

Addendum 2



REQUEST FOR QUALIFICATIONS

Safety Improvements Project: A Lifesaving Partnership Various Counties, MO

Project Number: J6P3496 & J6P3496B

RFQ Issued: July 6, 2023

SOQs Due: July 27, 2023

Missouri Department of Transportation
1590 Woodlake Dr.
Chesterfield, MO 63017



Addenda	Date	
1	7/14/2023	Revisions: Revised Section 2.3 and Section 6.2
2	7/21/2023	Revisions: Revised the shortlisting date
3		Revisions:
		Revisions:



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Appendix

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

Form DB-107 – Requests for Clarification

Form DB-110 – Commitment of Key Personnel

Form DB-802 – Debarment, Suspension, Ineligibility, and Voluntary Exclusion



1 INTRODUCTION

1.1 Executive Summary

The Missouri Department of Transportation (MoDOT) is soliciting Statements of Qualifications (SOQs) from entities (Submitters) interested in providing Design-Build services for the Safety Improvements Project (Project) on various state-owned routes in St. Louis County, St. Louis City, and Jefferson County in addition to various county-owned routes in St. Louis County (County), Missouri. The state Project is designated as Job No. J6P3496, and the County Project is designated as Job No. J6P3496B.

1.2 Project Description

Show-Me Zero: Driving Missouri Toward Safer Roads is the latest strategic highway safety plan for eliminating fatalities and serious injuries on Missouri roadways. MoDOT's St. Louis District, in partnership with St. Louis County, aims to reduce fatal and serious injury crashes in line with Show-Me Zero's goal of zero roadway fatalities by 2030.

The Project will include identifying and constructing safety improvements at various locations on state-owned routes in MoDOT's St. Louis District and county-routes in St. Louis County. Potential improvement locations have been identified through previously completed District- and County-wide systemic and hot spot network screenings. Systemic network screenings have identified locations for which proactive safety countermeasures are appropriate for various target crash types. Hot spot crash network screenings have identified locations with crash trends and crash type overrepresentations that are appropriate for targeted safety countermeasures. MoDOT intends to reduce fatal and serious injury crashes through implementation of systemic and hot spot safety improvements with an emphasis on addressing crashes involving pedestrians.

MoDOT will pursue environmental clearance and right-of-way acquisitions for each location in the awarded Proposal. The successful Proposer will be responsible for management, design, utilities, construction, Quality Control, and Quality Assurance of the Project. The Proposer may be required to 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.

1.3 Project Goals

The following prioritized goals have been established for the project:

1. Reduce fatal and serious injury crashes within the budget of \$49 million.
2. Maximize safety improvements for pedestrians and roadway users distributed equitably across the project area.
3. Provide improvements with reasonable maintenance and service life.



4. Construct improvements with an emphasis on safety for workers and the travelling public.
5. Deliver the project by June 30, 2026 using a diverse workforce.

1.4 Estimated Cost and Maximum Time Allowed

The total program budget is \$49 million, including the Design-Build Contract, Right of Way acquisitions, Utility reimbursements, Stipend payments, and other miscellaneous project management expenses for both projects. The estimated fixed Cost Design-Build Contract budget is \$39 million for the state project (J6P3496) and \$3 million for the County project (J6P3496B) for an estimated combined \$42 million Contract. The Project must be completed by June 30, 2026.



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 Submitters are the most highly qualified to successfully deliver the Project. MoDOT will shortlist at least two (if any) but not more than five 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 Disadvantaged Business Enterprise (DBE) exclusivity referred to in Section 6.9.



2.3 Procurement Schedule

Item	Date
Issue RFQ	July 6, 2023
Deadline for submitting RFQ questions	July 18, 2023 (2:00 p.m. CT)
Final responses to questions posted & Final RFQ Addendum issued	July 21, 2023
SOQ due	July 27, 2023 (10:00 a.m. 2:00 p.m. CT)
MoDOT notifies shortlisted Submitters	August 13, 2023
Issue RFP	August 15, 2023
Final Proposal and Price Allocation due	October 20 42 , 2023
Selection of Apparent Best Value	November 1, 2023

1 Revised

2 Revised



3 SOQ CONTENTS AND EVALUATION CRITERIA

This section describes specific information that must be included in the SOQ and also 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 (60 Points)
6. Part 3 – Key Personnel and Organization (40 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 contractor. 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)

3.3.1 Submittal Requirements

The following items shall be submitted as part of the Proposer's SOQ:

- 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

3.3.2 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 (60 Points)

3.4.1 Submittal Requirement

The following items shall be submitted as part of the Proposer's SOQ.

