpaid or otherwise unresolved, provide an explanation why they are currently unpaid or unresolved.
- e. **Litigation:** For each Principal Participant, Major Participant, and Designer, provide a list of all litigation (including all complaints or responses to complaints filed) involving its performance or participation on a project in excess of \$1 million. Include the nature of the litigation, the amount asserted, the parties involved, and the resolution (including current status for unresolved litigation).
- f. **Successful Claims against the Surety:** For each Principal Participant, Major Participant, and Designer, provide a list of all projects where the owner asserted a successful claim against a bid, performance, or warranty bond. A successful claim is considered one in which the bonding company performed any obligation of the Principal Participant, Major Participant, and/or Designer, regardless of the position taken by the bonding company or ultimate finding made by the judicial authority. Provide the value of the amount assessed or work performed, the type and nature of the claim, the parties involved, and the resolution of the claim (including current status for unresolved claims).
- g. **Suspension or Notice of Default:** For each Principal Participant, Major Participant, and Designer, identify any suspension that was not for the convenience of the owner, or default notice provided for an owner that relates to any performance or non-

performance of a contractual obligation. Describe the reasons for any such suspension or notice of default.

- h. **Termination for Cause:** Describe the conditions surrounding any contract (or portion thereof) entered into by each Principal Participant, Major Participant, and Designer, that has been terminated for cause, or for which a notice of default was delivered, or which required completion by another party. Describe the reasons for termination or notice.

5) PROTESTS

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

5.1 Written Protests Only

All protests must be in writing, whether related to pre-award, award, or post-award phases of the procurement process. Protests shall be submitted to the Protest Official at the following address:

Kansas Department of Transportation
Attn: Catherine Patrick
Director of Operations
Dwight D. Eisenhower State Office Building
700 SW Harrison Street
Topeka, KS 66603-3745

Any protest not set forth in writing within the time limits specified in these procedures is null and void and shall not be considered. In addition, protests regarding this RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Project Director in an effort to remove the grounds for protest.

The Protest Official may, in his/her discretion, discuss the written protest with the protestor prior to issuance of the Protest Official's written decision. The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by the Protest Official or his/her designee. The Protest Official or his/her designee shall issue a written decision regarding any protest to each Proposer. The Proposer agrees that any appeal of the decision of the Protest Official shall be filed within seven Days of receipt of the decision. Proposer agrees that if the Proposer does not appeal the Protest Official's decision within seven Days, the decision shall be deemed to be final agency action pursuant to the Kansas Judicial Review Act, KSA 77-601, et seq.

5.2 Protest Contents

All Protests must include the following:

1. The name and address of the Proposer
2. The Project name and Contract number
3. A detailed statement of the nature of the protest and the grounds on which the protest is made
4. All factual and legal documentation in sufficient detail to establish the merits of the protest. Protests must be provided under penalty of perjury.

The protestor must demonstrate or establish a clear violation of a specific law or regulation, or alleged improprieties in the RFQ process.

The Protest Official will not be obligated to postpone the SOQ due date, Short-List announcement, or draft RFP release date in order to allow a protestor an opportunity to correct a deficient protest or appeal, unless otherwise required by law or regulation.

If the protest is denied, the protestor shall be liable for the Department's costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the Department as a consequence of the protest. If the protest is granted, the Department shall not be liable for payment of the protestor's costs.

5.3 Protest Prior to SOQ Due Date

Protests prior to the SOQ due date shall be filed with the Protest Official within seven Days after the protestor knew, or should have known, of the actions that it alleges constitute the grounds for the protest.

The Protest Official will promptly make a determination in writing regarding the validity of a protest filed prior to the SOQ due date and whether or not the RFQ process should be delayed beyond the scheduled SOQ due date.

If the Protest Official determines that the scheduled SOQ due date should be delayed, all Proposers will be notified by written addendum of the delay and the reason thereof.

If the protest is determined to be valid, the Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to the Department's proceeding with the procurement process.

The failure of a Proposer to file a basis for a protest regarding this RFQ shall preclude consideration of that ground in any protest of a selection unless such ground was not, and could not, have been known to the Proposer in time to protest prior to the final date for such protests.

