



CITY OF
KANSAS CITY,
MISSOURI

REQUEST FOR QUALIFICATIONS

Buck O'Neil Bridge Clay and Jackson Counties, MO

Project Number:	J4S3085C
RFQ Issued:	July 21, 2020
SOQs Due:	August 4, 2020

Missouri Department of Transportation
Kansas City District Office
600 NE Colbern Road
Lee's Summit, Mo 64086



CITY OF
KANSAS CITY,
MISSOURI

Addenda	Date	
1		Revisions:
2		Revisions:
3		Revisions:
		Revisions:



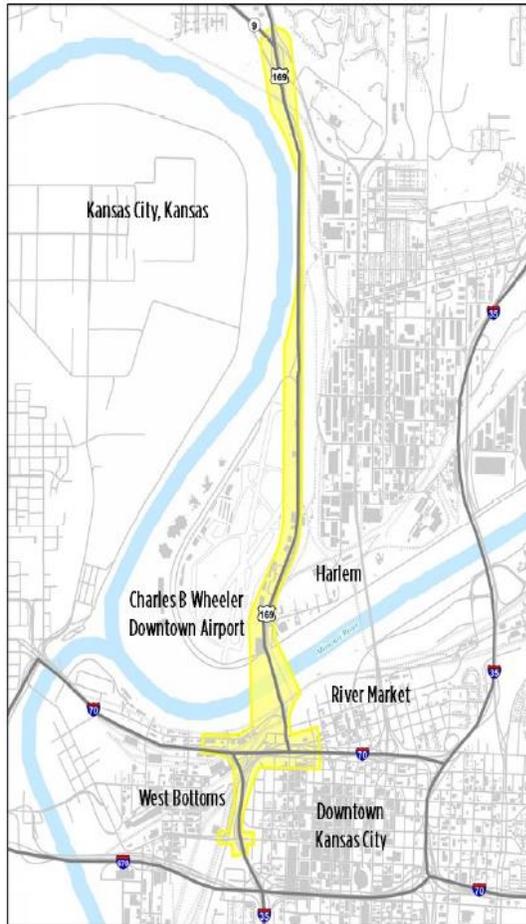
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FORMS

- Form DB-101 – Major Participant Information
- Form DB 102 – Reference Project Summary
- Form DB-103 – Resume Summary
- Form DB-104 – Receipt of Addenda
- Form DB-105 – Conflict of Interest

1 INTRODUCTION

The Missouri Department of Transportation (MoDOT) is soliciting Statements of Qualifications (SOQ) from entities (Submitter) interested in providing design-build services for the Buck O'Neil Bridge Design-Build project (Project). The Project provides a Missouri River crossing for Route 169. Approximate project limits begin at Route 9 and end at 12th Street, in Clay/Jackson County, Missouri. This project is designated as Job No. J4S3085C.



1.1 Project Description

The Buck O'Neil Bridge, formerly known as the Broadway Bridge, was opened in 1956 as a toll bridge by KCMO. In 1991, the toll was removed from the bridge, and the bridge along with the section of highway north of the river were taken into the MoDOT system and designated as US-169. US-169 serves as the primary link between communities north of the Missouri River to downtown and Interstate 70. Approximately 47,600 vehicles cross the bridge daily.

MoDOT intends to replace the 100-year-old existing Buck O'Neil Bridge and make improvements to the US-169 corridor. The anticipated improvements include



replacing the existing Missouri river bridge, improve traffic operations, geometrics, and safety and bike/pedestrian/transit accessibility along US-169. The Project will be built in accordance with the BUILD Grant, [Environmental Assessment \(EA\)](#), and the approved [Finding of No Significant Impact \(FONSI\)](#) that defines the environmental impacts and required mitigation for the Buck O'Neil Bridge Design-Build Project.

The successful Proposer will be responsible for management, design, construction, quality assurance and quality control of the project. It is anticipated that the Proposer will identify and secure a project office within the State of Missouri and within reasonable proximity to the jobsite to co-locate with the MoDOT Design-Build staff.

1.2 Project Goals

The following prioritized goals have been established for the project:

1. Construct an innovative, low-maintenance Missouri River Bridge that will provide a century of service within the program budget of \$247.5 million.
2. Provide a safe, connective and accessible transportation facility that improves regional and local system performance.
3. Manage the impact to the traveling public during construction.
4. Complete the project by December 1, 2024, utilizing a diverse workforce.