3.4.1.1 Executive Summary

An executive summary not to exceed three pages covering the Submitter's demonstrated recent experience and relevance to the Project in the following areas:

3.4.1.1.1 Design

The Submitter shall:

- Provide specific examples of their recent and relevant experience with the design of safety-focused projects and/or improvements.
- Provide examples of completed projects which successfully treated existing crash types with appropriate countermeasures including methodology used.
- Provide any post-construction information available to support the effectiveness of the safety countermeasure.
- Provide examples of effective partnering with owners and contractors.
- Provide examples of previously successful strategies to inform the public and stakeholders of the improvements.

3.4.1.1.2 Construction

The Submitter shall:

- Provide specific examples of its ability to successfully deliver similar projects and of its ability to generate and implement innovative ideas to deliver quality, be on schedule, and proactively resolve challenges.
- Illustrate examples of successfully managing multiple project locations including efforts made to minimize duration of the work zone impact.
- Illustrate examples of effective partnering with owners.
- Provide a summary of previous implemented strategies that successfully ensure safe work zones for both workers and the traveling public.
 - This summary should include every major participant's safety record including lost time incidents, OSHA recordables, and fatalities in the last 5 years
 - Examples of successfully implemented Safety Management Programs or innovations.
- Illustrate examples of coordinating and effectively managing subcontractors including appropriate documentation.



3.4.1.1.3 Quality Management Program

The Submitter shall:

- Provide specific examples of quality programs for previous projects of similar size and/or complexity to this project that demonstrate its ability to develop, implement, and maintain a Quality Management Program throughout all phases of the project while acting independent of production.
- Provide examples of the prompt and complete delivery of their quality program which allowed for efficient review of quality documents.

3.4.1.1.4 Regulatory Agencies, Railroads, and Utility Interaction

The Submitter shall:

- Describe previous efforts to mitigate and minimize impacts to and work successfully with the applicable regulatory agencies, railroads, and Utility companies.
- Highlight specific examples of:
 - Close coordination with utilities
 - Close coordination with railroads
 - Handling hazardous material

3.4.1.1.5 DBE Utilization and Workforce Diversity

The Submitter shall:

- Describe their plan 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 their plan to effectively maintain a diverse workforce by meeting or exceeding the construction workforce goals for 14.7% minorities and 6.9% female and provide examples of past performance.

3.4.2 Required Forms

- *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 four reference projects can be described for each Submitter. For ease of comparison, this form is not to be modified.



3.4.3 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:

- Use of innovative approaches to deliver a project within budget, such as:
 - Proposing and implementing construction efficiencies
 - Value Engineering Change Proposals
 - Additional Applicable Standards
 - Alternative Technical Concepts
 - The successful delivery of Alternative Contracting Projects
- Experience using Data-Driven Safety Analysis, especially the Highway Safety Manual, to deliver a safer transportation system for all users.
- Experience delivering projects that addressed existing crash types with appropriate safety improvements.
- Experience safeguarding workers and the traveling public during construction.
- Past performance in developing and implementing a Quality Control and Quality Assurance program that can promptly identify and correct deficiencies on a transportation project of a similar size and/or complexity.
- Past performance constructing projects safely for both workers and traveling public.
- Recent safety history and company safety results.
- Recent experience delivering projects on schedule or ahead of schedule.
- Past performance for both construction and professional services on delivering projects with a diverse team including:
 - Mentorship of DBEs
 - Workforce diversity
 - Apprenticeship graduation rates
- Demonstrated ability to resolve unexpected challenges encountered during similar projects.
- Experience coordinating with owners, regulatory agencies, local governments, railroads, utility companies, and other organizations to achieve mutually agreeable results.
- Past experience collaborating with owners on implementing design changes to address unexpected conditions.



3.5 Part 3 – Key Personnel and Organization (40 Points)

3.5.1 Key Personnel

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

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.

Submitters should define the following positions as Key Personnel:

3.5.1.1 Project Manager

The Project Manager is responsible for all aspects of the Project including, but not limited to:

- Contract administration
- Safety
- Quality management
- Overall design
- Construction
- DBE and Workforce Diversity
- Environmental compliance

The Project Manager should have at least five years of recent and relevant experience managing the design and construction of transportation projects. 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 readily available to the Project and to MoDOT for the duration of the Project.

3.5.1.2 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
- Documentation of quality records. Such records include documentation for:
 - Design
 - Construction quality and testing
 - Environmental compliance
 - Erosion control
 - DBE/workforce diversity compliance



The Quality manager should have at least three years of recent and relevant experience developing, implementing, and overseeing quality programs, especially Quality Control and Quality Assurance programs, on heavy civil construction work as well as document management.

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 or their designee shall be readily available to the Project and to MoDOT for the duration of the Project. The Quality Manager or their designee shall be required to be on Site for all activities.

3.5.1.3 Design Manager

The Design Manager is responsible for ensuring all aspects of the design of the Project are met including the contract requirements.

The Design Manager should have at least five years of recent and relevant experience managing the design of roadway transportation projects.

The Design Manager 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 readily available to the Project when design activities are being performed. During construction, the Design Manager shall be readily available for on-site consultation.

