IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

SEATTLE CITIZENS AGAINST THE TUNNEL and ELIZABETH CAMPBELL, Plaintiffs/Petitioners, v. WASHINGTON STATE DEPARTMENT OF TRANSPORTATION; PAULA HAMMOND, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, Defendants/Respondents.	NO. COMPLAINT AND PETITION FOR REVIEW

I. INTRODUCTION

1. The State Environmental Policy Act (SEPA) requires that an Environmental Impact Statement be completed *before* government decisions are made that commit the

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

government to a particular course of action. When SEPA's requirements are observed, government decisions are made "by deliberation, not default."[1]

2. The Washington State Department of Transportation is making a mockery of the SEPA process required for the State Route (SR) 99-Alaskan Way Viaduct and Seawall Replacement Project. The Final Environmental Impact Statement for the project has not been completed and, according to WSDOT, it will not be completed until 2011. Until the Final EIS is completed, WSDOT (and all other participating agencies, like the City of Seattle) are precluded from making decisions which pre-judge the choice among alternatives being analyzed in detail in the Final EIS.

3. WSDOT recently initiated a procurement process to select a Design-Builder to design and build the tunnel. The process is intended to result in the selection of a Design-Build contractor before the Final EIS is completed.

4. During this time, WSDOT also is devoting millions of dollars worth of personnel and financial resources to implement the tunnel alternative.

5. The selection of a Design-Build contractor for the tunnel and the devotion of other substantial resources to develop the tunnel, at a time when similar resources and decisions are not being committed to the other non-tunnel options, predisposes the decision-makers to choose the tunnel option at the end of the environmental review process. Essentially, the tunnel project will have been underway for a year and a half by the time WSDOT formally makes its decision. Given WSDOT's urgency to proceed with a replacement for the viaduct, that year and a half head start will create a huge advantage for the tunnel option. WSDOT's actions effectively preempt

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[1] *Stempel v. Board of Water Resources*, 82 Wn.2d 109 (1973).

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

any opportunity to have a legitimate and balanced decision-making process *after* the environmental analysis process is completed. WSDOT's actions effectively preclude WSDOT from using the results of its environmental review in its decision-making process as required by SEPA.

6. Because WSDOT is precluded from taking steps now that so significantly tilt the playing field among the alternatives and put the tunnel in a substantially favored position, WSDOT's actions violate the requirements of SEPA and must be enjoined.

II. PARTIES

7. Plaintiff/petitioner Seattle Citizens Against the Tunnel ("SCAT") is a Washington State, non-profit, citizen organization dedicated to ensuring that a decision on a replacement for the Alaskan Way Viaduct is made only after a full review of environmental, cost, and other relevant issues. Plaintiff Elizabeth Campell and members of SCAT live in the vicinity of the viaduct replacement project and will be adversely impacted by the construction and operation of the project. The tunnel option, if built, would result in greatly reduced traffic mobility for plaintiff Campbell and SCAT members, and other Seattle residents and businesses and, consequently, would result in increases in greenhouse gases and other air quality pollutants.

8. The north portal of the tunnel is designed to empty local traffic onto Mercer Street causing increased congestion in that high-traffic corridor. The south portal will cause increased traffic congestion and hazards to pedestrians in Pioneer Square and in the stadiums area, the former a fragile and significant historic neighborhood and the latter, an intense pedestrian zone. The tunnel is designed to accommodate two lanes of traffic each way with inadequate shoulders and safety clearance. The design will create safety hazards for plaintiff Campbell, SCAT's members, and Seattle-area drivers and will lead to further traffic congestion when accidents and

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

break downs clog the tunnel. These adverse impacts to Elizabeth Campbell and SCAT's members provide plaintiffs with a sufficient interest and standing to bring this action.

9. Defendant/respondent Washington State Department of Transportation is an agency of the State of Washington and one of the lead agencies for the development of a replacement for the SR 99-Viaduct through downtown Seattle. Defendant/respondent Paula Hammond is the Secretary of the Washington State Department of Transportation and its Chief Executive Officer. She is appointed by the Governor and serves at the pleasure of the Governor.

III. FACTS

10. WSDOT is the owner of the Alaskan Way Viaduct.

11. The Alaskan Way Viaduct section of SR 99 is a primary north-south route through Seattle as well as providing intra-city access for Ballard, Magnolia, Queen Anne, Interbay, Downtown, and West Seattle.

12. The 2001 Nisqually earthquake damaged the viaduct, forcing WSDOT to temporarily shut it down. Repairs were made and the viaduct was reopened with roadway restrictions for heavy trucks that remain in effect today.

13. In 2005, WSDOT commissioned outside experts to complete a study evaluating the condition of the viaduct. The study found that the viaduct's deterioration had accelerated since the Nisqually earthquake.

14. Replacement of the viaduct as soon as possible is a top priority for WSDOT.

15. In 2004, WSDOT (in conjunction with other cooperating agencies) issued a Draft Environmental Impact Statement. The Draft EIS included an evaluation of five alternatives: a rebuilt viaduct, a new aerial structure, a single-level cut-and-cover tunnel, a bypass cut-and-cover tunnel, and a six-lane surface boulevard. WSDOT and the other cooperating agencies (the City

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

of Seattle and the Federal Highway Administration) selected the cut-and-cover tunnel as the preferred alternative.

16. There was no analysis in the Draft EIS of a deep bore tunnel, *i.e.*, the project that WSDOT now seeks to build.

17. In 2006, WSDOT released a Supplemental Draft EIS that focused on two alternatives: a cut-and-cover tunnel and an elevated structure.

18. There was no analysis of a deep bore tunnel in the 2006 Supplemental Draft EIS.

19. In 2007, an advisory vote was held in Seattle, calling for an up or down vote on a surface-tunnel hybrid and an elevated structure. Nearly 70 percent of the electorate voted against the tunnel option.

20. In 2008, WSDOT, the City of Seattle, and King County worked to develop a solution for a central waterfront section of the Alaskan Way Viaduct. Their work was informed by input from a broad range of formally designated "stakeholders" (*e.g.*, leaders of the downtown business community, labor, environmental organizations, neighborhood groups, and others).

21. The agencies and stakeholders developed eight scenarios. These scenarios covered a range of options, from a smaller road along the central waterfront and significant investments in transit and surface streets, to bypass roadways with fewer transit and surface street investments.

22. In December, 2008, the agencies and stakeholders narrowed down the acceptable options to two hybrid scenarios: an "I-5/surface/transit" alternative and an "SR 99 elevated bypass" alternative. According to WSDOT's website, these two hybrid options included the best elements from the previous eight scenarios, including improvements to I-5, surface streets, and transit.

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
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Fax. (206) 264-9300

23. Neither of the two hybrid options that resulted from the WSDOT/King County/City of Seattle stakeholder process in 2008 included a deep bore tunnel. Each of the preferred options was determined by WSDOT to be technically feasible and lower cost than the bored tunnel proposal.

24. In December, 2008, the three agencies, with the support of the broad stakeholder group, recommended these two options and forwarded them to the chief executive officers (the Governor, the County Executive, and the Mayor) for decision.

25. In January of 2009, Governor Christine Gregoire, King County Executive Ron Sims, and Seattle Mayor Greg Nickels rejected the year-long work of their staffs and the broad-based stakeholder group and, instead, signed a joint letter endorsing a deep bore tunnel beneath downtown. *See* Exhibit A hereto. The letter was carefully crafted to acknowledge that no decision was being made. It was, ostensibly, only a recommendation. "We have decided jointly that a four-lane bored tunnel, together with improvements to city streets, the city waterfront, and transit, is ***the recommended alternative*** for replacing the existing viaduct, referred to as 'The Project.'" Exhibit A (emphasis supplied).

26. The reference to the bored tunnel as a "recommended alternative" was appropriate in January 2009 (and remains appropriate today) because the EIS was not yet complete. Until the EIS is complete, neither WSDOT nor any of the other state or local agencies may lawfully make a final decision or take other steps that would prejudice or pre-judge the decision.

27. But while the January 13, 2009 letter was carefully crafted to parrot the agencies' legal obligations, subsequent words and deeds have deviated from those legal requirements. For instance, despite that it will take more than a year from now to complete the environmental

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
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Tel. (206) 264-8600
Fax. (206) 264-9300

review process, various State (and City) officials are proclaiming that the decision to build the bored tunnel has been made and will not be revisited.

28. These elected officials and agency heads should know that decision-makers have to keep an open mind regarding all alternatives being considered in the EIS until that document is published and its analysis can be utilized in the process of making a final decision.

29. Currently WSDOT is taking significant steps to advance the tunnel project. Those steps are at the expense of keeping an open mind regarding the full range of alternatives being analyzed in the Final EIS.

30. On September 15, 2009, WSDOT issued a Request for Qualifications (RFQ) soliciting companies to submit plans to design and build the SR 99 bored tunnel. A copy of the RFQ is attached hereto as Exhibit B.

31. The RFQ states that "the issuance of the Final EIS is scheduled for January 2011, and the issuance of the ROD [Record of Decision], which completes the NEPA process, is scheduled for March 2011."

32. WSDOT's procurement process, announced in the RFQ, involves two steps. The first step is for interested companies to submit a Statement of Qualifications. WSDOT will then "short list" the three or four most highly qualified companies to continue to the second step of the process. WSDOT's schedule calls for that decision to be made by December 30, 2009.

33. In the second step, WSDOT will issue a request for proposals (RFP) to the "short listed" companies. WSDOT will pay $2,000,000 to each of the short listed companies that do not win the contract. The short listed companies are to submit Alternate Technical Concepts by June 1, 2010 and final proposals by September 15, 2010. WSDOT's schedule calls for it to announce the apparent "best value proposal" by December 23, 2010 and to enter into a contract with the

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

winning company in January 2011. Thus, by January 2011, the tunnel contractor will have been selected, making the tunnel the *de facto* choice.

34. Also in January 2011, the Final EIS is scheduled to be published. *After the Final EIS is published,* WSDOT and other decision makers are supposed to undertake a good faith evaluation of the various alternatives and make a decision as to which alternative will be pursued. But the various alternatives will not be competing on an even playing field as of that date. One alternative, the deep bore tunnel, will be "ready to go." The contractor will have been selected and a detailed proposal from that contractor will already be in hand. In effect, the deep bore tunnel will have an 18 month head start on the competing alternatives.

35. Given the importance repeatedly stated by WSDOT for constructing a replacement for the failing viaduct as soon as possible, the year and a half head start for the tunnel will effectively pre-ordain the decision and make it all but impossible for any non-tunnel alternative to be selected. WSDOT's decision to initiate the procurement process only for the deep bored tunnel option violates SEPA's prohibition on agency action before the Final EIS is complete.

