

ALAMEDA CORRIDOR MAINTENANCE SERVICES

Request for Proposals dated September 30, 2024

Responses to Questions – Round 1

Issued October 21, 2024

1. Can the Agency provide a list of DBEs that currently provide services, either directly or indirectly, for the Corridor?

ACTA does not track DBEs but there are SBE requirements identified in section 5.4 of the RFP. Below is a partial list of small businesses that either provide services under the current maintenance contract or they have a direct contract with ACTA.

Name of SBE	Type of Service	Indirect (MOW Contract) Direct (current ACTA contract)	Amount Paid to Date
Centurion	Maintenance Yard Security	Indirect	\$777,746.19
Highball Signal	Signals, AEI Readers & Communication System Maintenance	Indirect	\$10,447,525.00
Gold Coast Fence	Fencing Repairs	Indirect	\$1,117,288.00
Screamin' Eagle Services	On-Call Trash Removal	Direct	\$19,401.00
Ocean Blue Environmental Services	Environmental/Hazardous Cleanup Services	Direct	\$11,034.44

For some additional lists of other certified SBE's, please visit the websites further below.

<https://smallbusinessquery.metro.net>

<https://www.rampla.org/s/regional-profiles>

2. Can the Agency provide the dollar amounts paid to these DBEs?

See response to question number 1.

3. Can the Agency provide a copy of the invoices for the last 12 months from the current corridor service provider?

Obtaining a year's worth of invoices may not be deemed as useful to prospective proposers given the volume of the files and the RFP schedule. We will provide 3 months of invoices instead. The information will be posted on our website at:

<https://www.acta.org/newsroom/contract-opportunities/maintenance-services/>

As a reminder, the purpose of the Cost Proposal information is not to arrive at a complete estimated total price for the first Annual Maintenance Budget under the Agreement. Rather, the firm's Cost Proposal Forms will be used to evaluate the cost elements of the labor and services to be provided. See Section 5.3 of the RFP for additional information.

4. The RFP does not mention Railroad Bridge Engineer (RBE) duties. Are RBE duties outside the scope of this RFP? Our understanding is that the selected contractor will perform bridge inspection and maintenance only, with no specified engineering required. Please confirm.

Please refer to Exhibit 1 of the RFP for the Scope of Services and Appendix G for information related to Inspection of Structures. ACTA has access to engineers through an agreement outside of the maintenance contractor's scope of work.

5. Will the ACTA-maintained overpasses require annual inspections (similar to rail bridges under FRA requirements), or every other year (under FHWA guidelines)? If every other year, when were the last inspections of the overpasses conducted?

There are no required inspections of the overpasses within the maintenance contractor's scope of work. Please refer to Appendix G for information related to Inspection of Structures and Appendix H which shows jurisdictions for Roadway/Highway and Railroad Crossings. Appendix R includes the latest available Bridge Inspection Report.

6. Can the agency provide a description of the types of inspections required for the retaining (trench) walls and supporting struts?

Please refer to Appendix G for information related to Inspection of Structures. Inspections of the trench walls and supporting struts are not part of the scope of work although the current maintenance contractor performs regular inspections of the walls. At ACTA's discretion, a separate firm may be contracted to perform various inspections.

7. Do the 100M CGL requirements extend to subcontractors. Many are SBE, as required by contract and not able to meet the requirements.

According to Article 17.17 of the Agreement, the contractor is required to ensure that all subcontractors or other parties hired under the Agreement provide the same types of insurance as required of the Contractor, unless otherwise agreed to by ACTA. However, the coverage limits for subcontractors' liability insurance policies are set at \$5 million. See Article 17 of the draft Agreement for additional information.

8. Is ACTA willing to pay invoices containing only subcontractor (specifically SBE subcontractors) on an expedited review to maintain positive cash flow in light of the normal 60 to 90 day payment period?

This should not be necessary, as payments are normally made to the maintenance contractor within 30 days of receipt of a complete and undisputed invoice. We recommend that the selected contractor has a verification process in place to ensure that invoices are complete and accurate. For example, all direct costs should be properly supported and labor hours recorded on employee timesheets should agree with both the firm's payroll registers and the hours billed to ACTA. If the contractor ensures that their own invoice as well as subcontractors' invoices comply with the agreement, regular monthly invoices should be paid within the agreement terms.

