



Request for Proposals - Buffalo Bills Stadium Project – Agency Representative/Construction Oversight Services - Addendum # 2 - Questions & Answers

Release Date: June 17, 2022

The following is a list of responses to questions submitted by prospective respondents to the Request for Proposals - Buffalo Bills Stadium Project – Agency Representative/Construction Oversight Services Project

1. Will there be any Building Envelope Commissioning services required for this project?

RESPONSE: The selected consultant will not be responsible for providing commissioning services, rather, the consultant will be expected to provide oversight and monitoring of the commissioning of the facility which will be conducted by consultants/firms retained by the Buffalo Bills organization.

2. Since there is some NYS funding associated with the building of the stadium, will DASNY be the permitting agency or the local municipalities?

RESPONSE: It is expected that the permitting agency will be the County of Erie.

3. Will the cover and dividers be counted in the 25-page limit?

RESPONSE: No.

4. *C. Proposal Requirements, 1. Description of Firm, d. Litigation (last five years)* – Can the list of litigation be included as an Appendix, as to not count against the 25-page limit?

RESPONSE: Yes.

5. *C. Proposal Requirements, 1. Description of Firm, e. Changes/trends in above over last five years* – Can you please clarify or give an example of the specific information you wish to see in this section?

RESPONSE: Please provide information concerning trends of your firms organization, finances, ownership, etc. that occurred in the last five years. For example, if your firm changed ownership, it should be included in your response.

6. *D. Other Certifications & Requirements, 8. Project Sunlight* - Are we to submit any documentation regarding this subject or is this section in the RFP for informational purposes only?

RESPONSE: No documentation needs to be submitted. The section is for information only.

7. X. Contractual Requirements, Items D. Executive Order No. 177 and J. Executive Order No. 177 - Please confirm that this was an error in duplication and that item D nor J are to be an additional form that was mistakenly omitted in the RFP.

RESPONSE: Yes, Items D and J are duplicative.

8. Staffing - In the RFP you request some staffing information. We are providing the staff dedicated to the project as part of our response, but this staffing request appeared in the Corporate section. Would you like to see [the firm's] staffing chart?

RESPONSE: Responses should list the staff that will be assigned to the project.

9. Changing Trends - We wanted to confirm you were looking for changing trends in sports and entertainment OR trends in the real estate market overall.

RESPONSE: Neither, ESD is interested in changes, trends regarding the firm submitting the proposal.

10. Client / Project Mix - Can you confirm the context of this request?

RESPONSE: Please provide in your response, the type of projects your firm has experience with and the type of clients you service (i.e. private, public, for-profit, etc.)

11. Is the purpose of our role on the project one of audit protection, quality of implementation, field oversight, or risk mitigation? In other words, what is your team looking to protect with the engagement of our team?

RESPONSE: The purpose of the selected consultant will be to provide oversight and monitoring of the design, construction and commissioning of the project. The selected consultant will NOT be designing, constructing, approving or authorizing the design, construction or commissioning of the facility. The selected consultant will be expected to monitor these activities and report to ESD.

12. Are the actual reporting tools that we use to control financial data, change management, and communications useful to include in the response?

RESPONSE: No.

13. Will our role include the analysis of project/market conditions encountered by the team or is it more oversight and controls?

RESPONSE: As stated above, the role of the selected consultant will be to provide oversight and monitoring services regarding a construction project.

14. Our team has strategic partnerships that drive revenue opportunities and technology innovation to sports and entertainment venues. Is this of interest to your team?

RESPONSE: No.

15. Can you clarify that by 25, double-sided pages you mean 25 pages of paper with 50 faces of content? Please confirm if cover, back cover, and tab pages do not count against the page count and/or please confirm if you do not want tab dividers included.

RESPONSE: Responses are limited to 25, double-side pages with 50 faces of content. Cover, back cover and tab pages do not count towards the page count. Tab dividers are preferred but not necessary.

16. Please confirm that the MWBE goal for our professional service team (not the project as a whole) is a total of 30% and the SDVOB is 6%. If we need to submit a waiver, is that to be included within our proposal response or do we submit separately?

RESPONSE: Yes, the goals for the selected consultant for services requested in this RFP are 30% total for MWBE and 6% for SDVOB. Respondents to this solicitation are expected to submit with their proposal their plan for meeting the required goals. A waiver can be submitted at a later date in accordance with the requirements of Section IV(D) of the RFP if the selected contractor has used good-faith efforts and is unable to meet the goals.