36. Subsequent to the Governor's announcement in January 2009, WSDOT re-organized its Alaskan Way Viaduct project team and its consultants to direct all of their efforts towards fast-tracking efforts to design and build the deep bore tunnel option. None of their resources have been devoted to advancing any of the other options outside of the EIS process. WSDOT plans to continue devoting nearly exclusive focus on the deep bore tunnel option from the present until the Final EIS is published and the record of decision ("ROD") is issued sometime in 2011. WSDOT is investing millions of dollars of State resources to proceed with the deep bore tunnel proposal and is not giving credible consideration to any alternative.

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

37. By the time the EIS is released and the ROD is issued sometime in 2011, the resources WSDOT has committed to the deep bore tunnel will have tilted the playing field too far and will have eliminated any meaningful opportunity for an open-minded choice between the alternatives being addressed in the EIS.

38. This ongoing, substantial allocation of State resources to and contracting activity for the deep bore tunnel before the Final EIS is published and a final decision is made violates SEPA. While limited work certainly can be done to flesh out the specifics of a preferred alternative before the Final EIS is published, the resources WSDOT is investing go too far and are fatally prejudicing the environmental review and decision-making process.

39. SEPA's policy of assuring that government decisions are made "by deliberation, not default" requires intervention by the court at this time. Yet WSDOT and other State officials are treating the requirements of analyzing and comparing the environmental impacts of the deep bore tunnel and the competing alternatives as an inconvenient formality. WSDOT's leaders (and, apparently, City officials, too) apparently think it is legal for them to have their minds made up before the environmental review process is completed. Judicial intervention is necessary to ensure that WSDOT (and the other agencies and private parties involved in this decision-making process) recognize that no final decision can be made until all of the comparative environmental analysis is completed and disclosed in the Final EIS.

IV. CAUSES OF ACTION

40. The actions described above constitute a violation of the State Environmental Policy Act, ch. 43.21C RCW, and the implementing regulations, ch. 197-11 WAC.

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
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41. Pursuant to the Declaratory Judgment Act, ch. 7.24 RCW, plaintiffs/petitioners seek a declaration that WSDOT's actions, taken under the direction of Secretary Hammond, are in violation of the State Environmental Policy Act and its implementing regulations.

42. Pursuant to the Washington State Constitution, Article IV, § 6, plaintiffs/petitioners request issuance of a constitutional writ of certiorari and allege, in addition to the foregoing allegations, that the fundamental right of plaintiffs/petitioners to be free of arbitrary, capricious, and illegal actions warrants the exercise of this Court's inherent authority to review the decisions described above.

V. PRAYER FOR RELIEF

Plaintiffs/petitioners request the following relief:

1. Issuance of a declaratory judgment that the State Environmental Policy Act and implementing regulations preclude WSDOT and Secretary Hammond from taking the actions alleged above that pre-judge the ultimate decision to be made with regard to replacement of the Alaskan Way Viaduct and that said actions are impermissibly prejudicing the ability of WSDOT and other agencies to make a choice among the alternatives to be analyzed in the Final EIS.

2. An injunction prohibiting WSDOT and Secretary Hammond from taking any further actions that pre-judge the decision to be made with regard to the replacement of the Alaskan Way Viaduct or actions which prejudice WSDOT's ability to make that decision.

3. If the Court does not utilize its jurisdiction under the State Environmental Policy Act and/or the Declaratory Judgment Act, issuance of a constitutional writ of review directing the Washington State Department of Transportation to prepare an index of the record to be submitted to the Court to review this matter and to work cooperatively with the plaintiffs/petitioners to determine what records are necessary and appropriate to complete judicial review.

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

4. An order from this Court retaining jurisdiction over this case to assure compliance with any injunctions that the Court may issue.

5. An award of plaintiffs/petitioners' attorneys fees and costs incurred in bringing this action.

6. Such other relief as this Court deems just and necessary.

Dated this 6 day of October, 2009.

Respectfully submitted,

BRICKLIN & NEWMAN, LLP

By: _____
David A. Bricklin, WSBA No. 7583
Attorneys for Seattle Citizens Against the Tunnel and Elizabeth Campbell

I, DAVID A. BRICKLIN, declare that I am the attorney for the plaintiffs/petitioners herein. I have read the foregoing Complaint and Petition for Review and certify that the statements made herein are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 6 day of October, 2009, at Seattle, Washington.

_____
DAVID A. BRICKLIN

SCAT\Complaint and Petition for Review

Bricklin & Newman, LLP
Attorneys at Law
1001 Fourth Avenue, Suite 3303
Seattle WA 98154
Tel. (206) 264-8600
Fax. (206) 264-9300

King County

Governor Christine O. Gregoire	Executive Ron Sims	Mayor Gregory J. Nickels
State of Washington	King County	City of Seattle

A Letter of Agreement
Between the State of Washington, King County, and the City of Seattle

January 13, 2009

Consensus on the Recommended Alternative for Replacing the Alaskan Way Viaduct & Seawall

Over the course of the last 18 months, after developing and evaluating numerous scenarios, the State of Washington, City of Seattle, and King County have reached consensus on replacement for the SR 99 Alaskan Way Viaduct and Seawall.

We have decided jointly that a four-lane bored tunnel, together with improvements to city streets, the city waterfront, and transit, is the recommended alternative for replacing the existing viaduct, referred to as "The Project." This letter represents the governments' commitment to this solution and outlines responsibilities for funding and implementation.

The total estimated cost of this solution is approximately $4.24 billion and the allocation of specific project responsibility to each jurisdiction carries with it the responsibility for project management, environmental work, design, construction, and project cost overruns.

The State of Washington is responsible for taking down the existing viaduct structure, building a bored tunnel from approximately north of S. Royal Brougham Way to Harrison St., providing a surface connection from approximately Yesler Way to Elliott Avenue, completion of the projects associated with the Moving Forward program and partial construction transportation mitigation. The total estimated cost to the State of this work is $2.82 billion.

King County is responsible for additional Rapid Ride and peak express bus service to downtown Seattle. In addition, the County will simplify downtown trolley service and provide city street improvements related to improved bus operations. The total estimated cost of this work for King County is $190 million in capital and $15 million in annual operating expenses which shall be paid for through a countywide 1% Motor Vehicle Excise Tax imposed by the King County Council for transit services.

The City of Seattle is responsible for Seattle public utility relocation costs associated with the project, a promenade along the central waterfront, other city street improvements, and a First Avenue streetcar. The total estimated cost of this work for the City is $937 million.

EXHIBIT A

The Port of Seattle is being asked to contribute $300 million to portions of the program that benefit their operations.

The parties agree to seek state legislative approval of the project and will support efforts to obtain state legislative authority for King County to implement a 1% Motor Vehicle Excise Tax. In addition, the parties agree to support efforts to obtain local authority for the development of a Local Infrastructure Financing Tool. The parties further agree to support an $88 million allocation of anticipated federal economic recovery funds, currently distributed as $8 million to King County for transit facilities and $80 million to the City of Seattle for portions of the Mercer and Spokane Street projects, which will be ready for construction by the summer of 2009.

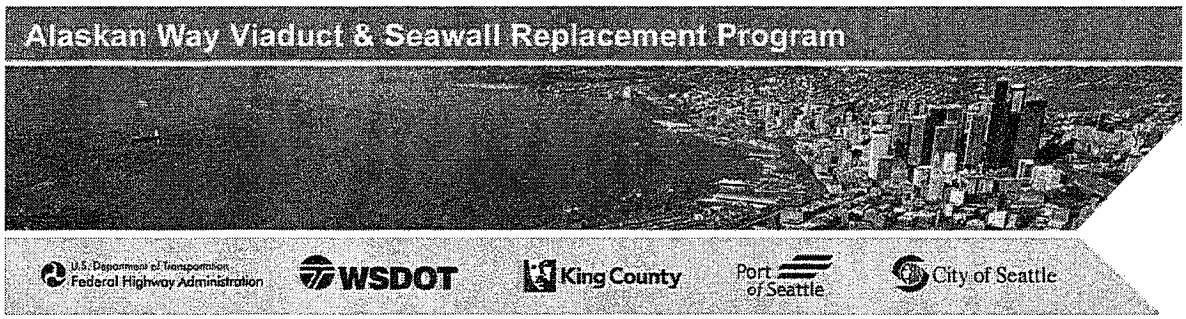
Eight years ago the Nisqually earthquake warned us of the dangers posed by the existing viaduct. After years of extensive review and discussion, today we join together calling for action. We are confident that a bored tunnel replacement, with improvements to transit and city streets, is the best solution for Seattle, the region and the state.

Sincerely,

Governor Christine O. Gregoire
State of Washington

Executive Ron Sims
King County

Mayor Gregory J. Nickels
City of Seattle



Request for Qualifications

SR 99 Bored Tunnel Design-Build Project

ISSUE DATE: September 15, 2009

STATEMENT OF QUALIFICATIONS

DUE DATE: November 16, 2009

Washington State Department of Transportation

EXHIBIT B

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1.0 INTRODUCTION

The Washington State Department of Transportation (WSDOT) is soliciting Statement of Qualifications (SOQ) from entities ("Submitters") interested in submitting proposals to design and construct the SR 99 Bored Tunnel Project, located in the downtown Seattle area.

The estimated value of the Project is approximately $1,000,000,000 and may be funded by both the State of Washington and Federal Highway Administration (FHWA). Applicable provisions will be in the Request For Proposal (RFP).

By submitting an SOQ, Submitters agree to be bound by the requirements outlined in this Request for Qualifications (RFQ). Submitters shall satisfy all requirements specified in this RFQ. Failure of the Submitter to meet these requirements may result in rejection of the SOQ.

Persons with disabilities may request information contained within this RFQ to be prepared and supplied in alternate formats by calling collect 206-389-2839. Persons with hearing impairments may call 800-833-6388 (Washington State Telecommunications Relay Service) and ask for 206-515-3683.

2.0 BACKGROUND

The main purpose of the SR 99 Bored Tunnel Design-Build Project is to expedite the construction of an alternate traffic route sufficient to replace the existing through capacity of the Alaskan Way Viaduct Facility.

The Federal Highway Administration (FHWA), WSDOT, and the City of Seattle are proposing to replace the Alaskan Way Viaduct, located in downtown Seattle, King County, Washington.

The Alaskan Way Viaduct (part of SR 99) and Interstate 5 (I-5) are the two primary north-south routes to and through downtown Seattle. The Alaskan Way Viaduct along the central waterfront currently carries about 110,000 vehicles a day and provides a convenient route through downtown Seattle. The viaduct also plays an important role in freight mobility, providing a major truck route through downtown, and providing access to the Ballard-Interbay and greater Duwamish manufacturing and industrial centers.