1.3 Estimated Cost and Maximum Time Allowed

The program budget is \$247.5 million including the design-build contract, Right of Way acquisitions, Utility reimbursements, stipend payments, and other miscellaneous project management expenses. The estimated fixed cost design-build contract budget is estimated to be \$220 million. The Project must be completed by December 1, 2024.



2 REQUEST FOR QUALIFICATIONS (RFQ) PROCESS

2.1 Two-Phased Design-Build Procurement Process

MoDOT will use a two-phase procurement process to select a design-build contractor to deliver the Project. This Request for Qualifications (RFQ) is issued as part of the first phase to solicit information, in the form of SOQs, that MoDOT will evaluate to determine which Submitter is the most highly qualified to successfully deliver the Project. MoDOT will shortlist at least two (if any) but not more than five of the most highly qualified Submitters.

In the second phase, MoDOT will issue a Request for Proposals (RFP) for the Project to the shortlisted Submitters. Only the shortlisted Submitters will be eligible to submit proposals for the Project. Each shortlisted Submitter that submits a proposal in response to the RFP is referred to herein as a Proposer. MoDOT will award a design-build contract (if any) for the Project to the Proposer offering the best value, to be determined as described in the RFP.

2.2 Submitter Information

If an entity intends to submit a proposal as part of a team, the entire team is required to submit a single SOQ as a single Submitter.

MoDOT may disqualify a Submitter if any of its Major Participants (as defined in Section 6.1) belong to more than one Submitter organization.

MoDOT may disqualify a Submitter that violates the DBE exclusivity referred to in Section 6.9.

2.3 Procurement Schedule

Item	Date
Issue RFQ	July 21, 2020
Deadline for submitting RFQ questions	July 30, 2020
Final responses to questions posted & Final RFQ Addendum issued	July 31, 2020
SOQ due	August 4, 2020
Oral Presentation	August 10-11, 2020
MoDOT notifies shortlisted Submitters	August 17, 2020
Issue RFP	August 31, 2020
Final Proposal and Price Allocation due	December 14, 2020
Selection of Apparent Best Value	February, 2021



3 SOQ CONTENTS AND EVALUATION CRITERIA

This section describes specific information that must be included in the SOQ and addresses the evaluation criteria that MoDOT shall utilize.

3.1 Organization of SOQ

The SOQ shall be organized as follows:

1. Cover Letter
2. Title Page
3. Table of Contents
4. Part 1 – Administrative Elements (Pass/Fail)
5. Part 2 – Submitter Experience (100 Points)
6. Part 3 – Key Personnel and Organization (100 Points)
7. Part 4 – Oral Presentation (50 Points)

3.2 Cover Letter

A one-page cover letter shall be included in the SOQ. The cover letter shall identify the lead organization and primary members of the team. Primary members include the design team and contractors. Name the entity with whom MoDOT will be contracting and identify if this will be a partnership, corporation, joint venture, etc. If a joint venture, name the person who has authority to sign the contract on behalf of the joint venture. **Provide contact name, mailing address, phone number, and e-mail address for contacting entity.**

3.3 Part 1 – Administrative Elements (Pass/Fail)

Submittal Requirements:

- Form DB-104: Receipt of Addenda
- Form DB-105: Conflict of Interest (including a letter describing such conflicts if they exist)
- Form DB-802: Debarment, Suspension, Ineligibility, and Voluntary Exclusion

Evaluation Criteria:

The information on the completed forms submitted in Part 1 will be evaluated on a pass/fail basis.

3.4 Part 2 – Submitter Experience (100 Points)

Submittal Requirements:

- An executive summary not to exceed four (4) pages covering the Submitter's demonstrated recent experience and relevance to the Project in the following areas:
 - **Design:** The Submitter shall provide specific examples of their relevant experience with the design of major river bridge crossings and urban transportation facilities. The Submitter should demonstrate their ability to



generate and incorporate innovative ideas, be on or ahead of schedule, not exceed the program budget, and resolve challenges.

