

**STATE OF OHIO  
DEPARTMENT OF TRANSPORTATION**

**Part 1**

**SUM-8/76/77-0.63/9.74/8.42**

**Part 2**

**SUM-8/76/77-  
0.00/10.99/11.54**

**PID 102329  
Project (21)3000**

**DESIGN BUILD  
(Two Step - Lowest Price &  
Technically Acceptable)**

**Instructions to Offerors (ITO) for  
Request for Proposals (RFP) and  
Selection Criteria**

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## 1 PROJECT EXPECTATIONS

This document describes the Technical Proposal and Price Proposal requirements for the Akron Highway System improvements (the Project).

The Project is in the City of Akron, Summit County, Ohio. The Project will be split into two parts further described below:

### Part 1: SUM-8/76/77-0.63/9.74/8.42

The pavement will be replaced on I-77 from Waterloo Road to Lovers Lane and between Princeton Street on I-76/77 and Vernon Odom Boulevard/SR 261 on I-77. Also in these locations, minor maintenance of various bridges is planned as well as major repairs to three bridges: I-76/77 over Manchester Road, I-76/77 over Bowery Street/Ohio Canal and I-76/77 over Lakeshore Boulevard. To help traffic flow, the project includes adding a lane on I-77 northbound and southbound between the Central Interchange and Waterloo Road and on SR 8 southbound between Carroll Street and the Central Interchange. The Carroll Street exit ramp on SR 8 northbound will be widened from one lane to two lanes to improve traffic flow during and after construction.

### Part 2: SUM-8/76/77-0.00/10.99/11.54.

The ramps near the Central Interchange, from I-76 west to I-77 south, I-76 west to SR 8 north and I-76/I-77 east to SR 8 north will be reconfigured using improved geometry to allow higher speeds resulting in less traffic congestion and increased safety. The existing ramps are short with sharp curves and contribute to traffic congestion and crashes. To accommodate the reconfigured ramps, the Lafollette Street bridge over I-77 is to be replaced with a new pedestrian/bicycle bridge over I-77. Coventry Street will be removed between Kipling Street and Lafollette Street and converted to a multipurpose trail. The bridges over Brown Street and Inman Street will be widened and other bridges will be maintained. The I-76 west exit ramp to Inman Street/Johnston Street and the I-77 south Lovers Lane exit ramp are to be closed to improve traffic flow and to construct the proposed improvements.

The Project completion date will be **7/30/2025**.

The Project will be awarded to a Design-Build Team (DBT) by the State of Ohio Department of Transportation (Department) through a Two-Step, Lowest Price and Technically Acceptable Design-Build process.

## 2 GENERAL

### 2.1 IDENTIFICATION OF SHORTLISTED OFFERORS

The Department issued a project specific Request for Qualifications (RFQ) soliciting Statements of Qualification (SOQ) from interested firms. The SOQ presents, in general terms, the Offeror's qualifications, capabilities, understanding and approach to the Project. An entity interested in being an Offeror, seeking to be selected as a Shortlisted Offeror, must have submitted a SOQ responding to the Project's RFQ and must have been selected by the Department as a Shortlisted Offeror.

Based on the Department's evaluation of the SOQs, the Department is issuing this Request for Proposals (RFP) to only the following Shortlisted Offerors:

Kokosing Construction Company, Inc.

Ruhlin/Shelly & Sands Akron Beltway JV (A joint venture of The Ruhlin Company and Shelly & Sands, Inc.)

Walsh/Kenmore Joint Venture (A joint venture between Walsh Construction Company II, LLC and Kenmore Construction Co., Inc.)

The above listing is in alphabetical order, is not an order of preference, nor an indication of SOQ ranking.

### 2.2 GENERAL PROJECT PROCUREMENT PROCESS

The Procurement will be a Two-Phase Modified design-build selection procedure (lowest price technically acceptable source selection process).

This Instructions to Offerors for RFP and Selection Criteria (ITO) will require each Shortlisted Offeror to prepare an intermediate Technical Proposal to be submitted at a predefined date. These intermediate Technical Proposals shall generally consist of preliminary design engineering drawings describing the anticipated approach to construction, including: structure, maintenance of traffic (MOT) phasing, other technical designs, and administrative submittals as required. A responsive intermediate Technical Proposal will require the Shortlisted Offeror to include all requested information per the ITO Section 5.3. Discussions will be held with all responsive Offerors.

The Department intends to pay a Payment for Preparation of Responsive Preliminary Design (PPRPD – aka "Stipend"), and allow proposers to submit Alternate Technical Concepts (ATC). ATC discussions will be held at separate proprietary one-on-one ATC meetings. ATC approval will not occur at the ATC meetings, but will require a formal submittal, review and approval or rejection (if warranted).

After receipt of each intermediate Technical Proposal, the Department will initiate Discussions with each Shortlisted Offerors who submitted a responsive intermediate Technical Proposal. Discussion will occur through a confidential Proprietary Technical Information (PTI) Discussion meeting. Discussions are understood to mean written or oral exchanges that take place with the intent of allowing the offerors to revise their

Technical Proposals. The PTI Discussion meeting will be a one-on-one meeting with each shortlisted Offeror to discuss elements of the Offeror's approach as demonstrated in the intermediate Technical Proposal.

These PTI Discussion meetings will cover significant weaknesses, deficiencies, and other aspects of a Technical Proposal that could be altered or explained. These meetings will not favor one Shortlisted Offeror over another, will not reveal another Shortlisted Offeror's technical solution or any information that would compromise a Shortlisted Offeror's intellectual property to another offeror. Price will not be discussed. Along with the verbal sharing of information at the PTI Discussion meeting, the Department will provide a written summary of any significant weaknesses, deficiencies, and other aspects of a Technical Proposal which may materially impact potential minimum responsiveness to the Project requirements. The written summary will occur within a reasonable timeframe of holding the PTI discussions but is intended to be within approximately 2 business days of the PTI discussions.

At the conclusion of the Discussions, each offeror shall be given an opportunity to submit a best and final offer (BAFO) when submitting their final Technical Proposal and subsequent Price Proposal. This final Technical Proposal will be evaluated to ensure it meets the requirements of the Bid Documents, addresses the previously identified material weaknesses and is generally materially consistent with the information submitted for the PTI Discussion meeting (with reasonable developmental revisions). If there are no significant weaknesses, deficiencies, and other aspects of an intermediate Technical Proposal which may materially impact potential minimum responsiveness to the project requirements identified through the Discussion process, the Shortlisted Offeror may confirm in writing that the intermediate Technical Proposal (or portions thereof) is to be considered the final Technical Proposal.

At any time between the release of the RFP and the Price deadline, the Department may revise the contract requirements if a deficiency in the Bidding requirements are noted. These revisions may be a result of the PTI Discussion meetings, ATC process, pre-bid questions, or other reasons identified by the Department. All Shortlisted Offerors will be made aware of any contract deficiency through Addenda. An innovative approach or a unique solution identified by a Shortlisted Offeror is not necessarily a deficiency, but the Department will use its discretion in determining if information identified during a PTI Discussion meeting or ATC process must be shared with all Shortlisted Offerors.

Prior to making the final responsiveness determination on any Technical Proposal or Price, the Department may, in its sole discretion, waive mistakes within any Technical Proposal.

The Department may reject any or all Technical Proposals and Price Proposals, waive technicalities, or advertise for new proposals.

The Short-listed Offeror with a responsive Technical Proposal and lowest Price Proposal shall be considered the successful apparent DBT.

## 2.3 PROCUREMENT SCHEDULE

The Department currently anticipates conducting this procurement in accordance with the following list of milestones. This schedule is subject to revision and the Department reserves the right to modify this schedule as it finds necessary, at its sole discretion.

Milestone	Date
<b>SOQ Phase</b>	
Advertise RFQ	Thursday, August 27, 2020
Pre-SOQ Meeting (Mandatory)	Monday, September 14, 2020 @ 10:00 AM EDT
SOQ submission	Thursday, October 1, 2020
<b>Announce Shortlist</b>	<b>Monday, November 2, 2020</b>
<b>RFP/Technical Proposal Phase</b>	
Request for Proposal Release	Monday, November 9, 2020
1st One-on-One ATC Meeting	Tuesday, December 1, 2020
DBE Matchmaker Meeting (Mandatory)	Monday, December 14, 2020
DBE Virtual Matchmaker Meetings with DBEs	Monday, December 14, 2020
2nd One-on-One ATC Meeting	Tuesday, December 15, 2020
DBE Virtual Matchmaker Meetings with DBEs	Wednesday, December 16, 2020
DBE Virtual Matchmaker Meetings with DBEs	Thursday, December 17, 2020
DBE Virtual Matchmaker Meetings with DBEs	Friday, December 18, 2020
Deadline for submittal of ATCs	Tuesday, December 22, 2020
Last day for the Department to respond to ATCs	Tuesday, January 12, 2021
PTI Documentation (Intermediate Technical Proposal) Submission Deadline	Tuesday, January 19, 2021
PTI Discussion Meeting Date	Tuesday, January 26, 2021
Last day for submitting Prebid questions	Tuesday, January 26, 2021
Last recommended day for RFP Addendum	Tuesday, February 2, 2021
<b>Technical Proposals Due</b>	<b>Thursday, February 18, 2021</b>
<b>Price Proposals Due</b>	<b>Thursday, March 4, 2021</b>
<b>Anticipated Award Date</b>	<b>Monday, March 15, 2021</b>

## 2.4 DBE MATCHMAKER MEETING

The Department will be facilitating a DBE Matchmaker event specific for the Project on the date shown in Section 2.3. The mandatory Matchmaker Meeting will be held virtually between the Shortlisted Offerors, DBEs, and the Department.

The ODOT Office of Diversity and Inclusion (ODI) will provide a list of DBE firms (including dates and times) for each Shortlisted Offeror to meet with virtually. On the last day of the Virtual Matchmaker Meetings ODI will send a survey to each of the DBTs to confirm the meetings took place. The Shortlisted Offeror is required to respond to the survey by 12/23/2020.

Attendance and participation by all Shortlisted Offerors are condition precedent for being responsive to the RFP. The Shortlisted Offerors shall ensure a representative of the Lead Contractor and Lead Designer are made available and are knowledgeable in general contracting terms applicable to DBEs.

The Department will be available to discuss general Project items, but the Shortlisted Offerors shall share potential opportunities available for interested DBE firms.

## **2.5 RIGHTS OF THE DEPARTMENT**

The Department reserves the right to terminate or modify the procurement prior to Contract Execution without liability to the Department.

The Department reserves the right to reject any and all submissions at its sole discretion.

The Department reserves the right, at its sole discretion, to ask written questions of the Shortlisted Offerors and to request clarification of any submittal. The Shortlisted Offerors agree to respond to the Department's requests with the appropriate personnel to answer questions necessary to provide clarification of any areas where the intent or meaning of the submittal is in doubt. Such requests will be for purposes of clarification only. Changes or modifications to the submission will not be permitted.

Shortlisted Offerors shall be aware that the Department reserves the right to conduct an independent investigation of any information, including prior experience, by contacting project references, accessing public information, contacting independent parties, or any other means. The Department reserves the right to acknowledge this information and include this information within the evaluation. The Department also has the right to determine if an omission or error is de minimis.

## **2.6 ADVERTISEMENT**

Initial advertisement of the RFQ included draft versions of the Design Build Scope of Services and attachments. The draft Index of Attachments listed draft Contract Documents, draft Reference Documents and other draft documents that depict elements of the Basic Configuration developed for the RFQ.

Shortlisted Offerors must evaluate all Bid Documents released with the RFP and cannot rely on any information or draft documents released previously.

## **2.7 CONFLICT OF INTEREST**

Any Technical Proposal or Price Proposal received in violation of this section's requirements may be rejected.

The Shortlisted Offerors' attention is directed to 23 CFR Part 636 Subpart A and in particular Section 636.116 regarding organizational conflicts of interest. Section 636.103 defines "organizational conflict of interest" as follows:

"Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance

or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.”

Shortlisted Offerors are prohibited from receiving any advice or discussing any aspect relating to the Project or procurement of the Project with any person or entity with an organizational conflict of interest. The Department may disqualify a Shortlisted Offeror if an organizational conflict of interest exists.

The Shortlisted Offeror agrees that, if after award, an organizational conflict of interest is discovered, the Shortlisted Offeror must make an immediate and full written disclosure to the Department that includes a description of the action that the Shortlisted Offeror has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Department may, at its discretion, cancel the contract for this project.

The Shortlisted Offerors' attention is further directed to Ohio Administrative Code (OAC) Section 4733-35-05 (C) and the requirements regarding organizational conflicts of interest. For guidance in determining if you would have a Conflict of Interest, please review the Department's Specifications for Consultant services (primarily sections 2.15 through 2.18) and the referenced Codes within those applicable sections.

The Specifications can be found here:

<http://www.dot.state.oh.us/Divisions/Engineering/Consultant/ConsultDocs/Specifications%20for%20Consulting%20Services%202016.pdf>

While all of the references are for Engineering or Surveying services, the Department would use the same level of scrutiny for any consultant service.

Each Shortlisted Offeror shall require its proposed team members to identify potential conflicts of interest or a real or perceived competitive advantage relative to this procurement. Shortlisted Offerors are notified that prior or existing contractual obligations between a company and a federal or state agency relative to the Project or Department's Design-Build program may present a conflict of interest or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the Shortlisted Offeror shall submit in writing the pertinent information to the Department's Office of Consultant Services prior to the submittal of the Technical Proposal and the Shortlisted Offeror may request a waiver of the conflict of interest for the Department's consideration. Information on submitting a Conflict Waiver Request can be found here:

<http://www.dot.state.oh.us/Divisions/Engineering/Consultant/Pages/Manuals-and-Contract-Documents-.aspx>

Waiver Requests shall be directed to Susan Stehle of the Office of Consultant Services by email [Susan.Stehle@dot.ohio.gov](mailto:Susan.Stehle@dot.ohio.gov) or mailed to: Ohio Department of Transportation, Office of Consultant Services, 1980 West Broad Street, Mail Stop 4100, Columbus, Ohio 43223. Attn: Susan Stehle.



The Department, in its sole discretion, will make a determination relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined to have a conflict of interest or competitive advantage relative to this procurement that cannot be mitigated, shall not be allowed to participate as a DBT member for the Project. The Department will attempt to make all reasonable efforts to respond to a waiver request timely.

The firms listed below will not be allowed to participate as an Offeror or a Design-Build team member due to a conflict of interest:

<b>Barr Engineering, Incorporated</b>
<b>Burgess &amp; Niple, Inc.</b>
<b>DLZ Ohio, Inc.</b>
<b>Eggeman Engineering and Consulting, LLC</b>
<b>E. L. Robinson Engineering of Ohio Co.</b>
<b>HNTB</b>
<b>Gannett Fleming Engineers and Architects, P. C.</b>
<b>Glaus, Pyle, Schomer, Burns and DeHaven, Inc.</b>
<b>Lawhon &amp; Associates, Inc.</b>
<b>Northwest Consultants, Inc.</b>
<b>Ohio Valley Archaeology, Inc.</b>
<b>Richland Engineering Limited</b>
<b>Surveying and Mapping, LLC</b>
<b>The Mannik &amp; Smith Group, Inc.</b>

Offerors are cautioned that this is not an all-inclusive listing and are required to independently determine if any potential member has a Conflict of Interest.

**2.8 EX PARTE COMMUNICATIONS**

Shortlisted Offerors are expected to conduct themselves with professional integrity and to refrain from lobbying activities. No employee, member, agent, or advisor of any potential or submitting Shortlisted Offeror shall have any direct or indirect ex parte communications regarding this Project with any representative of the Department, Shortlisted Offerors or consultants involved with the procurement, except for communications expressly permitted by the Bid Documents.

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

**2.9 EXAMINATION OF BID DOCUMENTS AND PROJECT SITE AND SUBMISSION OF PRE-BID QUESTIONS**

Each Shortlisted Offeror shall be solely responsible for (a) examining, with appropriate care and diligence, the Bid Documents, including the RFP, Attachments and any other documents or information provided by the Department, prior to submitting the Technical

Proposal and Price Proposal, (b) requesting written clarification or interpretation of any perceived discrepancy, deficiency, ambiguity, error or omission contained in the RFP, or of any provision that such Shortlisted Offeror fails to understand and (c) informing itself with respect to any and all circumstances which may in any way affect the nature of its Technical Proposal or the performance of its obligations if such Shortlisted Offeror enters into a Contract with the Department.

Failure of a Shortlisted Offeror to examine and inform itself shall be at its sole risk, and the Department will provide no relief for any error or omission. The submission of a Technical Proposal and Price Proposal shall be considered prima facie evidence that the Shortlisted Offeror has performed a reasonable site investigation of the Project site and is satisfied as to the character, quality, quantities, and the conditions to be encountered in performing the Work. A reasonable site investigation also includes investigating the documents provided by the Department, review of Pre-bid Questions posted on the Department's website, the Project site, borrow sites, hauling routes, and all other locations related to the performance of the Work.

Upon written request to the Department and subsequent approval, the Shortlisted Offerors may obtain test borings during the development of Technical Proposals. The Shortlisted Offerors shall secure access permits from the appropriate agencies, if required, for all additional geotechnical explorations, which may require the preparation of an equipment access plan, description of equipment types, a plan of the test locations, and other items. The Shortlisted Offerors shall submit a written request to the Department to enter any private property for the purposes of obtaining test borings for the Project. If there is uncertainty regarding ownership of a property, the Shortlisted Offeror shall contact the Department to confirm ownership. The Shortlisted Offerors shall not enter any private property without permission from the Department and subsequently, the private property owner.

Should a question arise at any time during the reasonable site investigation or during any portion of the procurement, the Shortlisted Offeror may seek clarification by submitting a Pre-bid Question. All questions prior to submission of the Price Proposals or Technical Proposals shall be directed to the Department's Pre-Bid website:

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Pages/PBQs.aspx>

The Department will post a response on its website to all Pre-bid Questions submitted before the deadline for Pre-bid Questions provided in Section 2.3. Responses to Pre-bid Questions posted on the Department's website are not revisions to the Bid Documents and are not binding. The Department is not obligated to respond to, or otherwise act upon, a Pre-bid Question submitted after this deadline, but reserves the right to act upon any information received.

## **2.10 PAYMENT FOR PREPARATION OF RESPONSIVE PRELIMINARY DESIGN CONCEPT**

The cost of preparing a Technical Proposal, a Price Proposal and any and all other costs incurred by a Shortlisted Offeror at any time during the RFP Process shall be borne solely by such Shortlisted Offeror. However, subject to the conditions listed in this note, the Department will provide a payment of \$375,000 or the Shortlisted Offeror's actual

costs of preparing the responsive preliminary design concept, whichever is less, to each non-successful Shortlisted Offeror. The successful Shortlisted Offeror will not receive a payment. The term “payment” as used in this section shall mean \$375,000 or the Shortlisted Offeror’s actual costs of preparing the preliminary design concept, whichever is less.

After Award, each non-successful Shortlisted Offeror shall submit complete documentation of all actual costs of preparing the preliminary design concept. The Department will initiate payment after validation of the actual costs submitted and approval of the Controlling Board, if required.

By submitting its Technical and Price Proposal for this Project, the Shortlisted Offeror acknowledges that it is eligible for payment if the Shortlisted Offeror’s Technical Proposal and Price Proposal are not selected as providing the best value. The payment will be payable by the Department to the Shortlisted Offeror within 90 days of submission of complete justification documentation, unless payment is waived by the unsuccessful Shortlisted Offeror. The payment shall be due only if the Shortlisted Offeror submits a Technical and Price Proposal that is responsive to the RFP as defined in Section 7.2.

Unsuccessful Shortlisted Offerors who otherwise qualify for the payment may elect to waive payment within 10 days of the Contract Award and retain any available rights to its Technical Proposal, PTI Discussion meeting information, and ATCs. However, upon Execution of the Contract or after 10 days of Contract Award at the Department’s discretion, all information provided to the Department that was used in the evaluation of the PTI documentation, Alternative Technical Concepts, Technical Proposals, and Price Proposals will be considered a public record if payment is not waived.

The payment shall be full and final consideration for all documents submitted in the Technical and Price Proposal, all documentation submitted in preparation of the PTI Discussion meeting per Section 5.3, all submitted Alternative Technical Concepts (ATCs) per Section 4.1, and preparation and submission of the final Technical Proposal. Except for that intellectual property developed apart from or prior to Shortlisted Offeror’s commencing work on the Technical Proposal for this Project, the Department shall retain an undivided joint interest in all rights and intellectual property submitted with the Technical Proposal, PTI Discussion meeting, and ATCs.

No payment will be made if the Department withdraws the RFP or terminates the procurement prior to Price Proposal submission.

If Technical and Price Proposals have been submitted, but the Department does not execute the Contract, the two Shortlisted Offerors with the lowest bids with a passing Technical Proposal will be provided a payment, unless the payment is waived by a Shortlisted Offeror. If any one or more Shortlisted Offeror refuses payment, payment will be made to the other Offerors with a passing proposal.

In order to receive a payment, the Shortlisted Offeror will be required to have a State of Ohio Vendor’s Code number. Information on Vendor Codes may be obtained from the Department’s Office of Accounting. The unsuccessful Shortlisted Offerors must submit an invoice and all supporting documentation within thirty (30) days of Contract Execution.

The Shortlisted Offeror's actual costs of preparing the preliminary design concept shall be calculated as described below. Eligible costs must have been incurred between the advertised RFQ and the date the Technical Proposal and Price Proposal is submitted to the Department. The Shortlisted Offeror bears the burden to document and support claimed costs.

### Consultants

Actual costs shall be determined in conformance with applicable provisions of the Department's policies and directives, the FHWA's Federal-Aid Policy Guide, and the principles and procedures set forth in FAR Part 31. When specific Department and FHWA policies differ from FAR Part 31, the Department and FHWA policy shall prevail. Direct costs must be properly supported by time records and/or copies of receipts or other acceptable evidence of expenditures.

No mark-up of actual costs is permitted to compensate the consultant for profit.

### Contractors

Actual costs shall be determined in accordance with sections 109.05.C.1, 109.05.C.2 and 109.05.C.3 of ODOT's Construction and Materials Specification (CMS) manual (Dated 1/1/2019), with the following modifications –

#### CMS 109.05.C.1:

1. Completion of a Daily Force Account Record is not required. However, labor documentation requirements set forth in CMS section 109.05.C.2 apply. Allowable mark-ups for Labor shall be modified to 35%.
2. Equipment costs are not allowable or reimbursable.
3. Actual subcontractor costs are reimbursable, without mark-up, if required for this project. The Contractor must provide copies of paid invoices from the subcontractors and consultants demonstrating the actual costs incurred and proof of payment made DBT for this project.

#### CMS 109.05.C.2:

4. Costs associated with profit sharing, bonuses (in any form), and incentives are not reimbursable.
5. Workers' Compensation Premiums for other states, if incurred for this project, are reimbursable.
6. Restriction on personnel categories shall not apply.
7. Travel costs shall be calculated in accordance with the State of Ohio's most current travel reimbursement policy in effect at the time travel was incurred.

CMS 109.05.C.3:

8. Actual material costs are allowable, with no additional mark-up. The Contractor must provide paid invoices from the vendor demonstrating the actual material costs incurred and paid by the Contractor for this project.

**2.11 PARTICIPATION ON MORE THAN ONE OFFEROR TEAM**

The Lead Contractor and Lead Designer shall not, directly or indirectly, participate in any capacity on more than one Shortlisted Offeror's team. This prohibition includes the participation on different teams by a Lead Contractor and Lead Designer through related corporate entities, such as an entity that directly or indirectly controls another entity, or two entities that are under common control.

If any Lead Contractor or Lead Designer fail to comply with this prohibition, all Shortlisted Offeror teams on which it is participating may be considered non-responsive and the Technical Proposal and Price Proposal may be rejected.

**2.12 DISCLOSURE**

The Department considers the SOQ submissions, ODOT / Offeror correspondence, evaluation and review notes, PTI Discussions, Intermediate Technical Proposal, ATC process, and Technical and Price Proposal procurement process as part of a competitive selection thereby subject to Section 9.28 of the ORC (Competitive Solicitation as Public Record).

All documents received by the Department are subject to Section 149.43 of the ORC, also known as The Public Records Act, and are subject to release unless a statutory exception exists that exempts the documents from public release.

If any information in an Intermediate Technical Proposal, ATC, or Technical Proposal is to be treated as a "trade secret," the Shortlisted Offeror must identify each and every occurrence of the information within the submission by:

1. Listing the page numbers of every occurrence of the "trade secret" on the cover sheet submitted with the submission.
2. Placing an asterisk before and after each line of the submission which contains "trade secret" information.

ORC Section 1333.61(D) defines "trade secret" as "information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

1. It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

2. It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

During the overall procurement process, the Department does not intend to share with, or convey to, any person the information provided by the Shortlisted Offeror, unless disclosure is required by law or the Shortlisted Offeror gives prior written approval for such disclosure.

In the event the Department is required to disclose any information the Shortlisted Offeror considers a trade secret pursuant to applicable law, prior to disclosing such information, the Department intends to notify the Shortlisted Offeror in writing. The Department intends to use reasonable efforts to give notice of disclosure at least three days in advance of release.

The Department shall not be obligated to maintain in confidence any information that is not a trade secret including information that (1) is already known by the state, or (2) is or comes into the public domain through no fault of the state, or (3) is independently developed by the state, or (4) comes to the state from a third party in a manner not in violation of any obligation of confidentiality by such third party to the Shortlisted Offeror. State law generally requires that documents which contain both confidential/trade secret and non-confidential information be disclosed with confidential information redacted.

The Department may, at its discretion, issue an addendum to correct a deficiency if, during the ATC process (Section 4) or the PTI Discussion process (Section 5), the Department becomes aware of a deficiency in the Contract Documents that would have an impact on the ability of the Department to conduct a fair procurement and the Shortlisted Offerors to provide a responsive Technical Proposal and Bid.

Other than as listed in this section, all Discussions related to the Proprietary Technical Information and ATC proposals between the Department and Shortlisted Offerors will be kept confidential during the procurement process.

Once a project is awarded, SOQs, SOQ reviews, ATC proposals, PTI Discussion submittals, Intermediate Technical Proposals, Technical Proposals, and Price Proposals may be made public. All documents received by the Department are subject to ORC Section 149.43, also known as The Public Records Act, and are subject to release unless a statutory exception exists that exempts the documents from public release.

### **3 SUBMITTAL REQUIREMENTS**

Each Shortlisted Offeror shall be required to provide various submittals to the Department during the procurement process. These submissions must include PTI discussion documentation, may include Alternative Technical Concepts (ATC), and must include the Technical Proposal and a sealed Price Proposal.

Offerors shall utilize electronic transmittal of PTI Discussion documentation, Alternative Technical Concepts (ATC), and the Technical Proposal submittals through an ODOT secured file sharing system (ODOT LiquidFiles). Additional user guide information on ODOT LiquidFiles can be found here:

<https://fileshare.dot.state.oh.us/img/External-Invited-User-Guide-ODOT-LiquidFiles.pdf>

Contact the Department (Chase Wells - 614-466-4789/ Chase.Wells@dot.ohio.gov ) to establish an ODOT LiquidFiles account and to submit test submissions for verification.

All submittals shall be submitted to the following email addresses by 1:30 pm on their respective dates shown in Section 2.3:

- Chase Wells: [Chase.Wells@dot.ohio.gov](mailto:Chase.Wells@dot.ohio.gov)
- Eric Kahlig: [Eric.Kahlig@dot.ohio.gov](mailto:Eric.Kahlig@dot.ohio.gov)

Submissions will NOT be accepted after the time specified except in extreme and unusual circumstances recognized by the Department.

Contact the Department (Chase Wells, Ph 614-466-4789) to establish a LiquidFiles account and to submit test submissions for verification.

## **4 ALTERNATIVE TECHNICAL CONCEPT (ATC)**

An ATC is a deviation from the requirements of the Bid Documents which provides a solution that is equal to or better than the underlying requirement as determined by the Department in its sole discretion.

The Shortlisted Offeror may submit an ATC for approval of an alternative material, article, product, process, design method, or item that meets or exceeds the requirements and intent of the Contract Documents, provided that the material, article, product, process, design method, or item is equal or better in quality, performance, and function, based upon a submitted and referenced documented engineering analysis and as determined by the Department.

The Department will allow ATCs on the sealed portions of Attachment C Contractual documents. The DBT must document the proposed changes to the sealed design along with any downstream effects to the design related to the proposed ATC, as outlined in 4.1.3. The DBT shall then own the design of the ATC and any design components affected by the ATC. If an ATC is approved that is related to Attachment C, the Department's response will indicate the portions of the design and plans that will become the DBT's responsibility. The Department will be the final authority in determining if a design component is affected by the ATC.

ATCs are not intended to replace pre-bid questions. ATCs are not intended to be pre-approved Value Engineering Change Proposals.

### **4.1 ATC SUBMISSION REQUIREMENTS**

Shortlisted Offerors may submit ATC documents for consideration by the Department in accordance with the submittal methods addressed in Section 3 at any time prior to the deadline for submittal of ATCs set forth in the procurement schedule in Section 2.3. Each ATC may include multiple issues to be considered by the Department but should

generally center on a specific identifiable deviation from the requirements of the Bid Documents.

The Shortlisted Offeror shall clearly identify each individual portion of the ATC proposal that is a proposed change to the Bid Documents. Submit one (1) electronic copy (Searchable PDF format) copy of each ATC to the address to which Technical Proposals are to be submitted, as shown in Section 3.

Each ATC submittal must contain and clearly depict the following information:

1. Description: Provide a detailed description of the ATC including specifications and conceptual drawings.
2. Deviation: Reference all of the specific section(s) in the Bid Documents which are inconsistent with the proposed ATC, provide an explanation of the nature of these deviations from the referenced section, and a request for approval of such deviations. Provide proposed language for the referenced section that is in keeping with the ATC which can be seamlessly incorporated into the Bidding Documents. Seamless incorporation will be at the determination of the Department.
3. Design Ownership (if-applicable): A description of what portions of the ODOT provided sealed plans and design the DBT will change, seal and own as a result of the ATC. This shall include all applicable features, specific sheet number(s) and design documentation (reports, explorations, studies) required to modify the design. While not required, it is recommended that "bubbled" markups of the existing ODOT provided plan sheets be provided to demonstrate the design portions which are intended to be changed.
4. Usage: A description of where and how the ATC would be used on the Project.
5. Traffic and Safety Impacts: A discussion of the impacts the ATC will have on vehicular traffic and safety, including an operational analysis, if relevant.
6. Maintenance of Traffic Impacts: A discussion of the impacts the ATC will have on maintenance of traffic during construction.
7. Environmental Impacts: A discussion of how the ATC is in accordance with the approved project Environmental Document and will meet environmental commitments and not cause increased community impacts.
8. Utilities: A discussion of utility (public and private) impacts.
9. Maintenance: A discussion of the long-term maintenance impacts of the proposed ATC.
10. History: A detailed description of other projects on which the proposed ATC has been used; including contact information (name, title, phone number, address and email) for project owners that can confirm ATC implementation.
11. Inspection: Any atypical testing and inspection requirements during construction and during the expected life of the installation.
12. Public Record: A specific notation designating (where applicable and at the discretion of the Shortlisted Offeror) that some or all of the ATC is a Trade Secret or otherwise not subject to public record disclosure.
13. A Keyhole Markup Language Zipped (KMZ) file of the conceptual drawings are to be submitted showing a minimum of construction limits, edge of pavement, edge of shoulder, horizontal alignments, centerline stationing, barrier, bridge deck limits, pier locations, and abutment locations if these are



substantially impacted by the ATC. ATCs centering primarily on MOT Concepts shall demonstrate the overall concept, specifically lane locations, phasing, tapers, merge lengths, design speed, lane widths, and any other elements deemed key by the Department..

Incomplete ATC submittal packages may be returned by the Department without review or comment.

#### **4.2 EVALUATION OF ATCS**

ATCs are accepted by the Department in its sole discretion and the Department reserves the right to reject any ATC submitted for any reason. The Shortlisted Offeror bears sole responsibility for the quality, accuracy, completeness, and feasibility of the ATC regardless of the Department's acceptance or review.

The Department will attempt to evaluate all ATCs within ten (10) working days of receipt. However, this timeframe cannot be guaranteed, particularly for complex or unusual concepts. The Department will not consider any change that would require excessive time or cost for review, evaluation or investigation.

While ATCs which impact the Interchange Modification Study (IMS) may be submitted, the Department will not Approve an ATC which negatively impacts the proposed improvements in IMS.

The Department may consider design exceptions at select locations. The Shortlisted Offeror shall complete all necessary proposed design exception paperwork in accordance with the ODOT Location and Design Manual requirements for submission with the ATC for concurrent evaluation by the Department if a design exception is condition precedent to approval of the ATC.

The Department reserves the right to extend the DBT's design ownership (i.e. sheets, design components, etc.) of an ATC related to changes of Attachment C.

#### **4.3 DEPARTMENT RESPONSE**

The Department will review all ATCs and respond with one (1) of the following determinations:

1. The ATC is approved and may be included in the Shortlisted Offeror's Technical Proposal.
  - a. For ATCs associated with Attachment C Contractual Documents
    - i. The Department will either concur with the DBT's proposed Design Ownership or extend the Design Ownership to a level that is commensurate with the proposed changes proposed by the ATC.
    - ii. If the Department concurs with the changes proposed by the ATC then the Bidder will be instructed which Optional Bid Item Set they are required to use for this portion of the Project.
2. The ATC is approved subject to conditions. The ATC may be included in the Shortlisted Offeror's Technical Proposal provided that all approval conditions have been met. Failure to clearly demonstrate that all conditions have been met may render the Shortlisted Offeror's Technical Proposal non-responsive.

3. The ATC is not approved in its present form but may be resubmitted for reconsideration. The reconsideration request must address all comments, questions and concerns stated by the Department. Reconsideration requests must meet all ATC submission and content requirements.
4. The ATC is not approved. Inclusion of the ATC in the Technical Proposal may render the Technical Proposal non-responsive.
5. The proposal is not an ATC.

The Department may, at its discretion, request additional written information/clarification regarding a proposed ATC.

The Department may provide explanation of the ATC rejection at its sole discretion. Any explanation shall not be construed as an approval or modification of any Bid Document.

Approval of an ATC is an approval of the deviation language, or approval with conditions, and only at the specified locations. Approval of an ATC does not constitute the Department's acceptance of design liability or final viability. ATC approval is specific to the Shortlisted Offeror that submitted the ATC.

#### **4.4 ATC ONE-ON-ONE MEETINGS**

The Department will hold two (2) virtual ATC meetings. Each Shortlisted Offeror will provide a list of ATC proposals to be discussed by 12:00 p.m. (noon) two (2) working days prior to each ATC meeting. The Shortlisted Offeror's agenda will determine the subject matter experts the Department will attempt to have in attendance. The Department will send individual invites to each offeror for the ATC meetings approximately one week prior to the scheduled meeting dates per Section 2.3 and will utilize the Microsoft Teams Platform.

Shortlisted Offerors are encouraged to prepare appropriate documents that will be used to facilitate their discussions via their virtual ATC presentation.

No decisions regarding the ATC will be made by the Department in ATC meetings and no statement by the Department at any ATC meetings or included in a written record or summary of any such meeting will provide, or may be construed as, a waiver to or modification of the Scope of Services and may not be relied on by any Shortlisted Offeror unless it is incorporated through an Addendum or is part of an Approved ATC.

Any statement made at an ATC meeting by the Department, or its representatives or advisors, shall not be deemed or considered to be an indication of a definite preference, acceptance or a rejection by the Department of anything said or done or any information presented by a Shortlisted Offeror.

The Department shall treat information presented by Shortlisted Offerors during ATC meetings as confidential and proprietary. The Department will not discuss with any Shortlisted Offeror any comments on any design concept or ATC other than its own. However, notwithstanding the foregoing, the Department reserves the right to disclose to all Shortlisted Offerors any issues of general applicability raised during any ATC meeting.

Shortlisted Offerors are allowed, but not required, to formally submit ATCs during, before, or after completion of ATC meetings.

The Shortlisted Offerors may inquire on the Department's opinion on approaches to the Technical Proposal which the Shortlisted Offeror may be considering; the Department may provide an initial indication of potential Bidding Document conflicts or concerns to the approaches. The Department's responses, if any, shall not be deemed or considered to be an indication of a definite preference, acceptance or a rejection by the Department of anything said or done or any information presented by a Shortlisted Offeror.

#### **4.5 INCORPORATION INTO BIDS**

The Shortlisted Offeror may incorporate zero, one, or more approved ATCs (or conditionally approved ATCs, if all conditions are met) into their Bid. If the Bid is found to be lowest, the Shortlisted Offeror must clearly state which ATCs have been incorporated and demonstrate how the conditions are met (if the ATC was conditionally approved) in the final Technical Proposal (Section 6.5) and in Pre-Award Meeting documentation, as described in Section 7.4.

The Bid shall reflect all incorporated ATCs. The Department's acceptance of an ATC does not relieve the DBT of the responsibility of designing and constructing the Project within the submitted Bid nor does it assume the ATC is viable.

## **5 PROPRIETARY TECHNICAL INFORMATION (PTI) DISCUSSION**

The Department intends to conduct a one-on-one Proprietary Technical Information (PTI) Discussion with each Shortlisted Offeror on the date set forth in Section 2.3 during a virtual meeting. The Department will send individual invites to each offeror for the PTI Discussion approximately one week prior to the scheduled meeting date per Section 2.3 and will utilize the Microsoft Teams Platform.

The PTI Discussion will be conducted to discuss elements of the proposed project design as described in this Section 5 and other details of the Contract Documents.

### **5.1 PTI DISCUSSIONS - GENERAL**

The intention of the PTI Discussion is to ensure the Shortlisted Offerors are preparing Technical Proposals which will meet the Bid Documents and are generally acceptable by the Department. These Discussions will only occur between the Department and the Shortlisted Offerors at the one-on-one PTI Discussion meeting, except as necessary as determined by the Department. Additional Discussions may only be initiated by the Department to further clarify ambiguities found within the Offeror's proposed project design.

The PTI Discussion is intended to enable the Shortlisted Offeror to ask confidential questions concerning the specific Shortlisted Offeror's approach to the Project and to allow the Department to provide feedback on those questions. The Department may provide non-binding feedback, comments, voice concerns, and answer questions

concerning the Offerors approach to the project. Unapproved ATCs will not be discussed at this meeting.

The PTI Discussion is also intended to enable the Department to identify and discuss elements of a Shortlisted Offeror's approach that may not meet the requirements of the Bid Documents or are otherwise unacceptable to the Department. The Shortlisted Offeror's approach will be presented through an Intermediate Technical Proposal (Section 5.3).

The Department reserves its right to modify the Bidding Documents if during the PTI Discussions, a Shortlisted Offeror's approach is found unacceptable.

Shortlisted Offerors are encouraged to prepare appropriate documents that will be used to facilitate their PTI discussions via their virtual ATC presentation. The additional information should expound upon and explain the documentation related to the required submitted PTI Design Topics and Intermediate Technical Proposal.

The Department may, at any time following a PTI Discussion issue one or more requests for clarification to one or more Shortlisted Offerors seeking additional information or clarification from a Shortlisted Offeror. In addition, the Department may request a Shortlisted Offeror to verify certain aspects of its documentation. Shortlisted Offerors shall respond to any such request by such time as is specified by the Department in such request. The scope, length and topics to be addressed in any requests for clarification from the Department shall be prescribed by, and subject to the discretion of the Department.

Upon completion of the PTI Discussions, the Department shall respond to the information provided. This response shall inform the Shortlisted Offeror(s) of any noted significant omissions, noted non-compliant designs, noted significant errors, noted deficiencies, or other noted significant ambiguities requiring clarification, which could potentially render the Technical Proposal non-responsive to the requirements of the bidding documents.

## **5.2 PTI DISCUSSION MEETING GENERAL RULES**

General Rules of PTI Discussions meetings are as follows:

1. The Shortlisted Offeror's Intermediate Technical Proposal submittal must be responsive to the requirements in Section 5.3 and Section 5.4. PTI Discussions will not be held if the Shortlisted Offeror's Intermediate Technical proposal is non-responsive.
2. No statement by the Department at the PTI Discussion or included in a written record or summary of any such meeting will provide or may be construed as a waiver or modification of the RFP and any other procurement document and may not be relied on by any Shortlisted Offeror unless the statement is incorporated in an Addendum or approved by an ATC.
3. Any statement made at the PTI Discussion by the Department, or its representatives or advisors, may not and shall not be deemed or considered to be a binding indication of a preference about or acceptance or a rejection by the Department of anything said or done, or any information presented, by a Shortlisted Offeror. No part of the

evaluation of Technical Proposals will be based on the discussions that occur during a PTI Discussion.

4. The Department will use reasonable efforts to treat information presented by a Shortlisted Offeror during the PTI Discussion as confidential. The Department will not discuss with any Shortlisted Offeror any questions, requests for clarification or comments on the Bid Documents, any Shortlisted Offeror Technical Proposal, design concept or ATC other than those applicable to the Shortlisted Offeror's own PTI Design Topic information.
5. Any issues of general applicability raised during any PTI Discussion may be incorporated by Addenda, except to the extent that the Department determines, in its sole discretion, that such disclosure would impair the confidentiality of an ATC or would reveal a Shortlisted Offeror's confidential or proprietary information or project approach unless the Department believes such disclosure is necessary in the interest of maintaining a fair process or complying with applicable law.
6. While the PTI Discussion is intended to be confidential, nothing shall preclude the Department from exercising any rights that it may have under this RFP, including the right to issue a clarification or revision of the RFP or bidding documents, Addenda, or an RFP Amendment, as a result of what is discussed in such meetings.
7. No electronic recording of any kind will be allowed during PTI Discussions and no transcripts will be maintained. Either party may take notes during the PTI Discussions, but no notes shall be used in the evaluation of the Technical Proposal nor shall any notes be considered binding or indicative of a Department's concurrence or dissent.

### **5.3 PTI DISCUSSION – INTERMEDIATE TECHNICAL PROPOSAL SUBMITTAL**

The following list provides the minimum elements of each Shortlisted Offeror's design that shall be presented and addressed in the PTI documentation and PTI Discussions.

The submitted documentation in response to the requirements of 5.3 (a) through (e) shall be considered the Shortlisted Offeror's Intermediate Technical Proposal. Submittal of the required information in the required format will be the Department's basis for determining whether the Intermediate Technical Proposal submission is responsive.

#### **a) Project Narrative**

A narrative summarizing the approach to the design and construction of the Project. The narrative shall be in sufficient detail so to understand the key elements of the Project MOT phasing, critical work items, and generally describe the type of structures being proposed. The narrative shall address, at a minimum, the following:

- i) The Sequence of Construction for the major MOT phases anticipated for the Work. Describe major work elements required for each of the identified MOT phases
- ii) Anticipated Work locations of key elements with anticipated start dates within the geographical work limitation regions.
- iii) General Bar Chart schedule showing the anticipated starting and completion dates of construction phasing. The schedule shall depict a reasonable

phasing plan corresponding to key project dates, specifically on regional work limitations. Key roadway closures shall be addressed.

The narrative for this portion shall be supported by plan sheets provided in (b).

b) Technical Approach - Plans

Provide plan sheets at the appropriate scale and format depicting the design being used by the Offeror as the basis for developing the Price Proposal. Plan sheets shall depict the design and approach used as the basis for developing the Price Proposal. Plan sheets shall reasonably follow ODOT CADD Engineering Standards. Provide the following:

- i) Schematic plan(s) of the entire project with geometric data.
- ii) Manchester, Lakeshore and Bowery Structures Site Plans including at a minimum, the following:
  - (1) Bridge Type
  - (2) Span lengths
  - (3) Substructure locations
  - (4) Profile geometry
  - (5) Horizontal alignment
  - (6) Minimal vertical clearances
  - (7) Designation of fixed and expansion bearings
  - (8) Substructure skew angles if other than 0
  - (9) Location and types of all deck expansion and construction joints
  - (10) Anticipated splice locations
- iii) Manchester, Lakeshore and Bowery Structures transverse section(s) showing the following information:
  - (1) Toe/Toe barrier dimension
  - (2) Approximate superstructure depth(s)
  - (3) Girder spacing
  - (4) Deck thickness
  - (5) Cross bracing
  - (6) Crown location and cross slope
  - (7) Deck cantilever dimension
  - (8) MOT Phasing
- iv) Manchester, Lakeshore and Bowery Structures section(s) showing the following information:
  - (1) Integral and/or Semi-integral abutment details
  - (2) Substructure (pier columns and pier caps) analysis for proposed structure
  - (3) Pier retrofit details (if required)

v) Conceptual maintenance of traffic plans shall include a stick drawing (schematic or sketch) of the MOT phasing covering the entire project. The drawings shall include all provisions of section 630-5(2b) of the Traffic Engineering Manual except as specified in Attachment O.~~showing all major phasing including typical sections at critical locations.~~ Provide in a KMZ file corresponding to the conceptual maintenance of traffic plan.

vi) Submit an electronic KMZ file showing at a minimum construction limits, edge of pavement, edge of shoulder, horizontal alignments, centerline stationing, barrier, bridge deck limits, pier locations, and abutment locations. Show all relative information proposed and existing.

c) SOQ Commitments

A response to the commitments made within the Shortlisted Offeror's Statement of Qualification as identified by the Department and provided during the SOQ review process. Responses shall address the Department's questions and provide a summary of how each commitment will be met. If a commitment was interpreted differently or no longer applicable, the Shortlisted Offeror shall clarify the commitment as they intended it or provide justification as to why the commitment may longer apply or be met.

d) Incorporated ATCs

- i) Copies of ATC approval letters or (Approved Subject to Conditions) which are intended to be incorporated into the Technical Proposal.
- ii) For ATCs which are intended to be incorporated with an Approved Subject to Conditions status, clearly what and how conditions are being met.
- iii) Clear description on where the ATCs are being incorporated through reference to Technical Approach - Plans (Section 5.3 (b)).

Note: The Shortlisted Offeror may incorporate only approved ATCs (or conditionally approved ATCs, if all conditions are met) into their Technical Proposal.

e) Design-Build DBE Performance Plan – DBE Outreach Plan (DBEPP) and Design-Build Workforce Diversity Performance Plan (WDPP)

Submit a DBEPP Part 2 – DBE Outreach Plan setting forth specific information demonstrating how the Bidder will achieve the DBE contract goal by providing a DRAFT *DBEPP Part 2 – DBE Outreach Plan* as described in the DESIGN-BUILD DBE PERFORMANCE PLAN FOR SUM-8/76/77-0.63/9.74/8.42 Part 2 SUM-8/76/77-0.00/10.99/11.54; PROJECT (21)3000 DESIGN BUILD contract note except as follows:

Requirement #2 [The Contractor's anticipated yearly DBE utilization (by subcontracted value broken down by quarter) for each calendar year for the Project] shall be omitted or retracted.

Submit a Workforce Diversity Performance Plan setting forth specific information demonstrating how the Bidder will achieve Workforce Diversity by providing a DRAFT *WDPP – Workforce Diversity Performance Plan* as described in PN 011 - DESIGN-BUILD WORKFORCE DIVERSITY PERFORMANCE PLAN FOR SUM-8/76/77-0.63/9.74/8.42 Part 2 SUM-8/76/77-0.00/10.99/11.54; PROJECT (21)3000 DESIGN BUILD contract note based on the requirements below:

Requirement #1 [Identify the DBT person responsible for monitoring, tracking, and reporting on Workforce Diversity to ODOT's Office of Outreach]

Requirement #2 [Methods and plan for advertising hiring opportunities within the community, including the use of sources for minority and female recruitment]

Requirement #3 [Proposed methods and plan to track job applicants and employee/workforce ethnic and gender diversity]

#### **5.4 INTERMEDIATE TECHNICAL PROPOSAL SUBMISSION REQUIREMENTS**

Each Shortlisted Offeror shall submit the following on the PTI documentation Submission Deadline Date by 2:00 p.m. on the corresponding date in Section 2.3:

1. An itemized agenda addressing the design topics identified for each meeting as described in this Section. Based on the agenda items, the Department will coordinate with appropriate Department subject matter experts to facilitate attendance. The Department will attempt to accommodate the attendance of subject matter experts but makes no guarantees regarding their attendance. Department subject matter experts may participate in discussions by phone/web conferencing;
2. One (1) electronic copy (PDF format), including exhibits and drawings, related to the topics identified for the PTI Discussion and Intermediate Technical Proposal as described in Section 5.3 (the Department will retain the documentation following the PTI Discussion). Shortlisted Offerors are encouraged to provide the documentation in a format which can be easily printed on standard paper sizes. Note: The PDF format requirement does not apply to the electronic KMZ file.

Note: The Department will allow discussions centering on topics not previously identified in the agenda, but the Shortlisted Offeror shall make every attempt to describe discussion topics prior to the meetings to ensure proper Department preparation.

#### **5.5 PTI DISCUSSION INFORMATION EVALUATION RESPONSE**

Within seven (7) calendar days of the PTI Discussion meeting, the Department will send a PTI Evaluation Response addressing the PTI Discussion information.

The Department's Evaluation Response will itemize:

- acceptability of the narrative in its description of design and construction of the Project generally corresponding to the Technical Approach – Plans,



- acceptability of the Technical Approach-Plans to the Bidding Documents (Note: The PTI Evaluation Response will identify bidding document non-conformance issues),
- acceptability of the proposed SOQ Commitments responses,
- acceptability of the description on how, if any, ATC conditions are being met, and
- acceptability of the DBEPP.
- acceptability of the WDPP

The Evaluation Response will include reference to the specific Bidding Document with which the Intermediate Technical Proposal information is in conflict. The Evaluation Response may include specific recommendations on corrections except for qualitative items.

The Offeror shall correct any identified issues within the Technical Proposal, as described in Section 6.

## 6 TECHNICAL AND PRICE PROPOSAL

The Shortlisted Offerors shall prepare and submit a Technical Proposal and a Price Proposal.

The Technical Proposal and Price Proposal will be each Shortlisted Offeror's opportunity to submit a best and final offer (BAFO) final proposal when submitting a required Technical Proposal and Price. Submission of a BAFO does not restrict the rights of the Shortlisted Offeror under the terms of the Contract.

Technical Proposal (Section 6.2) and a sealed Price Proposal (Section 6.3) must be delivered to the address as per Section 3.

Each Shortlisted Offeror shall electronically submit the Price Proposal in accordance with Section 6.3.

### 6.1 GENERAL

Each Technical Proposal shall include all items identified in Section 6.5. Each Technical Proposal component shall be clearly titled and identified. All blank spaces in forms must be filled in, as appropriate, and no substantive change shall be made to any form. Submittals must be bound with all pages in sequentially numbered binders.

### 6.2 TECHNICAL PROPOSAL SUBMISSION

In the manner described in Section 3, submit two (2) electronic files of the Technical Proposal by 3:00 p.m. on the Technical Proposals Due date as follows:

- a) One (1) electronic searchable file of the Technical Proposal in PDF format which does not restrict printing or copying text, images and other content.
- b) One (1) electronic password protected file of the Technical Proposal in PDF format which restricts modification of the file, copying of text, images and other content. The submission must be able to be read by the Department. The Shortlisted Offeror is not required to supply the password.
- c) One (1) electronic KMZ file showing a minimum of construction limits, edge of pavement, edge of shoulder, horizontal alignments, centerline stationing, barrier, bridge deck limits, pier locations, and abutment locations. Show all relative information (proposed and existing).

All information shall be identical in all copies (not including the Proposal Letter signature). The electronic version of the Technical Proposal may be made up of multiple electronic files, but no individual file should exceed 50 MB and shall be named to clearly depict the concatenation order.

The Technical Proposal shall be organized as follows and the content shall be consistent with Section 5.3:

<b>Part</b>	<b>Description</b>	<b>Max No. of Pages</b>
A	Project Narrative	As needed
B	Technical Approach - Plans	As needed
C	SOQ Commitments	As needed
D	Incorporated ATCs	As needed
E	Design-Build DBE Performance Plan and Workforce Diversity Performance Plan	As needed
F	Administrative Submittals (Forms A-1, B-1)	As needed
G	Prequalification Information	As needed

Each page shall be 11" x 17". Font should be single spaced and should use at least 11 point in Arial font (normal spaced lettering). Margins should be at least 1" all around. Plan sheets in Part B shall reasonably follow ODOT CADD Engineering Standards.

The Shortlisted Offerors should number each page in each part consecutively (i.e. A-1, A-2; B-1, B-2) within the lower margins. Headers and Footers depicting the Shortlisted Offeror are permitted in the margins.

Submissions failing to follow the section format instructions outlined above may be rejected if the submission grossly varies from the desired format. Graphics, tables and figures which include text may use a smaller font size but shall remain legible. Excessive use of smaller font size in graphics, tables, and figures is strongly discouraged as the use could impede Department review.

### **6.3 PRICE PROPOSAL SUBMISSION**

The Price Proposal will be submitted using the Bid Express website in accordance with the process described in PN 019 and PN 097 (CMS 102.06 – Preparation of Bids) on or before 10:00 a.m. on Price Proposals Due date.

In addition to the requirements of PN 019 and PN 097, the Shortlisted Offeror shall also submit a "Sealed Price Proposal" that includes one (1) Price Proposal in PDF format which can only be opened with a password and one (1) copy of the Expedite file used to create the PDF version. The Sealed Price Proposal shall be submitted as described in Section 3. The delivery of the Sealed Price Proposal may be provided to the Department by 3:00 p.m., although a Shortlisted Offeror shall only be considered responsive if a Price Proposal is submitted via Bid Express by the 10:00 a.m. deadline.

The price reflected in the Price Proposal will include the cost for performing all work specified in the Contract Documents and the Shortlisted Offeror's Technical Proposal.

All required enhancement elements in the Scope of Services must be designed and constructed as part of this Project. Additional enhancements may also be proposed by the Shortlisted Offeror as part of their Technical Proposal and included in their Price Proposal.

The Department will only view the Price Proposals after the completion of the responsiveness evaluation of the Technical Proposals.

If all Technical Proposals are deemed responsive, the Department will view Price Proposals utilizing Bid Express.

If the Department has determined that any Shortlisted Offeror is non-responsive or non-responsible, the Sealed Price Proposals of the other Shortlisted Offerors will be opened. The Electronic Bidding System (EBS) file in the Sealed Price Proposal will be used to determine the bid price. In this scenario, no EBS files submitted via Bid Express will be opened.

If the Department has determined that a Shortlisted Offeror's is non-responsive, or the Technical Proposal is non-responsive, the Department will not view the corresponding Price Proposal(s) in Bid Express or open the respective sealed version of the Price Proposal.

After determining the apparent successful Shortlisted Offeror and if all Technical Proposals are deemed responsive, the Department may compare the Price Proposal submitted utilizing Bid Express to their sealed Price Proposal at its discretion. The Shortlisted Offerors shall provide the password for the pdf version at that time if requested. The Department may deem the apparent successful Shortlisted Offeror non-responsive if a material discrepancy is found. The Department reserves the right to determine a material discrepancy in its sole discretion.

#### **6.4 MODIFICATIONS, WITHDRAWALS, AND LATE SUBMITTALS**

Modifications to a Technical Proposal or a Price Proposal will not be accepted in any form after submittal to the Department.

The Department may consider any late Technical Proposal and Price Proposal in its sole discretion. Technical Proposals, Price Proposals, Modifications and Withdrawal Requests received after the time due may be rejected without consideration or evaluation, at the Department's discretion.

#### **6.5 TECHNICAL PROPOSAL CONTENT AND RESPONSIVENESS EVALUATION**

The Department's goal is to create a fair and uniform basis for evaluation of responsiveness for the Technical Proposals in compliance with all applicable requirements governing this procurement.

The Department's Technical Proposal Advisory Group will evaluate each Technical Proposal for responsiveness. Technical Proposals that are not responsive as described in Section 7.2 may not be eligible for Award.

Each Technical Proposal will be evaluated by the Department on the basis of the evaluation criteria described in this RFP. Each element is "Pass/Fail" and must receive a "Pass" from the Technical Proposal Advisory Group to be considered responsive. To receive a "Pass", the element must be complete and include all documents and information required in the RFP using the format and structure specified.

<b>Part / Major Categories</b>	<b>Section</b>	<b>Evaluation Criteria</b>
A	Project Narrative	Pass/Fail
B	Technical Approach - Plans	Pass/Fail
C	SOQ Commitments	Pass/Fail
D	Incorporated ATCs	Pass/Fail
E	Design-Build DBE Performance Plan and Workforce Diversity Performance Plan	Pass/Fail
F	Administrative Submittals (Forms A-1, B-1)	Pass/Fail
G	Prequalification Information	Pass/Fail

Technical Proposal content requirements are found in the following sections as well as within components of the Bid Documents.

The information provided in response to the required information shall be materially consistent with the information submitted for the PTI Discussion. Material deviations from the information provided at the PTI discussion shall be identified with detailed explanation of the deviation, a detailed discussion on the reason for the deviation, and how the solution presented is consistent with the requirements of the Project as defined in the Bid Documents.

Revisions due to identified issues noted in the PTI Information Evaluation Response shall be identified with detailed explanation of the deviation, a detailed discussion on the reason for the deviation, and how the solution presented is consistent with the requirements of the Project as defined in the Bid Documents. These explanations shall be clearly identified in the respective Technical Proposal parts.

The Department will use reasonable discretion in determining whether the content presented is a material deviation from the information provided at the PTI discussions and will use reasonable discretion in determining whether the explanation provided is sufficient to allow the Technical Proposal to be deemed responsive.

The Department reserves the right to develop and ask written questions concerning Shortlisted Offerors identified or Department perceived PTI deviations. The Shortlisted Offeror shall provide timely written responses to any proposed questions. The Department may consider the responses in determining responsiveness. Responses to the Department's questions may not modify the Offeror's Technical Approach.

**6.5.1 PROJECT NARRATIVE (PART A)**

Shortlisted Offerors shall provide the following:

A narrative summarizing the general approach to the design and construction of the Work elements as required in Section 5.3 (a).

The narrative shall identify and explain any material deviations from the approach and clarifications to the approach as described at the PTI Discussion with sufficient detail to

demonstrate the approach is consistent with the requirements defined in the Bid Documents.

Additionally, the narrative shall address each identified revision in response to the itemized PTI Evaluation Response issues. The narrative shall clearly describe such revisions so the Department can easily identify, review, and evaluate the Technical Proposal ensuring acceptable revisions.

The narrative for this portion shall be supported by plan sheets provided in Part B.

Part A will be evaluated on Pass/Fail basis to determine if the approach described generally demonstrates that the requirements of the Project will be met.

If the Shortlisted Offeror's narrative as submitted in the Intermediate Technical Proposal has not been materially revised, and the Shortlisted Offeror's approach as submitted in the PTI Discussion Required Information had no deficiencies noted in any itemized PTI Evaluation Response, the Shortlisted Offeror may state:

“Part A: No Revisions from the Intermediate Technical Proposal submission per Section 5.3 (a)”

If the Shortlisted Offeror states that there are no revisions from Intermediate Technical Proposal for the representative part, the Department will evaluate the Intermediate Technical Proposal's corresponding portion as the representative Technical Proposal part.

The Department will use reasonable discretion in determining whether the content presented receives a “Pass”.

### **6.5.2 TECHNICAL APPROACH – PLANS (PART B)**

Submit a plan set depicting the technical approach that formed the basis for the Shortlisted Offeror's Price Proposal. The plan sheets shall identify any material deviations from the approach described at the PTI discussion. Deviations shall be clearly denoted utilizing CADD revisions standards (i.e., “bubbling”).

The contents of Part B shall be consistent with the following information:

Information as required and requested in Section 5.3 (b).

If the Shortlisted Offeror's technical approach as submitted in the Intermediate Technical Proposal has not been materially revised and the Shortlisted Offeror's approach as submitted in the Intermediate Technical Proposal had no deficiencies noted in an itemized PTI Evaluation Response, the Shortlisted Offeror may state:

“Part B: No Revisions from the Intermediate Technical Proposal submission per Section 5.3 (b)”

Part B will be evaluated on Pass/Fail basis to determine if the Technical Approach demonstrates that the requirements of the Project will be met. Submittal of the required

information demonstrating the Shortlisted Offeror's ability to meet the requirements of this section in the required format demonstrating a viable approach to meeting the requirements of the Bidding Documents as determined by the Department will be the basis of the Department determining whether this portion of the Proposal is given the status of "Pass".

If the Shortlisted Offeror states that there are no revisions from Intermediate Technical Proposal for the representative part, the Department will evaluate the Intermediate Technical Proposal's corresponding portion as the representative Technical Proposal part.

The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

### **6.5.3 SOQ COMMITMENTS (PART C)**

Provide the response(s) to the commitments made within the Shortlisted Offeror's SOQ as identified by the Department and provided at the ATC Meeting #1. The response shall be in the form as required in Section 5.3 (c).

If the Shortlisted Offeror's responses to the SOQ Commitments had no deficiencies noted in an itemized PTI Evaluation Response, the Shortlisted Offeror may state:

"Part C - No Revisions from the Intermediate Technical Proposal submission per Section 5.3 (c)"

Submittal of the required information demonstrating the Shortlisted Offeror's ability to meet the SOQ Commitments as identified in the required format will be the basis of the Department determining whether this portion of the Proposal is given the status of "Pass".

Part C will be evaluated on Pass/Fail basis to determine if the SOQ Commitments responses generally demonstrates that the requirements of the Project will be generally met.

If the Shortlisted Offeror states that there are no revisions from Intermediate Technical Proposal for the representative part, the Department will evaluate the Intermediate Technical Proposal's corresponding portion as the representative Technical Proposal part.

The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

### **6.5.4 INCORPORATED ATCS (PART D)**

Submit copies of ATC approval letters or (Approved Subject to Conditions) which are incorporated into the Technical Proposal. The response shall be in the form as required in Section 5.3 (d).

If the Shortlisted Offeror's responses to the ATC Approved as Noted had no deficiencies noted in an itemized PTI Evaluation Response and no additional ATCs (or conditionally approved ATCs, if all conditions are met) are being included as compared to the Intermediate Technical Proposal, the Shortlisted Offeror may state:

"Part D - No Revisions from the Intermediate Technical Proposal submission per Section 5.3 (d)".

The Shortlisted Offeror may incorporate only approved ATCs (or conditionally approved ATCs, if all conditions are met) into their Technical Proposal. The Price Proposal shall reflect all incorporated ATCs. Only those ATCs which are identified as being included will be considered as part of the Bidding Documents.

Submittal of the required information demonstrating the Shortlisted Offeror's inclusion of applicable ATCs and the ability to indicate how all conditions of the ATCs are being met, will be the basis of the Department determining whether this portion of the Proposal is given the status of "Pass".

If the Shortlisted Offeror states that there are no revisions from Intermediate Technical Proposal for the representative part, the Department will evaluate the Intermediate Technical Proposal's corresponding portion as the representative Technical Proposal part.

The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

#### **6.5.5 DESIGN-BUILD DBE PERFORMANCE PLAN AND WORKFORCE DIVERSITY PERFORMANCE PLAN(PART E)**

Submit a Design-Build DBE Performance Plan (DBEPP) setting forth specific information demonstrating how the Offeror will achieve the DBE contract goal in the form as described in Information as required and requested in Section 5.3 (e). Submit a Design-Build Workforce Diversity Performance Plan setting forth specific information demonstrating how the Bidder will track and monitor Workforce Diversity as requested in Section 5.3 (e).

If the Shortlisted Offeror's approach to the DESIGN-BUILD DBE PERFORMANCE PLAN or WORKFORCE DIVERSITY PERFORMANCE PLAN as submitted in the Intermediate Technical Proposal has not been materially revised, and the Shortlisted Offeror's approach to the DESIGN-BUILD DBE PERFORMANCE PLAN or WORKFORCE DIVERSITY PERFORMANCE PLAN as submitted in the PTI Discussion Required Information had no deficiencies noted in an itemized PTI Evaluation Response, the Shortlisted Offeror may state:

"Part E - No Revisions from the Intermediate Technical Proposal submission per Section 5.3 (e)"

Part E will be evaluated on Pass/Fail basis to determine if the approach to the described information generally demonstrates that the requirements of the DBEPP Part 2 – DBE



Outreach Plan and WORKFORCE DIVERSITY PERFORMANCE PLAN will be generally met.

If the Shortlisted Offeror states that there are no revisions from Intermediate Technical Proposal for the representative part, the Department will evaluate the Intermediate Technical Proposal's corresponding portion as the representative Technical Proposal part.

The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

#### **6.5.6 ADMINISTRATIVE SUBMITTAL (PART F)**

A Proposal Letter must be submitted by each Shortlisted Offeror. The letter shall be signed by an individual with signature authority for the contracting firm on the submission. In the case of a joint venture, a signature will be required from an individual with signature authority of each member of the joint venture. Electronic facsimiles or Digital Signatures are acceptable. The letter shall be accompanied by evidence of signatory authorization.

Form A-1 shall be accompanied by a certification from the Shortlisted Offeror (i.e. corporate resolution or other customary certification) establishing the following: The signatory for the Shortlisted Offeror identified in the Proposal Letter (Form A-1) has been duly authorized to execute the Contract on behalf of the Design-Build Team and has obtained all necessary or applicable approvals to make the Contract fully binding upon the Design-Build Team when a signature is affixed, and accepted by the Department

The Administrative Submittal shall include a signed Proposal Letter, using Form A-1, which shall be executed by all persons constituting the Shortlisted Offeror. If a Shortlisted Offeror is a joint venture or a partnership, the letter must be executed by all joint venture members or all general partners of the Shortlisted Offeror. In addition, the Administrative Submittal shall include a completed Form B-1.

In addition to Form A-1 and Form B-1, the Shortlisted Offeror shall acknowledge receipt of all Project Addenda. The acknowledgement shall consist of inclusion of each Addenda cover sheet.

Submittal of the required information demonstrating the Shortlisted Offeror's ability to meet the requirements of this section in the required format and forms will be the basis of the Department determining whether this portion of the Proposal is given the status of "Pass".

#### **6.5.7 PREQUALIFICATION INFORMATION (PART G)**

To submit a Technical Proposal and Price Proposal, members comprising the Shortlisted Offerors shall be prequalified with the Department for the elements described below in accordance with ORC 5525 and 5526 and the rules and regulations governing

prequalification or become prequalified at least one week prior to the Anticipated Award Date.

For individual prospective firms that are not yet prequalified in those areas specifically required below, furnish the Department with a properly completed prequalification application at least thirty (30) days before the due date specified for the Price Proposals as noted in Section 2.3. The prequalification certificate is the Shortlisted Offeror's license to submit a Technical Proposal and Price Proposal and perform construction for the Department. Upon request, the Department will provide a prequalification application, applicable rules and regulations, and other relevant information.

Shortlisted Offerors are directed toward ORC Chapters 5525.01 et seq. including but not limited to 5525.13 regarding surety limits and 5525.05 regarding Shortlisted Offeror prequalification.

Prequalification requirements pertaining to licensure in the State of Ohio will not be required until one week prior to Anticipated Award.

Submittal of the required information demonstrating the Shortlisted Offeror's ability to meet the requirements of this section in the required format and forms, providing information consistent with the information provided within the SOQ (if applicable), and the submitted contractor/subcontract/consultant/subconsultant prequalification for the Work Type or Prequalification Category will be the basis of the Department determining whether this portion of the Proposal is given the status of "Pass".

A prequalified contractor or design firm must be specifically named for all Work Type Code and Prequalification Categories to be given the status of "Pass".

The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

#### **6.5.7.1 Contractor Prequalification**

A fifty percent (50%) minimum self-performance requirement applies to this Project for the Lead Contractor of each Shortlisted Offeror, as is further described in the Project Proposal. Where the Lead Contractor of a Shortlisted Offeror is a joint venture, the joint venture may satisfy the minimum self-performance requirement by performing the work itself, by having one or more of the members of the joint venture perform the work, or through any combination of performance by the joint venture or any or all of its members, provided that in all such cases the joint venture or member performing the work meets all applicable licensing and qualification requirements applicable to the performance of such work.

Provide the following information in Part G identifying the prequalified firms performing the Work for the work types listed. Upon request, the Department will provide a prequalification application, applicable rules and regulations, and other relevant information. For the work types, firms shall be prequalified at least one week prior to Anticipated Award for the listed work types:

<b>Work Type Code</b>	<b>Work Type Description</b>
4	Roadway Excavation and Embankment Construction
5	Major Roadway Excavations
10	Flexible Paving
19	Structure Removal
22	Level 3 Bridge
23	Reinforcing Steel
24	Structural Steel Erection (if applicable to Offeror's anticipated design)
27	Expansion & Contraction Joints, Joint sealers, Bearing Devices
28	Caissons / Drilled Shafts (if applicable to Offeror's anticipated design)
29	Structure Repairs
31	Structural Steel Repairs
34	Earth Retaining Structures
39	Maintenance of Traffic
53	Piling (if applicable to Offeror's anticipated design)

### 6.5.7.2 Designer Prequalification

Provide the following information in Part G for a minimum of one design consultant firm (subconsultant or Lead Designer) that meets each prequalification category below and will be performing the work for the Project (if applicable to the work). For individual prospective Designers that are not yet prequalified in those areas specifically required, furnish the Department with a properly completed prequalification application at least one week prior to Anticipated Award for the listed work types:

<b>Prequalification Category</b>
Bridge Design: Level 2 Bridge Design
Roadway: Non-Complex & Complex Roadway Design
Geotechnical Engineering Services
Geotechnical Testing Laboratory (if applicable)
Geotechnical Field Exploration Services (if applicable)
Geotechnical Drilling Inspection Services (if applicable)
Complex Lighting Design

All design work must be performed by a prequalified firm. Design related services that require prequalification may only be performed by firms that are prequalified for those services at the time of performance of the services. Consultants and Subconsultants that will perform design related work must be listed in the appropriate prequalification category on the following website:

<http://www.dot.state.oh.us/Divisions/Engineering/Consultant/Pages/default.aspx>

All currently prequalified Consultant names and addresses must be the same as those on file with the Department.

All engineering services must comply with Section 4733.16 of the Ohio Revised Code.

## **7 SELECTION**

The Technical Proposal will be evaluated to ensure it meets the requirements of the Scope of Services, addresses the previously identified material weaknesses in the Intermediate Technical Proposal, and is materially consistent with the information and documentation submitted for the PTI Discussion (with reasonable developmental revisions).

### **7.1 SELECTION PROCEDURE**

The DBT selected from the Shortlisted Offerors will be the Shortlisted Offeror that submits both the lowest responsive Price Proposal and a responsive Technical Proposal. The Price Proposal will include the cost of all Work proposed to be completed in accordance with the Contract Documents and Technical Proposal.

The Technical Proposals will be evaluated by the Technical Proposal Advisory Group. Price Proposals will be retained, unopened, until the public opening addressed in Section 7.3.

The Technical Proposal Advisory Group (TPAG) consists of a Technical Evaluation Team (TET) and an Executive Level Evaluation Team (ELET). The TET is anticipated to consist of Department representatives in the following areas:

- ODOT District 4
- ODOT Division of Construction Management
- ODOT Division of Engineering

The TET will present the findings and shall make a recommendation to the ELET. The ELET will consist of representatives from the following areas:

- ODOT Chief Engineer
- ODOT District 4 Deputy Director
- ODOT Deputy Director of Construction Management
- ODOT Deputy Director of Engineering
- ODOT Deputy Director of Operations

The TPAG will determine if the Technical Proposals are responsive to the requirements of the RFP as further described in Section 7.2. The Department may, at its own discretion, request clarification or revisions from Shortlisted Offerors.

Technical Proposals will be evaluated by the members of the TET on a Pass/Fail basis. Whether the Shortlisted Offeror receives a pass rating relative to the evaluation criteria in Section 7.2 will be determined by the TET in its sole discretion.

The TET will present their findings to the ELET for consideration. The ELET will examine the TET's findings and confirm whether each Shortlisted Offeror submitted a responsive Technical Proposal.

The TPAG may be assisted by any number of subgroups and/or subject matter experts within the Department, other involved agencies, and/or contracted by the Department.

## **7.2 RESPONSIVENESS**

The Department may declare a Technical Proposal or Price Proposal non-responsive and ineligible for Award when any of the following occur:

1. The submitter is not a Shortlisted Offeror.
2. The Shortlisted Offeror lacks sufficient prequalification work types or bonding capacity to be eligible for Award.
3. The Shortlisted Offeror fails to furnish the required Proposal Guaranty in the proper form or amount.
4. The Technical Proposal or Price Proposal of a Shortlisted Offeror contains unauthorized alterations or omissions.
5. The Technical Proposal or Price Proposal contains conditions or qualifications not provided for in the Bid Documents.
6. The Technical Proposal or Price Proposal is incomplete or not prepared as specified.
7. A single entity, under the same name or different names, or affiliated entities submits more than one Technical Proposal or Price Proposal for the same Project.
8. The Shortlisted Offeror is debarred from submitting Bids.
9. The Shortlisted Offeror has defaulted, has had a Contract terminated for cause by the Department, has either agreed not to Bid or has had debarment proceedings initiated against the Shortlisted Offeror's company and/or its Key Personnel.
10. The Shortlisted Offeror submits its Price Proposal on a form other than that provided by the Department.
11. The Shortlisted Offeror fails to acknowledge addenda.
12. The Department finds evidence of collusion.
13. Any other omission, error, or act that, in the judgment of the Department, renders the Shortlisted Offeror's Technical Proposal or Price Proposal non-responsive.
14. Any "pass/fail" element of the Technical Proposal does not receive a "pass".
15. The Technical Proposal is not materially consistent with the information presented during the Proprietary Technical Information discussion, the Technical Proposal does not include sufficient reasonable information explaining the revised approach, and the Technical Proposal does not materially respond to the Project requirements. The revised approach is subject to the Department's approval in its sole discretion.

16. The Technical Proposal does not respond to the Bid Documents in a material respect in the Department's sole discretion.

CM&S section 102.14 also applies.

Shortlisted Offerors will be advised in writing by the Department if their Technical Proposal is considered non-responsive.

### **7.3 PUBLIC OPENING OF BIDS**

The Technical Proposal responsiveness will be announced prior to revealing the price contained in the Price Proposals.

Prior to making the final responsiveness determination on any Technical Proposal or Price Proposal, the Department may, in its sole discretion, waive mistakes, offer a Shortlisted Offeror the opportunity to clarify its Technical Proposal, or request revisions to any or all Technical Proposals.

