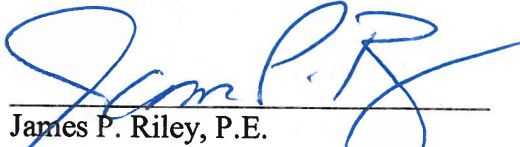


Approved:

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Responsible Division: Innovative Delivery



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STANDARD PROCEDURE for RFQ/RFP PROTESTS ARISING OUT OF PROPOSED PUBLIC-PRIVATE INITIATIVES

This Procedure sets forth the exclusive protest procedure for entities responding to a Request for Qualifications ("RFQ") (hereinafter referred to as "Respondents") and/or Request for Proposals ("RFP") (hereinafter referred to as "Proposers") issued by the Ohio Department of Transportation ("ODOT") with reference to proposed Public-Private Initiatives pursuant to O.R.C. §5501.70 *et seq.* (Respondents and Proposers are also individually and collectively referred to herein as "Submitter" or "Submitters"). This Procedure is promulgated pursuant to the Department's best practices and is intended to provide the exclusive protest remedies for Submitters which are limited to the following:

- (a) Respondent's exclusion from the short-list of Proposers; or
- (b) A Proposer's failure to secure an award of a contract.

Protest Deadlines

Protests by Submitters ("Protestor") must be filed as soon as the basis for the protest is known, but no later than ten calendar days after the Department determines the short list of Proposers or the award of the contract, as applicable. A Respondent excluded from the short list of Proposers is not eligible to protest the award of the contract.

Protests must be filed in the form and manner required by this Procedure and the RFP and sent to [X address]. Failure to file a protest within the time and in the form and manner required under this Procedure shall result in the forfeiture and be a waiver of any right to protest any action by the Department and their respective representatives relating to the issuance of an RFQ, RFP or the award of a contract.

Content of Protest

Protests must be in writing and shall completely and succinctly state the grounds for protest, its legal authority, and its factual basis, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Statements shall be sworn and submitted under penalty of perjury.

Burden of Proof

The Protestor shall have the burden of proving its protest. The Department may, in its sole discretion, discuss the protest with the Protestor and other Submitters. The protest shall be decided on the basis of written submissions. The Department may, in its sole discretion, allow the Protestor to orally present the basis of its protest.

Decision on Protest

The Director of the Department ("Director") or her or his designee shall issue a written decision regarding the protest within 30 days after the filing of the detailed statement of protest. The decision by the Director and/or her or his designee shall be final. If necessary to address the issues raised in a protest, the Department may, in its sole discretion, make appropriate revisions to the RFQ or RFP by issuing addenda. The written decision shall be final, binding and not subject to appeal.

Protestant's Payment of Costs

If a protest is denied, the Protestor shall be liable for the Department's costs reasonably incurred to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the Department as a consequence of the protest.

Exclusivity of Rights and Remedies

Each Submitter, by submitting a response to an RFQ and/or a proposal to an RFP, expressly recognizes and agrees to the limitation on its rights to protest provided in this Procedure, and expressly waives all other rights and remedies that may be available to the Submitter under Law. These provisions shall be included in the RFQ and/or RFP expressly in consideration for such waiver and agreement by the Submitter. If a Submitter disregards, disputes, or does not follow the exclusive protest remedies provided in this Procedure, it shall indemnify and hold the Department and its officers, employees, agents, and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Submitter's actions. Each Submitter, by responding to an RFQ and/or submitting a proposal to an RFP, shall be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.