



# REQUEST FOR QUALIFICATIONS

## I-70 Truck Climbing Lanes at Mineola Hill Montgomery County, MO

Project Number: J2I3226 & J2I3226B  
RFQ Issued: November 15, 2019  
SOQs Due: December 4, 2019

Missouri Department of Transportation  
Northeast District  
1711 South Highway 61  
Hannibal, MO 63401





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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 – Statement of Existence of Organizational Conflicts

Form DB 106 – Debarment, Suspension, Ineligibility, and Voluntary Exclusion



**ADDENDA ISSUED**

<b>Addendum</b>	<b>Issued</b>	<b>Comments</b>



## 1 INTRODUCTION

The Missouri Department of Transportation (MoDOT) is soliciting Statements of Qualifications (SOQ) from entities (Submitters) interested in providing design-build services for the I-70 Truck Climbing Lanes at Mineola Hill Design-Build Project. The Project provides eastbound and westbound truck climbing lanes through the Loutre River valley to enable traffic to flow more safely and efficiently and to replace existing structures (L0389, L0395, and A0970). This project is designated as Job Numbers J2I3226 & J2I3226B.



### 1.1 Project Description

The I-70 corridor is a regional and nationally significant freight route carrying cargo equating to over \$154 Billion annually. This I-70 segment proposed for truck climbing lanes currently slows travel times by 30 to 35 percent due to the 4 - 6 percent grades of the facility. The I-70 Truck Climbing Lanes at Mineola Hill Project (Project) provides eastbound and westbound truck climbing lanes to enable traffic to flow more safely and efficiently and to replace existing structures (L0389, L0395, and A0970). The Project will encompass environmental commitments and mitigation measures set forth in the Re-evaluation of the Second Tier Final Environmental Assessment of Section of Independent Utility 6 Finding of No Significant Impact.

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 reasonable proximity to the jobsite and co-locate with the MoDOT Design-Build staff.

### 1.2 Project Goals

The following prioritized goals have been established for the project:

1. Optimize traffic flow and safety within the project limits during and after construction.



2. Use the available resources wisely to improve safety, reliability, and long-term performance of the assets within the project limits.
3. Meet or beat the construction completion date of November 30, 2021.

### **1.3 Estimated Cost and Maximum Time Allowed**

The total program budget is \$15.8 million, including the Design-Build Contract, Stipend payments, and other miscellaneous project management expenses. The estimated fixed Cost Design-Build Contract budget is \$14.4 million. The Project must be completed by November 30, 2021.



## **2 REQUEST FOR QUALIFICATIONS (RFQ) PROCESS**

### **2.1 Two-Phased 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 Statement of Qualifications (SOQ), that MoDOT will evaluate to determine which Submitters are the most highly qualified to successfully deliver the Project. MoDOT will short list 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 short-listed Submitters. Only the short-listed Submitters will be eligible to submit proposals for the Project. Each short-listed 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 apparent 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

November							December							January						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2	1	2	3	4	5	6	7	5			1	2	3	4
3	4	5	6	7	8	9	8	9	10	11	12	13	14	6	7	8	9	10	11	
10	11	12	13	14	15	16	15	16	17	18	19	20	21	12	13	14	15	16	17	18
17	18	19	20	21	22	23	22	23	24	25	26	27	28	19	20	21	22	23	24	25
24	25	26	27	28	29	30	29	30	31					26	27	28	29	30	31	

  

February							March							April						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
						1	1	2	3	4	5	6	7				1	2	3	4
2	3	4	5	6	7	8	8	9	10	11	12	13	14	5	6	7	8	9	10	11
9	10	11	12	13	14	15	15	16	17	18	19	20	21	12	13	14	15	16	17	18
16	17	18	19	20	21	22	22	23	24	25	26	27	28	19	20	21	22	23	24	25
23	24	25	26	27	28	29	29	30	31					26	27	28	29	30	31	

Item	Date
Issue RFQ	November 15, 2019
Deadline for submitting RFQ questions	November 25, 2019
Final responses to questions posted & Final RFQ Addendum issued	November 26, 2019
SOQ due	December 4, 2019
MoDOT notifies short listed Submitters	December 10, 2019
Issue RFP	January 6, 2020
Technical Discussions	January 13 to February 28, 2020
Last Day for Additional Applicable Standards (AAS), Design Exception(s), Pre-Submittal General Information submittals, and for Proposer's RFC	March 4, 2020
MoDOT Posts Final Responses to Proposer's RFC and Issues Final RFP Addendum	March 9, 2020
Proposal and Price Allocation Due	March 13, 2020
Selection of Apparent Best Value	April 1, 2020
State Observed Holidays	November 28, 2019 – Thanksgiving December 25, 2019 – Christmas January 1, 2020 – New Year's Day January 20, 2020 – Martin Luther King, Jr. February 12, 2020 – Lincoln Day February 17, 2020 – Washington's Birthday





