

**New York State Thruway Authority
RFP #18C15**

Design, Construction, Financing, Operation and
Maintenance of 27 Service Areas on the New York State Thruway

November 8, 2018

ADDENDUM NO. 1

Notice is hereby given that the following Addendum No. 1 shall be made part of RFP #18C15 issued by the Authority on October 15, 2018 (the "RFP").

Each Proposer shall acknowledge receipt of this Addendum No. 1 in the cover letter submitted as part of their Proposal.

Addendum No. 1 consists of the following additions and changes to the RFP:

Change No. 1 – "Section 1.6 – Comments and Exceptions to Terms and Conditions" of the RFP is hereby revised to read as follows. Material to be added is underscored.

Section 1.6 – Comments and Exceptions to Terms and Conditions

The Successful Proposer will be required to enter into a Lease Agreement applicable to all 27 Service Areas with the Authority that includes, but is not limited to, the terms and conditions set forth in Appendices A, B C, D, E, F, G, H, I and W attached hereto (individually and collectively, the "**Legal Appendices**"). Proposers may identify issues or specific provisions of any terms or conditions set forth in the Legal Appendices stating any issue, comment or exception in writing via email to Mari-Ann Brower, Contract Management Specialist 2, identified as a permissible contact in Section 1.3 hereof, by the deadline for submission of written questions set forth in Section 1.2 herein. Proposers shall indicate specific provisions for which the Proposer seeks clarification or amendment and may offer alternative language for a particular term or condition, accompanied by the Proposer's requested alternative language. Proposers must also indicate the priority of all such requested changes or comments, and must clarify how the requested change would lead to better value for the Authority. The Authority will address such objections in its official responses to questions distributed to all Proposers and/or via Addenda to this RFP.

The Authority will consider Proposers' comments and requested clarifications or amendments received pursuant to this Section 1.6, and may in its discretion amend the terms and conditions set forth in the Legal Appendices. Pursuant to Section 1.8 of this RFP, the Authority will issue Addenda to this RFP if it amends the RFP or the terms and conditions set forth in the Legal Appendices together with all appropriate revisions or clarifications. The final form of terms and conditions set forth in the Legal Appendices, as issued by the Authority, will be the common basis for all Proposals. Notwithstanding the Proposer's right to comment on the terms and conditions set forth in the Legal Appendices, Proposers are required to base their Proposal on the terms and conditions of the final terms and conditions set forth in the Legal Appendices. Accordingly, while the Authority may negotiate any nonmaterial proposed changes to the final

terms and conditions of the final terms and conditions set forth in the Legal Appendices, in no event will the acceptance or rejection by the Authority of any suggested change result in reduced benefit offered by the Proposer in the Proposal. Changes will be limited to those appropriate to any negotiated work scope changes.

If the Authority determines, based on comments on the RFP or the Legal Appendices or otherwise that the RFP contains an error, ambiguity or mistake, the Authority reserves the right to modify the RFP and the Legal Appendices to correct the error, ambiguity or mistake.

Change No. 2 – “Section 4.7 – Conflicts of Interest” of the RFP is hereby deleted and replaced by the following:

Section 4.7 – Conflicts of Interest

The Authority reserves the right to disqualify any Proposer that in the Authority’s opinion has a conflict of interest, whether it is existing now or is likely to arise in the future, or to permit the Proposer to continue and impose such conditions, as may be required by the Authority in its discretion, in order to mitigate the conflict of interest.

At any time prior to the Proposal Due Date, each Proposer shall provide to the contact person Mari-Ann Brower, Contract Management Specialist 2 identified in Section 1.3 a conflict of interest disclosure statement on Form C-1 Organizational Conflicts of Interest Disclosure Statement (Attachment 3), identifying and describing any potential Organizational Conflicts of Interest, as described in Section II of Appendix I, and any relevant facts concerning past, present or currently planned interests that may present an Organizational Conflict of Interest. The conflict of interest disclosure statement shall be signed by the Proposer’s representative.

By submitting its Proposal, each Proposer agrees that, if any Organizational Conflicts of Interest are thereafter discovered, the Proposer shall make an immediate and full written disclosure to the Authority that includes a description of the actions that the Proposer has taken or proposes to take to avoid or mitigate such conflict(s). If an Organizational Conflict of Interest is determined to exist, the Authority may, at its sole discretion, cancel the tentative award or Lease Agreement without liability. If the Proposer was aware of an Organizational Conflict of Interest prior to entering into the Lease Agreement with the Authority, and did not disclose the conflict to the Authority, the Authority may terminate the Lease Agreement for default immediately without opportunity to cure.