17. In providing Good Faith Effort documentation, does all of the documentation backup get submitted along with our proposal response or is that a separate submittal?

RESPONSE: No, documentation regarding good-faith efforts refers to the efforts made during the course of the project to meet the goals as stated in the RFP.

18. There are forms mentioned on page 15 of the RFQ that are not reflected on the Forms Checklist provided that our firm must sign. Please confirm the form checklist reflects all of the forms and additional content required beyond the questions identified in IV.C Proposal Requirements, Items 1 – 7.

RESPONSE: Please submit the Forms a listed in the Form Checklist – Exhibit C. In addition, proposals are required to submit the Diversity Questionnaire – Exhibit B.

19. Questions on the Programming Process:

- a. What is the status of the programming process at this time?

RESPONSE: The program statement that has been agreed to by the parties to date can be found in the MOU entered into between the parties. It can be found at: [https://www2.erie.gov/exec/sites/www2.erie.gov/exec/files/uploads/63934102_v%201_OMM_US-%2380306380-v37-Bills - Memorandum of Understanding%20fully%20executed.PDF](https://www2.erie.gov/exec/sites/www2.erie.gov/exec/files/uploads/63934102_v%201_OMM_US-%2380306380-v37-Bills_-_Memorandum_of_Understanding%20fully%20executed.PDF)

- b. Can we review the current program documents?

RESPONSE: Other than the MOU, no further documents are available for review.

- c. How long is the Programming process planned to take?

RESPONSE: The programming process will be part of the design process which is ongoing. Final program statement will likely be completed by 4th quarter 2022.

- d. What level of detail does the ECSC/Pegula agreement require that the Pegula Program Document provide regarding design and construction quality?

RESPONSE: The level of detail is to be determined and will be part of the final agreements between the parties.

- e. Please confirm that the program will become part of the agreement between Pegula and ECSC, and that the consultant will be responsible for monitoring the compliance of the design and construction with the program criteria.

RESPONSE: Confirmed

20. Are we going to be part of Pegula's pencil review of the CM's pay app and invoices from other vendors, or will we merely be able to review the invoices / pay apps after Populous has certified them?

RESPONSE: The selected consultant will be expected to attend pencil review of pay apps and invoices as part of its overall monitoring responsibilities.

21. In our Cost Proposal we are requested to submit a "typical cost per person". Please clarify how you want to see that. A daily cost per team member? A monthly cost per team member? A cost for each person on the team – for what time frame?

RESPONSE: In addition to hourly billing rates for all positions expected to provide services, please provide an estimate of hours each such position is expected to incur on the Project monthly and the total expected expense per month.

22. We are requested to include an estimate of total costs expected to be billed monthly. Is that overall costs monthly? Costs per person monthly?

RESPONSE: In addition to the monthly costs per position as stated in response to Question 21, cost proposals should be totaled to provide an overall monthly cost.

23. In the Pre-proposal Conference we were requested to submit our hours per month. Please confirm this requirement, and guidance about what form this should take and what level of detail is required. Do you want total team hours per month, or a more granular presentation?

RESPONSE: See response to Question 21 and 22. Overall, ESD wants to see the following in the cost proposal:

- Hourly billing rates per person/title
- Expected monthly cost per person/title
- All other expected monthly costs broken down by category, if any (i.e. travel, overhead, administration, clerical, etc.)
- Total expected monthly cost for the duration of the project
- Total cost of services

24. In terms of Proposal Length, do the resumes count? We are planning to place them in the Appendix. Is that acceptable?

RESPONSE: Yes, resumes can be submitted in an Appendix that will not be count towards the overall page count.

25. Please confirm that this is expected to be a fast-track design and construction process.

RESPONSE: Yes, as stated in the RFP, the tentative start of construction is expected June 1, 2023 with expected project close-out December 31, 2026.

26. During the pre-bid meeting it was discussed that ESD is seeking someone to be the “eyes and ears” and that this scope is not intended to be operational. Please confirm or clarify.

RESPONSE: The selected consultant will NOT be designing, constructing, approving or authorizing the design, construction or commissioning of the facility. The selected consultant will be expected to monitor these activities and report to ESD.

27. Is the project design scope intended to function as a 3rd party oversight role or is it intended to be part of the process of the design & construction team?

RESPONSE: 3rd party oversight.

28. Does ESD have a schedule of the anticipated project meetings that would help proposers to determine the frequency of on-site staffing needs?

RESPONSE: No schedule is currently available. Consultant should assume a standard meeting schedule based on the size and scope of the project.