5.4 Protest Prior to Announcing the Short-List

When a protest or appeal has been filed in a timely manner with the Protest Official prior to announcing the Short-List, the Department, in its sole discretion, may announce the Short-List before or after resolution of the protest or appeal.

5.5 Protest Regarding Short-List Decision

If the Short-List decision is being protested, a protestor shall protest in writing to the Protest Official as soon as practical, but not later than seven Days after the protestor knew or should have known it was not included on the Short-List. If the protest has been filed in a timely manner, the Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the procurement should be delayed or the Short-List considered for revision.

If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement process.

The Department will not proceed with the procurement for seven Days after the decision is rendered by the Protest Official unless the protester waives in writing its right to appeal the Protest Official's decision or, if the decision is appealed, until seven Days after receipt of the Protest Committee's decision as provided in Section 5.6 below.

Should a protester wish to appeal the decision of the Protest Official concerning any Short-List decision, a protester shall follow the procedures as outlined in Section 5.6.

5.6 Right of Appeal

In the event that a protester receives an unfavorable decision from the Protest Official to its protest, the protester shall have the right to appeal the decision of the Protest Official by submitting a written appeal to the State Transportation Engineer or designee within seven Days after receipt of the decision of the Protest Official. The State Transportation Engineer, or designee, will appoint a Protest Committee of at least three members to review the protest and the decision of the Protest Official.

The Protest Committee will notify the protester in writing in a prompt manner of its decision regarding the protest and the appeal. If the protest and appeal were timely filed, the Department will not proceed with the procurement for seven Days after the decision is rendered by the Protest Committee unless a protester waives in writing its right to appeal the Protest Committee's decision.

If the matter is not resolved after the appeal, the protester may continue the protest only by appeal to judicial authority. The Department's decision after review and the appeal constitutes final agency action under the Kansas Judicial Review Act, KSA77-601 et seq.

If the protester appeals the Department's decision pursuant to the Kansas Judicial Review Act, the Department may, in its sole discretion, proceed with the procurement process unless otherwise ordered by the Court.

6) DEPARTMENT RIGHTS AND DISCLAIMERS

6.1 Department Rights

The Department may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFQ. The Department reserves the right, in its sole and absolute discretion, to do the following:

1. Reject any or all SOQs.
2. Issue a new RFQ.
3. Cancel, modify, or withdraw the RFQ.
4. Issue Addenda, supplements, and modifications to this RFQ.
5. Modify the RFQ process (with appropriate notice to Proposers).
6. Appoint a short-list committee and evaluation team(s) to review SOQs, and seek the assistance of outside technical experts in the SOQ evaluation.
7. Approve or disapprove the use of particular Subcontractors and/or substitutions and/or changes in SOQs.
8. Revise and modify, at any time before the SOQ due date, the factors it will consider in evaluating SOQs, and otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the Department will circulate an Addendum to all registered Proposers setting forth the changes to the evaluation criteria or methodology. The Department may extend the SOQ due date if such changes are deemed by the Department, in its sole discretion, to be material and substantive.

9. Hold meetings and exchange correspondence with the Proposers responding to this SOQ to seek an improved understanding and evaluation of the SOQs. If individual Proposer informational meetings are held, all Proposers submitting a responsive SOQ shall be given an opportunity to participate in such meetings.
10. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the SOQs.
11. Waive weaknesses, informalities, and minor irregularities in SOQs.
12. Disqualify any team that changes its SOQ without written Department Approval.
13. Refuse to receive or open an SOQ, once submitted, or reject an SOQ if such refusal or rejection is based on, but not limited to, the following:
 - a. Failure on the part of a Principal Participant, Major Participant, or Designer to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the Department (or State)
 - b. Default on the part of a Principal Participant, Major Participant, or Designer under previous contracts with the Department (or State)
 - c. Unsatisfactory performance by the Principal Participant, Major Participant, or Designer under previous contracts with the Department (or State)
 - d. Issuance of a notice of debarment or suspension to the Principal Participant, Major Participant, or Designer
 - e. Submittal by the Proposer of more than one SOQ for the same Work under the Proposer's own name or under a different name
 - f. Existence of an organizational conflict of interest under Section 1.16, or evidence of collusion in the preparation of an SOQ, Proposal, or bid for any Department design or construction project by (a) the Principal Participant, Major Participant, or Designer; or (b) other Proposers or bidders for that project
 - g. Uncompleted work or default on a contract in another jurisdiction for which the Principal Participant, Major Participant, or Designer is responsible

The RFQ does not commit the Department to enter into a Contract, nor does it obligate the Department to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a Contract. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFQ and any subsequent RFP is contingent on sufficient appropriations and authorizations being made by the Legislature of Kansas, or the Congress of the United States if federal funds are involved, for performance of a Contract between the successful Proposer and the Department.