- **Construction:** The Submitter shall provide specific examples of their relevant experience with the construction of major river bridge crossings and urban transportation facilities. Describe experience building in restricted corridors with many constraints. The submitter is also encouraged to showcase past partnerships with owners that resulted in quality-built projects. The Submitter should demonstrate their ability to generate and incorporate innovative ideas, be on or ahead of schedule, not exceed the program budget, and resolve challenges.
- **Approach to Ensuring Safety:** The summary should include the Submitter's safety record including lost time incidents and fatalities, OSHA recordables, their safety philosophy, and examples of successfully implemented Safety Management Programs or innovations. The submitter should expand on safety experience working on rivers. Submitter should include information on industry standard safety statistics such as DART rates (Day Away, Restricted, and Transfer) and TRIR (Total Recordable Incident Rate).
- **Quality Management Program:** Identify specific examples of the Submitter's quality programs for previous projects of similar size and complexity that demonstrate your ability to develop, implement, and maintain a Quality Management Program throughout all phases of the project.
- **Regulatory Agencies, Railroad, Levee, Airport, and Utility Interaction:** Describe previous efforts to mitigate impacts to and work successfully with the applicable regulatory authorities, railroads, levee districts, airport, and utility companies.
- **DBE Utilization and Workforce Diversity:** Describe how the Submitter intends to utilize DBEs to meet or exceed the DBE participation goals of 14% construction activities and 18% professional services and provide examples of past performance. Describe how the Submitter intends to effectively maintain a diverse workforce by meeting or exceeding the construction workforce goals for 12.7% minorities and 6.9% female and provide examples of past performance. Also demonstrate how the Submitter will effectively maintain a diverse workforce of professional services and provide examples of past performance.
- Form DB-101: Major Participant Information. One form is to be completed for each Major Participant, as described in Section 6.1.
- Form DB-102: Reference Project Summary. One summary is to be completed for each reference project described in the Submitter experience executive summary. Each summary is limited to a maximum of two pages. A maximum of eight (8) reference projects can be described for each Submitter. For ease of comparison, this form is not to be modified.



Evaluation Criteria:

Part 2 will be evaluated based on Submitter's demonstrated performance on recent projects and the quality and completeness of the submittal requirements for this section. Specifically, MoDOT will evaluate the Submitter's experience based on:

- Recent design and construction experience of successful delivery of major river bridges and major urban transportation projects.
- Use of innovative approaches to deliver a project within budget, such as value engineering change proposals, design-build projects, additional applicable standards, alternative technical concepts, etc.
- Recent safety history and company safety results including information for major river bridges and major urban transportation projects.
- Ability to address unexpected challenges encountered during similar projects and the resolution.
- Experience developing a Quality Management Program that includes Quality Control and Quality Assurance for a major project.
- Recent experience successfully working with the regulatory authorities associated with major river crossings, specifically the U.S. Coast Guard, U.S. Army Corps of Engineers, and levee districts.
- Experience coordinating with Utility and railroads on projects.
- Past performance coordinating with FAA and airports.
- Implementation of innovative traffic handling plans on a project to minimize and mitigate construction impacts to customers.
- Recent experience successfully delivering projects on schedule or ahead of schedule.
- Implementation of innovative approaches to increase diversity and engage minorities through programs, training, or other outreach efforts.
- The effectiveness of the DBE utilization strategies to maintain a diverse workforce for both construction and non-construction.

3.5 Part 3 – Key Personnel and Organization (100 Points)

Each Submitter shall identify the experience, responsibilities and past achievements of the Key Personnel listed below.

Submitters should define the following positions as Key Personnel:

- **Project Manager** – The Project Manager is responsible for all aspects of the Project including, but not limited to, overall design, construction, quality management, contract administration, safety, DBE and workforce diversity, and environmental compliance. The Project Manager should have at least ten years of recent experience managing the design and construction of major river structures and urban corridors. The Project Manager shall have full authority to make the final decisions on behalf of the Proposer and have responsibility for communicating these decisions directly to MoDOT's Project Director. The Project Manager should have an understanding of Project Partnering and hold Safety and Quality in the highest regard. The Project



Manager must be assigned to the Project full time for the duration of the Project.