29. With respect to the design phase, does ESD have an anticipated level of hours between August 2022 and the commencement of construction?

RESPONSE: ESD/ECSC has requested the consultant’s proposal to estimate what they believe their services and manpower would be in providing the requirements of the RFP.

30. Will the Proposer be permitted to observe / review the procurement process for awarded trade contracts?

RESPONSE: Yes.

31. Please elaborate on what ESD means by “ensure quality” with respect to the Project Design services, that ask the Proposer to “monitor the issuance and review of shop drawings, product data and other submittals...”

RESPONSE: The selected consultant will be expected to review and monitor all aspects of the design and construction of the project. The selected contractor will NOT be responsible to complete show drawings, product data and other submittals but will be expected to monitor issuance and review as necessary and to monitor and verify the installations of equipment and materials are installed per the requirements of the approved design documents.

32. With respect to the construction phase, the RFP asks for “Field verification of level of completeness.” Is ESD requesting that the Proposer performs actual measurements or documents actual quantities of work completed, or is this a professional judgment on the estimated percentage of completion?

RESPONSE: Professional judgement on the estimated percentage

33. With respect to the construction phase, the RFP asks to “Inspect, interpret and certify as proper, correct and in compliance with the applicable Contract Documents...” Is ESD seeking an actual sign-off or formal certification of these components, or are they seeking a professional assurance that there do not appear to be any integrity / fraud related concerns?

RESPONSE: The selected consultant will not be responsible for any sign-off's or certifications of installed Equip./Materials. ESD/ECSC is seeking Professional Assurance that that Equipment/Material are installed per the approved Design Documents.

34. With respect to All Project Phases, on page 6 of the RFP it asks for a discussion on the variances between amounts paid to date and the cash flow forecast. Who prepares the cash flow forecast? Is that something prepared by the Design-Build team?

RESPONSE: The cash flow forecast will be prepared by the Design-Build team.

35. For MWBE participation, if we are using a firm that is both an MBE and a WBE, can we use them to satisfy both requirements if the contract award is commensurate with the percentages sought by ESD?

RESPONSE: If a firm is certified both as an MBE and WBE, they can be used to satisfy either component of the MWBE goal. For example, if the MWBE certified subcontractor completes 30%, the goals of this procurement would be satisfied. However, if the MWBE certified subcontractor completed 15%, that amount could be put toward either the MBE or WBE goal or a mix of either. An additional 15% goal would remain unsatisfied.

36. On page 6, the RFP indicates that ESD does not expect the proposer to provide full-time on-site services during the entire project duration. Is the expectation that the proposer will provide full-time on-site services during the construction phases and limited on-site services during pre-construction and after substantial completion?

RESPONSE: ESD/ECSC has requested the consultant's proposal to estimate what they believe their services and manpower would be in providing the requirements of the RFP.

37. In section IV, Selection Process, the RFP asks to “Provide technical expertise to assist in the development, review and approval of Design and Construction Drawings and Specifications from the Design Team. During the pre-bid meeting it was discussed that the proposer would not actually approve design drawings but review for consistency with the program requirements. Please confirm or clarify.

RESPONSE: Confirmed.

38. Does this project have reporting requirements concerning fraud or theft whereby those reports would be elevated outside of ESD to local law enforcement or an Office of Inspector General?

RESPONSE: There are no specific reporting requirements outside of ESD. All concerns would be brought to ESD/ECSC's attention. If fraud was uncovered, it would likely be elevated outside of ESD.

39. Section IV Selection Process, subsection B. 3. ...experience assisting in making design decisions based on extensive knowledge of Architectural and engineering design systems. During the pre-bid meeting, it was stated that the proposer would not be part of the design team, or approving design drawings, and that the intent was to ensure the designs and drawings comport with the program requirements. Please confirm or clarify.

RESPONSE: Confirmed.

40. Section IV Selection Process, subsection B. 4. Can you clarify what you mean by the "appropriateness of manpower?" Are you seeking a larger team with varying levels of staffing or a smaller team with less staffing levels?

RESPONSE: ESD/ECSC has requested the Consultants proposal to estimate what they believe their services and manpower would be in providing the requirements of the RFP.

41. Section IV Selection Process indicates that interviews will be held at the ESD office in Buffalo or through a virtual conference platform. Do the selected firms have input on whether those interviews will be in person or virtual? Does ESD have a preference for in persons versus virtual?

RESPONSE: Yes, the selected firms will have input. ESD has no preference.