WSDOT studies in 1995 and 1996 concluded that the soils on which the Alaskan Way Viaduct is constructed are vulnerable to soil liquefaction and may lose their ability to support the structure during an earthquake. The February 28, 2001 Nisqually earthquake (magnitude 6.8, located 35 miles from Seattle and deep below the surface) caused moderate damage to the Alaskan Way Viaduct. The structure was closed for inspection and repairs intermittently for several days over a period of several months. The extent of damage and loss of the heavily traveled corridor heightened awareness of the need for immediate improvements. A Structural Sufficiency Report was prepared after the earthquake and it concluded that continued reliance on the existing viaduct is not prudent.

Recent studies in 2007 have concluded there is a 1-in-10 chance during the next 10 years of an earthquake that would render the Alaskan Way Viaduct unusable or even cause collapse.

A Notice of Intent to prepare an Environmental Impact Statement (EIS) was published in July 2001 by FHWA, with co-lead agencies WSDOT and City of Seattle. A draft EIS was published in 2004, followed by a supplemental draft EIS in 2006. Both documents evaluated alternatives replacing the Viaduct's transportation functions in the existing corridor. None of the alternatives garnered sufficient support to move forward. In an advisory vote in March 2007 Seattle voters rejected both cut-and-cover tunnel and new elevated structure alternatives.

Because no consensus was reached and this seismically vulnerable section of SR 99 is critical to local and regional transportation, in 2008 WSDOT, City of Seattle and King County, with support from FHWA, undertook a scoping process to identify potential project alternatives through a broader evaluation of the entire transportation system. The evaluation included streets, transit service, and freeways from Lake Washington to Elliott Bay and from NE 85th Street in the north to Seattle's city limits in the south. This evaluation was assisted by a Stakeholders Advisory Committee formed to solicit views and opinions from communities, businesses, and cause-driven organizations. The lead agencies also held public scoping workshops throughout the evaluation period to inform and gather comments from the public.

During this scoping process, combinations of improvements to SR 99, I-5, surface streets, transit, and transportation demand management were identified to create multiple scenarios that explored whether a system-level approach to transportation improvements could adequately replace the existing viaduct's transportation function. The scenarios used different levels of investment for each component (SR 99, I-5, surface streets, transit, and transportation demand management) of the transportation system. The idea was to learn how each component contributed to the system, and how they worked together. The scenarios were evaluated for their effectiveness in moving people and goods and how different improvements might affect Seattle and the surrounding region. At the conclusion of this process the Mayor, County Executive, and Governor endorsed a bored tunnel as their recommended alternative to replace the viaduct.

Currently a supplemental draft EIS is being prepared by FHWA, WSDOT, and the City of Seattle. This document will address the bored tunnel and update the overall National Environmental Policy Act (NEPA) process. After public comments are received on this supplement draft EIS, a final EIS will be prepared, followed by a Record of Decision (ROD).

2.1 STATUS OF NEPA REVIEW

WSDOT is preparing an EIS for the Project in compliance with the State Environmental Policy Act (SEPA) and the NEPA. The WSDOT Project team is engaged in early coordination with all Federal, State, tribal, regional, and local agencies that have permitting authority, special expertise, or interest in transportation projects. WSDOT anticipates issuing a Supplemental Draft EIS for public comment in March 2010. The issuance of the Final EIS is scheduled for January 2011, and the issuance of the ROD, which completes the NEPA process, is scheduled for March 2011. Therefore, the NEPA/SEPA documentation, Section 106 and Endangered Species Act consultations, and environmental permits for the Project will not be completed prior to the award of the contract. In light of that, WSDOT anticipates issuing two phases of Notice To Proceed (NTP) for this Project

as further defined in Section 4.1. This is to ensure that no commitments are made to any alternative being evaluated in the NEPA process and that the comparative merits of all alternatives presented in the NEPA document, including the no-build alternative, will be evaluated and fairly considered.

3.0 PROCUREMENT PROCESS

WSDOT will use a two-step procurement process to select a design-build contractor (Design-Builder) to deliver the Project. The issuance of this RFQ is part of the first step to solicit information from interested Submitters in the form of an SOQ. WSDOT will evaluate and score submitted SOQs to determine the most highly qualified Submitters to successfully deliver the Project. The evaluation and scoring process to be used for this Project is detailed in Section 8 of this RFQ. It is WSDOT's goal to short-list the three (3) to four (4) most highly qualified Submitters to continue to the second step of the process.

In the second step, WSDOT will issue a RFP for the Project to the short-listed Submitters. Only short-listed Submitters, referred to as a "Proposer," will be eligible to submit proposals for the Project. WSDOT will pay a stipend to all non-successful Proposers that submit a responsive RFP proposal. The stipend for this Project will be $2,000,000.

WSDOT intends to award a design-build contract for the Project to the Proposer offering the apparent best value, to be determined as described in the RFP. Evaluation scores used to determine the short-list will not be carried forward into the RFP scoring.

WSDOT may cancel or re-advertise this procurement at its discretion at any time in the process.

3.1 PROCUREMENT SCHEDULE

WSDOT anticipates the following procurement milestone dates (Table 1). This schedule is subject to revision by addenda to this RFQ, by the RFP, or by addenda to the RFP.

Table 1. Procurement Schedule

Action	Dates
Step 1 – SOQ Phase	
Issue RFQ	September 15, 2009
Voluntary meeting for Submitters	October 7, 2009
Deadline for submitting RFQ questions	November 3, 2009
Deadline for WSDOT response to RFQ questions	November 9, 2009
SOQ due date	November 16, 2009
Notify short-listed Submitters	December 30, 2009
Step 2 – Proposal Phase	
Issue Draft RFP	January 4, 2010
Issue Final RFP	March 8, 2010

Action	Dates
Mandatory RFP meeting	March 29, 2010
Deadline for submitting Alternate Technical Concepts	June 1, 2010
Deadline for submitting Proposers' questions	August 15, 2010
Proposal Due Date	September 15, 2010
Announce Apparent Best Value Proposal	December 23, 2010

3.2 CONTACT INFORMATION

3.2.1 SUBMITTAL INFORMATION POINT OF CONTACT

Each Submitter shall identify its Single Point of Contact (Contact Person). WSDOT will distribute addenda and other communications directly to the Submitter's identified Contact Person. This information will also be posted on the WSDOT website. The Submitter Contact Person is responsible for distributing copies of addenda and other RFQ related communications within their team. The name, address, phone number, fax number, and e-mail address of the Contact Person shall be submitted to WSDOT's Ad and Award Office using the following address:

Ken Walker
Contract Ad and Award Office
Washington State Department of Transportation
P.O. Box 47360
Olympia, WA 98504-7360
Email: walkeke@wsdot.wa.gov

3.2.2 WSDOT TECHNICAL POINT OF CONTACT

Submitters who have questions or need further clarification or information regarding the technical aspects of the Project should contact the following designated WSDOT Technical Point of Contact by letter, phone, or e-mail as follows:

Brian Nielsen, P.E.
Alaskan Way Viaduct and Seawall Replacement Office
Washington State Department of Transportation
999 Third Avenue, Suite 2424
Seattle, WA 98104-4019
Phone: (206) 267-6847
Email: nielseb@wsdot.wa.gov

3.3 QUESTIONS, CLARIFICATIONS AND ADDENDA

Questions and requests for technical clarification regarding this RFQ shall be submitted in writing to the WSDOT Technical Point of Contact, as described above in Section 3.2.2. To be considered, all questions and requests must be received by **4:00 P.M., Pacific Time**, on the date indicated in Table 1 in Section 3.1.

WSDOT reserves the right to revise this RFQ at any time before the SOQ due date. Such revisions, if any, will be announced by addenda to this RFQ.

WSDOT will use the following guidelines when responding to questions and requests for clarification and issuing addenda:

1. Questions and requests for clarification will be posted by the close of business on the day after they are received on the WSDOT Contract Ad and Award Office Website at: http://www.wsdot.wa.gov/biz/contaa/

2. WSDOT will answer questions and requests for clarification by posting a response on its Contract Ad and Award Office Website no later than the date shown in Table 1 in Section 3.1.

3. WSDOT will send an e-mail notification to the Contact Person for each Submitter as soon as each addendum, response, or group of responses is issued. The notification will include an electronic copy of the addendum or clarification whenever possible.

The Submitters shall acknowledge receipt of all addenda and question responses by completing Form A, Acknowledgment of Receipt of Addenda, which is included as Appendix A of this RFQ, and submitting the completed Form A as Appendix A within the SOQ submittal package.

3.4 EX PARTE COMMUNICATIONS

Submitters are expected to conduct themselves with professional integrity and to refrain from lobbying activities. Commencing with the issuance of this RFQ and continuing until award of a contract for the Project (or cancellation of the procurement), no employee, member, agent, or advisor of any Submitter shall have any ex parte communications, directly or indirectly, regarding this procurement with any representative of WSDOT or the FHWA, including their staff, advisors, contractors or consultants (as noted in Section 5.2) involved with the procurement, except for communications expressly permitted by this RFQ (or, subsequent to issuance of the RFP, except for communications expressly permitted by the RFP).

Any verified allegation that a Submitter, Submitter team member, an employee, agent, advisor or consultant of a Submitter team or Submitter team member has engaged in such prohibited communications or attempted to unduly influence the selection process may be cause for WSDOT to disqualify the Submitter or to disqualify the Submitter team member from participating with the Submitter team, all at the sole discretion of WSDOT.

3.5 VOLUNTARY MEETINGS FOR POTENTIAL SUBMITTERS

WSDOT will hold an informational meeting for Submitters interested in responding to this RFQ. Attendance at this meeting is not mandatory and is not a prerequisite to being a Submitter for this Project. The meeting will be held on the date specified in Table 1 in Section 3.1 from 1:00 p.m. to 3:00 p.m., Pacific Time, at the following location:

Seattle's Central Library
Microsoft Auditorium (Level One)
1000 Fourth Ave., Seattle
Seattle, WA 98104

Please RSVP to this meeting by contacting 888-AWV-LINE or viaduct@wsdot.wa.gov.

3.6 OTHER MEETINGS

WSDOT also anticipates that it may be advantageous to hold confidential one-on-one meetings with Submitters. The intent of these meetings is to clarify specific questions that Submitters may have concerning the RFQ process. These meetings if any will be scheduled on an as-needed basis after the informational meeting for Submitters, but prior to the deadline for submitting RFQ questions as noted in Table 1 in Section 3.1.

3.7 WSDOT PROJECT GOALS

WSDOT is focused on safeguarding the reliability of the State's transportation system in the event of catastrophic failure, including construction of a bored tunnel to replace the aging Alaskan Way Viaduct. The SR 99 Bored Tunnel Design-Build Project is intended to expedite the construction of an alternate 4 lane tunnel facility as part of an integrated program consisting of a number of projects to replace the Alaskan Way Viaduct ("Program"). Having the tunnel ready and available for use is key to maintaining a safe regional transportation system in a timely manner. It is WSDOT's expectation that the Design-Builder will design and construct the Project in consideration of WSDOT's Project goals. Accordingly, the process of evaluating and scoring the Requests for Proposals will incorporate these goals.

