

# **California High-Speed Rail Authority**



## **Request for Qualifications for Early Train Operator**

**RFQ16-13**

**Offeror Inquiries Round 3**

### Early Train Operator Offeror Inquiries – Round 3

No	Question	Proposed Response
1	With reference to Form C “Identification of Offeror Team Members” what are the implications and constraints on the evaluation with reference to the Offeror team composition? E.g. what are the differences (pros and cons) in having team members as equity members, subcontractors or lead operators?	The SOQs will be evaluated in accordance with the criteria outlined in Part A, Section 6.0 and Part B of the RFQ.
2	With reference to Volume 2 Section A “Financial Statements and credit ratings”. Are there any advantages/implications in presenting an offeror which has an official credit rating?	Offerors’ financial capacity will be evaluated in accordance with the criteria outlined in Part A, Section 6.2 and Part B, Volume 2 of the RFQ.
3	Addendum 4 provides a new definition called “Operations Period” as initial operations that combines a ramp-up period and a long-term phase providing mature operations. This could imply that one operator would be selected for both of the operational phases. However, other sections of Addendum 4 indicate that the Authority still plans to bid mature operations separately from the Phase 2 ramp-up period. Please clarify.	The Operations Period definition is consistent with the section titled “Operations Period” in Exhibit B: Phase 2 Scope of Work.
4	Would the Authority please explain its thinking as to why it is beneficial to bid separately for the Franchise Period and then mature operations. The Early Operator mobilization effort for the Phase 2 ramp-up period will be extensive—essentially the same level of effort that would be required for a much longer contract than the Franchise Agreement is likely to be. Given the risk associated with potentially changing contractors at the end of the ramp-up period, would the Authority consider including a provision that would allow for continuation of the Early Operator if the Authority is completely satisfied with the contractor’s performance during the initial operations phase?	This question is outside the scope of this procurement. However, information is available in Section 3: Business Model of the 2016 Business Plan.

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5	We understand that the Franchise Agreement that will govern Phase 2 should comply with Proposition 1A. Therefore, is it correct to assume that the CHSRA will not provide payments (subsidies) after pre-operation to cover any shortfall in revenues to cover the O&M costs during operations? Is it also correct to assume that the Early Operator will have to assume ridership risk?	Key provisions of the Franchise Agreement are listed in Exhibit B: Phase 2 Scope of Work. The RFP will further set out how the Authority expects to agree to a Financial Plan as part of the Franchise Agreement for Phase 2.
6	Section 6.2 "Financial Capability" mentions the cost for Phase 2 is located within Authority's 2016 Business Plan. Does it refer to Section 7: "Forecasts and Estimates", page 81 of the Business Plan, and the potential shortfall during the ramp-up period, as the Phase 2 cost?	The 2016 Business Plan and its supporting Technical Memos contain the Authority's estimates of operating, maintenance, and lifecycle costs as well as passenger and ancillary revenue estimates, all in various scenarios.
7	The Financial Capability of the Offeror will be evaluated for Phase 2, thus we understand that the Offerors should demonstrate that they are capable and ready, both financially and legally, to commit to cover the costs for Phase 2 in their response to the SOQ. Is that correct?	Offerors' financial capability will be evaluated in accordance with the criteria outlined in Part A, Section 6.2 and Part B, Volume 2 of the RFQ.
8	The Financial Capability of the Offeror will be evaluated during the Pass/Fail Qualification Review, but the precise costs for Phase 2 will be estimated once Phase 1 is well advanced, and will depend on each Offeror approach. Will the Authority evaluate the Financial Capability of the Offeror Team in terms of their capacity to provide future funding commitment at the SOQ Phase, to support Phase 2 costs?	Offerors' financial capability will be evaluated in accordance with the criteria outlined in Part A, Section 6.2 and Part B, Volume 2 of the RFQ.
9	After ramp up, Phase 2 includes a long term phase providing mature operations. We assume that the period of operation after ramp up is the period along which the Offeror will be able to recover the cost incurred in Phase 2 (ramp up period shortfalls plus other potential costs). Is that correct?	The RFP will set out how the Authority expects to agree to a franchise term as part of the Financial Plan and Franchise Agreement negotiation.

