

# Preparing an RFP for a Public Private Partnership rail transit project

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# What does the private sector expect from an RFP?

- Clear definition of the responsibilities of each party (Public Partner and Private Partner)
- Specific statement of the service to be provided, how it will be measured, and which design parameters are fixed and which are variable
- Definition of any specific assets and functions that are mandatory within the scope of work
- Clear understanding of the breadth of flexibility available for the application of innovation and intellectual advantage

# What should the Technical Requirements include?

- Technical requirements must be consistent with the commercial framework of the contract
- The framework should be developed through allocation of contractual responsibility and risk ownership to the party best able to manage it
- Technical requirements should only provide specific details in areas that the Public Partner is retaining risk ownership
- Where risk ownership is transferring to the Private Partner, technical requirements should be functional and performance-based, utilizing industry standards

# Delivery approach impacts technical specification approach and detail

Delivery Approach	Typical Technical Specification
Design/Bid/Build	Design criteria, design specifications, standard drawings, location specific drawings, 100% design plans
Design/Build	Design criteria, design specifications, standard drawings, 30-50% design plans
Design/Build/Operate/Maintain	Performance specification, design criteria, maintenance criteria, 15-30% design plans
DBOM with Equity Participation	Performance specification, design parameters, concept design (reference)

# Regulatory constraints may require more specificity than desirable

- PPP's in other countries can provide broad authority to the Private Partner that are not possible in the US
- US environmental permitting (NEPA) requirements for design development, public consultation and defined mitigations means design flexibility is partially compromised
- FTA funding is subject to congressional appropriation rules, and New Starts procedures established for traditional delivery approaches can be obstacles to procurement innovation and schedule compression
- Third party stakeholders and regulatory agencies may also have review and agreement processes based on inflexible approaches

# How the RTD Eagle Project RFP addressed these challenges

- Scope is DBOM with Equity Participation
  - Concessionaire is operating at financial risk in terms of scope, schedule and operating performance
- Concession period is 50 years, including Design/Build
  - Service availability payments start with revenue service, so implementation is incentivized
  - Availability payments are adjusted for service performance
    - small bonus potential (~0.5%) for 'perfect' delivery
    - up to 50% deduction possible for inferior delivery
- Teams formed after industry information sessions and prior to industry review of draft RFP, responded to RFQ

# Eagle Project RFP Structure and Content

- Vol 1 – Instructions to Proposers (ITP)
- Vol 2 – Concession Agreement, including attachments
- Vol 3 – Reference Data
- ITP includes:
  - Specific content details for the Technical Proposal, focused on Proposers solutions and approaches
  - Ability to propose Alternative Technical Concepts (ATCs)
  - Process for continued (but controlled) dialog during the proposal period

# Eagle Project RFP Structure and Content

- Concession Agreement defines contract structure, terms and conditions, including:
  - Risk allocations for Design/Build and Operate/Maintain
  - Handover requirements at end or termination of concession
- Attachments address specific items that require greater detail, including:
  - Project and Construction Management
  - Design, Construction and Rolling Stock Requirements
  - Operations and Maintenance Specifications
  - Agreements, Project Interfaces, Payment Formulae

# Eagle Project RFP Structure and Content

- Reference Data may be relied upon, but are not mandatory or prescriptive within the Concession Agreement (contract)
- Examples of reference data include:
  - Design criteria manuals
  - 30% civil design plans
  - Conceptual systems design plans
  - Structure selection plans
  - Drainage reports
  - Geotechnical reports

# P3 RFP Technical Requirements - Summary

- Level of detail consistent with the delivery structure
- Clear, well defined responsibilities, appropriately assigned
- Scope focused on measurable functional and performance-based operational needs
- Well defined details for scope items dictated by stakeholders and other project constraints
- Private Party to comprehensively demonstrate its conformance with operational requirements

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