Because of their prior or current work, the following firms have been identified as having conflicts of interest that prevent their participation as part of a Proposer’s team under the procurement process being conducted pursuant to this RFP. Proposers utilizing the following firms as a member of their team or as a consultant to the team will be disqualified from participating in this procurement process, and their Proposals will not be evaluated by the Authority for consideration of an award of the Lease Agreement:

- Greenman-Pedersen, Inc. (GPI)
- Gannett Fleming
- Jacobs Engineering Group
- PS&S
- Andrew J. Warcaba & Associates, Inc.

- Conti Appraisal & Consulting, LLC
- Kimball Appraisal Group, Inc.

Additional firms that are ineligible for participation in this procurement may be added to the above list by the Authority in Addenda to this RFP

Change No. 3 –“Article V – Lease Agreement” of the RFP is hereby revised to read as follows. Material to be added is underscored.

ARTICLE V – Lease Agreement

The Successful Proposer will be required to enter into a Lease Agreement with the Authority. Please refer to Appendix B for a summary of the Key Terms to be included in the Lease Agreement.

The Appendices listed below and attached hereto will be incorporated into and made a part of the Lease Agreement. The Successful Proposer will be required to complete and submit the Authority Supplemental Insurance Certificate (attached herein as Exhibit 2) to the Authority prior to commencement of work under the Lease Agreement.

The Successful Proposer must complete and submit Supplements 1, 2, 3, 4, 5 and if applicable, 6 below with its Proposal.

Appendix A	Standard Clauses
Appendix B	Key Terms of Lease Agreement
Appendix C	Inventions Policy
Appendix D	Network Connection Requirements (TAP-372)
Appendix E	Environmental Information
Appendix F	Design Codes and Manuals
Appendix G	Architectural Codes and Standards
Appendix H	Service Area Modification Procedure
<u>Appendix I</u>	<u>Conflicts of Interests Requirements</u>
Appendix W	Web Site Development
Exhibit 1	Thruway Authority/Canal Corporation Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence
Exhibit 2	Authority Supplemental Insurance Certificate (TA-W51343)
Exhibit 3	Customer Experience Survey Summary
Exhibit 4	2012 – 2017 Sales and Traffic Data
Exhibit 5	NYSTA Conceptual Plan
Exhibit 6	Service Area Responsibility Maps
Supplement 1	New York State Finance Law §§ 139-j and 139-k Disclosure of Prior Non-Responsibility Determinations
Supplement 2	Certificate of Compliance with the Authority/Corporation Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence
Supplement 3	Staffing Plan (EEO2)
Supplement 4	Equal Employment Opportunity Policy Statement (Form EEO3)

Supplement 5	ST-220-CA New York State Department of Taxation and Finance Contractor Certification
Supplement 6	Pre-Proposal Conference/Site Visit Release
Attachment 1	Past Performance (Form E-1)
Attachment 2	Proposer and Team Member Information (Form Q-1)
Attachment 3	<u>Form C-1 Organizational Conflicts of Interest Disclosure Statement</u>

Change No. 4 – “Appendix I – Conflicts of Interest Requirements” is hereby added to the RFP and is attached. It will be incorporated into and made a part of the Lease Agreement.

Change No. 5 – “Attachment 3 - Form C-1 Organizational Conflicts of Interest Disclosure Statement” is hereby added to the RFP and is attached.

Change No. 6– Appendix B, Section 17, “New York State Finance Law §§ 139-j and 139-k Certification” is hereby revised to read as follows. Material to be added is underscored.

New York State Finance Law §§ 139-j and 139-k Certification

By execution of the Lease Agreement, the Operator will certify that all information the Operator has provided to the Authority with respect to New York State Finance Law §§ 139-j and 139-k is complete, true and accurate. If the Authority finds that the certification made by the Operator in accordance with New York State Finance Law §§ 139-j and 139-k was intentionally false or intentionally incomplete, the Authority may terminate the Lease Agreement for default immediately without opportunity to cure.