WSDOT has established the following Project-specific goals for the successful Design-Builder:

- **Maintain worker and public safety** – Provide a safety program that encourages and supports safety as a core value, and promotes a goal of zero accidents for the public and workers.

- **On Time & Within Budget** - Achieve schedule milestones and leverage opportunities for schedule enhancement to support the goal of opening the tunnel to traffic in late 2015 within the available budget.

- **Proactive Planning and Execution** - Achieve well-planned Project development, start-up, and execution through efficient collaboration, integrated risk management, and proactive coordination with adjacent projects and contractors.

- **Minimize Ground Deformation/Settlement** – Minimize settlement and disruption of public and private facilities by protecting adjacent properties, utilities and buildings through proactive management of construction operations and monitoring systems.

- **Meet or Exceed Environmental Commitments** - Ensure compliance with all Project requirements related to protection of natural, historic, and archaeological resources and the public.

- **Quality** - Meet or exceed technical and operating requirements through development and implementation of a quality management plan that is clear, comprehensive and considers the whole life operation and maintenance of the structure.

- **Maximize Opportunities for Positive Community Involvement and Interaction** – Work with WSDOT to engage in effective communications, public outreach and community involvement to address Project impacts on, and opportunities for, individuals, businesses, neighborhoods and other stakeholders.

4.0 PROJECT SCOPE OF WORK

The following Project scope is provided to Submitters to assist in developing a team with the expertise that are required for the Project. The Design-Builder shall be responsible for management, design, and construction of the Project. The design and construction by the Design-Builder shall be in accordance with applicable guidelines and standards as required by the RFP. It is WSDOT's intent to allow flexibility in design and construction to accommodate processes, procedures, and innovative techniques that are preferred by the Design-Builder, as long as they are consistent with site conditions; good engineering practices; the environmental decisions documents and permits; other standards, guidelines, and procedures identified in the RFP; and WSDOT's Project-specific goals. The scope of work for the Project as presented in this RFQ may or may not be the final scope of work for the Project.

The Submitter shall consider WSDOT's desire for key members of the Project to co-locate, with enough space for WSDOT representatives to work and attend Project meetings. Specifics of these requirements will be further identified during the RFP phase.

WSDOT recognizes that the schedule is aggressive and for that reason the road decks and tunnel systems are included in the design build contract. This will allow the selected Design-Builder to maximize both innovation in its selected means and methods and concurrent work activities during the installation operations. WSDOT is also committed to minimizing submittal review times and assisting the selected Design-Builder with 3rd Party approvals.

Separate contracts will be issued for the design and construction of roadway facilities at the North and South Portals of the tunnel including roadway utilities and other infrastructure to support the Program's temporary and permanent works. The Design-Builder will be required to integrate and manage work activities to allow adjacent contractors access to complete their construction in time for a December 2015 opening. (See Figure 1)

While WSDOT expects the final Project scope of work and Project limits will be further refined over the next several months, the scope of work is currently defined to provide a complete transportation system which includes:

- Design and construction of a large-diameter bored tunnel with an approximate interior diameter of fifty-two (52) feet, and approximate length of 9;100 lineal feet (not including the cut-and-cover sections). While WSDOT has verified that the cross section dimensions shown in Figure 2 will fit within the 52' inside diameter, WSDOT desires two twelve-foot (12') lanes, a two-foot (2') and eight-foot (8') shoulder, and a sixteen-foot (16') vertical clearance cross section. Other dimensions and requirements will be stated in the RFP for the utilidor, the plenum and the emergency egress. The larger shoulder (8 feet) will be on the side of the emergency egress, the east side of the tunnel. See Figure 2 for the Draft Tunnel Cross Section.

- The South portal structure is expected to be located in the vicinity of First Avenue South between Charles and Dearborn Streets and serves as the starting location for the tunnel boring machine (TBM). The current proposed tunnel alignment will then

extend along First Avenue South, passing under a rail tunnel, to the intersection of Pike Street where it will make a sweeping turn to the east going beneath asewer tunnel and numerous buildings and ends at the north portal on highway SR 99, in the vicinity of John Street (see Figure 1). The tunnel will be constructed using a pressurized face TBM and supported with a bolted, gasketed, pre-cast concrete lining. Adjacent contracts for South and North connecting cut-and-cover work, retaining walls, and roadway sections to complete the roadway system will be underway by other contractors during the life of this contract. Close coordination and scheduling will be needed to minimize work impacts and maximize schedule opportunities.

- As an integral part of the tunneling operation, comprehensive ground movement and building settlement monitoring and mitigation action plans will be required. Existing building condition surveys, which are currently underway, will be provided in the RFP. The RFP will include both prescriptive and performance specifications for building and utility protective measures.

- Considerable work will be required at the North and South portals to make these areas ready for the tunnel work, including: the design and construction of permanent and temporary retaining walls, relocation of utilities, removal of unsuitable materials and/or soil improvements, removal of adjacent temporary building tie-back supports, providing temporary and permanent power supplies, muck disposal operations, design and construction of ventilation buildings, and design and construction of connecting cut-and-cover work at both the North and South ends of the tunnel.

- The bored tunnel will be configured with two separate two-lane roadways, including shoulders (see Figure 2). The Southbound roadway lanes will be stacked above the North bound lanes in order to conform to existing exterior roadway configurations. The design and construction of the stacked interior concrete roadway structures will provide a highway system that will manage approximately 85,000 vehicles per day. It will include appropriate vehicle and pedestrian escape safety features required in a tunnel environment. In the event of a tunnel emergency, motorists will be able to enter an enclosed walkway via emergency exits spaced at about 600-foot intervals that meet minimum NFPA 502 requirements. There will be refuge areas and stairs connecting upper and lower roadways. The work includes providing a continuous enclosed walkway along one side of the tunnel's roadways that will allow pedestrians a safe area of refuge and the ability to walk the length of the tunnel to exits at the North and South Portals. The enclosed walkway will include connections to both roadways, lighting, ventilation, sprinkler and communication systems including emergency telephones.

- The Design-Builder will also be responsible for systems work, including, design, fabrication, installation, and complete commissioning of tunnel ventilation, communication, lighting, signaling, low voltage utilities and fire/life safety systems that extend beyond the limits of the tunnel through the North and South cut-and-cover areas. It is anticipated the ventilation buildings required to house some of the tunnel systems, will be located at the South and North ends of the tunnel. The systems control and operations center will be included in the South Vent structure. All of this work will require close coordination with WSDOT designers and adjacent contractors.

4.1 PHASED NOTICE TO PROCEED (NTP)

WSDOT has not yet completed the EIS for the Project in compliance with the SEPA and NEPA. It is anticipated this process will be completed when a ROD is issued in early 2011. Without an approved ROD in place at NTP, WSDOT is required to limit the Design-Builder's work. This is to ensure that no commitments are made to any of the alternatives being evaluated in the NEPA process so that the comparative merits of all alternatives presented in the NEPA document, including the no-build alternative, can be evaluated and fairly considered. With this restriction in mind, WSDOT anticipates issuing two NTP's, a Phase I NTP and a Phase II NTP.

Immediately following the execution of the contract (anticipated to occur in January 2011), WSDOT will issue a Phase I NTP to perform the following activities:

- Preliminary design Activities (as defined in 23 CFR 636.109 and SAFETEA-LU 1503) – which generally consists of those early design activities necessary for the analysis of Project work, including environmental impacts and permits.
- Project specific design supporting environmental regulatory compliance and early permit coordination.
- Design supporting the development of environmental mitigation plans.

Per 23 CFR 636.109.6.b, the Design-Builder will not be allowed to prepare the NEPA documents or have any decision-making responsibility with respect to the NEPA process. WSDOT will be responsible for completing and obtaining FHWA's approval of the NEPA documentation.

The design-build contract will include termination for convenience provisions in the event the no-build alternative is selected. In this event the Design-Builder will be compensated for the work performed as a result of the Phase I NTP.

After the issuance of the ROD, if a build option is selected, WSDOT will issue a Phase II NTP to perform the following activities:

- Final Design
- Construction

4.2 ESTIMATED TIME FOR COMPLETION

To allow coordination with other projects and interfaces, the Project Components will have different milestones for completion. Some of the estimated milestone dates are shown in Table 2 below. With the exception of the Open to Traffic by December 2015, these milestones dates are preliminary and will ultimately be identified in the RFP.

Table 2. Key Milestone Completion Dates

Component	Milestone Completion Date
Tunnel Excavation	November 2013
Systems Commissioned	November 2015

Open to Traffic	December 2015

5.0 TEAMING PARAMETERS

5.1 MAJOR PARTICIPANTS

As used herein, the term "Major Participant" means any of the following entities:

- The Submitter, or if the Submitter is a partnership, joint-venture, limited liability company or other form of association, any general partners, joint-venture members or members of the Submitter team;
- The lead engineering/design firm(s) and sub-consultants such as the designer of record for the tunnel, the designer of record for tunnel systems, and the designer of record for interior structures;
- Each engineering/design sub-consultant who may perform 30% or more of the design work; and/or
- Each subcontractor who may perform 20% or more of the construction work.

The TBM supplier is not a "Major Participant" and is not required to be identified in the SOQ.

5.2 WSDOT CONSULTANT/TECHNICAL SUPPORT

WSDOT has retained the consulting firms of Hatch Mott MacDonald, Parsons Brinckerhoff, Jacobs Engineering, Shannon and Wilson, Parametrix, HDR, Magnusson & Klemencic Associates, KPFF, Coughlin Porter Lundeen, Nossaman LLP, as well as the members of the Strategic Technical Advisory Team - Brenda Bohlke, John Reilly, Gregg Korbin, Harvey Parker, Dwight Sangrey, Walter Mergelsberg, and Janette Keiser, to provide guidance in preparing and evaluating the RFQ, and/or the RFP, and/or to provide advice on related financial, contractual, and technical matters. Each of these firms and all employees of these firms are prohibited from joining any Submitter's or Proposer's team or otherwise assisting any Submitter or Proposer in connection with the procurement process.

5.3 ORGANIZATIONAL CONFLICTS OF INTEREST

Organizational conflict of interest means that because of other activities or relationships with other persons or entities, a person or entity:

1. Is unable or potentially unable to render impartial assistance or advice to WSDOT; or
2. Is or might be otherwise impaired in its objectivity in performing the contract work; or
3. Has an unfair competitive advantage.

The integrated nature of the design-build project delivery method creates the potential for Organizational Conflicts of Interest. Disclosure, evaluation, neutralization, and management of these conflicts and of the appearance of conflicts, is in the interests of the public, WSDOT, and the consulting and construction communities.

WSDOT will take steps to ensure that individuals involved in the preparation of the NEPA documentation, procurement package, evaluation of SOQ and Proposals, and Design-Builder selection are not influenced by organizational conflicts of interest, and that no Submitter is given an unfair competitive advantage over another.

