



Date of Issuance: 08/21/2023

Solicitation No. 24-MM-0001

Requisition No. _____

Amendment No. 001

Hour and date specified for receipt of offers is changed: No Yes, to: 09/22/2023 5:00 PM CST

Pursuant to OAC 260:115-7-30(d), this document shall serve as official notice of amendment to the solicitation identified above. Such notice is being provided to all suppliers to which the original solicitation was sent.

Suppliers submitting bids or quotations shall acknowledge receipt of this solicitation amendment prior to the hour and date specified in the solicitation as follows:

Sign and return a copy of this amendment with the solicitation response being submitted; or,

If the supplier has already submitted a response, this acknowledgement must be signed and returned prior to the solicitation deadline. All amendment acknowledgements submitted separately shall have the solicitation number and bid opening date in the subject line of the email.

ISSUED FROM:

Laura Bybee
Contracting Officer

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Phone Number

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E-Mail Address

RETURN TO: [NEVI RFP](#)

Description of Amendment:

a. This is to incorporate the following:

- 1. Answers to the question submitted are attached. Additionally, the deadline to respond has been extended to September 22, 2023 at 5:00pm CST.**
- 2. Various updates to the Attachments are attached. The revisions are for Sections:**
 - 2.1 Attachment "A", ODOT EVSE Charging Interactive Gap Map
 - 2.2 Attachment "A", Exit Locations within EVSE Charging Corridor Service Gaps, Table #2
 - 2.3 ODOT DBE Program Manual

b. All other terms and conditions remain unchanged.

Supplier Company Name (**PRINT**)

Date

Authorized Representative Name (**PRINT**) Title

Authorized Representative Signature

NEVI Questions and Answers

1. Will ODOT provide Word or Excel versions of the Proposal Attachments to potential applicants to assist with application preparation and review?
We are unable to provide in Word.
2. Is sales tax an eligible cost?
Yes
3. Are performance, defect, and payment bonds required to each equal the contract's full value (total award amount), or can the sum of all three bonds equal the contract's full value?
Each for full value of contract when totaled
4. Can ODOT please confirm there is no timeline or schedule requirement to complete the project (e.g., 24 months from NTP to NOA)?
The preference for ODOT would be completion of installation within 24 months. ODOT understands that due to supply chain issues, the installation may extend past 24 months. Vendors should also remember that there is 5 years of maintenance, operation and reporting required under the NEVI Program.
5. Can ODOT confirm if insurance certifications are required with a proposal submission? Insurance certifications are not listed in Checklist and are only required for “successful supplier(s) awarded” on page 10 of the RFP, but they are requested in the bid if the answer is Yes to question 6 under Responding Bidder Information page 2.
Vendors are required to submit proof of Workers Compensation Insurance with their bid response.
6. Will a proposal still be accepted if a Sales Tax Permit # and/or Oklahoma Secretary of State filing number is not included in the proposal but is obtained before grant award or payment from ODOT?
Yes, but will need to be provided before a Purchase Order can be issued.
7. Are operating expenses (i.e., kWh and kW) considered eligible operations and maintenance costs? Per updated FHWA federal guidance, operating assistance is an eligible cost and may be needed at some locations with lower utilization.
Yes
8. Under what circumstances should an applicant include a 5-year business plan in the bid? Can ODOT provide a more detailed description of the information ODOT is requesting in the 5-year business plan?
Vendors need to submit the required 5-year business plan for each location that are submitting a response for. ODOT is unable to provide additional information on the contents of the business plan.
9. Can ODOT confirm that the midpoint is the distance in the middle on the polygon layer displayed over an eligible AFC segment according to the Oklahoma NEVI Planning Map (e.g., middle point of the entire I-35 A segment)?
Yes

