

FORM I – CLARIFICATION REQUEST FORM

Clarification/ Question No.	Date Question Submitted	RFQ Section	Question	Respondent (Team Name)
001	2/23/18	Form C	Question 10 on Form C references prior experience on a 'transportation project'. Given the proposed project is a courthouse, should this question instead reference a 'vertical / building project'?	Plenary Justice Miami
002	2/23/18	Form G1	<p>Instruction (b) on Form G indicates that a maximum of ten projects from the past 10 years that were identified in response to RFQ Part B, Section D-2, may be listed on Form G1. RFQ Part B, Section D-2 indicates that the narrative descriptions should be limited to the four most relevant private financing experiences listed on Form G1. Please confirm that Respondent may include information on up to 10 projects for its Equity Members on Form G1.</p> <p>Additionally, given the importance of the role and experience of an Equity Member to the capability of the Respondent/Developer in being able to develop a best value DBFOM proposal, oversee its successful implementation, and be an accountable partner to the County for the term of the project, we would suggest that the County allow the Financial Experience Attachment in RFQ Part B, Section D-2 to constitute 10 pages, and provide narrative descriptions of relevant factors from up to 10 private financing experiences listed on Form G1.</p>	Plenary Justice Miami
003	2/23/18	Forms G1, H1	These forms appear to be cutoff on the right hand side. Can you please provide these and the other forms in *.DOC (Word) versions to facilitate editing?	Plenary Justice Miami
004	2/23/18	Part C Exhibit 1	<p>The definition of Respondent requires that this must be a person or legal entity capable of undertaking obligations in the State of Florida at the time of SOQ submittal. The requirements for Teaming Agreements in Part B, Volume A, A-6, indicates that: "if the Respondent is a consortium, partnership or any other form of a joint venture or an association that <i>is not a legal entity</i>, the SOQ shall contain an executed teaming agreement signed by each Equity Member, or alternatively, if the entities making up the Respondent have not executed a teaming agreement, the SOQ shall contain a summary of key terms of the anticipated agreement."</p> <p>This provision in A-6 seems to allow that the Respondent may not be a legal entity (or person) at the time of SOQ submission, and therefore not capable of undertaking obligations in the State of Florida at the time of SOQ submittal. If the provisions of A-6 (and A-7) are correct, we would commonly see the Respondent designated as the Developer, and if not yet formed, then represented by the Equity Member(s) in the required forms and certifications in the SOQ submission. If the requirements for the Respondent as set forth in the definition in Part C Exhibit 1 are accurate, then we would anticipate that the Respondent would be designated to be one of the Major Participants (Equity Member), and represented by such Major Participant in the required forms and certifications in the SOQ submission. In the latter case, since the Respondent would be a legal entity, the provisions of A-6 and A-7 should be adjusted to apply only to the extent the Respondent is a consortium, partnership, or joint venture, and we believe the required information should include the organizational documents of the entity rather than a teaming agreement.</p>	Plenary Justice Miami