Attention is directed to the requirement for disclosure of organizational conflicts of interest set forth in 23 CFR Section 636.116(a) (2), WSDOT Secretary's Executive Order E-1059.00, and WSDOT Organizational Conflicts of Interest Manual 3043.

Submitters are required to disclose all relevant facts concerning any past, present or currently planned interests, activities, or relationships which may present an organizational conflict of interest. Submitters shall state how their interests, activities, or relationships, or those of the chief executives, directors, key project personnel, or any proposed Consultant, Sub-Consultant at any tier, Contractor, or Subcontractor at any tier may result, or could be viewed as, an organizational conflicts of interest prior to or in the SOQ, in accordance with Secretary's Executive Order E-1059.00 and WSDOT Organizational Conflicts of Interest Manual (M 3043). Submit the Organizational Conflict of Interest Certification and Organizational Conflict of Interest Disclosure and Avoidance/Neutralization Plans (forms contained in Appendix C) as described elsewhere in this RFQ.

If an Organizational Conflict of Interest is determined to exist, WSDOT may, at its sole discretion: offer the Submitter the opportunity to avoid or neutralize the Organizational Conflict of Interest; disqualify the Submitter from further participation in the procurement; cancel this procurement; or, if award has already occurred, declare the proposal non-responsive and award the contract to the next responsive best value Proposer, or cancel the contract. If the Submitter was aware of an Organizational Conflict of Interest prior to award of a contract and did not disclose the conflict to WSDOT, WSDOT may terminate the contract for default.

5.4 TEAM CONTINUITY AND CHANGES TO ORGANIZATIONAL STRUCTURE

Following submittal of the SOQ, Management Team personnel and Major Participants identified in the SOQ may not at any time be removed, replaced or added without the written approval of WSDOT's Technical Point of Contact. WSDOT may revoke the short-list status of a Submitter if any Management Team personnel or Major Participant identified in the SOQ is removed, replaced or added without written approval. To qualify for said approval, the written request shall document that the proposed removal, replacement or addition will be equal to or better qualified than the Management Team Personnel or Major Participant provided in the SOQ.

5.5 EQUAL EMPLOYMENT OPPORTUNITY

Discrimination in all phases of contracted employment, consultant activities, contracting activities and training is prohibited by Title VI of the Civil Rights Act of 1964, Section 162(a) of the Federal-Aid Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Justice System Improvement Act of 1979, the Americans with Disabilities Act of 1990, the Civil Rights Restoration Act of 1987, 49 CFR Part 21, the Washington State Law Against Discrimination, RCW 49.60, and other related laws and statutes. The referenced legal citations establish the minimum requirements for affirmative action efforts and define the basic nondiscrimination provisions as required by this RFQ. Further requirements and discussions regarding Equal Employment Opportunity policies at all contracting levels will be set forth in the RFP.

5.6 DISADVANTAGED, MINORITY, AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

WSDOT encourages participation in all of its contracts by Disadvantaged, Minority and Women-Owned Business Enterprises (D/M/WBE) as certified by the WSDOT Office of Minority and Women's Business Enterprises (OMWBE) and defined in WAC 326-02-030. The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR Part 26 apply to this contract. A goal will be established in the RFP. This goal is considered a condition of award, and the successful Proposer will need to meet or provide documentation of good faith effort to meet this goal.

The successful Design-Builder shall provide on-the-job training aimed at developing trainees to journeyman status in the trades involved. The Contracting Agency will establish the number of training hours in the RFP.

Proposers may contact OMWBE to obtain information on certified D/M/WBE firms. Information about certification as a D/M/WBE may be obtained by contacting OMWBE at (360) 753-9693.

Persons with disabilities may request information contained within this RFQ to be prepared and supplied in alternate formats by calling collect (206) 389-2839. Persons with hearing impairments may call (800) 833-6388 (Washington State Telecommunications Relay Service) and ask for (206) 515-3683.

5.7 APPRENTICE UTILIZATION

The Design-Builder shall comply with state law (RCW 39.04.320) regarding Washington State labor apprentice utilization requirements. As of July 2009, no less than 15 % of all Project labor hours shall be performed by apprentices unless good faith documentation is provided. Details of the apprentice utilization program and appropriate good faith documentation requirements will be provided in the RFP.

6.0 SOQ SUBMITTAL INSTRUCTIONS AND FORMAT

This section describes requirements that all Submitters must satisfy in submitting SOQs. Failure of any Submitter to follow these requirements may result in rejection of its SOQ.

6.1 DUE DATE, TIME, AND LOCATION

Sealed SOQs are to be received at one of the following locations prior to 4:00 P.M., Pacific Time, on the date identified as the "SOQ due date" in the Procurement Schedule shown in Table 1 in Section 3.1 of this RFQ:

- **Via U.S. Mail:** WSDOT will consider notification of bid receipt by the Mail Room as the actual receipt of the SOQ:

  Mr. Ken Walker
  Washington State Department of Transportation
  P. O. Box 47360
  Olympia, WA 98504-7360

- **Via Courier or Hand-Delivered:** SOQs delivered in person will be received only in the Contract Ad & Award Office, Room 1A23.

Washington State Department of Transportation
Contract Ad & Award Office
Transportation Building, Room 1A23
310 Maple Park Ave. SE
Olympia, WA 98504-7360

WSDOT will not accept SOQs by facsimile or electronic transmission. Any SOQ that fails to meet the deadline or delivery requirement will be rejected and returned to the Submitter without having been opened, considered or evaluated.

6.2 SOQ ORGANIZATION

The Submitter shall organize the SOQ using the section headings, order of documents, and maximum number of pages as indicated in Table 3 below:

Table 3. SOQ Organization

Section	Section Title and Required Information	Maximum Pages
1	Letter of Interest	3
2	Performance History (8 pages per project) *(page limit does not include technical data)*	As required
3	Management Plan (page limit does not include Organization Chart or representative Safety Plan)	21
4	Summary of Key Personnel	13
	Total Maximum Number of Pages	**n/a**
Appendix A	Acknowledgment of Receipt of Addenda	1
Appendix B	Financial Information	As required
Appendix C	Conflict of Interest Forms	As required
Appendix D	Legal Information	As required
Appendix E	Resumes Key Personnel (limit 2 pages per person) Resumes of other personnel shown on Organization Chart (limit 2 page per person)	As required

6.3 SOQ FORMAT

- **Language:** All information shall be in English.
- **Type Font:** All narrative text shall be in a regular Arial style font at a minimum of 12 points in size, and single-spaced. The type style and size of headings and figures are not prescribed.
- **Page Size:** Except for charts, exhibits and other illustrative and graphical information, all information shall be printed on 8.5-inch x 11-inch recycled or recyclable paper. Charts, exhibits and other illustrative and graphical information may be on 11-inch x 17-inch paper, but shall be folded to 8.5-inches x 11 inches and will be counted as one sheet.
- **Page Margins:** No text, tables, figures or other substantive content shall be printed within 0.75 inches of any page edge.
- **Page Limit:** Page limits are described in Table 3 in Section 6.2 of this RFQ. The submittal shall only include information required by this RFQ. No other information will be considered in the evaluation of the SOQs.
- **Dividers:** Section dividers shall contain the section number and/or section title. No other text is permitted on the dividers. The dividers will not be counted toward the allowable page total.
- **Binding:** Each copy of the SOQ shall be bound separately.
- **Front Cover:** The front cover of each SOQ shall be labeled with the Submitter's name, address, and phone number, along with the following language: "Statement of Qualifications, SR 99 Bored Tunnel Design-Build Project, [date of submittal]" and SOQ due date.

6.4 SOQ SUBMITTAL QUANTITIES

Each Submitter must provide WSDOT with:

- **One (1) original unbound SOQ** bearing original signatures;
- **One (1) searchable electronic copy of the SOQ in PDF (Adobe Acrobat version 8) format on a CD** with the sections and subsections bookmarked; and
- **Fifteen (15) bound hard copies** of the SOQ.

The original shall be identified as "Original" on its front cover in colored ink. Each copy shall be identified on its front cover, in the upper right-hand corner, as "Copy X of 15 Copies."

The unbound original, the bound copies, and the CD shall be packed together in one sealed package for delivery to WSDOT. The outside of the sealed package shall be clearly identified, labeled, and addressed with the following:

- **Return address:** Submitter's name, contact person's name, mailing address, and phone number;
- **Date of submittal** and **SOQ due date;**
- **Contents labeled** as "Statement of Qualifications, SR 99 Bored Tunnel Design-Build Project;" and
- **Addressed to WSDOT's Contract Ad & Award Office**, as identified in Section 6.1.

7.0 SOQ CONTENT

The SOQ shall include the information specified below. All information requested will also be evaluated collectively with an emphasis on ensuring that qualifications of the Key Personnel are linked to the performance histories, and the management plans through their specific experience and resumes.

7.1 SOQ SECTION 1: LETTER OF INTEREST

The SOQ shall include a Letter of Interest that includes the business name, address, business type (e.g. corporation, partnership, joint-venture), or anticipated business type of the Submitter. It shall also include the business name, address, business type and roles of each Major Participant. The Letter of Interest shall identify the Submitter's single Point of Contact, along with the other information identified in Section 3.2.1.

In addition to contact information, the Letter of Interest shall contain the following information:

- The Submitter's expression of interest in being selected for the Project;
- A statement that the Submitter shall comply with all applicable federal, state, and local laws and regulations;
- An overview of SOQ Sections 2 through 4; and
- A summary of the Submitter's qualifications, why its team should be selected, and why it is the best qualified to meet the Project goals.

The Letter of Interest shall be signed by an authorized representative(s) of the Submitter. This information will be used to identify the Submitter and its designated contact.

The Letter of Interest shall be addressed to the WSDOT Point of Contact identified in Section 3.2.1 of this RFQ.

7.2 SOQ SECTION 2: PERFORMANCE HISTORY

The Project is comprised of a stacked, 2-lane highway in a large bore tunnel and approximately 9,100 feet long in a complex geologic environment, comprised of a heterogeneous mixture of glacial deposits, including a full spectrum of clays, sand, silts, cobbles and boulders, mostly below the ground water table, throughout most of the deep bore and soft to loose alluvial soils, fill, and debris in the vicinity of the South Portal. The tunnel alignment impacts a large number of existing buildings and utilities, including

historic structures and fragile pipelines. Accordingly, exercising ground control to minimize settlements and adverse impacts to the community are of paramount importance. WSDOT is seeking a Design-Builder, which has the expertise and experience in managing these issues and to this end, is interested in reviewing information about other projects the Key Personnel and Major Participants have worked on, which are relevant in terms of size and complexity of the SR 99 Bored Tunnel Project.