42. Selection IV Selection Process, subsection C. Proposal Requirements – Project Team item a. Please confirm that resumes do not count against the page limit and can be included as attachments to the proposal.

RESPONSE: Confirmed, resumes do not count toward the page limit cap.

43. Selection IV Selection Process, subsection C. Proposal Requirements – Project Team item b. This section asks for a list of contact information of subconsultants. Should the proposer include resumes of its subconsultants with those requested in item a, above?

RESPONSE: Yes.

44. Selection IV Selection Process, subsection C.7 – Cost Proposal – C. Please elaborate on what you are requesting with respect to "Typical cost / person." Are you asking to see the total anticipated hours / cost for each person on the engagement for the life of the project or on monthly basis?

RESPONSE: Please see responses to Questions 21-23.

45. Selection IV Selection Process, subsection C.7 – Cost Proposal – C. For the estimate of total costs expected to be billed monthly, does ESD prefer this to be provided in tabular format or a bell curve?

RESPONSE: Tabular format is preferred.

46. What firm has been selected as the Prime / General Contractor for the project?

RESPONSE: The Bills have not publicly announced the Prime / General Contractor for the project.

47. Does ESD have any insight into how many trade contractors / subcontractors are anticipated to provide services on the project?

RESPONSE: No.

48. Is ESD involved in the vetting of all contractors / vendors who will perform work on the project?

RESPONSE: No.

49. What is the Construction Contract Delivery Method?

RESPONSE: Construction Contracts will be held by the Buffalo Bills/ Pegula organization

50. Are the trade contractors / subcontractor subject to the same disclosure as entities doing business with the State of NY such as Executive Order 16?

RESPONSE: No. Trade contractors/subcontractors are not contracting with the ESD or a contractor retained by ESD.

51. Are there right to audit clauses in all of the construction agreements? If so, do they flow down to all levels?

RESPONSE: To be determined. Construction agreements have not been developed at this time.

52. Is there an OCIP or a CCIP and if so, does ESD have any cost or liability?

RESPONSE: The insurance requirements have not been finalized, however, ESD will not have any cost or liability.

53. Will Certified Payroll Reports be required of the trade contractors? If so, is there an electronic system in place for such? If so, will ESD and / or the Proposer have access to those records?

RESPONSE: Yes, NYS prevailing wages will apply to this project. ESD and the selected consultant will have access to those records.

54. Does the construction site have a site scanning system or access control system that documents worker attendance? If so, will ESD and / or the Proposer have access to those records?

RESPONSE: To be determined.

55. Will the monitor selected through this proposal have any involvement in oversight Community Benefits funds that may be established as part of the Community Benefits Agreement referenced in the Memorandum of Understanding (“MOU”) between ECSC and the Buffalo Bills, LLC?

RESPONSE: No.

56. Does this RFP cover the demolition of the existing stadium, referenced in the MOU, or is it only related to the construction of the new stadium? If this RFP covers demolition of the new stadium, how many months should we assume those activities to occur?

RESPONSE: Yes, the RFP covers demolition of the existing stadium. It is assumed the demolition of the old stadium will occur by project closeout in December of 2026.

57. The MOU references that a Project Labor Agreement would benefit the completion of the work, but that the Bills shall negotiate a PLA with the Building and Construction Trades Council of Buffalo, New York and Vicinity, AFL-CIO. Is the scope of the Proposer’s PLA study to assess the impact of that negotiated by the Bills?

RESPONSE: No the scope of the study would be to document the potential advantages of a PLA and whether one would provide cost savings for the project.

58. Are all “NFL Standards” for the project inclusive within the RFP requirements? Is there a separate document which can be provided detailing these standards?

RESPONSE: There is no separate document to provide.

59. If the scope of construction changes, and the total cost or scheduled completion is significantly extended, would the Proposer be permitted to submit a change order in accordance with the established hourly billing rates?

RESPONSE: Yes.

60. If travel / lodging costs are not included in hourly billing rates, are there specific jurisdictional per diem rates which should be used?

RESPONSE: Yes, please review Schedule A which will be included as part of the contract between ESD and the selected contractor. It can be found at:

https://esd.ny.gov/sites/default/files/ScheduleA-Services_Materials-3818.pdf

61. What specific proposal documents should be provided by subconsultants?

RESPONSE: Documentation that demonstrates capabilities, qualifications and experience.

62. Do MWBE and SDVOB firms need to be certified with ESD or the State of NY, or will ESD accept certifications from other jurisdictions that may participate in a unified certification program?