005	2/23/18	Part A, 6.4.1	<p>The last paragraph of Section 6.4.1 indicates that the scoring for Technical Qualifications and Capability will be based on the information provided in RFQ Part B, Volume A, Volume B, and Volume C; however, many of the stated evaluation criteria in (a) through (g) above reference the experience of the Respondent in addition to the experience of the Team Members. Given the importance of team integration, innovation, accountability, private sector problem solving, risk transfer, and a long term focus and partnership to the success of a project delivered under the P3 DBFOM model, we believe the County should include as part of its Technical Evaluation of the team members the relevant experience provided by the Equity Member when acting as Developer for comparable projects. This information will be provided by the Equity Member in Volume D, and would be consistent with the current recognition in evaluation criteria (a) through (g) of the experience of the Respondent (which is understood to be represented by the Equity Member(s) at this stage of the procurement). Please modify the last paragraph of Section 6.4.1 to state "Project information and personnel references, as well as information provided in response to RFQ Part B, Volume A, Volume B, and Volume C, <u>and Volume D</u> will be used, as deemed appropriate by the County, to assist in the evaluation of Respondent's technical qualifications and capability."</p>	Plenary Justice Miami
006	2/23/18	Part A, 6.4.1	<p>Undertaking development, design, construction, operations, and maintenance responsibilities for complex projects in the United States can present certain different challenges, and require specific experience, capabilities, and knowledge that can vary from the experience, capabilities, and knowledge gained from having performed similar functions for projects in other countries. Similarly, delivering a project in Florida requires specific knowledge and understanding of local market factors such as permitting, workforce and labor markets and relationships, building materials, and weather. While the holistic qualifications and capability of Respondents and Team Members should allow for consideration of relevant qualifications and capabilities identified on projects from countries other than the US (and other States), the County should expressly state that it is also seeking experience of Respondents and Team Members in the relevant evaluation criteria on projects delivered in the US and in Florida.</p> <p>We would recommend that the second to last paragraph of Section 6.4.1 be modified to state: "Comparable projects as used throughout Section 6.4 shall mean courthouses, High-rise Structures, or other vertical structures of comparable scope and complexity to this Project, <u>with added-value applied to experience demonstrated in the United States, and where possible, Florida.</u>"</p>	Plenary Justice Miami
007	2/23/18	Part A, 6.4.2	<p>Financial markets and regulations in the United States are unique in many ways. Structuring and securing financing for a P3 DBFOM availability payment project in the US requires a specific understanding of this market including tax and regulatory requirements, investor groups and processes, applicability of rating and credit assessments, and the requirements for securing commitments and achieving financial close. In order to provide greater assurance to the County that any Short Listed Respondent has the capability to structure an efficient and committed financing package for inclusion in the response to the RFP, the County should consider in its evaluation of SOQs the experience that Equity Members bring in structuring and securing financing for P3 projects in the United States. In order to accomplish this, we would recommend that the first paragraph of Section 6.4.2 be modified to state: "The Respondent's financial qualifications and capability (refer to RFQ Part B, Volume D and Volume E) will be evaluated in accordance with the following criteria, <u>with added-value applied to experience and capability demonstrated in the United States.</u>"</p>	Plenary Justice Miami

008	2/23/18	Table B-1	<p>The RFQ requests the following Key Personnel: “Lead Operations and Maintenance Manager: Responsible for overall operations, maintenance and contract administration matters <i>on behalf of the Developer</i>, including safety and Environmental compliance following the commencement of the maintenance period and interfacing with the County in compliance with the operations, maintenance requirements of the Project Agreement.”</p> <p>We believe that the County is seeking the qualifications and experience for the member of the Lead Operations and Maintenance Firm who will have the responsibilities and perform the functions outlined in this definition, rather than of an employee of the Developer who would be providing oversight during the O&M period. Can the County please clarify that an employee of the Lead Operations and Maintenance Firm would be acceptable in response to this Key Personnel position?</p>	Plenary Justice Miami
009	2/23/18	Section 1.1	<p>Section 1.1 states that “...the County has received an unsolicited proposal to construct a courthouse at an alternative site. The County will treat such an unsolicited proposal in accordance with the requirements set forth in Section 2-8.2.6 of the County Code, in its sole discretion.”</p> <p>We further understand that as of the current date, the Board of County Commissioners has voted to advance the received unsolicited proposal through a separate process that is planned to run in parallel to the issuance of this Request for Qualifications No. 00820, as well as any subsequent Request for Proposals issued to Short Listed Respondents selected based on responses to this RFQ.</p> <p>The benefits to the County of issuing a formal solicitation for development of the new civil courthouse is that it allows the County to establish their project objectives and criteria, which make it clear for respondents to the solicitation what the County is requiring and seeking in proposals that it would evaluate and consider. Establishing this set of objectives and criteria allows the County to identify areas where they are open to flexibility and innovation, and where they have hard preferences and constraints. It also allows the county to properly compare the received proposals against each other in order to determine which provides the County with the best value.</p> <p>The concept of evaluating a separate unsolicited proposal through a separate process from the currently issued RFQ is an indication that the Project objectives and criteria set out in the RFQ by the County are not complete and accurate. If there are elements of flexibility and or innovation that are included in the unsolicited proposal that are (or may be) appealing to the County, these are elements the County can incorporate into the existing solicited procurement process by changing their objectives and criteria to reflect them. Running two parallel processes asks market participants to prepare a proposal that meets one specific set of objectives set out by the County, and then to prepare a proposal that meets a completely separate set of objectives and criteria.</p> <p>The cost of preparing a proposal for development of a courthouse is in the range of many millions of dollars, and to generate a robust and innovative solution that optimizes value for the County this commonly takes qualified proposing teams approximately 6 months (should any entity suggest it can be done in a shorter time period that may be an indication that they are not properly qualified). Market participants are willing to expend this level of time and financial investment in developing a proposal solution when it is clear what type of solution the County is seeking. When there is</p>	Plenary Justice Miami