- **Quality Manager** – The Quality Manager’s responsibilities include, but are not limited to, creation and execution of the Submitter’s quality program, quality personnel, assurance activities independent of production, enforcement of quality procedures, and documentation of quality records. Such records include documentation for design, construction quality and testing, environmental compliance, erosion control, and DBE/workforce diversity compliance. The Quality manager should have at least five years of recent experience developing, implementing, and overseeing quality programs in civil construction work. The Quality Manager shall report directly to the Submitter’s executive management team. The Quality Manager shall not be the Project Manager. The Quality Manager may assign a designee to be a design Quality Manager during the design phase. The Quality Manager shall be assigned to the Project full time and shall be required to be on site for all construction activities.
- **Design Manager** – The Design Manager is responsible for ensuring all aspects of the design of the Project are met. The Design Manager should have at least ten years of recent experience managing the design of major urban highways and bridges and must be a registered professional engineer in the State of Missouri or must have registration pending at the time of SOQ submittal and be registered for the duration of the project. The Design Manager shall be assigned to the Project full time when design activities are being performed. During construction, the Design Manager shall be readily available for on-site consultation.
- **Construction Manager** – The Construction Manager shall be responsible for managing the construction of the Project. The Construction Manager should have at least ten years of recent management experience in the construction of urban highways and major river bridges. The Construction Manager shall be on site for the duration of the construction phase.

Key Personnel identified in the SOQ, including any “Additional Key Personnel” may not be removed, replaced, or added without written approval of the MoDOT Project Director.

Submittal Requirements:

- An organizational chart and executive summary of Key Personnel, not to exceed three (3) pages describing the Key Personnel’s qualifications and recent relevant experience related to the Project. This summary should include any experience the Key Personnel has with the design and construction of highway projects, cost-saving innovations, and delivering projects on or ahead of schedule.
- Form DB-103: Resume Summary
- Form DB-110: Commitments of Key Personnel
- Resumes for the Key Personnel and up to four additional personnel are to be included. Each resume is limited to 1 page and shall include 2 owner



references by providing a contact name and phone number. MoDOT reserves the right to contact references identified in the resumes.

Evaluation Criteria:

Part 3 will be evaluated based on Submitter's ability to meet or exceed the Project goals and the quality and completeness of their Submittal. MoDOT will evaluate the Submitter's experience based on:

- Design and construction of major river bridges, structures, interchanges, and major urban transportation freeways in physically constrained corridors.
- Use of innovative approaches to deliver a project within budget.
- Relevance of tasks performed by Key Personnel on resumes for reference projects.
- Approach and plan for maximizing and ensuring safety on the project.
- Experience and approach coordinating with railroads, levee districts, FAA/airport, and utilities.
- Experience with hydraulic engineering, river traffic, and coordination with regulatory agencies.
- Design and implementation of innovative traffic management plans on a project.
- Experience and approaches to delivering projects on schedule or ahead of schedule.
- Approach and plan for achieving DBE and workforce diversity goals.

3.6 Part 4 – Oral Presentation (50 Points)

An oral presentation provided by the Submitter's Key Personnel will be conducted in an informal virtual interview format on the dates shown in Section 2.3. The Submitter shall provide the Key Personnel's email addresses and phone numbers with SOQ. A virtual meeting invite will be sent to the Key Personnel. The oral presentation questions will be sent to the Project Manager. This will allow the Submitter time to prepare for the oral presentation. The oral presentation will be no more than 75 minutes in length. The oral presentation will be audio recorded in accordance with 7 CSR 10-24.030.

Any of the Key Personnel defined in Section 3.5, Part 3 – Key Personnel and Organization, may participate in the oral presentation. **Only Key Personnel will be allowed in the oral presentation.**

The Submitter is instructed not to provide any additional documentation to be shared with MoDOT at the oral presentation. The Submitter's hardcopy of their SOQ will be available for reference. Points will be deducted from Submitter's Part 4 scores if additional documentation is shared with MoDOT at the oral presentation.

The Submitter will be required to sign up for an oral presentation appointment as directed in Section 4.2. Anticipated dates of interviews are listed in section 2.3.



Evaluation Criteria:

Key Personnel's responses to the questions based on the following topics:

- Ability to demonstrate problem solving skills in design and construction as a team.
- Ability to successfully partner on complex issues that could potentially arise on the project.
- Approach to safety as a team.
- Approach to quality control as a team.
- Approach to coordinating with external partnerships including utilities, FAA/airport, and regulatory agencies.
- Approach to managing traffic during construction.