The SOQ shall contain the following information to demonstrate performance history:

Descriptions of large bore (30' or larger) tunnel projects (no more than three projects) in soft ground, preferably in similar geologic conditions of dense glacial soils, completed or undertaken within the last ten (10) years, by the members of the Submitters' team that most closely relate to the Project. At least one of the Major Participants must have played a key role in the delivery of the project.

The project descriptions should describe the following details:

- Identification of project name, location and client/owner.
- Name and contact information of a person representing the client/owner who was in responsible charge of the project.
- Identification of project's original construction cost and schedule as bid, and final completed cost and duration.
- Identification of the lead engineering firm.
- Identification of delivery method (design-bid-build, CM at risk, design-build, etc.) under which the project was designed and constructed.
- Narrative description of project background. Include the purpose of the tunnel, (i.e.: highway, rail, water, or other), environment (e.g., urban), tunnel diameter and length. Further describe the tunnel design. Provide a cross section of the tunnel interior structure including a description of the tunnel liner, road decks, etc.
- Narrative description of systems installed for the project, including drainage, ventilation, electrical, illumination, total power consumption, signing, fire/life safety, ADA (Americans with Disabilities Act of 1990), and ITS (intelligent transportation), etc. including a description of efforts relating to design, integration and commissioning of systems.
- Narrative summary of means and methods used to perform the work, including, but not limited to discussion of: description of pressurized face TBM, approach to ground control, grouting, final lining/water proofing system, and internal structures.
- Narrative of significant challenges encountered during design and construction of the project and/or innovations employed. If available, provide technical data to illustrate the challenges such as the following:

    i) Plan and profile illustrating the tunnel alignment, proximity to buildings/utilities, as well as ground and groundwater conditions.

ii) Means used to protect buildings/utilities within zone of influence.

iii) Ground settlement data including settlement profiles (surface and/or at depth) and means used to mitigate damage to, or otherwise protect, utilities, buildings and street surfaces.

iv) Significant issues related to soil behavior or equipment operation and maintenance.

- Narrative identifying the nature of claims or disputes, in excess of $10,000,000, and a description of how those claims or disputes were resolved.

- Narrative of Lessons Learned.

- Identify the role any of the Key Personnel who are identified in response to the requirements of Section 7.4 of this RFQ, performed on the projects listed in this Section 7.2, Performance History.

- Identify the role any of the Major Participants listed for the SR 99 Bored Tunnel Project performed on the projects listed in this Section 7.2, Performance Histories.

7.3 SOQ SECTION 3: MANAGEMENT PLAN

The SOQ shall contain a Management Plan, which shall contain the following information, to demonstrate how the Submitter intends to meet WSDOT's Project Goals.

a. **Organization Chart**. The Submitter will submit an Organization Chart which shall include the names, titles, and roles of the Key Personnel and Major Participants for the Project throughout design, construction, and commissioning. The Organization Chart shall demonstrate how the team is structured and show clear integrated organizational channels of control, communication, and decision making. The Organizational Chart shall show the relationship and independence between Quality Assurance and Quality Control.

   Resumes for any individuals shown on the Organizational Chart, whether or not they are Key Personnel, shall be attached as Appendix E to the SOQ.

b. **Narrative**. The Submitter shall submit a description of the Submitter's approach for the following topics:

   - The management team's capability to strategically address Project challenges in an effective and collaborative manner. Discuss both short-term (immediate) issues, as well as longer-term (forecasted) challenges facing the Project. Include the team's structure and strategies for decision making.

   - A discussion of the most significant risks inherent in the Project and how the Submitter intends to characterize, prioritize, and manage these risks. Discuss methods and tools for risk assessment and on-going risk management processes. Strategies for pro-actively identifying and mitigating risks should be included. Please provide an example project with reference to how Submitter has used this approach. (Example project is not included in page limits.)

- Demonstrated understanding and experience developing and implementing an effective QA/QC Program. Include the intended approach or plan for establishing and maintaining quality assurance and quality control programs in prosecuting the work.
- Demonstrate that the Submitter's experience will ensure successful compliance with all Project environmental commitments, including those related to NEPA/SEPA, Section 106, Section 4(f), Endangered Species Act, and permits. Further, demonstrate the Submitter's past innovative approaches for on-site compliance related to work activities such as mining, muck disposal, water treatment and disposal.
- Demonstrate the Submitter's approach to developing and implementing an effective tunnel construction safety program and include a representative tunnel construction safety plan, which was developed and executed by a Major Participant of the Submitter's team.
- Demonstrate the Submitter's approach to integrating the various components of the work including the tunnel, highway, and systems, into an effective transportation facility.
- Demonstrate the Submitter's experience developing and implementing a strong communication and outreach plan by working with the local jurisdictions, community organizations, businesses, and the general public. Further, demonstrate the Submitter's experience in minimizing community disruption and in working with project owners to maintain strong relationships with project stakeholders, through clear and consistent communications and outreach activities.

7.4 SOQ SECTION 4: KEY PERSONNEL REQUIREMENTS

The SOQ shall contain information about the Submitter's following Key Personnel. Any individuals who are in responsible charge of engineering design functions will be required to comply with Washington state law.

For each Key Personnel, the Submitter shall list three references from different projects. All references should identify the owner representative who is most familiar with the Key Personnel, and who could best answer Project-specific questions. The owner representative may be a consultant who acted on behalf of the owner for the project. Provide the owner representative's name, e-mail address, phone number, and the best times and days to reach them. WSDOT will attempt to reach the references during those times, if possible. The references must not work for the same company of the person they are referencing. The projects corresponding to each individual should be complete. Resumes for Key Personnel etc., shall be provided in Appendix E, and shall be limited to a maximum of two pages each.

Specific requirements for particular Key Personnel positions are listed below:

1. **Project Manager.** The Project Manager serves as the Chief Executive Officer for the Project and shall be responsible for the delivery of overall design, construction, schedule, budget, risk management, quality management, environmental compliance, safety management, community involvement, and contract administration for the Project as well as ensuring WSDOT Project goals are maintained. The Project Manager shall be assigned to the Project full-time and co-located with WSDOT from NTP to Project Completion. The individual proposed for this position must have no

less than twenty (20) years project management experience in tunnel construction, with at least one project constructed within an urban environment, with a large diameter, soft ground pressurized face TBM tunneling project and a construction value of more than $200 million.

2. **Deputy Project Manager.** The Deputy Project Manager serves as the Chief Operating Officer for the Project. This person shall be assigned to the Project full-time and reports to the Project Manager. The Deputy Project Manager shall be responsible for the administration of overall design, construction, schedule, budget, risk management, quality management, environmental compliance, safety management, and contract administration for the Project as well as ensuring WSDOT Project goals are maintained. The Deputy Project Manager shall be assigned to the Project full-time and co-located with WSDOT from NTP to Project Completion. The individual proposed for this position must have no less than fifteen (15) years experience on tunnel projects, including experience with at least three large-bore (at least one of the projects must have been a 30' or larger tunnel diameter) soft ground tunnel projects using a pressurized face TBM and a construction value of more than $200 million. The Deputy Project Manager must be experienced in working with various soil and structure stabilization techniques as required for working within an urban environment.

3. **Design Manager**. The Design Manager shall be responsible for ensuring that the overall Project design is completed and design criteria are met. The Design Manager shall be assigned to the Project full-time and co-located with WSDOT during design and construction. The Design Manager shall have no less than fifteen (15) years of design and engineering experience involving tunnels, including cut and cover approach structures, as well as at least two (2) soft ground large bore tunnel projects using a segmental gasketed lining, with a construction value of more than $100 million.

4. **Tunnel Design Manager.** The Tunnel Design Manager is responsible for managing the design process for the tunnel and approaches. The Tunnel Design Manager shall be assigned to the Project full-time and co-located with WSDOT during design and construction. The Tunnel Design Manager shall have no less than fifteen (15) years design and engineering experience involving tunnels and experience with at least one (1) soft ground bored tunnel project using pressurized faced TBMs with segmental gasketed lining, with a diameter in excess of thirty (30) feet, and a construction value of more than $100 million. The Tunnel Design Manager must be experienced in working with various soil and structure stabilization techniques as required for working within an urban environment.

5. **Tunnel Interior Structures Manager.** The Tunnel Interior Structures Manager is responsible for managing the highway structures within and adjacent to the tunnel. This individual must have no less than fifteen (15) years experience in the design of transportation tunnels and multi-level integrated structures, preferably underground.

6. **Tunnel Systems Manager.** The Tunnel Systems Manager shall be responsible for leading the design, installation, commissioning, and integration of the tunnel and internal highway systems. This individual must have no less than fifteen (15) years experience in the design and integration of complete highway tunnel systems, including but not limited to drainage, ventilation, electrical, illumination, signing, fire/life safety, ADA (Americans with Disabilities Act of 1990), and ITS (intelligent transportation systems).

7. **Construction Manager.** The Construction Manager shall be responsible for successful implementation and integration of all tunneling and other construction activities, such as the management of the contractual requirements, schedule, risk management, quality management, environmental compliance, and safety for all activities associated with construction. The Construction Manager shall be assigned to the Project full-time for the duration of construction activities. The individual proposed for this position must have no less than fifteen (15) years experience on tunnel projects, including experience with at least three large-bore (at least one of the projects must have been a 30' or larger tunnel diameter) soft ground tunnel projects using a pressurized face TBM. The Construction Manager must be experienced in working with various soil and structure stabilization techniques as required for working within an urban environment.

8. **TBM and Equipment Superintendent.** The TBM and Equipment Superintendent shall be responsible for the operation and maintenance of the tunnel boring machine and related equipment and shall be assigned to the Project full-time. The individual proposed for this position must be experienced with soft ground tunneling projects using a pressurized face TBM. Must have fifteen (15) years experience on soft ground large bore tunnel projects using pressurized face TBMs.

9. **Geotechnical Manager**. The Geotechnical Manager is responsible for, among other things, participating in the tunnel design process as well as monitoring, analyzing and reporting on the geological conditions relating to the safe operation of the TBM and control of ground settlement. The individual proposed for this position must have fifteen (15) years experience with soft ground large bore tunnel projects, using pressurized face TBMs. The Geotechnical Manager shall be assigned to the Project full-time during tunnel design, excavation, support, and monitoring. The individual proposed for this position must have experience in large diameter bored tunnel design and construction means and methods in an urban environment. Must have experience in a comparable geologic regime and a good understanding of instrumentation systems as well as the means and methods to monitor and minimize settlements.

10. **Safety Manager.** The Safety Manager is responsible for developing and executing a comprehensive safety program and assuring compliance at all levels of project team. Must have a minimum of fifteen (15) years experience developing and executing safety programs on large bore tunnel projects in urban environments.

11. **Project Quality Manager.** The Project Quality Manager is responsible for developing and executing a comprehensive quality assurance and quality control program to assure the quality of the Design-Builder's work. The program will include monitoring, and real-time reporting, of the impacts of the work on settlement, noise and other performance constraints. Must have experience developing and implementing QA/QC programs for large bore tunnel projects.