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10	<p><b>Transmittal Letter</b></p> <p>According to these sections, the transmittal letter has to be signed by the Offeror and Equity Members on the same copy of the document by adding signature blocks as required. Additionally, we understand that it is required to append to the transmittal letter another letter on the letterhead stationery of the equity member certifying that “Representations, statements and commitments made by the Offeror or lead firm on behalf of the equity member has been authorized by, are complete, correct and accurately represent the role of the equity member firm in the offeror” (Part B, page 3/11).</p> <p>Could you please confirm if our understanding is correct and indicate if any additional requirements shall apply to the letter appended by equity members?</p>	<p>Yes, the Offeror shall complete Form A by adding as many signature blocks as necessary to include all entities required by Part B, Volume 1, Section A and Part D, Form A. The Offeror shall also follow all other instructions include in Part B, Volume 1, Section A and Part D, Form A, including appending letters on the letterhead stationary of Equity Members to meet the requirements in the above mentioned Sections.</p>
11	<p><b>Financial Statements, Material Changes and off-Balance Sheet Liabilities</b></p> <p>We understand that in case of incorporating an Equity Member in the Offeror Team, Financial Information should be packaged separately for each entity.</p> <p>On section 5.4, regarding the electronic information to be included, it is stated that a USB drive 256-bit encryption has to be included containing the Volume 2. Could you please confirm if similarly to the printed version, it is necessary to include two different USBs (one for main offeror and another one for the equity member) so that financial information is separated?</p>	<p>All financial information should be provided on the same USB. The files on the USB should clearly indicate the firm(s) to which each file pertains.</p>
12	<p><b>Format</b></p> <p>On bullet number 6 it is specified that Forms A-J must be signed and included. However, on the templates provided for Forms B, C and J there is not a dedicated field to have them signed. Could you please clarify if it is ok if we include a signature block on those forms?</p> <p>If no changes are allowed, it would be appreciated to receive the templates of the forms in editable version.</p>	<p>Forms B, C and J are complete as is and do not need a signature block appended. The Offeror shall include as many copies of forms C as necessary to list all known team members and as many copies of Form J as necessary to fulfill the requirements of Form J.</p>

No	Question	Proposed Response
13	<p><b>Confidentiality</b></p> <p>In the event the Offeror designates information contained in the SOQ as “TRADE SECRET” or “CONFIDENTIAL” is it necessary to submit an additional copy only of the volume of the SOQ containing the information marked as confidential, with the trade secret or confidential material blacked out or removed from the text, or would it be necessary to include an additional copy of <u>all</u> the volumes of the SOQ?</p> <p>Do any requirements apply in terms of wording on the spine of the volume corresponding to the additional copy?</p>	<p>If all volumes of the SOQ are submitted in a single binder, any Offeror wishing to indicate material as “TRADE SECRET” or “CONFIDENTIAL” should submit a complete additional copy of their SOQ with the appropriate redaction in accordance with the requirements of Part A, Section 4.9. If the volumes of the SOQ are submitted in separate binders, then the Offeror may submit an additional copy of only the volume of the SOQ containing the material marked “TRADE SECRET” or “CONFIDENTIAL”. Offerors submitting an additional copy of their SOQ should indicate on the cover and spine of the additional copy that it does not contain material marked as “TRADE SECRET” or “CONFIDENTIAL”. This additional copy should not be numbered.</p>
14	<p><b>Qualification Statement</b></p> <p>Regarding the numbering of the different sections contained on Volume 1, could you please clarify if it is expected to include a unique (continuous) numbering for all the sections or independent numbering for each section, so that the correct numbering of the documents on section C would be 1 and 2, instead of 8 and 9 as it is now.</p>	<p>Sections in the SOQ should be numbered as they are numbered in Addendum 4.</p>
15	<p><b>Section A. Financial Statements and Credit Ratings</b></p> <p>If credit ratings are not available for the Offeror, we understand that it is necessary to include a statement specifying that fact. Could you please clarify if this statement has to be signed, similarly to the material changes in financial condition, by the CFO?</p>	<p>Yes, statements provided in response to Part B, Volume 2, Section A.9 should be signed by the affected entity’s chief financial officer or treasurer, or an independent auditor.</p>
16	<p><b>Section B. Material Changes in Financial Condition</b></p> <p>Our understanding is that both in case of material changes as well as if they have not taken place, it is necessary to include a letter signed. In case of material changes, we understand this letter should be signed by the CFO, treasurer or independent auditor. Please confirm if our understanding is correct.</p>	<p>Yes, statements provided in response to Part B, Volume 2, Section B should be signed by the affected entity’s chief financial officer or treasurer, or an independent auditor unless otherwise specified in Part B, Volume 2, Section B of the RFQ.</p>