### **3 STATEMENT OF QUALIFICATIONS (SOQ) CONTENTS AND EVALUATION CRITERIA**

This section describes specific information that must be included in the Statement of Qualifications (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)

#### **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)**

Submittal Requirements:

1. Form DB-104: Receipt of Addenda
2. Form DB-105: Statement of Existence of Organizational Conflicts. A letter is to be included describing such conflicts if they exist.
3. Form DB-106: 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:*

1. An executive summary not to exceed three (3) pages covering the Submitter's demonstrated recent experience and relevance to the Project in the following areas:



**I-70 Truck Climbing Lanes at Mineola Hill**  
**Missouri Department of Transportation**  
**Request for Qualifications**  
**Job No. J213226 & J213226B**  
**November 15, 2019**

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- A. **Design and Construction:** The Submitter shall provide specific examples of their relevant experience with design, construction, and maintenance of traffic on interstate systems. The Submitter shall also provide specific examples of their recent and relevant experience generating and implementing innovative ideas delivering improvements on or ahead of schedule, minimizing impacts to interstate traffic, and resolving challenges during construction.
  - B. **Approach to Ensuring Safety:** The summary shall include the Submitter's safety record, their safety philosophy, and examples of successfully implemented Safety Management Programs or innovations. Provide examples of innovative techniques previously used for safety of motorists in work zones.
  - C. **Quality Management Program:** Identify specific examples of Submitter's quality programs for previous projects demonstrating an ability to develop, implement and maintain a Quality Management Program throughout all project phases.
  - D. **Regulatory Agencies, Environmentally Sensitive Areas, and Utility Interaction:** Describe previous efforts to mitigate impacts to and to work successfully with regulatory agencies, environmentally sensitive areas, and utility companies.
  - E. **DBE and Workforce Diversity Utilization Plan:** Describe how the Submitter intends to utilize DBEs to meet or exceed the DBE participation goals of 10% for construction activities and 14% for professional services. Provide examples of past performance on previous projects. Demonstrate how the Submitter's strategies will maintain diversity for both the construction and professional services workforce. Provide past performance of both DBE utilization and workforce diversity.
2. Form DB-101: Major Participant Information. One form is to be completed for each Major Participant, as described in Section 6.1.
  3. 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 six (6) 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. MoDOT will evaluate the Submitter experience based on:

1. Recent design and construction experience on similar projects.
2. Recent experience delivering similar projects on schedule or ahead of schedule.



3. Implementation of innovative traffic handling plans on a project to minimize and mitigate construction impacts to customers.
4. Use of innovation to deliver a project within budget. Submitters should illustrate, for example, use of value engineering change proposals, design-build projects, additional applicable standards, alternative technical concepts, etc.
5. Unexpected challenges encountered during similar projects and the resolution.
6. Recent safety history and company safety philosophy on similar equally complex projects.
7. Past performance developing a Quality Control and Quality Assurance program for the Project. Understanding of the Quality Management Program and how it will be implemented during all phases. Submitters should illustrate previous project experience indicating timeliness and accuracy of quality documentation.
8. Recent experience in working with the regulatory authorities.
9. Experience minimizing impacts on environmentally sensitive areas.
10. Past performance on minimizing and mitigating impacts to utilities and the ability to partner with utility owners to achieve mutually agreeable results.
11. Implementation of innovative approaches to increase diversity and engage minorities through programs, training, or other outreach efforts.
12. Implementation of innovative approaches to increase diversity for all firms comprising the Submitter's team.

### **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:

1. 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 five years of recent experience managing the design and/or construction of a project on the interstate system or high-volume expressways. 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 must be assigned to the Project full time and shall be required to be on site for the duration of the Project.
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, and documentation of quality records including, design documentation, construction quality and testing, environmental compliance and DBE/labor compliance. The Quality Manager shall report directly to the Submitter's executive management team. 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 be assigned to the Project full time and shall be required to be on site for the duration of the Project.