4 SUBMITTAL REQUIREMENTS

4.1 Format

The SOQ must be formatted for 8.5" x 11" paper. Charts and other graphical information may be formatted for 11" x 17" paper. Use of 11" x 17" format shall be limited to a maximum of two pages. Minimum font size is 11 point. However, 10-point text may be used within graphs or tables.

4.2 Due Date and Quantities

SOQ must be submitted by 1:00 pm, Central Standard Time, on the date shown in Section 2.3. MoDOT accepts no responsibility for misdirected or lost Submittals. One (1) electronic copy in PDF format of the RFQ response is to be submitted by email to BuckONeilBridge@modot.mo.gov as shown in Section 6.3 and detailed below. Hard copies will not be accepted.

Submitter's SOQ Email:

- Submitters shall email one (1) electronic copy of their respective SOQ, in Portable Document Format (PDF), to BuckONeilBridge@modot.mo.gov.

SOQ Coordinator's Response Email:

- The SOQ Coordinator will provide the Submitter a SOQ receipt after receiving the Submitter's SOQ Email.

The Submitter will be required to sign up for an oral presentation appointment to satisfy the requirements of Part 4 following submittal of their SOQ. Appointments will be available on the dates listed in Section 2.3.

4.3 Page Limits

The maximum number of pages is shown in the following table:

Cover Letter	1
Title Page	1
Table of Contents	1
Part 1 – Administrative Elements	
Form DB-104: Receipt of Addenda	1
Form DB-105: Conflict of Interest	As needed
Form DB-802: Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification	As needed
Part 2 – Submitter Experience	
Executive Summary	4
Form DB-101: Major Participant Information	As needed
Form DB-102: Reference Project Summary	16
Part 3 – Key Personnel Experience	
Executive Summary	3
Form DB-103: Resume Summary	1
Form DB-110: Commitments of Key Personnel	8
Resumes	8

Dividers between sections of the SOQ are not counted.



5 EVALUATION PROCESS

According to 7 CSR 10-24.030, all responses to the Request for Qualifications will be evaluated by the pre-qualification review/shortlisting team.

Part 1 will be evaluated on a pass/fail basis. Part 1 shall be evaluated first. If a SOQ fails Part 1, the remainder of the SOQ will not be evaluated.

Part 2 will be evaluated based on a possible 100 points.

Part 3 will be evaluated based on a possible 100 points.

Part 4 will be evaluated based on a possible 50 points.

MoDOT is restricted to shortlisting no more than five (5) teams; therefore, the scoring was intentionally crafted to differentiate between what we anticipate being many highly qualified teams. MoDOT will use the ratings below to determine a maximum of five most highly qualified teams and/or demonstrate a significant separation between the most highly qualified and those meeting qualifications. The ratings to be used during the shortlisting process are as follows:

Rating	Description
Exceptional +/-	The Submitter has demonstrated an approach that is considered to significantly exceed stated requirements/objectives and provides a consistently outstanding level of quality. There is very little or no risk that the Submitter would fail to meet the requirements of the RFP. There are essentially no weaknesses.
Good +/-	The Submitter has demonstrated an approach that is considered to exceed stated requirements/objectives and offers a generally better than acceptable quality. There is little risk that the Submitter would fail to meet the requirements of the RFP. Weaknesses, if any, are minor.
Acceptable +/-	The Submitter has demonstrated an approach that is considered to meet the stated requirements/objectives and has an acceptable level of quality. The Submitter demonstrates a reasonable probability of meeting the requirements of the RFP. Weaknesses are minor.
Unacceptable	The Submitter has demonstrated an approach that is considered to fail to meet the stated requirements/objectives and/or provides unacceptable quality and/or demonstrates no reasonable likelihood of meeting the requirements of the RFP and/or contains weaknesses that are so major and/or extensive that a major revision to the SOQ would be necessary.