12. **Environmental Manager.** The Environmental Manager serves as the Design-Builder's point of contact for assuring compliance with all environmental commitments, including permitting to be designated in the RFP, related to the protection of natural, historic, and archaeological resources and the public. Must have experience managing environmental permitting and compliance with large, complex public works projects requiring compliance with federal, state and local regulations, and demonstrated ability to manage tribal interests.

13. **Community Liaison.** The Community Liaison works with WSDOT to respond to the concerns of third party individuals, businesses and stakeholders expressed through a systemized comment process, public outreach and community involvement, and other means of effective public communication. The Community Liaison must have experience developing and implementing community outreach and public involvement programs for large public works projects in urban areas, including addressing economic impact issues.

7.5 NOT APPLICABLE

7.6 APPENDICES

7.6.1 APPENDIX A: FORMS

Include Form A, Acknowledgement of Receipt of Addenda, included in this RFQ in Appendix A.

7.6.2 APPENDIX B: FINANCIAL INFORMATION

The Submitter shall provide a letter from a surety or insurance company stating whether or not the Submitter is capable of obtaining proposal and contract bonds as indicated in Table 4 below:

Table 4. Proposal, Contract and Warranty Bond Requirements

Proposal Bond/Security	Performance Bond	Payment Bond
$25,000,000	$800,000,000	$800,000,000

The process used by WSDOT to determine the amount of the performance bond and the amount of the payment bond have not been approved by the Office of Financial Management (OFM) as of the publication date of this RFQ. Therefore, the amounts shown for the Performance Bond and Payment Bond in Table 4 are subject to change pending approval by OFM and the Secretary of Transportation. The actual bond amounts will be stipulated by addendum to this RFQ not later than October 15, 2009.

The Submitter will be required to provide a separate performance bond and a payment bond as approved forms of security in accordance with Washington State Law (RCW 39.08.030). The bonds furnished by the Submitter and the Submitter's surety guarantees performance of the work and payment to those who provide supplies or labor for the performance of the work.

The letter shall also specifically state that the surety/insurance company has evaluated the backlog and work-in-progress of the Submitter and its Major Participants as described in Section 5.1 in determining the Submitter's capability to obtain bonds. Letters indicating "unlimited" bonding capability are not acceptable. The surety or insurance company providing such letter must be registered with the Washington State Insurance Commissioner and appear on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner.

7.6.3 APPENDIX C: CONFLICT OF INTEREST FORMS

The Submitter shall provide as required by Section 5.3.

7.6.4 APPENDIX D: LEGAL INFORMATION

The Submitter shall describe how it is organized as a legal entity. If the Submitter's legal entity has already been formed, the Submitter shall provide complete copies of the organizational documents along with those documents that allow, or would allow by the Proposal due date, the Submitter and its team members to conduct business in the state of Washington as a legal entity. If the Submitter's legal entity has not yet formed, the Submitter shall provide a brief description of the proposed legal structure and provide draft/final copies of the underlying agreements. Once the legal entity is finalized, the Submitter shall either supplement its SOQ with copies of the final organizational documents or submit such documents with the Proposal. Failure to submit such final organizational documents to WSDOT either prior to the Proposal due date or with the Proposal shall render the Proposal non-responsive.

In the case where the Submitter is a joint-venture, limited liability company, partnership, or other association, the Submitter shall provide an express statement from each of the partners/members as to their joint and severable liability on the Project.

7.6.5 APPENDIX E: RESUMES

Provide in an Appendix E, resumes for all individuals identified as Key Personnel or listed on the Organization Chart described in Section 7.3.

Resumes shall be limited to a maximum of two pages each and should highlight the following information:

- Relevant education, training, licensing and registration/certification;
- Years of experience performing similar work; and
- Actual work examples relevant to the Project, including projects, duties performed, and percent of time on the job. Include the owner representative's name, e-mail address, phone number, and the best days and times to reach them.

8.0 EVALUATION PROCESS

This section outlines the scoring WSDOT will use for the RFQ phase of the procurement. If the information provided for an evaluation factor is not complete, then the Submitter may be eliminated from further consideration.

8.1 EVALUATION OF THE SOQ

SOQs will initially be evaluated and deemed to have either demonstrated or not demonstrated that the Submitter has met the minimum requirements required by law. These factors will be evaluated on the basis of "Pass" or "Fail."

If a Submitter receives a "Pass" on all pass/fail evaluation factors, its SOQ will be further evaluated using the ranked criteria. If a Submitter receives a "Fail" on any single pass/fail

requirement, the SOQ will be rated as unacceptable, the ranked evaluation factors will be scored, and the Submitter will not be included on the shortlist.

Once an SOQ has been deemed to meet the minimum Pass/Fail criteria, WSDOT will evaluate the SOQ relative to the WSDOT Project Goals as described in this RFQ, and scoring criteria as listed herein to determine the SOQ total score.

The qualitative evaluation score will be determined as follows:

- The WSDOT evaluation committee will review each SOQ identifying significant and minor strengths, and significant and minor weaknesses of the Submittals.

  - Strengths and weaknesses are defined as follows:

    - Strengths – That part of the SOQ which ultimately represents a benefit to the Project and is expected to increase the Submitter's ability to meet or exceed the Project Goals. A minor strength has a slight positive influence on the Submitter's ability to meet or exceed the Project goals, while a significant strength has a considerable positive influence on the Submitter's ability to meet or exceed the Project goals.

    - Weaknesses – That part of the SOQ which detracts from the Submitter's ability to meet the Project goals or may result in an inefficient or ineffective performance. A minor weakness has a slight negative influence on the Submitter's ability to meet the Project goals, while a significant weakness has a considerable negative influence on the Submitter's ability to meet the Project goals.

Based on the identified strengths and weaknesses, the evaluation team will select an adjectival rating and select a percent of maximum score in the identified range.

The following adjectival rating system will be used in determining the value for each Scoring Element of the SOQ:

- **Excellent (81-100 % of points possible):** The SOQ is considered to significantly exceed the RFQ requirements/ objectives in a beneficial way (providing advantages, benefits, or added value to the project) and provides a consistently outstanding level of competency. In order for the SOQ to meet the minimum criteria to be scored as Excellent, it must be determined to have more than one significant strength, additional minor strengths and no appreciable weaknesses. The minimum score for Excellent is 81 points. The greater the significance of the strengths and/or the number of strengths will result in a higher score, up to a maximum of 100 points. There is a high expectation that the team as proposed, would be successful in delivering the project to the owner's satisfaction, and would most likely exceed all Project Goals.

- **Very Good (61-80 % of points possible):** The SOQ is considered to exceed the RFQ requirements/objectives in a beneficial way (providing advantages, benefits, or added value to the project) and offers a generally better than acceptable competency. In order for the SOQ to meet the minimum criteria for consideration to be scored as Very Good, it must be determined to have at least one significant strength, additional minor strengths and no significant weaknesses. The minimum score for Very Good is 61 points. The greater the significance of the strengths and/or the number of strengths, and the fewer the minor weakness will result in a higher score, up to a maximum of 80 points. It is expected that the team as

proposed, would be successful in delivering the project to the owner's satisfaction, and will most likely meet and/or exceed all Project Goals.

- **Good (41-60 % of points possible):** The SOQ is considered to meet the RFQ requirements/objectives and offers an acceptable level of competency. In order for the SOQ to meet the minimum criteria for consideration to be scored as Good, it must be determined to have several strength(s), even though minor and/or significant weaknesses exist. The minimum score for Good is 41 points. The greater the significance of the strengths and/or the number of strengths, and the fewer the minor or significant weakness will result in a higher score, up to a maximum of 60 points. It is expected that the team as proposed, will be able to deliver the project and meet the Project Goals.

- **Fair (21-40 % of points possible):** The SOQ is considered to contain several minor and/or significant weaknesses, some minor strengths and no significant strengths. The minimum score for Fair is 21 points. The greater the strengths and fewer the minor or significant weakness will result in a higher score, up to a maximum of 40 points. It is expected that the team as proposed, should be able to deliver the project but may not be able to meet some of the Project Goals.

- **Poor (0-20 % of points possible):** The SOQ is considered to contain significant weaknesses and no appreciable strengths. The SOQ demonstrates a low probability of meeting the RFQ requirements and may be determined to be non responsive. The minimum score for Poor is 0 points. The fewer the minor or significant weakness will result in a higher score, up to a maximum of 20 points. It is unlikely that the team as proposed would be able to deliver the project to the owner's satisfaction.

After selecting a percent of maximum score for SOQ Sections 2 through 4 the SOQ score will be calculated by multiplying the percent of maximum score by the points available listed in Table 5 below and then summing the calculated scores.

WSDOT reserves the right to conduct an independent investigation of any information, including prior experience, identified in an SOQ by contacting project references, accessing public information, contacting independent parties or other means. WSDOT further reserves the right to request additional information from a Submitter during the evaluation of the Submitter's SOQ.

8.2 PASS/FAIL EVALUATION FACTORS

8.2.1 SOQ SECTION 1: LETTER OF INTEREST (PASS/FAIL)

- The Letter of Interest shall include the information requested in Section 7.1.

8.2.2 APPENDIX A. FORMS (PASS/FAIL)

- Appendix A shall include the information requested in Section 7.6.1.

8.2.3 APPENDIX B. FINANCIAL INFORMATION (PASS/FAIL)

- Appendix B shall include the information requested in Section 7.6.2.

8.2.4 APPENDIX C. CONFLICT OF INTEREST FORMS (PASS/FAIL)

- Appendix C shall include the information requested in Section 7.6.3.

8.2.5 APPENDIX D. LEGAL INFORMATION (PASS/FAIL)

- Appendix D shall include the information requested in Section 7.6.4.