10. [REDACTED] is very interested in participating in the RFP for EV chargers' installations. Andrea provided us this email address to reach out and see if we could participate in the RFP. Would you please let me know what we would need to do to participate?
Complete proposal with supporting documentation
11. Are bonds (A312B, A312C and A312A) required for submission? Or are these required upon award? Under B.13.5 in the funding guidance, it is noted that "each project awarded will require the submission of a Payment Bond (OMES Form A312B), Performance Bond (OMES Form A312A), and Statutory Defect Bond (OMES Form A312C)." These bonds are also listed under section F of the submission Checklist. However, on page 12 of Attachment A, under Contractual Award Agreement, the following is stated: "The Awardee will be required to submit a Payment Bond, Performance Bond, and Statutory Defect Bond." This seems to say that bonds are not required until post-award. Can you please provide clarification on this?
Prior to NTP
12. The ODOT interactive map (found on page 5 of Attachment A) link is not working, and I have not been able to locate in online. Do you know another location I could find this map?
<https://experience.arcgis.com/experience/43c68cdcd5ce4cd6bf7f7b6f1d3be089/page/Home/?views=Filter%2CLayers>
13. There are documents that require signatures in Attachment F (Sample Award Agreement). Can you please confirm that these are only required if a project is awarded? And these are only examples of documents that will require signature upon award?
No signatures needed at this time, example only
14. Can you please confirm what the project period of proposals should be?
See response to Question #4.
15. With regard to the Sponsor Information document, we see on the Project Readiness – Design category the question: Does the proposed project have a stamped and signed set of plans? If so, upload the plans at the bottom of the form. Our question for ODOT is this: Is it a requirement for a compliant bid that the proposed project design plans be stamped and signed by a professional engineer and that the plans be submitted at the time of the response to the solicitation?
No, but plans do not require a P.E. stamp at time of submission
16. Also, with regard to the Sponsor Information document, Justice40 & Equity, our question for ODOT is this: Will a proposed project site at 4554 West 55th Place South, Sapulpa, Oklahoma be located within a federally recognized disadvantaged community?
Yes
17. With regard to ODOT's Solicitation Package, Attachment A, Statement of Work, Page 6, Table 2, we see that Exit Locations within EVSE charging corridor service gaps for I-44-C only include Exits 221, 228, 230 and 240. Our question for ODOT is this: Will a location adjacent to I-44-C 222 be eligible for an individual NEVI compliant project site?
It is eligible

18. If an organization would like to comment on the contractual language, should we submit our comments with our proposal or should we wait until after awardees are determined?

After

19. Is sales tax an eligible cost?

Yes

20. Are we able to modify the required forms to fit all the information requested?

We are unable to modify the forms, but vendors may add an attachment with the additional information.

21. Is Attachment F, Sample Award Agreement, required to be signed, executed, and submitted with the response to this bid? If so, should the proposer submit comments to the agreement with the response to bid?

No, it is an example not the final form

22. Are attachments B1-B6, Appendices A&E, and the Statutory certificate, required to be signed, executed, and submitted with the response to bid?

Yes, these forms are required.

23. As per the 5-year business plan requirement, does ODOT have a business plan template we can use?

ODOT does not have a template.

24. Are bonds in sections 13.2, 13.3, and 13.5 required to be attached with the response to bid, or after the proposer is awarded?

Prior to NTP

25. Is prevailing wage required for this bid?

Yes, Davis Bacon

26. Will the awarding body please provide us with the Davis Bacon wage determinations applicable to this project?

Yes

27. Will a "Certificate of Liability Insurance" satisfy the 'Workers' Compensation Insurance Coverage Certificate' requirement?

Yes

28. Part 4 - Section C8, would the cost of distributed energy resources (DER) equipment be included in the 80%/ \$1,200,000 award cap? Or would ODOT like to see that as option pricing?

Include in bid, not accepting options, each bid is an individual bid

29. Per 5 - Section F, would ODOT consider lowering the proposed withholding to 10%? Other states, such as Pennsylvania and Ohio, have proposed a withholding of 10% and Colorado has proposed a withholding as low as 5% in their NEVI RFPs.

No

30. Would ODOT consider natural gas generators fueled by RNG as an eligible DER resource?

Yes

31. Regarding Sections C5 and Attachment A Section B, Timeline and Milestones, please clarify whether the submission deadline is September 8 or September 15.