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17	<p><b>Statement of Qualifications Submittal Requirements; Submittal Information; General Requirements</b></p> <p>On section 5.1 it is specified that the information included in the RFQ has to be included on the submittal packages.</p> <p>On section 5.4 it is indicated that the original and the 7 copies have to be included in a sealed shipping package.</p> <p>Could you please clarify if the information to be placed on the lower left corner of the submittal packages applies to the shipping package, as well as of the internal sub-packages, containing the original version and the copies?</p> <p>If this is the case, would it be acceptable to add “Original”, “Copy 1 of 7”, etc., on the information to be placed on the left corner?</p>	<p>The submittal package referred to in Part A, Section 5.1 refers to the sealed shipping package. The binders inside the sealed shipping package containing the SOQ should be labeled in accordance with Part A, Section 5.4.</p>
18	<p><b>Past performance and experience</b></p> <p>From our understanding the requirement of having experience in the operation of a high-speed and or intercity passenger train system for minimum qualification purposes applies to all the equity members of the offeror. Please confirm if our understanding is correct.</p>	<p>The Lead Operator is required to have experience in the operation of a high-speed or intercity passenger rail train system pursuant to Part B, Volume 3, Section B.1. Other Offeror Team members with high-speed and intercity passenger rail operation experience should provide that experience, but are not required to have this experience.</p>
19	<p><b>Form H. Past Experience</b></p> <p>Is it possible for the Offeror to include more than 5 references? We understand that each of the equity members have to include a minimum of one and maximum 5 references per equity members. Please, confirm</p>	<p>Only the first five references provided for each Offeror Team member will be included in the evaluation. Additional references will not be evaluated.</p>
20	<p><b>Form H. Past Experience</b></p> <p>Since some of the information to be included on Form H is common for all our project references, we have considered the possibility of including a common introduction to project references to avoid redundancy in the subsequent Forms. Could you please confirm if this approach would be acceptable?</p>	<p>Offerors should completely fill out Form H for each project reference provided. For project references that include more than one Offeror Team member, a single Form H is sufficient pursuant to Part B, Volume 1, Section C.1.</p>

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21	<p><b>Original documentation included in the SOQ</b></p> <p>We understand that it is not necessary to legalize (by a public notary) or bearing the apostille of the Hague convention on the original documentation to be included in the SOQ, since there are not any requirements established in the RfQ. Please, confirm</p>	<p>The SOQ should follow all requirements listed in the RFQ. It is not necessary to notarize any of the Forms or documents submitted as part of the SOQ package.</p>
22	<p><b>Financial Statements and Credit Ratings</b></p> <p>Please clarify it in case of a state-owned enterprise with different subsidiaries, participated by the parent company, it would be necessary to include:</p> <ul style="list-style-type: none"> <li>a) consolidated annual accounts</li> <li>b) individual accounts</li> <li>c) consolidated plus individual accounts</li> </ul>	<p>Offerors should refer to Part B, Volume 2, Section A, No. 6: Guarantee. Of the options provided in the question, (c) consolidated accounts as well as individual accounts should be provided.</p>
23	<p><b>Form D</b></p> <p>Regarding question 4 of Form D, could you please clarify if it would be necessary to include any issues related to National Agency for Consumer Affairs or the Tax Agency?</p> <p>If so, please specify the level of detail of the cases to be included as well as the time framework to be considered (e.g.: number of years prior to the submission of the SOQ).</p>	<p>Question 4 on Form D refers to current investigations. All current investigations by any State of California agency, United States federal agency, or any foreign agency should be included in the response provided on Form D and an explanation of the matter provided.</p>