Change No. 7 – The RFP Table of Contents is hereby revised to read as follows. Material to be added is underscored.

RFP TABLE OF CONTENTS

Article I – Background/Administrative Matters	Pages
Section 1.1 Background	1
Section 1.2 Key Dates	3
Section 1.3 Permissible Contacts / Contact Person	3
Section 1.4 Pre-Proposal Conference and Site Visits	4
Section 1.5 Written Questions & Responses	6
Section 1.6 Exceptions to Terms & Conditions	7
Section 1.7 RFP Errors or Omissions	7
Section 1.8 RFP Addenda	8
 Article II – Services Requested	
Section 2.1 Background	8
Section 2.2 Scope of Services	15
Section 2.3 Financial Requirements	25

Article III – Proposal Requirements

Section 3.1	Content of Proposal	27
Section 3.2	Submission of Proposal	39
Section 3.3	Confidentiality and Information Disclosure to Third Parties	40
Section 3.4	Expenses of Proposers	41

Article IV – Evaluation of Proposals

Section 4.1	Overview	41
Section 4.2	Preliminary Review	41
Section 4.3	Evaluation/Criteria	42
Section 4.4	Oral Presentations/Interviews/Facility Inspections	42
Section 4.5	Selection of Proposer(s)	42
Section 4.6	Additional Procurement Rights	43
Section 4.7	Conflicts of Interest	47
Section 4.8	Grievance Policy	47

Article V – Lease Agreement

Appendices, Exhibits, Supplements and Attachments

Appendix A	Standard Clauses
Appendix B	Key Terms of Lease Agreement
Appendix C	Inventions Policy
Appendix D	Network Connection Requirements (TAP-372)
Appendix E	Environmental Information
Appendix F	Design Codes and Manuals
Appendix G	Architectural Codes and Standards
Appendix H	Service Area Modification Procedure
<u>Appendix I</u>	<u>Conflicts of Interest Requirements</u>
Appendix W	Web Site Development

Exhibit 1	Thruway Authority/Canal Corporation Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence
Exhibit 2	Authority Supplemental Insurance Certificate (TA-W51343)
Exhibit 3	Customer Experience Survey Summary
Exhibit 4	2012 – 2017 Sales and Traffic Data
Exhibit 5	NYSTA Conceptual Plan
Exhibit 6	Service Area Responsibility Maps

Supplement 1	New York State Finance Law §§ 139-j and 139-k Disclosure of Prior Non-Responsibility Determinations
Supplement 2	Certificate of Compliance with the Authority/Corporation Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition

- Supplement 3 of Inappropriate Lobbying Influence
- Supplement 4 Staffing Plan (EEO2)
- Supplement 5 Equal Employment Opportunity Policy Statement (Form EEO3)
- Supplement 6 ST-220-CA New York State Department of Taxation and Finance Contractor Certification
- Supplement 6 Pre-Proposal Conference/Site Visit Release

- Attachment 1 Past Performance (Form E-1)
- Attachment 2 Proposer and Team Member Information (Form Q-1)
- Attachment 3 Organizational Conflicts of Interest Disclosure Statement (Form C-1)

APPENDIX I
NEW YORK STATE THRUWAY AUTHORITY
CONFLICTS OF INTEREST REQUIREMENTS

I. PURPOSE AND GOALS

This Appendix I provides information regarding conflict of interest policies and requirements applicable to Proposers and their team members.

The Authority's goals in adopting these policies and requirements include:

- A. protecting the integrity, transparency, competitiveness and fairness of Request for Proposals No. 18C15 for the design, construction, financing, operation and maintenance of the Service Areas, also referred to as the "Project";
- B. avoiding circumstances where a potential Proposer obtains, or appears to obtain, an unfair competitive advantage as a result of work performed by a Consultant;
- C. providing guidance to potential Proposers in establishing teams for the Project; and
- D. ensuring compliance with applicable legal requirements.

II. DEFINITIONS

The following terms, as used in this Appendix I have the following meanings.

"Consultant" means any individual or entity that is currently performing or has previously performed professional or consulting services for the Authority with respect to the Project. The term includes, without limitation, any person or legal entity providing accounting, auditing, architecture, landscape architecture, construction, project management, engineering, environmental consulting, appraisal, land surveying, or legal services, and includes subconsultants at all tiers.