Original response deadline was September 15, 2023, but with issuance of this Amendment, the deadline has been extended to September 22, 2023 at 5:00pm.

32. Regarding Section B.13, Surety Bonds, please clarify if the bonding amount steps down once the project has been completed, but the 5-year O&M contract is still in place.

The bond will be in place for the entire 5-year period, and it will not be reduced.

33. Regarding Section B.15 and Attachment B5, Disadvantaged Business Enterprises, please clarify what DBE requirements apply to this solicitation.

Zero requirements per NEVI requirements.

34. Regarding Attachment A part 4B, Eligible Projects, the link to the ODOT EVSE Charging Interactive Gap Map does not work. Please address if this link will be posted elsewhere.

<https://experience.arcgis.com/experience/43c68cdcd5ce4cd6bf7f7b6f1d3be089/page/Home/?view=Filter%2CLayers>

35. Regarding Attachment C Section B5, Amenities, please clarify from what point the charger to amenity distance will be measured. For example, a charger within the parking lot of an amenity could be more than 200 feet away from the entrance of the building due to power or space availability.

Disregard 200'

36. Regarding Attachment D Section IV 1, Project Site Design and Layout, please clarify whether on-site fire hydrants and on-site water systems within 50 feet are a requirement. Additionally, please define on-site water system. Clarification is necessary to understand if a fire-hydrant located within the site hosts business would satisfy requirements.

Must be mapped if within 50'

37. If a vendor receives Electric Vehicle (EV) Charging Station Grant Program funds can that vendor also qualify for the 45% Alternative Fueling Infrastructure Tax Credit?

Unknown

38. If a vendor receives Electric Vehicle (EV) Charging Station Grant Program funds can that vendor also qualify for any other EV federal Tax Credits?

Unknown

39. Should the depreciable base of the EV station asset be reduced by the grant amount?

No

40. Penalties for non-compliance clause - page 27

- a. *Penalties for Non-Compliance or Non-Performance: Project equipment must maintain an annual uptime requirement of at least 97% during the entirety of the project performance period. In the event of non-compliance or non-performance, the Awardee must notify ODOT immediately, and ODOT will work with the Awardee to establish a remedy plan. If a reasonable remedy has not been met, ODOT reserves the right, at its discretion, to withhold reimbursement payments, terminate the Awardee contract, or initiate the execution of bond payments."*

Questions:

- b. As the clause refers to project equipment, then there would be no penalty for connectivity issues of operating or communications software due to an internet connection or electrical issue with 3rd party utility providers?
Outside the charging station operator's control, provided that the charging station operator can demonstrate that the charging port would otherwise be operational: electric utility service interruptions, failure to charge or meet the EV charging customer's expectation for power delivery due to the fault of the vehicle, scheduled maintenance, vandalism, or natural disasters.
- c. What if the OEM manufacturer of the EV charging equipment does not provide EV charger operating software updates timely or correctly, which causes uptime issues?
Outside the charging station operator's control, provided that the charging station operator can demonstrate that the charging port would otherwise be operational: electric utility service interruptions, failure to charge or meet the EV charging customer's expectation for power delivery due to the fault of the vehicle, scheduled maintenance, vandalism, or natural disasters.

41. B. Site Revenue clause - Page 16

"C.3 Site Revenue - C.3.1. For purposes of program income or revenue earned from the operation of an EV charging station, the State or other direct recipient should ensure that all revenues received from the operation of the EV charging facility are used only for:

- a. *Debt service with respect to the EV charging station project, including funding of reasonable reserves and debt service on refinancing;*
- b. *A reasonable return on investment of any private person financing the EV charging station project, as determined by the State or other direct recipient;"*

Questions:

- a. Will debt service on the initial EV charging project construction loan be allowed no matter the lender's terms and conditions of that debt service? Or, would those loans be subject to restrictions and additional NEVI/ODOT terms and conditions? the term "reasonable" is vague. We need a loan commitment from our bank and want to have all the required language in our financing request.
ODOT will follow the NEVI final rules (23 CFR 680.106 (m)). In its discussion of "Use of Program Income" in final rule, FHWA specifically states: "This final rule inherently includes flexibility to consider market forces and the other issues raised by commenters by using the term "reasonable return on investment." However, FHWA would draw to the attention of States and other designated recipients the comments that identify that reasonable return is identified by the industry over multiple years and across multiple charging stations."

