REQUEST FOR INFORMATION

REGARDING INNOVATIVE FINANCING
FOR THE I-69 SECTION 5 PROJECT

INDIANA DEPARTMENT OF TRANSPORTATION

RFI Issuance Date: December 4, 2012
RFI Due Date: December 31, 2012 at 10:00am EST

1. INTRODUCTION

The Indiana Department of Transportation (the "Department") is issuing this Request for Information ("RFI") in order to elicit responses to the questions presented in this document in connection with the I-69 Section 5 project (the "Project"). Together with the Indiana Finance Authority ("IFA"), the Department is presently engaged in the process of evaluating various public-private partnership delivery models for the Project – an exercise that will aid in the eventual selection of an innovative delivery model for the Project.

The purpose of this RFI is to generate responsive information that may help the Department confirm and/or refine certain assumptions in connection with an innovative procurement and delivery of the Project. This RFI is intended solely to obtain such information to assist INDOT and the IFA on an administrative level. The Department will consider responses to this RFI in connection with the evaluation of delivery options and the further development of a financial plan for the Project.

This RFI does not constitute a Request for Qualifications ("RFQ"), a Request for Proposals ("RFP"), or other solicitation, nor does it constitute the commencement of any other type of procurement process for the Project. Moreover, it does not represent a commitment to issue an RFQ or an RFP in the future. Therefore, those choosing to respond to this RFI will not, merely by virtue of submitting such a response, be deemed to be "bidders" on the Project in any sense, and no such respondent will have any preference, special designation, advantage or disadvantage whatsoever in any subsequent procurement process related to the Project. Written responses to this RFI are requested from each respondent no later than 10:00am EST on December 31, 2012. <u>The page limit for responding to this RFI is 20 pages.</u>

Please submit responses by mail or e-mail to:

Chris Kiefer
Director, Public-Private Partnerships
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2. THE PROJECT

I-69 Section 5 is part of the larger I-69 project connecting Evansville, IN with Indianapolis to complete the National I-69 corridor through Indiana. Section 5 begins at State Road 37 in Bloomington, IN and extends north approximately 23 miles to SR 39 in Martinsville, IN. SR 37 is an existing four-lane divided highway along the I-69 Section 5 corridor that the Department desires to upgrade to Interstate standards in order to complete the new build I-69 to Indianapolis. No part of the project is a toll facility.

The Department has set forth design criteria for the Project with the objective of meeting requirements for the 4R freeway rural and urban design class. Such design standards will require that SR 37 be upgraded to meet Interstate specifications. Where appropriate, the Department will ask for design exceptions. This design class includes the typical cross sections as follows:

- Rural Freeway: four-lane divided highway with two 12-foot lanes in each direction separated by a 60 foot wide depressed median
- Urban Freeway: six-lane divided highway with three 12-foot lanes in each direction separated by a 26.5 foot median with concrete median barrier or a 36-foot wide median with guardrail

Along the corridor, construction includes a number of interchanges, small structures, bridges, natural resources, and utilities to be addressed in order to complete the Project. The Project proposal includes five new interchanges and four new overpasses, as listed below:

Interchanges

- Fullerton Pike
- Tapp Road/SR 45/2nd Street
- North Walnut Street
- Sample Road
- Liberty Church Road

Overpasses

- Rockport Road
- Vernal Pike
- Kinser Pike
- Chambers Pike

A small structure is defined as a structure less than 20 feet in length parallel to the alignment. Thus far, the Department has identified 36 existing small structures along the path of the Project.

The bridge structures in the Project corridor can be rehabilitated and sized accordingly to the Section 5 road specifications. The Project corridor contains 14 mainline bridges over railroads or waterways, 6 access road structures, and 9 overpass bridge structures. The corridor passes over the following waterways:

- Griffey Creek;
- Beanblossom Creek;
- Beanblossom Creek Overflow;
- Bryants Creek;

- Little Indian Creek; and
- Jordan Creek.

The Project area stretches through various natural resource deposits and manmade utility lines that will need to be addressed. Natural resource deposits include St. Louis limestone, Indiana limestone, shale, and sandstone in the southern two-thirds of the corridor. The exact locations and depth of the rock layers is not yet known. In 1993, the Department entered into a Memorandum of Understanding (MOU) with the Indiana Department of Natural Resources (IDNR), Indiana Department of Environmental Management (IDEM), and the United States Fish and Wildlife Service (USFWS), which provides guidelines for construction of transportation projects in karst regions of the state. The construction methods and activities of the Project will be consistent with the MOU.