3. Construction Manager – The Construction Manager shall be responsible for managing the construction of the Project. The Construction Manager shall have at least five years of recent management experience of projects on the interstate system or high-volume expressways. The Construction Manager shall be assigned to the Project full time when construction activities are being performed and on site for the duration of the construction phase.
4. 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 five years of recent experience managing the design of highways and/or bridge structures. The Design Manager must be a registered professional engineer in the State of Missouri 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. The Design Manager shall be available for weekly meetings at a minimum for the duration of the Project.

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:*

1. An organizational chart and executive summary of Key Personnel, not to exceed three (3) pages in combination, 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.
2. Form DB-103: Resume Summary
3. Resumes for the Key Personnel and up to four additional personnel are to be included. Each resume is limited to one (1) page and shall include two (2) owner references including 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:



**I-70 Truck Climbing Lanes at Mineola Hill  
Missouri Department of Transportation  
Request for Qualifications  
Job No. J213226 & J213226B  
November 15, 2019**

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1. Experience in design, construction, and maintenance of traffic of highways and bridge structures.
2. Relevance of tasks performed by Key Personnel for reference projects.
3. Experience in utilizing innovative approaches to deliver a project within budget.
4. Experience and approaches to delivering projects on schedule or ahead of schedule.
5. Experience managing design obstacles during construction.
6. Experience and approach for maximizing and ensuring safety on the project.
7. Experience managing or promoting workforce diversity on reference projects.



## 4 SUBMITTAL REQUIREMENTS

### 4.1 Format

The Statement of Qualifications (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 noon, 12:00 pm, Central Standard Time, on the date shown in Section 2.3. MoDOT accepts no responsibility for misdirected or lost Submittals. Two (2) printed and bound copies and one (1) electronic copy in PDF format of the SOQ is to be submitted to the Project Director as shown in Section 6.3.

### 4.3 Page Limits

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

	No. of Pages
<b>Cover Letter</b>	1
<b>Title Page</b>	1
<b>Table of Contents</b>	1
<b>Part 1 – Administrative Elements</b>	
-- Form DB-104: Receipt of Addenda	1
-- Form DB-105: Organizational Conflicts	As needed
<b>Part 2 – Submitter Experience</b>	
-- Executive Summary	3
-- Form DB-101 Major Participant Information	As needed
-- Form DB-102 Reference Project Summary	12
<b>Part 3 – Key Personnel Experience</b>	
-- Executive Summary	3
-- Form DB-103 Resume Summary	1
-- Resumes	8

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 100 points.

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

MoDOT is restricted to short-listing no more than five (5) teams. The scoring outlined is intentionally crafted to differentiate between 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 short-listing process are as follows:

Rating	Description
Exceptional +/- (100 – 85%)	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 +/- (84 – 60%)	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 +/- (59 – 20%)	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 (19 – 0%)	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:

1. 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 a 15% or greater interest in the Submitter.
2. The lead engineering/design firm(s).
3. Each subcontractor that will perform work valued at 10% or more of the construction work.
4. 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 a SOQ. MoDOT will pay a stipend to the responsible Proposer(s) that provide a fully responsive, but unsuccessful, Proposal. The anticipated stipend is \$75,000 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, Brandi Baldwin, 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.





Brandi Baldwin, P.E.  
I-70 Truck Climbing Lanes at Mineola Hill Project Director  
Missouri Department of Transportation  
1711 South Highway 61  
Hannibal, MO 63401  
Brandi.baldwin@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, 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, 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 2:00 pm, CST on the date indicated in Section 2.3. Questions, requests for clarifications, and responses will be posted on the Project SharePoint 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 SharePoint site.

#### **6.5 Ineligible Firms**

Wood Environment & Infrastructure Solutions, Inc is providing consultant services throughout the procurement process and therefore is ineligible. 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.

#### **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. Submitters 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 6.1) 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, business 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 workforce goals of 11.4% minority and 6.9% female per craft.

## **6.9 Disadvantaged Business Enterprises**

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

10% construction activities      14% 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 MRCC. It is the Contractor's responsibility to ensure firms identified for participation are approved certified DBE firms. The MRCC DBE Directory is at the following web site:

[http://www.modot.org/business/contractor\\_resources/External\\_Civil\\_Rights/mrcc.htm](http://www.modot.org/business/contractor_resources/External_Civil_Rights/mrcc.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 short listing. Notice of protest of the decision on short listing must be filed within five calendar days after the public announcement of short listing.

Within seven calendar days of the notice of protest, the protesting Submitter must file with the Director of MoDOT, with a copy to 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.