- b. What is the "reasonable return on investment" as determined by the State or other Direct Recipient?

ODOT will follow the NEVI final rules ([23 CFR 680.106 \(m\)](#)). In its discussion of "[Use of Program Income](#)" in final rule, FHWA specifically states: "This final rule inherently includes flexibility to consider market forces and the other issues raised by commenters by using the term "reasonable return on investment." However, FHWA would draw to the attention of States and other designated recipients the comments that identify that reasonable return is identified by the industry over multiple years and across multiple charging stations."

42. Attachment B is missing from the official solicitation but is in the draft solicitation-can you please clarify whether Attachment B is a part of the official solicitation?

Attachment "B" is an internal ODOT form and is not required to be submitted with your response.

43. Should Technical Narrative attachments be embedded within the narrative or attached separately?

Either option is acceptable.

44. The RFP states that "*Reimbursement is at risk and dependent on, but not limited to, project receiving environmental clearances, final FHWA authorization, execution of final award agreement, Awardee abiding by all contractual terms, Awardee submission of required reimbursement invoice documentation, and ODOT approval of all documentation and compliance*" as well as that "*Proposers should note that any eligible costs incurred prior to requisite notices from ODOT are considered at risk.*" Are we correct to understand that expenses made prior to these stages may be reimbursed when and if those stages are complete, but are "at risk" of not being reimbursed if those criteria are not met? Or did ODOT mean to express that they would not be reimbursed even if these steps were completed?

Will not be reimbursed prior to NTP

45. Eligible Costs and Project Match (Page 7): Would a canopy covering the charging stalls be considered an eligible expense?

Yes

46. Eligible Costs and Project Match (Page 7): Does the statement that "Proposers should note that any eligible costs incurred prior to requisite notices from ODOT are considered at risk" mean that proposers can take on all costs (pre-construction, construction, charger purchase, etc.) at their own risk now and the costs will still be eligible for reimbursement? For example, if a proposer were to build and operationalize a site in September of 2023 would those costs still be eligible for reimbursement under the "at-risk" treatment?

Will not be reimbursed prior to NTP

47. Proposal Template (Page 4): For documents that do not count towards the page limit (resumes, etc.) is there a preference that these be included in as an Appendix?

See response to Question #20

48. Payment and performance bonds or letters of credit are administratively burdensome to obtain (especially for < \$1M contracts) and involve expenditure both to post and maintain. Given that

proposers do not have any contractual obligations to the Oklahoma DOT unless and until a contract is executed, do proposers need to attach bonds to proposals, or only provide them in the case of award?

Prior to NTP

49. Given that Oklahoma DOT does not propose to make *any* payments until the onsite work is complete, and in fact withholds some payment for nonperformance during the operational period, could it remove the requirement for contractors to bond for completion entirely?

No

50. Under “Up-Time Requirement” the solicitation states that 20% of the Awardee share of total eligible cost will be withheld for the 5 – year O&M period. The Project Payment and Reimbursement structure able suggests that this is intended to be, instead 20% of the capital cost award. Which is correct?

20% of total award paid every 6 months in 2% increments

51. All of our proposed sites are open to the public 24/7 without restriction. Will this access be acceptable to ODOT, or will ODOT require we renegotiate our host contracts to include specific language for ODOT?

Deviation from 24/7 will count against uptime

52. We both complete stations for our own ownership and construct them for our clients’ ownership. Competing NEVI applications in quantity is administratively complex and burdensome, and requires often detailed knowledge of the construction and costing process that is best known and most efficiently related by ourselves as construction and services contractor. In our client contracts we are paid in a variety of ways (among them fixed fee, cost plus, and success fees) for services that include preparing our NEVI applications. (We negotiate our own contracts and have the right to accept or reject same.) These services are limited to advice / forecasting on elements such as geographic eligibility, the preparation of applications for our signature, and post-award administration on our behalf, as opposed to more traditional lobbying or government affairs. However, they are paid as a success fee. Is this grant preparation service permissible under the draft contract’s Section 9 - Covenant Against Contingent Fees?

No. ODOT will follow [FHWA guidance](#) on eligible costs being those costs “directly related to the charging of an electric vehicle (EV)” and as further defined in the ODOT RFP. No costs other than those explicitly listed as eligible, directly related to EV charging, and incurred after ODOT project award / formal notice will be reimbursable.

53. The application evaluation section states that projects will be evaluated, in part, on “Project Federal Share Requested”. Are the applications to be evaluated on cost-effectiveness, or cost share? For instance, if Proposer A states they will build an identical station to Proposer B, estimates it will cost three times as much to build, but only requests twice as much funding,

would Proposer A's submission be deemed superior due to the lower cost *share* requested, or would Proposer B's station with a lower *cost* receive the higher score in this case?

See scoring criteria

54. There are two different dates listed on the solicitation – one area lists the deadline as 9/15, 5PM CT, and the other lists the deadline as 9/8, 5PM CT. Can the awarding body please confirm the official due date for this solicitation? Can I form a new entity by the submission deadline for my application?

See response to Question #31 for Response deadline. Yes, you should be able to form a new entity by the deadline.

55. Can I use My IT small business entity, created almost 2 years ago for my application?

Yes

56. Can I have more guidance's on what should be done by a novice entity so that I my application meets the requirements.

Unfortunately, we cannot provide assistance other than how to fill out the RFP documents.

57. Do I have any chance as basically having no established business?

Yes, must be:

1. Business registered with the Oklahoma Secretary of State, or
2. Non-profit entity registered in the State of Oklahoma (as defined in Title 26 US Code Section 501(c)), or
3. Oklahoma Government entity, such as local governments or higher education institutions.
4. Tribal Organization within Oklahoma (as defined in Title 25 US Code Section 5304 (I)).

58. We see three different dates for RFP submission. September 12 is on the website but the RFP contains both September 15 and September 8th. Can you please clarify the due date and time?

See response to Question #31.

59. 2. We have two sites that are on U.S. highways but not interstates. Do we have to wait until year 2 to apply?

Yes



1. **Revision to the ODOT EVSE Charging Interactive Gap Map link (Attachment A, page 5 of 13. PDF sheet 23)**

a. The correct link is:

<https://experience.arcgis.com/experience/43c68cdcd5ce4cd6bf7f7b6f1d3be089?views=Welcome>

2. **Revision to Table 2. Exit Locations Within EVSE Charging Corridor Service Gaps (Attachment A, page 6 of 13. PDF sheet 24)**

a. Update the list of eligible exit locations with the following:

AFC	GAP ID	INTERCHANGE (EXIT NUMBERS FOR BOTH DIRECTIONS)
I-35	A	1, 3, 5
	B	142, 143, 146, 151, 153, 157, 170, 174, 180, 185, 186, 193, 194A/B
I-40	A	134, 136, 137, 138A/B, 139A/B, 140, 142, 143, 144, 145, 146, 147A/B , 148A, 148B, 148C, 149, 150AB, 151A, 153 , 154, 155A, 155B, 156A, 156B, 157A, 157B, 157C, 159A, 159B, 159N , 162, 166, 169, 172, 176, 178, 181
	B	185, 186, 192, 200, 212, 217, 221, 227, 231
	C	237, 240A, 240B , 247, 255, 259, 262, 265, 270, 278
	D	284, 287, 291, 297, 303, 308, 311, 321, 325
I-44	A	1, 5
	B	108, 109 , 110, 111, 112, 113, 114, 117, 118, 119, 121A, 121B , 122, 124, 125A , 125B, 128A, 128B
	C	221, 228, 230, 240

3. **Revision to the ODOT DBE Program Manual link (PDF sheet 68)**

a. The correct link is: https://oklahoma.gov/content/dam/ok/en/odot/civil-rights/2021_DBE_Program_Manual.pdf