No	Question	Proposed Response
24	<p><b>Changes in Offeror Organization</b></p> <ul style="list-style-type: none"> <li>• If awarded, in case of force majeure issues affecting the key profiles proposed for the delivery of services in the RfQ (e.g.: death of a first grade relative, providing care to a dependent relative, serious illness, etc.) Would it be possible to propose a similar profile, fulfilling the requirements of CHSRA?</li> <li>• If this is the case, please confirm which situations would be considered “force majeure”. Those already mentioned in the previous question or would any other apply? Please, confirm.</li> </ul> <p>What would be the situation if “force majeure” issues arise during the delivery of the services stage (for example, six months or three years after the beginning of services).</p>	<p>All changes in Offeror organization during the procurement process, including Offeror Team members and Key Personnel, will be governed by the procedure in Part A, Section 4.7. A similar process will be included during the contract duration for the first phase of the services.</p>
25	<p><b>Changes in Offeror Organization</b></p> <p>Section 4.7 lays out the procedure if the Offeror’s organization changes during the procurement process. If two companies applied as an Offeror through an unincorporated partnership/JV, and then decided to incorporate/form an SPV to enter into the applicable contracts, would that qualify as a change of organization under these guidelines subject to the Authority’s approval (provided that the Offeror would be the sole Equity Member of the SPV)?</p>	<p>Yes.</p>
26	<p><b>Equity Member</b></p> <p>Can the Equity Member also act as the Lead Operator?</p>	<p>Yes.</p>
27	<p><b>Transmittal Letter</b></p> <p>The template of the transmittal letter and several other attached forms seem to assume that the Offeror is one entity. If the Offeror is an unincorporated partnership/JV between two entities, should both entities be identified as “Offeror” and sign the transmittal letter, and may the rest of the forms be modified to fit this organizational structure? Please, confirm.</p>	<p>All Forms should be completed according to the directions provided in Part B, Volume 1 and on the Forms, regardless of the Offeror’s corporate structure and incorporation status. Offerors should note that the Offeror Team is required to establish a single point of contact with the Authority on Form B.</p>



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28	<p><b>Transmittal Letter</b></p> <p>We understand that the “Offeror” is required to be registered/authorized to do business in CA.</p> <p>a. If the Offeror is an unincorporated partnership/JV formed by several members, would it be sufficient if only one of those members is registered/authorized to do business in CA?</p> <p>b. If the Offeror is an SPV, could you please confirm that its Equity Members are not required to be registered/authorized to do business in CA?</p>	<p>Both of these scenarios are acceptable. Authorization to do business in California will be a condition precedent to the execution of the Pre-Development Agreement.</p>
29	<p><b>Offeror structure</b></p> <p>Will the Offeror need to submit to the Authority the applicable shareholders/consortium/JV agreement governing the relationship among the Offeror’s members?</p>	<p>Yes, the Authority must receive this information prior to execution of the Pre-Development Agreement. Offerors are not required to submit such information in the SOQs.</p>
30	<p><b>General Clarification for Qualification and Eligibility</b></p> <p>Please clarify eligibility of proposers on Early Train Operator in terms of ownership of organization and/or corporation because whoever participates in this process that is a governmental organization or public corporation owned by a government should be in a unique position to get better access in various aspects that usually government entities must have. In order to secure and maintain fair plain field for competition, there must be some eligibility requirements for proposers in this process.</p>	<p>Thank you for your comments.</p>

No	Question	Proposed Response
31	<p><b>General Clarification for Future Schedule</b></p> <p>It is understood that future procurements of track work, wayside systems and rolling stock, etc. must get started during Phase 1 of Early Train Operator contract while it is still not clear how events and activities under Early Train Operator contract would affect future procurements and construction. Considering proposed schedule for revenue operations, there is relatively little time to get prepared and therefore, please explain sequence and relationship among those events and activities, not only between Early Train Operator contract and future procurements but also among future procurements and construction so that proposers and candidates for future procurements and construction should be able to appropriately plan and secure necessary resources in time.</p>	<p>Additional information will be provided in the RFP.</p>