9. Is ACTA willing to negotiate the terms of the Agreement with the successful Proposer?

As set forth in Section 5.1 of the RFP, Proposers are requested to include a statement in their cover letter that the proposer can comply with the terms of the Maintenance Agreement included in Appendix A of the RFP. Any proposal lacking such statement may be considered non-responsive. However, if a firm believes the Maintenance Agreement contains any terms that are unlawful under local, state, or federal laws or regulations, firms may make such statement in their cover letter in lieu of the "comply with" statement. In such instances, and to avoid having the proposal being declared non-responsive, proposers shall include with their proposal a separate letter from their legal counsel setting forth the position that the Maintenance Agreement contains unlawful provisions. Letters so submitted will be considered by ACTA and its legal advisors.

10. The Table of Contents in the Agreement lists an Exhibit 5 (Dispute Resolution Process) that is not included in the RFP. Can ACTA please provide a copy?

The reference in the Table of Contents in the draft agreement is incorrect. Exhibit 5 is for Small Business Enterprise (SBE) Requirements and Exhibit 6 is for Bond Samples. These Table of Contents references will be updated in the final agreement.

Article 20 of the draft agreement discusses the Dispute Resolution process.

11. Would ACTA consider removing Section 16.5 from the Agreement? The claims waiver in that section is not industry-standard.

As set forth in Section 5.1 of the RFP, Proposers are requested to include a statement in their cover letter that the proposer can comply with the terms of the Maintenance Agreement included in Appendix A of the RFP. Any proposal lacking such statement may be considered non-responsive. However, if a firm believes the Maintenance Agreement contains any terms that are unlawful under local, state, or federal laws or regulations, firms may make such statement in their cover letter in lieu of the “comply with” statement. In such instances, and to avoid having the proposal being declared non-responsive, proposers shall include with their proposal a separate letter from their legal counsel setting forth the position that the Maintenance Agreement contains unlawful provisions. Letters so submitted will be considered by ACTA and its legal advisors.

12. Would ACTA consider revising the payment terms in Section 5.6 of the Agreement so that there's a clear process to resolve payment issues and disputes? Specifically, some or all of the following:

- (a) ACTA is required to provide written notice to the Contractor of any issues with an invoice within 15 days of submission, or else the invoice is deemed to be accepted;**
- (b) ACTA and the Contractor are required make best efforts to resolve the issues within 15 days of ACTA's written notice;**
- (c) if ACTA and the Contractor are unable to resolve the issues within 15 days, then, within 30 days from the expiration of the 15-day resolution period, ACTA will pay the Contractor the portions of the invoice that ACTA has not disputed in writing;**
- (d) if ACTA does not pay the undisputed portions as required, the Contractor may stop work until payment is made;**
- (e) the disputed portion(s) of the invoice will be submitted to non-binding mediation within 60 days of the expiration of the 15-day resolution period;**
- (f) if non-binding mediation is unsuccessful, then the Contractor may file suit in the California Superior Court, County of Los Angeles;**
- (g) if ACTA fails to respond to a invoice or payment claim/dispute within the time periods required above, then the invoice shall be deemed accepted, and ACTA waives its prior objection(s);**
- (h) ACTA will not delay the review of any invoices on the basis that there are prior invoices that have not been accepted either in whole or in part.**

As set forth in Section 5.1 of the RFP, Proposers are requested to include a statement in their cover letter that the proposer can comply with the terms of the Maintenance Agreement included in Appendix A of the RFP. Any proposal lacking such statement may be considered non-responsive. However, if a firm believes the Maintenance Agreement contains any terms that are unlawful under local, state, or federal laws or regulations, firms may make such statement in their cover letter in lieu of the "comply with" statement. In such instances, and to avoid having the proposal being declared non-responsive, proposers shall include with their proposal a separate letter from their legal counsel setting forth the position that the Maintenance Agreement contains unlawful provisions. Letters so submitted will be considered by ACTA and its legal advisors.

13. Section 17.15 specifically states that self-insurance retentions greater than \$50,000 and \$100,000 (pollution) must be declared and approved. Please confirm that this does not apply to deductibles greater than this amount, which are not the same as self-insured retentions.

Article 17.15 of the Agreement indeed specifies that self-insurance retentions greater than \$50,000 and \$100,000 (for pollution) must be declared and approved. This requirement does **not** apply to deductibles greater than these amounts. Deductibles and self-insured retentions are distinct concepts:

- **Self-insured retentions (SIRs):** The amount the insured must pay out-of-pocket before the insurance company pays for a claim. The insured handles and pays for claims up to the SIR amount.
- **Deductibles:** The amount subtracted from an insurance payout. The insurer handles the claim from the start, and the deductible is deducted from the claim payment.

Therefore, the declaration and approval requirement in Article 17.15 applies specifically to self-insured retentions and not to deductibles.