8.3 QUALITATIVE EVALUATION SCORING SYSTEM

The SOQs from teams that meet the minimum eligibility requirements from the Pass/Fail Evaluation will then be evaluated and ranked based on the teams' qualifications in the categories described below. A summary of points for each section of the SOQ is as follows:

Table 5. Qualifications Scoring Element Evaluation

Scoring Element	Points Possible	Points Awarded
Performance History	400	
Management Plan	300	
Key Personnel	500	
Total Score	1200	

8.4 SCORING ELEMENT EVALUATION

8.4.1 SOQ SECTION 2: PERFORMANCE HISTORY (400 POINTS TOTAL)

The Performance History will be evaluated and scored in accordance with the extent the Submitter demonstrates experience in the following areas:

- Successfully constructing large bore tunnels within a complex geologic environment, similar to that expected here, using pressurized face TBMs and segmental lining. (100)
- Successfully achieved ground control during tunneling to minimize settlements and impacts to streets, utilities and structures. (100)
- Successfully employed methods to overcome challenges and equitable resolution of claims or disputes. (50)
- Successfully achieved project schedule and budget goals. (50)
- The Key Personnel identified in Section 7.4 performed in similar roles to that indicated on past projects of similar size and complexity. (100)

8.4.2 SOQ SECTION 3: MANAGEMENT PLAN (300 POINTS TOTAL)

The Management Plan will be evaluated and scored in accordance with the following criteria:

- The extent to which the Management Plan and Organization Chart demonstrates the capacity of the Submitter's ability to react responsively to risks and challenges in an expedient, effective and collaborative manner. (60)

- The extent to which the Management Plan identifies the most significant risks inherent in the Project (both design and construction) and demonstrates how the Submitter would plan to manage the work to mitigate these risks. (60)

- The extent to which the Management Plan demonstrates an effective approach to developing and implementing an effective QA/QC Program. (40)

- The extent to which the Management Plan demonstrates an effective approach to developing and complying with environmental commitments, working with regulatory agencies and tribes to resolve issues, and mitigating violations should they occur. (40)

- The extent to which the Management Plan demonstrates an effective approach to working with the owner in developing and implementing a strong communication and outreach plan that includes working with the local jurisdictions, community organization, businesses, and the general public to maintain strong relationships with project stakeholders. (30)

- The extent to which the representative tunnel construction safety plan demonstrates an understanding of the need to instill safety throughout the project culture, and the record for safety on the referenced projects listed in response to Section 7.2. (30)

- Your approach for integrating the various components of the work including the tunnel, highway, and systems, into an effective transportation facility. (40)

8.4.3 SOQ SECTION 4: KEY PERSONNEL (500 POINTS TOTAL)

The resumes of the Key Personnel will be evaluated to ascertain the extent to which the Key Personnel possess experience relative to the requirements provided in Section 7.4 and on projects of similar size and complexity to the SR 99 Bored Tunnel Project.

a. Project Manager 55

b. Deputy Project Manager 50

c. Design Manager 45

d. Tunnel Design Manager 40

e. Tunnel Interior Structures Manager 40

f. Tunnel Systems Manager 40

g. Construction Manager 45

h. TBM and Equipment Superintendent 40

i. Geotechnical Manager 35

j. Safety Manager 30

k. Project Quality Manager 30

l. Environmental Manager 25

m. Community Liaison 25

Experience and qualifications of the Key Personnel will be confirmed through contacting references.

9.0 PROTEST PROCEDURES

This section sets forth the exclusive protest remedies available with respect to this RFQ. Each Submitter, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary and capricious. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Submitter. Such waiver and agreement by each Submitter is also consideration to each of the other Submitters for making the same waiver and agreement.

9.1 PROTESTS REGARDING THE RFQ

A Submitter may protest the terms of this RFQ prior to the time for submission of SOQs on the grounds that (a) a material provision in this RFQ is ambiguous, (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement, or (c) this RFQ in whole or in part exceeds the authority of WSDOT. Protests regarding this RFQ shall be filed only after a Submitter has informally discussed the nature and basis of the protest with the WSDOT Project Engineer in an effort to remove the grounds for protest.

Protests regarding this RFQ shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Protests regarding this RFQ shall be filed as soon as the basis for protest is known to the Submitter, but in any event it must be actually received no later than ten (10) calendar days before the SOQ due date, provided that protests regarding an addendum to this RFQ shall be filed and actually received by WSDOT no later than five (5) calendar days after the addendum to this RFQ is issued (or no later than the SOQ due date, if earlier).

Protests regarding this RFQ shall be filed in writing by hand delivery or courier to the Protest Official with a copy to the WSDOT Project Engineer. The Protest Official is identified as:

Ken Walker
Contract Ad & Award Office
Washington State Department of Transportation
P.O. Box 47360
Olympia, WA 98504-7360
E-mail: walkeke@wsdot.wa.gov

WSDOT will distribute copies of the protest to the other Submitters and may, but need not, request other Submitters to submit statements or arguments regarding the protest and may, in its sole discretion, discuss the protest with the protesting Submitter. If other Submitters are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven calendar days of the request.

The protesting Submitter shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. The Protest Official or their designee will decide the protest on the basis of the written submissions. WSDOT will furnish copies of the decision in writing to each Submitter. The decision shall be final and conclusive. If necessary, to address the issues raised in the protest, WSDOT will make appropriate revisions to this RFQ by issuing addenda. If necessary, WSDOT may at its sole discretion, extend the SOQ due date to address any protest issues. Each party shall bear its own attorney fees and legal costs that may result from the protest.

The failure of a Submitter to raise the grounds for a protest regarding this RFQ within the applicable period shall constitute an unconditional waiver of the right to protest the terms of this RFQ and shall preclude consideration of that ground in any protest of qualification of a Submitter, unless such ground was not, and could not, have been known to the Submitter in time to protest prior to the final date for such protests.

9.2 PROTESTS REGARDING RESPONSIVENESS AND SHORT-LISTING

A Submitter may protest the results of the above-described evaluation and qualification process by filing a notice of protest by hand delivery or courier to the Protest Official. The protesting Submitter shall concurrently file a copy of its notice of protest with the other Submitters. The notice of protest shall specifically state the grounds of the protest.

Notice of protest of any decision to accept or disqualify an SOQ on responsiveness grounds must be filed within fourteen (14) business days after the earliest to occur of:

(a) notification of non-responsiveness,
(b) the scheduled date for oral meetings and presentations (if any), or
(c) the public announcement of short-listed Submitters.

Notice of protest of the decision on short-listed Submitters must be filed and actually received by the Protest Official within Fourteen (14) business days after the public announcement of the short-listed Submitters.

Within seven (7) calendar days of the notice of protest, the protesting Submitter must file with the Protest Official a detailed statement of the grounds, facts, and legal authorities, including all documents and evidentiary statements, in support of the protest. The protesting Submitter shall concurrently deliver a copy of the detailed statement to all other Submitters. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Submitter shall have the burden of proving its protest by clear and convincing evidence.

Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or short-listing process and decisions hereunder, other than any protest based on facts not reasonably ascertainable as of such date.

Other Submitters may file by hand delivery to the Protest Official a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting Submitter files its detailed statement of protest. WSDOT will promptly forward copies of any such statements to the protesting Submitter.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of the Protest Official, or their designee, a hearing or argument may be permitted, if necessary, for protection of the public interest or an expressed, legally recognized interest of a Submitter or WSDOT. The Protest Official, or their designee, shall issue a written decision regarding the protest within fifteen calendar days after the Protest Official receives the detailed statement of protest. Such decision shall be final and conclusive. The Protest Official, or their, designee shall deliver the written decision to the protesting Submitter and copies to the other Submitters.

If a notice of protest regarding responsiveness is filed prior to the oral presentation process (if any), WSDOT may proceed with the oral presentation process and may short-list Submitters before the protest is withdrawn or decided, unless the Protest Official, or their designee, determines, in their sole discretion, that it is in the public interest to postpone the qualification prior to a decision. Such a determination shall be in writing and shall state the facts on which it is based.

If the Protest Official, or their/his designee, concludes that the Submitter filing the protest has established a basis for protest, the Protest Official, or their designee, will determine what remedial steps, if any, are necessary or appropriate to address the issue raised in the protest. Such steps may include, without limitation, submitting the issue to WSDOT's selection committee to determine whether the list of Submitters selected to submit proposals should be revised, withdrawing or revising the decisions, issuing a new RFQ, or taking other appropriate actions.

If the protest is denied, the protesting Submitter may seek judicial review of WSDOT's decision in Thurston County Superior Court within five (5) business days of receiving WSDOT's decision denying the protest. Each party shall bear its own attorney fees, expert witness fees, and all other legal costs.

9.3 COSTS AND DAMAGES

WSDOT shall not be liable for damages to the Submitter filing the protest or to any participant in the protest, on any basis, express or implied.

End of Request for Qualifications

Appendices

Appendix A – Form A, Acknowledgment of Receipt of Addenda

Appendix B – Not Used

Appendix C - Organizational Conflict of Interest Certification, may also include Organizational Conflict of Interest Disclosure and Avoidance/Neutralization Plans

Appendix A

FORM A

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA
(To be included in Appendix A of the Statement of Qualifications (SOQ)

_____
(Name of Submitter)

We hereby acknowledge receipt of the "SR 99 Bored Tunnel Design-Build Project" RFQ dated _____, and subsequent addenda and responses to questions by the Washington State Department of Transportation as follows:

ADDENDUM No.	**Date Issued:**
_____	_____
_____	_____
_____	_____

Response to Question Set No.	**Date Issued:**
_____	_____
_____	_____
_____	_____

_____ _____

_____ _____
(Signed-Printed or Typed Name) (Date)

_____
(Title)

Appendix C

OCOI Disclosure Form

Organizational Conflicts of Interest
Disclosure and Avoidance/Neutralization Plan

This disclosure statement outlines potential organizational conflicts of interest, either real or apparent, which as a result of activities or relationships with other persons or entities, such person or entity:

1. Is unable or potentially unable to render impartial assistance or advice to WSDOT; or
2. Is or might be otherwise impaired in its objectivity in performing the contract work; or
3. Has an unfair competitive advantage.

SECTION I of this disclosure statement describes the potential Organizational Conflict of Interest, as defined in Secretary's Executive Order E-1059.00. SECTION II of this disclosure statement describes the management plan for avoiding or neutralizing the potential Organizational Conflicts of Interest as described in SECTION I of this disclosure statement. I acknowledge that the Washington State Department of Transportation (WSDOT) may require revisions to the management plan described in SECTION II of this disclosure statement prior to approving it, and that WSDOT has the right, in its sole discretion, to limit or prohibit my involvement in the Project as a result of the potential conflicts of interest described in SECTION I of this disclosure statement.

SECTION Ia – Name of Person or Firm Potentially Conflicted

_____

SECTION Ib – Current Project Name and Scope of Work

_____

_____

SECTION Ic – Future Project Name and Description of Potential Conflict Of Interest

_____

SECTION II - Plan for Managing Potential Conflicts Of Interest

_____

Signed _____ Date _____

Printed Name and Title_____

Appendix C

OCOI Certification Form

Organizational Conflict of Interest Certification

(Name of Submitter_____)

My signature below certifies that, prior to submitting this SOQ, I have conducted an internal review of Submitter's current affiliations and have required Submitter's team members to identify potential, real, or perceived Organizational Conflicts of Interest relative to the anticipated procurement, in accordance with the Secretary's Executive Order E-1059.00 and WSDOT *Organizational Conflict of Interest Manual* M-3043.

I further certify that "*Organizational Conflict of Interest Disclosure and Avoidance/Neutralization Plan*" forms are attached, as listed below, for all real or potential organizational conflicts of interest as defined in WSDOT Organization Conflict of Interest Manual M-3043 for all Submitter team members.

Signed _____ Date_____

Printed Name and Title_____

List Attachments by name of person or firm potentially conflicted: