

**STATE OF OHIO
DEPARTMENT OF TRANSPORTATION**

GUE-209-8.56

**PID 110245
Project (22)3000**

**DESIGN BUILD
(Two Step - Lowest Price)**

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

**March 04, 2022
Revised: May 12, 2022**

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GUE-209 – Bridge Replacement: Design-Build Project

Ohio Department of Transportation



1 PROJECT EXPECTATIONS

This document describes the Price Proposal requirements for the Guernsey SR-209 Bridge Replacement (the Project).

The Project is in the City of Cambridge, Guernsey County, Ohio.

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The twin girder structure along SR-209 will be replaced with a new structure. The project will include the design and construction for the replacement of the existing structure, new lighting, approach roadway work, necessary drainage, and new vandal protection fencing. To help future maintenance of traffic, the final structure must allow for traffic to be maintained on the new structure during future construction projects.

The Project completion date will be **7/01/2024**.

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 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:

The Beaver Excavating Company
Kokosing Construction Company, Inc.
The Ruhlin Company

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 Lowest-Bid Design-Build selection procedure including Alternative Technical Concept inclusion process.

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 meeting, but will require a Meeting Minutes Review process (see Section 4).

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 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 an ATC process must be shared with all Shortlisted Offerors.

The responsible Short-listed Offeror with a responsive 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
SOQ Phase	
Advertise RFQ	Tuesday, November 30, 2021
SOQ submission	Tuesday, January 11, 2022
Announce Shortlist	Tuesday, February 8, 2022
RFP/Price Proposal Phase	
Request for Proposal Release	Friday, March 04, 2022
One-on-One ATC Meeting	Tuesday, March 29, 2022
Deadline for submittal of ATCs	Tuesday, April 05, 2022
Last day for the Department to respond to ATCs	Tuesday, April 19, 2022
Last recommended day for RFP Addendum	Tuesday, May 12, 2022
Price Proposals Due	Thursday, May 26, 2022
Anticipated Award Date	Monday, June 6, 2022

2.4 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.

2.5 ADVERTISEMENT

Initial advertisement of the RFQ included draft versions of the Design Build Scope of Services, attachments, and appendices. 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.

2.6 CONFLICT OF INTEREST

Any 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 Price 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 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:

None identified

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.

2.7 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.

2.8 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 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 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 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 Project procurement. 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 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.

2.9 PAYMENT FOR PREPARATION OF RESPONSIVE PRELIMINARY DESIGN CONCEPT

The cost of preparing a Price Proposal, any Alternative Technical Concepts 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 \$30,000 or the unsuccessful Shortlisted Offeror's actual costs of preparing a preliminary design concept, whichever is less, to each non-successful Shortlisted Offeror. Preparation of the Statement of Qualifications is not considered part of the preparation of a preliminary design concept. The successful Shortlisted Offeror will not receive a payment. The term "payment" as used in this section shall mean \$30,000 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 Price Proposal for this Project, the Shortlisted Offeror acknowledges that it is eligible for payment if the Shortlisted Offeror's Price Proposal is not selected. 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 Price Proposal that is responsive to the RFP as defined in Section 5.

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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 their 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 Alternative Technical Concepts, 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 for Alternative Technical Concepts (ATCs) per Section 4.1. The Department shall retain an undivided joint interest in all rights and intellectual property submitted with ATCs.

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

If Price Proposals have been submitted, but the Department does not execute the Contract, the two Shortlisted Offerors with the lowest bids 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 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.

2.10 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 Price Proposal may be rejected.

2.11 DISCLOSURE

The Department considers the SOQ submissions, ODOT / Offeror correspondence, evaluation and review notes, ATC process, 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 ATC, is to be treated as a "trade secret," the Shortlisted Offeror must identify each and every occurrence of the information within the submission.

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) 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 Bid.

Other than as listed in this section, all Discussions related to 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, 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 invited to provide an ATC submittal to the Department during the procurement process.

Offerors shall utilize electronic transmittal of ATC 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.

ATC 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
- Eric Kahlig: Eric.Kahlig@dot.ohio.gov

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

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 ATCs for approval of an alternative material, article, product, process, design method, design approach, or item that meets or exceeds the requirements and intent of the Contract Documents, provided that the material, article, product, process, design method, design approach 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.

Proposed ATCs shall be submitted to the Department, discussed at confidential ATC One-on-One meetings which ODOT will give its disposition of the ATCs, the Shortlisted Offeror shall document the One-on-One meeting disposition discussions, and subsequently the disposition discussions will be transmitted to the Department for review.

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. Provide an ATC Submittal five (5) working days prior to the One-on-One ATC Meeting set forth in the procurement schedule in Section 2.3. Submit one (1) electronic copy (Searchable PDF format). The ATC Submittal shall contain all of the Shortlisted Offeror's proposed ATCs for the Project.

Each individual ATC within the ATC Submittal should generally be a single issue for consideration by the Department and generally center on a specific identifiable deviation from the requirements of the Bid Documents. Multiple issues can be combined if they all center on a single general purpose. The Shortlisted Offeror shall clearly identify each individual portion of an ATC proposal that is a proposed change to the Bid Documents.

For each ATC, the ATC Submittal must contain and clearly depict the following information:

1. Description: Provide a detailed description of the ATC(s) including specifications and conceptual drawings, as necessary to describe and demonstrate the ATC to the Department.
2. Deviation: Reference all of the specific section(s) in the Bid Documents which are inconsistent with the proposed ATC(s), 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(s) which can be seamlessly incorporated into the Bidding Documents. Seamless incorporation will be at the determination of the Department.
3. Usage: A description of where and how the ATC would be used on the Project.
4. Inspection: Any atypical testing and inspection requirements during construction and during the expected life of the installation.
5. 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.

4.2 EVALUATION OF ATCS AND ONE-ON-ONE ATC MEETINGS

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.

Prior to the ATC One-on-One meeting, the Department will review the ATC Submittal. The Offeror and the Department will discuss, vet, and/or review each of the ATCs on the day of the One-on-One ATC Meetings.

During the One-on-One ATC meeting, the Shortlisted Offeror shall be required to document the ATC One-on-One discussions through ATC Meeting Minutes. The ATC Meeting Minutes shall:

1. document the general discussion for each ATC.
2. document any necessary ATC revisions or clarifications identified by the Department for each ATC, and
3. document the final disposition of each ATC discussion.

Audio or video recordings shall not be allowed.

During the One-on-One Meetings, the Department will not entertain nor discuss any other ATCs except those identified in the ATC Submittal.

Within 5 working days of the ATC Meeting, the Offeror shall submit the ATC Meeting Minutes to the Department.

The ATC Meeting Minutes shall clearly itemize each ATC. Each ATC discussion shall be distinctly documented and each ATC shall be clearly noted as Accepted, Rejected, or Accepted as Revised with the necessary revisions documented. The ATC Meeting Minutes shall also include an updated ATC Submittal for each ATC deemed 'Accepted as Revised'. This updated "Accepted as Revised" ATC Submittal shall demonstrate the revisions identified at the ATC meeting necessary for ATC approval.

4.3 DEPARTMENT ATC MEETING MINUTES RESPONSE

The Department will provide an ATC Meeting Minutes Response. The Department will make every attempt to respond within 5 working days of receiving the ATC Meeting Minutes, however, the Department reserves its right to extend the response duration to no more than 10 working days.

The Department may make clarifications, adjustments, additions, or deletions to the ATC Meeting minutes. Any such clarifications, adjustments, additions, or deletions shall be clearly noted in an ATC Meeting Minute Response.

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

The Department reserves its right to provide responses to only specific ATCs, but shall provide timely responses to all ATCs within the ATC Meeting Minutes.

Approval of an ATC is an approval of the deviation language, or approval with conditions, and only at the specified locations. ATC approval is specific to the Shortlisted Offeror that submitted the ATC.

The Department's ATC Meeting Minute Response is final. The Shortlisted Offeror cannot resubmit nor revise an ATC.

4.4 INCORPORATION INTO BIDS

The Offeror may incorporate the Accepted or Accepted as Revised ATCs within their Bid. The ATC approvals are as documented within the ATC Meeting Minutes inclusive of any ODOT Meeting Minute Response(s). The Bid shall reflect all incorporated ATCs. Prior to Bid, the Offeror is not required to notify the Department of the intended ATCs to be incorporated.

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.

Along with all other required information necessary for the Pre-Award Conference, the apparent Successful Offeror shall inform the Office of Estimating which Approved or Approved as Revised ATC were incorporated into the Bid.