Prior to construction, the utilities in the corridor will need to be relocated. Utilities in the area include electric, water, cable/internet, fiber optic, natural gas, and sewer. The Department has identified the parties with utility interests in the Project corridor.

The estimated construction costs for the Project are $350 million - $500 million. The Department recently published a Tier 2 DEIS for Section 5. More information on the Project and the environmental status can be found at the following website: http://www.i69indyevn.org/section-5/

3. BACKGROUND

The Department is considering procuring and delivering the Project under a P3 model which could include a design-build-finance ("DBF") or design-build-finance-operate-maintain ("DBFOM") with an availability payment structure. Both delivery models would include an element of private financing. In addition to the delivery models under consideration the Department is also considering possibly phasing the project into two procurement packages. One for the more Urban area of the greater Bloomington area, the balance of the project would be the more Rural area from just north of Bloomington to Martinsville. The Department is interested in comments from responding firms related to the technical and financial feasibility of two seperate procurements.

The Department is exploring the potential to use a DBF delivery model to deliver the Project. Under this model, a design-build joint venture would be responsible for designing and constructing the Project as well as securing the financing to fund all or a portion of design and construction. The IFA in coordination with the Department would make a series of capital repayments over a period as yet to be determined after the completion of construction. The Department is also exploring the use of milestone payments during construction to offset the funding requirement.

Alternatively, the Department is also exploring the potential to use a DBFOM delivery model with an availability payment structure to design, construct, finance, operate and maintain the Project. Under this model, a private consortium would be responsible for the design, construction, operations and maintenance of the Project as well as securing the financing to fund all or a portion of design and construction. The IFA in coordination with the Department anticipates that it would make periodic availability payments over a long-term period beginning after the completion of construction. The Department is considering escalating the availability payments based on a predetermined formula per the project agreement. The availability payments would be subject to an availability regime and performance standards such that payments may be reduced or withheld if the Project is not performing in accordance with the performance specifications set forth in the project agreement. The Department is also exploring the use of milestone payments during construction to offset a portion of the funding requirement.

4. RFI REVIEW AND PURPOSE

The Department anticipates reviewing and evaluating the responses to this RFI during the 4 week period following receipt of submissions. This RFI does not commit the Department to any specific form of procurement, including a potential P3 procurement. The responses will b used to inform INDOT s decision on how to best proceed with the project.

The following is a preliminary schedule if a innovative procurement is pursued.

Milestone	Date
Publish RFI	December 4,~~,~~ 2012
Publish RFQ	February 2013
Publish Final RFP	July 2013
Contract Award	October 2013

5. INFORMATION REQUESTED

The Department would like to receive the views, opinions, and feedback of respondents and asks them to submit their perspectives on the innovative delivery models under consideration by the Department, as well as the technical aspects and financial and commercial terms, as it applies to the Project.

The Department welcomes feedback on the Project and understands that a variety of firms will respond to this RFI. Please answer any or all questions that you deem are relevant to your firm. The Department intends to use the information gathered through your responses to this RFI for its own considerations. The Department may follow-up directly with respondents with more detailed questions or to clarify submissions. Thank you in advance for your participation.

1. General:

   1.1. What type of firm do you represent? For example, design/engineering firm, construction firm, operations and maintenance firm, lender, equity financier.

   1.2. Please provide a brief description of your firm's history with P3 projects, including both DBF and DBFOM availability payment projects.

   1.3. Is this Project attractive to your firm?
   - What factors are beneficial to procuring the Project as a P3?
   - Are there any drawbacks to using a P3 delivery model based on the nature of the Project?

1.4. Comparing the two alternative delivery methods, which is preferable to your firm, DBFOM or DBF?
   - Identify the advantages and disadvantages of each method in completing the Project.
   - Are there any impediments to either model? If so, how could they be overcome?
   - Is there another delivery model your firm prefers for the Project?

1.5. Please comment on the Project procurement schedule above. Is this an acceptable timeframe to achieve a best value proposal?

2. Technical

2.1. Please comment on your experience with assuming the responsibility, obligation, and risk associated with procuring right-of-way parcels. Based on the information provided, do you anticipate that private procurement is a viable option for this Project, particularly if the associated costs are included as part of the up-front Project financing.

2.2. Please comment on your experience constructing within project areas that include karst. Do you believe a P3 provides any greater benefit for managing this geotechnical issue?

2.3. Based on your understanding of the Project, do you believe a P3 model, such as DBF or DBFOM, offers significant opportunity for innovation in design and construction techniques, means and methods?

<u>The following questions relate to procuring the Project under a DBFOM model</u>:

3. Procurement/Teaming:

3.1. Please state your familiarity with the DBFOM model with an availability payment mechanism, and its general strengths and weaknesses.

3.2. Please comment on whether you would team with other firms. Would your firm likely lead a bid team or participate as a member of bid consortium?

3.3. Please comment on how you would anticipate your team to be structured. What qualifications would you likely require of other team members?

3.4. Please comment on the number of shortlisted bidders that are appropriate to maintain competitive interest in the Project.

3.5. Is your firm a Small Business Enterprise ("SBE") or a Disadvantaged Business Enterprise ("DBE")? If so, please provide any suggestions or comments on the possibility of the Department facilitating a forum for SBEs and DBEs to develop teaming opportunities with prime contractors.

4. Financial Structure:

4.1. The Department is considering using an availability payment structure for the DBFOM model.
- Are you familiar with the use of availability payments to deliver, operate and maintain infrastructure?
- Do you believe the Project lends itself to effective use of an availability payment structure? Why or why not?
- What availability payment concession period would you suggest (e.g., 35 years) and why?

4.2. The Department is considering use of an availability payment structure that escalates annually, potentially tied to an inflation index such as CPI or a fixed escalation factor. Please comment on the potential use of an escalation regime.
- What portion and at what rate should availability payments escalate?
- Do you think escalation should be tied to a specific index? If so, what index?

4.3. The Department is considering the use of milestone payments to offset a portion of the funding requirement. Please comment on the benefits of using milestone payments. How would you anticipate such a payment affecting costs and completion of the Project?

4.4. What financial leverage (debt-to-equity) might be appropriate for this Project, and why?

4.5. Should the Department consider procuring an allocation of Private Activity Bonds (PABs) from FHWA/USDOT to assist the concessionaire in financing the Project? If so, please comment on your familiarity with PABs and the benefits of using PABs versus other forms of debt financing in the current market.

4.6. The Department is considering submitting a TIFIA financing request. Please comment on the potential importance of TIFIA in financing the Project, and the magnitude of potential cost savings. Do the benefits of TIFIA outweigh any potential timing and inter-creditor challenges? Please explain.

5. Commercial Structure

5.1. Please describe the benefits and drawbacks of incorporating a long-term operations and maintenance performance requirement into the Project. Please comment on the potential (or lack thereof) for:
- Enhanced efficiencies and/or reduced costs;
- Management of overall project risks; and
- Cost effectiveness and efficiencies in project design.

5.2. Should the Department consider allocating all responsibility for lifecycle costs to the concessionaire? What are the benefits and drawbacks of such an approach relative to the Department retaining those obligations?

6. Other:

6.1. Please comment on any other pertinent issues with regard to a DBFOM delivery model.

The following questions relate to procuring the Project under a DBF model:

7. Procurement/Teaming:

   7.1. Please state your familiarity with the DBF model and its general strengths and weaknesses.

   7.2. Please comment on your teaming preferences under a DBF model. Would you be likely to lead a bid team or participate as a member of another team?

   7.3. Please comment on how you would anticipate your team to be structured. What qualifications would you require of your team members?

   7.4. Please comment on the number of shortlisted bidders that are appropriate to maintain competitive interest in the Project.

8. Financial Structure:

   8.1. Please comment on the optimal term of a DBF model (e.g., 15 years, 10 years, 7 years, etc.), and how this would affect your financial plan.

   8.2. Would you be more likely to finance the Project on balance sheet or raise third party financing? How would the choice of contract term affect this decision?

   8.3. Would you consider using Private Activity Bonds (PABs) to finance the Project? If so, please comment on the benefits of using PABs versus other forms of debt financing. Which other forms of debt would you consider under the DBF model, and why?

   8.4. Please comment on bonding/surety requirements and considerations under a DBF model.

9. Commercial Structure

   9.1. Please describe the benefits and drawbacks of incorporating private financing into design-build activities, including:
      - Greater construction efficiencies and/or reduced costs;
      - Efficient construction risk sharing;
      - Other?

10. Other:

    10.1. Please comment on any other pertinent issues with regard to a DBF delivery model.

6. CONFIDENTIALITY/PUBLIC RECORDS ACT

All materials submitted by respondents shall be subject to the Indiana Public Records Act, Indiana Code 5-14-3 and relevant provisions of Indiana Code 8-15.5-4-2, 6 and 13 (collectively, the “Public

Records Act") and any other laws and regulations applicable to the disclosure of documents submitted under this RFI. In no event shall the Department or any of its agents, representatives, consultants, directors, officers or employees be liable to a respondent for the disclosure of any materials or information submitted in response to this RFI. Pursuant to the Public Records Act, with certain specified exceptions, the records related to this procurement, including responses to this RFI will remain confidential records.

The Department may disclose the contents of all responses to this RFI, except the parts that may be treated as confidential in accordance with IC 5-14-3, when either (1) the RFP process is terminated; or (2) commercial and financial close has been achieved. (IC 8-15.5-4-13, IC 5-14-3). Each respondent, by submitting a response to this RFI, consents to such disclosure and expressly waives any right to contest such disclosure under the Public Records Act.

If a respondent has special concerns about information which it desires to make available to the Department but which it believes constitutes a trade secret, proprietary information, or other information exempted from disclosure, such respondent shall specifically and conspicuously designate that information by placing "CONFIDENTIAL" in the header or footer of each such page affected. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for the Department to treat the entire response as public information. The Department will not advise a submitting party as to the nature or content of documents entitled to protection from disclosure under the Public Records Act or other applicable laws, as to the interpretation of such laws, or as to definition of trade secret. Nothing contained in this provision shall modify or amend requirements and obligations imposed on the Department by the Public Records Act or other applicable law. The provisions of the Public Records Act or other laws shall control in the event of a conflict between the procedures described above and the applicable law.

If a request is made for disclosure of the responses to this RFI prior to award of the contract or conclusion of the RFP process, the Department will notify the respondent and submit a request for advice from the Department General Counsel prior to disclosing any such documents in accordance with the Public Records Act and other applicable law. The respondent shall then have the opportunity to either consent to the disclosure or assert its basis for non-disclosure and claimed exception under the Public Records Act or other applicable law to Department General Counsel within the time period specified in the notice issued by the Department (if any) and prior to the deadlines for release set forth in the Public Records Act and other applicable law. However, it is the responsibility of the respondent to monitor such proceedings and make timely filings. The Department may, but is not obligated to, make filings of its own concerning possible disclosure; however, the Department is under no obligation to support the positions of the respondent. By submitting a response to this RFI, the respondent consents to, and expressly waives any right to contest, the provision by the Department to Department General Counsel of all, or representative samples of, the response in accordance with the Public Records Act. The Department shall have no responsibility or obligation for a failure of Department General Counsel to respond or to respond timely to any Department request for advice and the Department shall not be required to wait if it is required to disclose or otherwise take action under the Public Records Act or other applicable law. **Under no circumstances will the Department be responsible or liable to a respondent or any other party as a result of disclosing any such materials, including materials marked "CONFIDENTIAL," whether the disclosure is deemed required by law or by an order of court or Department General Counsel or occurs through inadvertence, mistake or negligence on the part of Department or its officers, employees, contractors or consultants.**

All responses received in response to this RFI shall conform to and contain the detailed information required by the Public Records Act and other applicable law. The Department will not advise a respondent as to the nature or content of documents entitled to protection from disclosure under the Public Records Act or other applicable law, as to the interpretation of such laws, or as to definition of trade secret. The respondent shall be solely responsible for all determinations made by it under applicable laws and for clearly and prominently marking each and every page or sheet of materials with "CONFIDENTIAL" as it determines to be appropriate. Each respondent is advised to contact its own legal counsel concerning the effect of applicable laws to that respondent's own circumstances.

In the event of any proceeding or litigation concerning the disclosure of any response or portion thereof, the respondent shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that the Department reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All costs and fees (including attorneys' fees and costs) incurred by the Department in connection with any litigation, proceeding or request for disclosure shall be reimbursed and paid by the respondent whose response is the subject thereof.