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

6.2 Department Disclaimers

In issuing this RFQ and undertaking the procurement process contemplated hereby, the Department specifically disclaims the following:

1. Any obligation to award or execute a Contract following Short-Listing or the RFP
2. Subject to Section 1.18, any obligation to reimburse a Proposer or Short-Listed Proposer for any costs it incurs under this procurement

In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

7) DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY

7.1 Policy

The specific requirements for the utilization of Disadvantaged Business Enterprises are set forth in KDOT Required Contract Provisions and are imposed pursuant to 49 CFR Part 26, hereinafter referred to as the regulations. These provisions meet or exceed the regulatory requirements. The regulations always take precedence over normal industry practice. The Proposer shall not discriminate on the basis of race, color, national origin, religion, age, disability, income status, veteran status, or gender in the performance of the Contract. The Proposer shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the Proposer to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract, or such other remedy as the Department deems appropriate.

7.2 DBE Participation Goal

A DBE Goal of 10 percent has been estimated for the Project.

7.3 Equal Employment Opportunity

Equal employment opportunity requirements to NOT discriminate and to take affirmative action to assure equal employment opportunity shall apply to the Proposer.

Federal Aid Projects

The specific affirmative action requirements for these contracts are imposed pursuant to 41 CFR Part 60 1, 60-250, 60-741, 23 CFR Parts 633 and 230, FHWA Form 1273 and the Americans With Disabilities Act of 1990.

State Funded Projects

The specific affirmative action requirement for these contracts are imposed pursuant to Governor of Kansas Executive Order 75-9 and the Kansas Act against Discrimination, as amended.

Proposers agree to the following:

1. To comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.); the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.); and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.)(ADA); and to not discriminate against any person because of race religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities.
2. To include in all solicitations or advertisements for employees, the phrase “equal opportunity employer.”
3. To comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116.
4. To include those provisions in every subcontract or purchase order so that they are bind upon such Subcontractor or vendor.
5. That a failure to comply with the reporting requirements set forth herein or if the Proposer is found guilty of any violation of such acts by the Kansas Human Rights

Commission, such violation shall constitute a breach of Contract and the Contract may be cancelled, terminated, or suspended, in whole or in part, by KDOT or the Kansas Department of Administration.

6. If it is determined that the Proposer has violated applicable provisions of ADA, such violation shall constitute a breach of Contract and the Contract may be cancelled, terminated, or suspended, in whole or in part, by KDOT or the Kansas Department of Administration. The provisions of this paragraph, with the exception of those relating to the ADA, are not applicable to a Proposer who employs fewer than four employees during the term of such contract or whose contracts with KDOT cumulatively total \$5,000 or less during the fiscal year.

In connection with this RFQ and the Contract, Proposers shall accept as a minimum operating policy the following statement: It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, age, sex, color, disability, national origin, or veteran status. Such action shall include employment, upgrade, demotion, transfer, recruitment, recruitment advertising, layoff, termination, wages, benefits, and selection for training, including pre-apprenticeship, apprenticeship, and on the job training.

All other EEO requirements, in accordance with KDOT required Contract provisions, will need to be incorporated by the Proposer into their policy.

Highway Construction Trainee hours have been set at 10,000 hours for this Project.

8) COMPLIANCE WITH APPLICABLE LAWS

Proposers shall comply with all laws, in all aspects, that are applicable to the procurement process of this Project and the performance of the Contract. It is the Proposer's responsibility to be aware of current laws.