Post award, the successful Offeror's Approved or Approved as Revised ATC will not be entertained as a VECP. Unsuccessful Offeror's Approved or Approved as Revised ATC(s) may be incorporated via Change Order upon mutual agreement of ODOT and the successful Offeror.

5 PRICE PROPOSAL

The Shortlisted Offerors shall prepare and submit a Price Proposal.

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

Each Shortlisted Offeror shall electronically submit the Price Proposal in accordance with Section 5.2.

Commented [add2-2]: Addenda 2

5.1 GENERAL

Submission of a Price Proposal is the the Shortlisted Offeror acknowledgement of any ODOT identified or reasonably interpreted SOQ betterments and the Shortlisted Offerors intent of reasonably fullfulfilling those Betterments (identified or unidentified).

The Shortlisted Offeror acknowledges receipt of all Addenda via usage of the proper EBS file.

Price Submission by the the Shortlisted Offeror is a certification that:

- A. its Bid 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 Bid Documents, has reviewed all materials provided, the Addenda and the Department's responses to questions, and is satisfied that the Bid Documents provide 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 the Bid;
- D. it has notified the Department of any deficiencies or omissions in the Bid Documents or other documents provided by the Department;
- E. the Lead Contractor has been prequalified for such work by the Department in accordance with the terms of the Bid Documents;
- F. the Lead Designer has been prequalified for such work by the Department in accordance with the terms of the Bid Documents;
- G. neither the Shortlisted Offeror 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;
- H. 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;
- I. the Shortlisted Offeror is committed to meeting the Project goals for DBE.
- J. all statements made, and information provided in the SOQ are true, correct and accurate as of the date of submission of the Bid, or the Shortlisted Offeror has notified the Department in writing of any SOQ inaccuracies found by the Shortlisted Offeror after submission of the SOQ.
- K. the Shortlisted Offeror further understands that all costs and expenses incurred in preparing the Bid 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.
- L. the Shortlisted Offeror consents to the Department's disclosure of its 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.
- M. if the Shortlisted Offeror has the lowest responsive Price Proposal, the individuals identified as Key Personnel will be available as necessary to fulfill their Project-related responsibilities; and
- N. in the event a substantive difference is identified before or after Award between the assumptions made by the Shortlisted Offeror in its preparation of a Bid and any provision in the Contract Documents, the provisions of the relevant Contract Document will prevail.

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

Commented [add2-3]: Addenda 2

5.2 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.

5.3 SOQ COMMITMENTS

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.

Within 10 working days of issuing the RFP, the Department may transmit perceived SOQ Commitments to the Offeror. The Shortlisted Offeror shall provide response(s) to any identified commitments with the Pre-ATC Meeting Submittal. The SOQ Commitment Response shall either confirm the Department's understanding, clarify the commitment, or provide explanation to the intent.

Any SOQ Commitments 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.

Any SOQ Commitment responses shall be discussed at the ATC Meeting. If the Shortlisted Offeror's responses to the SOQ Commitments are not found acceptable, the Shortlisted Offeror's bid may be deemed non-responsive. The Department will use reasonable discretion in determining whether the content presented receives a "Pass".

5.4 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.

5.5 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 Contract Sales & Estimating (Estimating) in the Division of Construction Management to discuss the Lump Sum estimated items with Estimating and Department project personnel, as needed. Other Department personnel may attend as determined necessary by the Department.

Twenty-four (24) hours prior to the mutually scheduled meeting between the apparent successful Shortlisted Offerer and the Department, 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 and shall provide PDF copies of preliminary design plans depicting key project elements. The preliminary design shall be in sufficient detail to demonstrate the Shortlisted Offerors design intent. The preliminary design plan format does not need to be compliant with ODOT L&D plan format requirements. Detailed design calculation are not required nor requested. The information 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 design intent and 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.

Commented [add2-4]: Addenda 2

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. Information provided does not limit the rights nor amend the responsibilities of the Department nor the DBT under the terms of the Contract.

Commented [add2-5]: Addenda 2

6 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, 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.

Commented [add2-6]: Addenda 2

ATTACHMENT PASS/FAIL CHECKLIST

The Department will evaluate the following items at receipt of the 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 Price Proposals.

General	
Was the 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?	
Is the Shortlisted Offeror one of the 3 Shortlisted Offerors?	