3.5.1.4 Construction Manager

The Construction Manager shall be responsible for managing the construction of the Project. The Construction Manager should have at least five years of recent and relevant management experience in heavy civil construction work.

The Construction Manager or their designee shall be on Site for the duration of the construction phase.

3.5.1.5 Lead Safety Officer

The Lead Safety Officer shall be responsible for safeguarding the workers and traveling public from potential safety risks within the work zone. The Lead Safety officer shall have at least three years of relevant experience.

The Lead Safety Officer shall be authorized to stop work if they believe an unsafe situation is occurring or that an unsafe situation is likely to occur. The Lead Safety Officer shall be responsible for implementing mitigation strategies to reduce potential risks to workers and the traveling public.



The Lead Safety Officer shall be readily available throughout the design phase. The Lead Safety Officer or their designee shall be on an active construction Site for 100% of their time throughout the duration of the construction phase.

The Lead Safety Officer shall report directly to the Submitter's executive management team.

3.5.2 Submittal Requirements

- A one (1) page organizational chart
- An executive summary of Key Personnel, not to exceed three (3) pages, describing the Key Personnel's qualifications and recent experience related to the Project. This summary should include any experience the Key Personnel has with:
 - the design and/or construction of safe transportation projects
 - crash-reducing improvements
 - cost-saving innovations
 - delivering projects on or ahead of schedule
- An executive summary of Key Tasks, not to exceed two (2) pages, describing the Submitter's approach to managing the key tasks listed above and any others that the Submitter identifies as being critical for the success of the project. This summary should include any experience the Submitter has with managing these tasks successfully.

3.5.3 Required Forms

- *Form DB-103: Resume Summary*
- *Form DB-110: Commitment of Key Personnel*
- Resumes for the Key Personnel and up to one additional personnel are to be included. Each resume is limited to one (1) page and shall include two owner references by providing a contact name and phone number. MoDOT reserves the right to contact references identified in the resumes.

3.5.4 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:

- Relevance of tasks performed by Key Personnel on resumes for reference projects.
- Roles and responsibilities of each primary team member.
- Functional structure, levels of management, and reporting relationships for primary members and major functions to be performed in managing, designing, and constructing the Project.
- Experience delivering a transportation project within budget.



- Design and construction of features that deliver safer roadways, including experience with safety studies using HSM or equivalent methods.
- Specific accountability strategies to ensure safety of both field personnel and the traveling public while on the project.
- Experience in achieving workforce diversity and DBE goals.
- Experience developing a Quality Control and Quality Assurance program on a transportation project.
- Experience in delivering projects on schedule or ahead of schedule.
- Experience coordinating with regulatory agencies, local governments, and/or utility companies.
- Experience managing multiple project locations over a large geographic region.



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

The SOQ must be submitted by 10:00 am, Central Time, on the date shown in Section 2.3. MoDOT accepts no responsibility for misdirected or lost Submittals. One (1) electronic copy in Portable Document Format (PDF) of the RFQ response is to be submitted by email to SLSafetyProject@modot.mo.gov. Hard copies will not be accepted. MoDOT will provide a receipt to the Submitter after receiving the Submitter's SOQ via email.

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	As needed
Part 2 – Submitter Experience	
Executive Summary	3
Form DB-101: Major Participant Information	As needed
Form DB-102: Reference Project Summary	8
Part 3 – Key Personnel Experience	
Organizational Chart	1
Executive Summary of Key Personnel	3
Form DB-103: Resume Summary	1
Form DB-110: Commitment of Key Personnel	12
Resumes	6

Dividers between sections of the SOQ are not counted.



5 EVALUATION PROCESS

All responses will be evaluated according to 7 CSR 10-24.030.

- 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 60 points.
- Part 3 will be evaluated based on a possible 40 points.

MoDOT is restricted to shortlisting no more than five teams; therefore, the scoring was intentionally crafted to differentiate between what we anticipate to be 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 Subconsultant that will perform 20% 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 \$~~250,000~~^{150,000} 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, Stacey Smith, 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.

Stacey Smith, P.E.

Safety Improvements Design-Build Project Director

Missouri Department of Transportation

1590 Woodlake Dr.

Chesterfield, MO 63017



Anastasia.Smith@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 ex parte communications regarding this procurement with any member of MoDOT or the Federal Highway Administration, St. Louis County, 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 4:00 p.m, CT 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/SLSafetyProject>.

6.5 Ineligible Firms

A firm is ineligible to submit a proposal, in either a prime or subconsultants' role, if it assists in the development of the scope of work, the RFQ, or the RFP. The following firms acting as the owner's consultants are listed below:

- Jacobs Engineering Group, Inc.
- EFK Moen, LLC
- Kivindyo Engineering Services
- Vector Communications Corporation
- Streetlight

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 subconsultants 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 14.7% 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:
<https://www.modot.org/dbe-program>.

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 an 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.