6 GENERAL INFORMATION

6.1 Major Participant Definition

The term Major Participant is defined as any of the following entities:

- All general partners or joint venture members of the Submitter; all individuals, persons, partnerships, limited liability partnerships, corporations, limited liability companies, business associations, or other legal entities, however organized, directly or indirectly holding an equity interest in the Submitter.
- The lead engineering/design firm(s).
- Each subcontractor that will perform work valued at 20% or more of the construction work.
- Each sub-consultant that will perform 30% or more of the professional services.

Major Participants identified in the SOQ may not be removed, replaced, or added without written approval of MoDOT Project Director. Written request must document the proposed change and demonstrate that the change will be equal to or better than the Major Participant submitted in the SOQ.

6.2 Stipend

No stipends will be paid for submitting SOQ. MoDOT will pay a stipend to the responsible Proposer(s) that provide a fully responsive, but unsuccessful, Proposal. The anticipated stipend is \$850,000 and shall be provided to such Proposer(s) as early as 15 days after MoDOT determines the apparent successful Proposer. Unsuccessful Proposers shall sign a Proposal release statement, releasing their Proposals to receive their stipend within 30 days. If the Proposal Release Statement is not signed within 30 days, the Stipend shall be forfeited.

If the successful Proposer and MoDOT cannot successfully negotiate a contract and MoDOT negotiates an agreement with one of the unsuccessful Proposers, that Proposer's stipend shall be returned to MoDOT.

6.3 Communications

MoDOT's Project Director, Mary Miller, is MoDOT's sole contact person for receiving all communications regarding the project and procurement thereof. Each submitter is also solely responsible for providing a single contact person. Email is the preferred method of communication for the Project.

Mary Miller, P.E.
Buck O'Neil Bridge Project Director
Missouri Department of Transportation
600 NE Colbern Rd.
Lee's Summit, MO 64086
BuckONeilBridge@modot.mo.gov



During the Project procurement process, commencing with issuance of this RFQ and continuing until award of a contract for the Project (or cancellation of the procurement), no employee, member, or agent of any Submitter shall have any communications regarding this procurement with any member of MoDOT or the Federal Highway Administration, their advisors, or any of their contractors or consultants involved with the procurement, except for communications expressly permitted by this RFQ. Any Submitter engaging in such prohibited communications may be disqualified at the sole discretion of MoDOT's Project Director. However, communication is allowed with local entities, utility companies, railroads, regulatory agencies and the general public.

6.4 Questions and Clarifications; Addenda

Questions and requests for clarification regarding this RFQ must be submitted to MoDOT's Project Director. To be considered, all questions and requests must be received by 3:00 pm, CST on the date indicated in Section 2.3. Questions, requests for clarifications, and responses will be posted on the project web site. Submitter's names will not be identified.

MoDOT reserves the right to revise this RFQ at any time before the final RFQ Addendum date listed in Section 2.3. A link to any addenda will be posted on the Project web site, <https://www.modot.org/buck-oneil-bridge-project>.

6.5 Ineligible Firms

Burns & McDonnell is acting as the owner's engineer and therefore is ineligible. TREKK Design Group, LLC and Geotechnology, acting as a sub-consultant to Burns & McDonnell, are also ineligible. A firm is ineligible to submit a proposal, in either a prime or sub-consultants' role, if it assists in the development of the scope of work, the RFQ, or the RFP.

6.6 Confidentiality

Documents submitted pursuant to this RFQ will be subject to the Missouri Public Records Act, (§§ 610.010, et.seq., RSMo). Information clearly marked as confidential and proprietary will be kept confidential by MoDOT, unless otherwise provided by law. MoDOT will notify the Submitter if a request is made for such information, and the denial is challenged, so that the Submitter may take any action it deems necessary to defend the challenge. The Submitter shall be the entity responsible for defending against the Missouri Public Records Act disclosures for any records claimed by the Submitter to be confidential and proprietary.

6.7 Organizational Conflicts of Interest

Pursuant to 23 CFR 636.116, consultants and sub-consultants who assist MoDOT in the preparation of an RFP document are not allowed to participate on a Submitter's team. Submitter must provide to MoDOT, via DB-105 form as defined in Section 3.3, information regarding all potential organizational conflicts of interest in its proposal, including all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest, as required by 23



CFR 636.116. MoDOT's Project Director will determine whether an organizational conflict of interest exists, and the actions necessary to avoid, neutralize, or mitigate such conflict, and will respond in writing.