The Department may reject any or all Technical Proposals and Price Proposals, waive technicalities, or advertise for new proposals without liability to the Department. The Director has final authority to determine the best interests of the Department and may reject any or all Technical Proposals and Price Proposals or advertise for new Request for Proposals without liability to the Department.

The Shortlisted Offeror with a responsive Technical Proposal and lowest Price Proposal shall be considered the successful Shortlisted Offeror.

### **7.4 PRE-AWARD MEETING**

Within seven (7) days after the bid opening, the apparent successful Shortlisted Offeror shall attend a mandatory Pre-Award Meeting. This confidential meeting will be held with the Office of Estimating (Estimating) in the Division of Construction Management to discuss the Lump Sum estimated items with Estimating and Department project personnel, as needed.

At the meeting, the apparent successful Shortlisted Offeror shall furnish a schedule of values showing the breakdown (approximate cost and approximate work) of the Lump Sum bid items. The breakdown shall be in sufficient detail to depict reasonable elements of physical work items and in sufficient detail to enable Estimating to understand the apparent successful Shortlisted Offeror's cost breakdown of the Lump Sum items. Estimating will retain this information and perform a cursory review of the information to assist in developing its final recommendation for Award to the Director. The cursory review does not indicate the Department's acceptance of any assumptions made by the apparent successful Shortlisted Offeror. The Department retains the right to waive deficiencies, informalities and irregularities and seek clarifications during the meeting or after the meeting.

Information provided, and any subsequent discussions shall be held in confidence. Information provided will not be used for any other purpose except to assist Estimating

to understand the apparent successful Shortlisted Offeror's bid. The information is non-binding for all parties.

## **8 INCORPORATION OF TECHNICAL PROPOSAL**

### **8.1 TECHNICAL PROPOSAL**

All Technical Proposal and SOQ elements that exceed the requirements of the Bid Documents (i.e., can reasonably be interpreted as offers to provide higher quality items or additional services) shall be incorporated by reference into the Contract Documents.

### **8.2 ORGANIZATIONAL STRUCTURE/PERSONNEL**

The Shortlisted Offeror shall not make changes to Key Personnel or named individuals which were identified in their SOQs.

If exceptional circumstances require changes to personnel, the Shortlisted Offeror shall submit a written request to ODOT's Division of Construction Management (contact: Chase Wells PE, Alternative Project Delivery, 1980 W Broad St, Mail Stop 5100, Columbus OH 43223. Email: [chase.wells@dot.ohio.gov](mailto:chase.wells@dot.ohio.gov), who, with consensus of the Evaluation Team, will determine whether to authorize a change. This request shall indicate why key or named personnel changes are necessary and demonstrate how the revised staffing plan will be equal to or better than the plan listed in the SOQs. Any proposed changes shall only be approved if the proposed replacement meets or exceeds the qualifications of the originally submitted member as determined by the Department. Unauthorized changes to the Offeror's team at any time during the procurement process may result in the elimination of the Offeror from further consideration or potential Rejection of the Bid.

Similarly, the Shortlisted Offeror shall use the firms and organizations related to the Lead Contractor, Lead Designer, and other named subcontractors and subconsultants specifically identified in the SOQs. The Shortlisted Offeror may change those organizations or firms named in the SOQs only with the prior approval of the Department, which approval shall not be provided if in the Department's opinion, the primary purpose of that replacement is for the Shortlisted Offeror to benefit from more competitive pricing. The Department may request such information as it deems necessary, including a written acknowledgment from the firm and organization being replaced that such replacement is not solely because another contractor has offered a lower price for substantially the same services or supplies. The proposed replacement must possess the requisite prequalification to perform all Work the Shortlisted Offeror proposes for it.

# APPENDIX

## FORM A-1 PROPOSAL LETTER

Name of Shortlisted Offeror: \_\_\_\_\_

Date: \_\_\_\_\_, 2020

Ohio Department of Transportation  
Office of Alternative Project Delivery, First Floor  
1980 W. Broad Street Mail Stop 4090  
Columbus, OH 43223

On behalf of the Shortlisted Offeror, the undersigned submit the documents described in paragraph 1 of this Proposal Letter in response to the Request for Proposals for the Akron Beltway Reconstruction Design-Build Project (the “RFP”) issued by the Ohio Department of Transportation (the “Department”).

The Shortlisted Offeror hereby acknowledges delivery by Shortlisted Offeror to the Department of the enclosed Price Proposal. Together with the Technical Proposal, the submittal by the Shortlisted Offeror shall collectively constitute the “Proposal” for the purposes of this letter.

If this Proposal is accepted by the Department, the Shortlisted Offeror is prepared to enter this agreement without varying or amending its terms (except for modifications agreed to by the Department in its sole discretion), and to satisfy all other conditions to the award of the contract, including compliance with all commitments contained in this Proposal.

1. Enclosed with this Proposal Letter is the Technical Proposal and Price Proposal of the Shortlisted Offeror consisting of all documents and information required by the RFP.
2. The following individual(s) is/are authorized to enter into negotiations with the Department on behalf of the Shortlisted Offeror in connection with this RFP:

\_\_\_\_\_.

3. The Shortlisted Offeror acknowledges receipt of following Addenda:  
**[List all Addenda]**
4. The Shortlisted Offeror hereby certifies that:
  - a) its Proposal is submitted without reservation, qualification, assumptions, deviations or conditions;
  - b) it has carefully examined and is fully familiar with all of the provisions of the RFP, has reviewed all materials provided, the Addenda and the Department’s responses to questions, and is satisfied that the RFP provides sufficient detail



- regarding the obligations to be performed by the Shortlisted Offeror and does not contain internal inconsistencies;
- c) it has conducted such other field investigations and additional design development as is prudent and reasonable in preparing this Proposal;
  - d) the information and supporting data are accurate to the Offeror's intent and reasonably complete to the best of its knowledge;
  - e) the Shortlisted Offeror's intention to design & build the project has been depicted in the Technical Proposal in the general method and manner shown;
  - f) it has carefully checked all the words, figures and statements in the Proposal;
  - g) it has notified the Department of any deficiencies or omissions in the RFP or other documents provided by the Department;
  - h) the Lead Contractor has been prequalified for such work by the Department in accordance with the terms of the RFP;
  - i) neither the Proposer nor its employees, members, agents, consultants or advisors have entered either directly or indirectly into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive selection in connection with its Proposal;
  - j) Key Personnel, other named personnel, and firms along with other individuals or firms specifically named/identified in the Statement of Qualifications to positions relevant to the Project shall be retained and employed at the positions and roles identified, except may substituted after Award only with the prior approval of the Department;
  - k) the Shortlisted Offeror is committed to meeting the Project goals for DBE
5. The Shortlisted Offeror represents that all statements made, and information provided in the SOQ (except as amended, resubmitted and/or updated by the enclosed Technical Proposal) are true, correct and accurate as of the date of submission of this Technical Proposal.
  6. The Shortlisted Offeror further understands that all costs and expenses incurred in preparing the Technical Proposal and participating in the RFP Process will be borne solely by the Shortlisted Offeror, except any payment for preparation of responsive preliminary design concept that may be paid in accordance with the RFP.
  7. The Shortlisted Offeror consents to the Department's disclosure of its Technical Proposal, Intermediate Technical Proposal, PTI discussion information, and ATC information pursuant to the Department's public records policy to any persons as required by law after Award. The Shortlisted Offeror acknowledges and agrees to the disclosure terms described in the RFP and expressly waives any right to contest such disclosures.
  8. The Shortlisted Offeror agrees that:
    - a) The Department will not be responsible for any errors, omissions, inaccuracies or incomplete statements in the Proposal;
    - b) The Department's acceptance of the Proposal does not constitute any statement or determination as to its completeness, responsiveness or compliance with the requirements of the RFP;

- c) If the Shortlisted Offeror has the lowest responsive Price Proposal, the individuals identified as Key Personnel will be available on a full-time basis for the periods necessary to fulfill their Project-related responsibilities; and
- d) in the event a substantive difference is identified before or after Award, between the terms for the Project offered by the Shortlisted Offeror in its Proposal and any provision in the RFP, the provisions of the relevant Contract Document will prevail, and the Shortlisted Offeror will not be entitled to alter its Proposal, as applicable.

9. The Proposal shall be governed by and construed in all respects according to the law of the State of Ohio.

10. The Shortlisted Offeror’s business address:

(No.)	(Street)	(Floor or Suite)	
(City)	(State Province)	or (ZIP or Postal Code)	(Country)

State/Country of Organization (if applicable): \_\_\_\_\_

**[Balance of page intentionally left blank]**

[ENTITY NAME]  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[ENTITY NAME]  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[ENTITY NAME]  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

***[Update and add additional signature blocks as necessary]***

## FORM B-1 DBT INFORMATION

DBT:	
Contact Person:	
Address:	
Telephone Number:	
Email Address:	

DBT Lead Contractor:	
Contact Person:	
Address:	
Telephone Number:	
Email Address:	

DBT Lead Designer:	
Contact Person:	
Address:	
Telephone Number:	
Email Address:	
Ohio Registration Number:	

# ATTACHMENT PASS/FAIL CHECKLIST

The Department will evaluate the following items at receipt of the Technical and Price Proposal for general responsiveness to the RFP. This is being provided for informational purposes to the Shortlisted Offerors to assist in preparation of the Technical and Price Proposals.

<b>General</b>	
Were the Technical Proposal and Price Proposal received by the required deadline as stated in the RFP?	
Has the Shortlisted Offeror engaged in any Ex Parte Communications, attempted to unduly influence the selection process, or otherwise behaved in a manner lacking professional integrity?	
Is there a Conflict of Interest that would prevent a Shortlisted Offeror member from participating in the project?	
Has the Shortlisted Offeror submitted the Administrative Submittal, including a signed Proposal Letter in the form required?	
Is the Shortlisted Offeror one of the 3 Shortlisted Offerors?	
Did a representative of the Lead Contractor and Lead Designer of the Shortlisted Offeror attend the Mandatory Matchmaker Event?	
Did the Shortlisted Offeror acknowledge receipt of all Addenda?	
Are there letters accompanying the Technical and Price Proposals, signed by all persons constituting the Shortlisted Offeror?	
<b>Technical Proposal</b>	
Are the general formatting requirements met?	
Is the format and content corresponding to the required Technical Proposal organization requirements (Parts A, B, C, D, E, F and G)?	
Is the Shortlisted Offeror prequalified for all categories listed in the RFP, or is the Lead Contractor or Joint Venture prequalified?	
Is the Lead Designer and Lead Contractor exclusive to this Shortlisted Offeror?	
Has the Shortlisted Offeror identified any information as a "trade secret"? (not a Pass/Fail requirement)	
Does the Technical Proposal described in Section 6.5 demonstrate an approach whereby the requirements of the Project as presented in the Bid Documents will be met?	
<b>Price Proposal</b>	
Was the Price Proposal in the required format?	