			<p>uncertainty as to what the County is seeking in a proposal solution and whether or how they will evaluate the submitted proposals, there is significantly less interest in expending the time and effort to prepare a proposal. The failure of the Indianapolis commission to award their new courthouse to the winning team as a result of the solicited procurement process is very fresh in the minds of all potential market participants, and further magnifies the importance of clear political support for a well-defined project before market participants will commit extensive resources in preparing proposals. Under the current the RFQ process, any Potential Respondents are subject to the Cone of Silence, while the team that has submitted the Unsolicited Proposal is not bound by the Cone of Silence. This dynamic creates a perception (and possibly reality) that there is not a transparent and fair process being undertaken by the County in the process for selecting its proposed path for developing a new Civil and Probate Courthouse, and allows for the submitter of the Unsolicited Proposal to attempt to lobby and alter the County's processes and decisions while other potential developers (and competitors of the unsolicited proposal team) are prohibited from such communication.</p> <p>Additionally, as stated above, in order to prepare a complete, responsive, and value-added solution, market participants require at least 6 months of time from the issuance of an RFP by the County that outlines the project objectives and criteria. In preparing the unsolicited proposal, the unsolicited proposer team has likely utilized this amount of time in preparing their proposal. If the County requests competing proposals to be received within a 60 or 90 day period, then potential competing proposers will not have sufficient time to properly prepare alternative proposals that can compete with the unsolicited proposal on a project of this magnitude and complexity. The result of this is that the unsolicited proposal will be the only proposal that is available for consideration, meaning there is less competition and less value received by the County. It is knowledge of this dynamic that is the reason that a team has prepared and submitted an unsolicited proposal, and why they are not considering subjecting themselves to a comparative review of their relevant qualifications by the County as part of the County's RFQ No. 00820. They are aware that if the County advances a solicitation based on their unsolicited proposal, they will be in the position to be selected with reduced competition, thereby allowing them to earn excess profits and fees (at the Miami-Dade County taxpayers expense) than would otherwise be the case were this team to instead participate in the County's solicited procurement process that would have enhanced competition and comparative evaluation. If the County chooses to advance the unsolicited proposal, they are electing to ultimately accept that proposal as it is without receiving the benefits of market competition and innovation.</p> <p>Finally, if the County prefers to construct the courthouse on a site that is different from the one currently identified, the County can easily amend the RFQ and RFP documents to identify an alternate preferred site. It is not necessary to advance the unsolicited proposal in order for the County to consider this alternate site. In the same way, if the County would prefer that Respondents also purchase and re-purpose the existing courthouse building in addition to building a separate new courthouse, this can be included in the County's solicited procurement process.</p> <p>Please confirm it is the intent of the County to amend the RFQ to make it clear that the County will ultimately issue only one Request for Proposals to the market for a new Civil and Probate Courthouse, and that prior to issuing such RFP (even in draft form), the Board of County</p>	
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			Commissioners will have voted to approve the issuance of such RFP as the only process by which the County expects to consider proposals for a new Civil and Probate Courthouse?	
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As outlined in RFQ Part A, Section 4.5, all questions regarding the Project must be submitted to the County Procurement Manager by the date and time specified in RFQ Part A, Section 4.3 using this Clarification Request Form. Addenda to respond to questions will be posted at BidSync.

This Clarification Request Form should be emailed to County Procurement Manager:

rita.silva@miamidade.gov

To comply with the Cone of Silence, the email must be cc'd to:

clerkbcc@miamidade.gov