RESPONSE: MWBE and SDVOB firms are required to be New York State certified.

63. The RFP states an Excess Limit of Liability of \$25M; we kindly request that ESD considers reducing the amount to \$10M.

RESPONSE: The excess liability limit has been reduced to \$10M per Addendum No. 1 issued June 17, 2022.

64. On the pre-submittal conference, it was stated that the Buffalo Bills will be responsible for cost overruns on the project. However, it was also stated that ESD would like the Consultant to review change orders and advise ESD of their reasonableness & impacts. Can you please clarify the role of the Consultant in terms of change management & change orders?

RESPONSE: Monitor, review and report to ESD.

65. Please clarify the role of the Consultant in regard to Cost Estimating & Constructability Reviews.

RESPONSE: Monitor, review and report to ESD of cost estimating & constructability reviews completed by the Bills' contractors.

66. Please clarify the role of the Consultant in regard to Safety. Is a full-time Safety personnel required as part of the proposal?

RESPONSE: The selected consultant will be expected to review safety plans and report to ESD any issues. The selected consultant will NOT be responsible for ensuring the safety of the project site. A full-time safety personnel is not required or needed by the selected consultant.

67. Would ESD consider providing a waiver for the 6% SDVOB goal if Consultant provides a higher MWBE participation? (Say 40%-45% instead of 30%?)

RESPONSE: No.

68. Page 4 – Project Design - Will the selected Respondent be responsible for Constructibility review in the management, review and evaluation of the design documents?

RESPONSE: The selected consultant will be responsible to monitor and review of cost estimating & constructability reviews completed by the Bills' contractors.

69. Page 4 – Construction Phase – Will the selected Respondent be expected to have onsite full-time staff to provide all the field services and construction administration services requested in this phase?

RESPONSE: On-site staff are required. Proposals submitted should propose what level of on-site staff will be needed.

70. Page 5 – Commissioning and Final Acceptance – Will a Commissioning Agent be retained by ESD during the design phase through final completion and turnover of the project?

RESPONSE: No, the selected consultant will not be responsible for providing commissioning services, rather, the consultant will be expected to provide oversight and monitoring of the commissioning of the facility which will be conducted by consultants/firms retained by the Buffalo Bills organization.

71. Page 22 – Excess Liability Insurance – Will the selected Respondent be required to meet the \$25 million limit or a lesser amount?

RESPONSE: The excess liability limit has been reduced to \$10M per Addendum No. 1 issued June 17, 2022.

72. Are resumes included in the page count limitation?

RESPONSE: No.

73. What stage is design in and what peer reviews during design is ESD looking for from the Owner's Rep team?

RESPONSE: Only preliminary design has been completed. The selected consultant will not be approving design documents rather, the review will be limited to understand the project and to be able to advise ESD concerning issues including compliance with program requirements, quality and other issues that may affect ESD's ownership of the facility.

74. Regarding on-site presence of the Owner's Rep team, will ESD require the Bills to provide ESD/ECSC a field office for their PM and representatives? If not, is it part of this RFP for the Owner's Rep to provide such facilities and office equipment?

RESPONSE: Yes, it is expected the Bills and/or their contractor will provide offices for ESD/ECSC and its representatives.

75. Will ESD be issuing a separate Request for Proposal for an Integrity Monitor on the new Buffalo Bills Stadium?

RESPONSE: ESD/ECSC currently has no plans to retain a separate integrity monitor.

The following questions were asked on the pre-submittal call on June 9, 2002. ESD/ECSC confirms the answers provided:

1. Was the second Project Design Task in the Scope section meant to read: Monitoring . . . review OF shop drawings?

RESPONSE: Word "of" should have been in there. The selected consultant is expected to monitor others in the processes.

2. The RFP asks for "technical expertise . . [in] architectural and engineering disciplines . . to monitor construction of the project". Does ESD/ECSC expect this consultant to take professional liability for the work of the Pegula team?

RESPONSE: ECSC expects no professional liability from consultant.

3. The RFP asks for verification and certification of aspects of the project for which the Pegula team has professional and contractual responsibility. Is ESD/ECSC expecting this consultant to have professional liability for errors and omissions of the Pegula team?

RESPONSE: ESD/ECSC expects no professional liability from consultant.

4. Can the ESD/ECSC Project Management Team and their consultants be a part of the same document management and logging system being used by the Buffalo Bills' team? An example of such a system would be Procore, which is used to manage document exchange and submittal workflows?

RESPONSE: Yes.