Johnson County Gateway Phase 2

Request for Qualifications

Appendix A

Addendum 1 – April 10, 2013

Appendix A – Table of Contents

- **Format and Organization of SOQ**
- **Form A – Acknowledgement of Receipt**
- **Form B – Proposer’s Organization Information**
- **Form C – Proposer Certification**
- **Form D – Key Personnel Information**
- **Form E – Project Description**
- **Form F – Subcontractor Information**
- **Form G – Past Performance**

1. ORGANIZATION

The SOQ shall be organized as follows and as depicted in Table A – 1 below:

- A. Cover letter
- B. Body sections:
 - Section 1 – Legal
 - Section 2 – Financial (including Backlog and Capacity)
 - Section 3 – Organization and Key Personnel
 - Section 4 – Experience of the Firms
 - Section 5 – Past Performance
- C. Appendices:
 - Appendix A – Legal Documents

2. FORMAT

SOQ text shall be in a standard font that is a minimum of 10 point in size, and single-spaced. Font sizes smaller than 10 point may be used in charts, exhibits, and other illustrative and graphical information as long as it is readily legible. Each page shall be numbered consecutively within each section (i.e., 1-1, 1-2...; 2-1, 2-2...; 3-1, 3-2..., etc.), in a consistent location at the bottom of each page. The cover letter, body sections, and appendix shall consist of pages that are 8 ½-inch by 11-inch and white, except for charts, exhibits, and other illustrative and graphical information, which may be submitted on white, 11-inch by 17-inch pages and folded to 8 ½ -inch by 11-inch. When reasonable, each sheet of paper shall be printed on both sides and each printed side shall be considered as a page. There is no overall page limit on the SOQ package but any specific page limits are identified in Table A – 1. For each SOQ copy, the cover letter, five body sections, and appendix shall be combined in one three-ring binder with individual sections separated with lettered or numbered dividers. Each SOQ shall, at a minimum, reference the Project name [Johnson County Gateway Phase 2] and number [435-46 KA-1002-04] on its cover and within the cover letter.

3. CLARITY AND CONCISENESS

Proposers should make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

4. REPRODUCIBILITY

All SOQ pages, including appendix material, shall be easily reproducible in black and white by standard photocopying machines.

5. SUBMITTAL

Eight individually numbered, bound hard-copies and one DVD containing a single bookmarked PDF file of the SOQ shall be provided. At least one SOQ copy shall contain original signatures and be marked as “Original” on its cover.

Table A – 1: Specifications for SOQs

SOQ Section	Section Title and Required Information	RFQ Reference
	<u>Cover Letter</u>	4.4.1
	<ul style="list-style-type: none"> • Cover Letter (two pages maximum) • <u>Form A</u>, Acknowledgement of Receipt (two pages maximum) 	
Section 1	<u>Legal</u>	4.4.2.1
	<ul style="list-style-type: none"> • <u>Form B</u>, Proposer's Organization Information (three pages maximum) • <u>Form C</u>, Proposer Certification • Express statement of joint and several liability (if JV)(two pages maximum) • Conflict of interest disclosure statements 	
Section 2	<u>Financial</u>	4.4.2.2
	<ul style="list-style-type: none"> • Surety Letters 	
Section 3	<u>Organization and Key Personnel</u>	4.4.2.3
	<ul style="list-style-type: none"> • Organizational Chart (one page maximum, 11-inch by 17-inch) • Manpower and equipment resources available for design and construction (two pages maximum) • <u>Form D</u>, Key Personnel Information (three pages maximum) • Resumes (two pages maximum for each) 	
Section 4	<u>Experience of the Firms</u>	4.4.2.4
	<ul style="list-style-type: none"> • Background summaries (two pages maximum for each firm) • <u>Form E</u>, Project Description (four pages maximum for each project) • <u>Form E</u>, Subcontractor Information (two pages, estimated) 	
Section 5	<u>Past Performance</u>	4.4.2.5
	<ul style="list-style-type: none"> • <u>Form G</u>, Past Performance 	
Appendix A	<u>Legal Documents</u>	4.4.2.1
	<ul style="list-style-type: none"> • Powers of attorney • Legal structure and supporting documents or description of proposed legal structure and draft copies of underlying agreements 	