"Organizational Conflict of Interest" means a circumstance arising out of existing or past activities, business or financial interests, familial relationships, contractual relationships, and/or organizational structure (i.e., parent entities, subsidiaries, affiliates etc.) of a Proposer or any of its team members that results in (i) impairment or potential impairment of a Consultant's ability to render impartial assistance or advice to the Authority, or of its objectivity in performing work for the Authority; (ii) an unfair competitive advantage for any Proposer with respect to the procurement process for the Project, including access to information that is not generally available to the other Proposers, based on services previously provided by a Consultant with respect to the Project; or (iii) a perception or appearance of impropriety with respect to the procurement process for the Project (regardless of whether any such perception is accurate).

III. STATE REQUIREMENTS

Proposers and their team members are subject to requirements of New York laws and regulations that affect individuals and entities contracting with state agencies. Examples of such requirements include Public Officers Law Section 73(8) and State Finance Law Sections 139-j, and 139-k. Nothing in this Appendix is intended to limit, modify, supersede or otherwise alter the effect of these laws and regulations. The Authority's selection of a Proposer shall not preclude the Authority from later determining that a violation of applicable requirements has occurred and taking appropriate action.

IV. OBLIGATION TO DISCLOSE CONFLICTS OF INTEREST

Each Proposer is responsible for determining whether an actual, potential or perceived Organizational Conflict of Interest exists with respect to itself and its team members. The Proposer is required to disclose on Form C-1 all relevant facts concerning any past, present or currently planned interests of the Proposer, its team members, and affiliates that may present a conflict, and to provide information regarding steps taken to mitigate the potential conflict.

The obligation to disclose actual, potential and perceived Organizational Conflicts of Interest is ongoing throughout the procurement. Proposers should undertake reasonable due diligence, including necessary conflict searches, to determine whether new actual, potential or perceived Organizational Conflicts of Interest have arisen. Due diligence should extend to investigation of past relationships and to officers or directors of the Proposer and its team members. If information is discovered requiring disclosure, the Proposer shall promptly submit a revised Form C-1 to Ms. Mari- Ann Brower, Contract Management Specialist identified in Section 1.3, for review.

V. REVIEW OF DISCLOSURES BY THE AUTHORITY

Based upon a review of the information submitted by a Proposer on Form C-1, the Authority may determine that an actual or potential Organizational Conflict of Interest exists. If this occurs, the Authority may identify actions that must be taken to avoid, neutralize, or mitigate such conflict. Alternatively, the Authority may disqualify the Proposer as a result of the conflict, or may advise the Proposer that the team member must be removed.

VI. FAILURE TO COMPLY

If a Proposer or any of its team members fails to comply with the requirements set forth herein, or otherwise fails to timely disclose an actual, potential or perceived Organizational Conflict of Interest, the Authority may, in its sole discretion:

- A. Preclude and/or disqualify the affected individuals and entities from participation in the Project;
- B. Require the affected individuals and entities to implement mitigation measures;

- C. Terminate existing contracts with such individuals and entities and/or

- D. Pursue any and all other rights and remedies available at law, in equity or set forth in applicable procurement or contract documents, which rights and remedies shall include the right: (1) to seek any and all direct or indirect costs and damages resulting from the individual or entity's failure to comply with this Appendix, including, but not limited to, costs resulting from third-party challenges to the procurement or the Authority's re-procurement of the Project; and (2) terminate the Lease Agreement for default immediately without opportunity to cure

FORM C-1
ORGANIZATIONAL CONFLICTS OF INTEREST
DISCLOSURE STATEMENT

1. Refer to Appendix I Conflicts of Interest Requirements for information regarding the Authority's Organizational Conflicts of Interest policies and related laws and regulations.
2. In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present or planned interest(s) of the Proposer and its team members, and all subcontractors, that may result, or could be viewed as, an Organizational Conflict of Interest, as identified in Appendix I, in connection with the RFP.

PROPOSER	

3. Explanation

In the space below, and on supplemental sheets as necessary, identify steps that have been or will be taken to avoid or mitigate any Organizational Conflicts of interest described herein.

PROPOSER	

4. Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, the information provided above is complete, true and accurate, and no interest exists that is required to be disclosed in this Organizational Conflicts of Interest Disclosure Statement, other than as disclosed in this Form C-1.

Signature	
Name (typed or printed)	
Title	
PROPOSER	
Date	