MoDOT may disqualify a Submitter if any of its Major Participants (as defined in Section 6.3) belong to more than one Submitter organization.

6.8 Equal Employment Opportunity

The Submitter will be required to follow Federal Equal Employment Opportunity (EEO) policies.

MoDOT will ensure that in any contract entered into pursuant to this advertisement, businesses owned and controlled by socially and economically disadvantaged individuals will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, sexual orientation, ancestry, or national origin in consideration for award.

The Commission has set a workforce goal of 12.7% minority and 6.9% female per craft.

6.9 Disadvantaged Business Enterprises

The anticipated Disadvantaged Business Enterprise (DBE) goals for the project are:

14% construction activities 18% professional services

In an effort to ensure a healthy contracting environment for DBE contractors and consultants, a DBE can only be exclusive with one Submitter if they meet the requirements of a Major Participant as defined in Section 6.1, or with written permission from MoDOT's Project Director.

It is the policy of MoDOT that DBEs, as defined in 49 CFR Part 26, and other small businesses shall have the opportunity to compete fairly in contracts financed in whole or in part with public funds. Consistent with this policy, MoDOT will not allow any person or business to be excluded from participation in, denied the benefits of, or otherwise be discriminated against in connection with the award and performance of any U.S. Department of Transportation assisted contract because of sex, race, religion, or national origin.

MoDOT has implemented the Unified Certification Program and has formed the Missouri Regional Certification Committee (MRCC). DBE firms will need to be certified with MRCC. The MRCC DBE Directory is at the following web site:

http://www.modot.mo.gov/business/contractor_resources/External_Civil_Rights/DBE_program.htm.



7 PROTEST PROCEDURES

A Submitter may protest the results of the above-described evaluation and qualification process by filing a written notice of protest by hand delivery or courier to the Director of MoDOT, with a copy to the MoDOT Project Director, and other Submitter(s). The notice of protest shall specifically state the grounds of the protest.

Notice of protest of any decision to accept or disqualify a SOQ on responsiveness grounds must be filed within five calendar days after the earliest of notification of non-responsiveness or the public announcement of shortlisting. Notice of protest of the decision on shortlisting must be filed within five calendar days after the public announcement of shortlisting.

Within seven calendar days of the notice of protest, the protesting Submitter must file with the Director of MoDOT, with a copy to the MoDOT Project Director and other Submitter(s), a detailed statement of the grounds, facts and legal authorities, including all documents and evidentiary statements, in support of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Submitter shall have the burden to prove that the decision of MoDOT was arbitrary and capricious.

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

Other Submitters may file by hand delivery or courier to the Director of MoDOT, with a copy to the MoDOT Project Director, a statement in support of or in opposition to the protest. Such statement must be filed within seven calendar days after the protesting Submitter files its detailed statement of protest. MoDOT will promptly forward copies of any such statements to the protesting Submitter.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of the Director of MoDOT, a hearing or argument may be permitted if necessary, for protection of the public interest or an expressed, legally recognized interest of a Submitter or MoDOT. The Director of MoDOT or his designee will issue a written decision regarding the protest within 30 calendar days after MoDOT receives the detailed statement of protest or any allowed (discretionary) evidentiary hearing or oral argument. Such decision shall be final and conclusive. The Director of MoDOT or his designee will deliver the written decision to the protesting Submitter and copies to the other Submitters.

If a notice of protest regarding responsiveness is filed prior to release of the draft RFP, MoDOT may proceed with issuance of the draft RFP before the protest is withdrawn or decided, unless the Director of MoDOT or his designee determines, in his or her sole discretion, that it is in the public interest to postpone issuance of the draft RFP. Such a determination shall be in writing and shall state the facts on which it is based.

If the Director of MoDOT or his designee concludes that the Submitter filing the protest has established a basis for protest, the Director or his designee will



determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new request for qualifications or taking other appropriate actions.

7.1 Costs and Damages

All costs of a protest shall be the responsibility of the protestor and undertaken at the protestor's expense. In addition, if the protest is denied, the Submitter filing the protest may be liable for MoDOT's costs reasonably incurred resulting from the protest. MoDOT shall not be liable for damages to the Submitter filing the protest nor to any participant in the protest, on any basis, express or implied.