FORM B
PROPOSER'S ORGANIZATION INFORMATION

Name of Proposer: _____

Proposer (Individual Firm / Joint Venture / Partnership / LLC)	
Name of Entity:	_____
Address:	_____ _____
Contact Name:	_____
Title:	_____
Telephone:	_____
E-Mail:	_____
Local / Regional Contact	
Name:	_____
Address:	_____ _____
Telephone:	_____
E-Mail:	_____

Name(s) of Proposer Entity(ies)				
<i>Company Name</i>	<i>Address, Telephone and E-Mail</i>	<i>State of Incorporation:</i>	<i>Lead Principal Participant?</i>	
			<i>Yes</i>	<i>No</i>
Principal Participant(s)				
Major Participant(s)				
Designer				
Independent Firm(s) Performing QA				
Other Firm(s)				

FORM C
PROPOSER CERTIFICATION

Complete for each Principal Participant, Major Participant, and Designer:

1. Has the firm¹ ever failed to complete any work it agreed to perform, or had a contract terminated because it was in default? If yes, describe.

2. Has the firm¹ or any officer thereof been indicted or convicted of bid or other contract related crimes or violations or any felony or misdemeanor related to performance under a contract within the past five years? If yes, describe.

3. Has the firm¹ ever sought protection under any provision of any bankruptcy act? If yes, describe.

4. Has the firm¹ ever been debarred or suspended from performing work for the federal government or any state or local government? If yes, describe.

5. List (on a separate page) up to five financial institutions with which the firm¹ has done the most business during the past five years and identify the individual at each institution who was in charge of the firm's accounts. Indicate the address, telephone, and fax numbers of each individual.

(Must be signed by an officer of the firm)

Firm: _____

By: _____

Title: _____

Name of Proposer: _____

¹ Note: "Firm" includes any Affiliate.

FORM D

KEY PERSONNEL INFORMATION

Name of Proposer:

<i>Position</i>	<i>Name</i>	<i>Years of Experience</i>	<i>Years of Design-Build Experience</i>	<i>License / Certification</i>	<i>Reference Name, Telephone, and Email¹</i>
Project Manager					
Construction Manager					
Design Manager					
MOT Manager					
Third Party Manager					
Roadway Design Manager					

(1) Provide three references for Project Manager and two references for all others.

Position	Name	Years of Experience	Years of Design-Build Experience	License / Certification	Reference Name, Telephone, & Email₁
Structures Design Manager					
QA Manager					
Construction QA Manager					
Design QA Manager					

(1) Provide three references for Project Manager and two references for all others.

List Any Awards, Citations and/or Commendations Received for the Project:	
Name of Client (Owner/Agency, Contractor, etc.): _____	
Address: _____ _____	
Contact Name: _____	Telephone: _____
Owner's Project or Contract No.: _____	
Contract Value (US\$): _____	
Percent of Total Work Performed by Company: _____	
Commencement / Completion Dates: _____ / _____	
Amount of LDs and Claims: _____	
Any Litigation? Yes ____ No ____	

FORM G PAST PERFORMANCE

Name of Proposer: _____

Firm Name: _____

Awards, Citations, and/or Commendations:

<i>Name of Award, etc.</i>	<i>Year Received</i>	<i>Project and Location</i>	<i>Work for Which Award, etc. Was Received</i>

Litigation, Arbitration Proceedings, and Bond Claims:

<i>Project/Issue</i>	<i>Owner/Agency Who Initiated Action</i>	<i>Resolution/Outcome</i>	<i>Is Unresolved or Action Outstanding?</i>	<i>Current Owner Contact Name, Telephone Number, and E-Mail</i>

Liquidated Damages Assessed:

<i>Project Name</i>	<i>Duration (in days) and Cause of Delay(s)</i>	<i>Amount Assessed</i>	<i>Explanation of Unpaid or Unresolved Damages</i>	<i>Current Owner Contact Name, Telephone Number, and E-Mail</i>

Termination for Cause, Suspension for Cause, and Notices of Default:

<i>Project Name</i>	<i>Describe Reason for Termination /Suspension/Notice of Default</i>	<i>\$ Amount Involved</i>	<i>Current Owner Contact, Name, Telephone Number, and E-Mail</i>

Disciplinary Actions:

<i>Project Name</i>	<i>Describe Action Taken</i>	<i>Current Owner Contact Name, and Telephone Number & E-Mail</i>