

## **CONSULTANT CONTRACTS PROCUREMENT PROTEST AND APPEAL PROCEDURES (8/1/2020)**

### **PURPOSE**

The Department of Transportation and Development (DOTD) has developed procedures to promote a fair and unbiased selection process.

### **ADVERTISEMENT QUESTIONS AND ANSWERS**

In order to maximize transparency for all Consultants, Consultants are required to request clarifications of statements made in the advertisement (for example, scope of services, minimum personnel requirements, grading procedures, etc.) during the advertisement period by the Questions and Answers deadline provided in the advertisement. Matters which should be addressed during this Questions and Answers process cannot serve as the grounds for any protest or appeal. Questions must be submitted to the personnel designated in the advertisement to receive inquiries.

### **NON-RESPONSIVE PROTEST PROCEDURE**

DOTD may allow a consultant to protest a determination of non-responsiveness of a consultant submittal, in accordance with the following provisions:

- a. The protest will only be accepted from the prime consultant that submitted the DOTD Form 24-102, and it must be submitted in writing on the prime consultant's company letterhead and delivered or e-mailed to the Consultant Contract Services Administrator, or designee, and must specifically set forth the grounds and/or reasons for the protest.
- b. The written protest must be delivered or e-mailed to the Consultant Contract Services Administrator within 72 hours after notice\* of the determination of non-responsiveness, excluding Saturdays, Sundays, and legal holidays.
- c. If a timely protest is received, the Consultant Contract Services Administrator, or designee, shall schedule a meeting with the consultant and the DOTD Chief Engineer, or designee, within a reasonable period of time to consider the protest. At that time, a consultant may decline the meeting and elect to have the written protest considered.
- d. The DOTD Chief Engineer, or designee, shall determine action on the protest. The Consultant Contract Services Administrator, or designee, will advise the consultant of the DOTD Chief Engineer's, or designee's, decision prior to the Department's final selection.

\*The notice of non-responsiveness will be e-mailed to the personnel listed in Sections 8 and 9 of the DOTD Form 24-102. The protest must be received within 72 hours of the time stamp of the non-responsiveness e-mail.

## **SHORT LIST PROTEST PROCEDURE**

The DOTD may allow a responsive prime consultant that submitted a DOTD Form 24-102 to protest clerical errors or mathematical miscalculations regarding the short list in accordance with the following provisions. Sub-consultants will not be allowed to protest.

- a. The protest will only be accepted from the prime consultant that submitted the DOTD Form 24-102, and it must be submitted in writing on the prime consultant's company letterhead and delivered or e-mailed to the Contract Services Administrator, or designee, and must specifically set forth the grounds and/or reasons for the protest.
- b. The written protest must be delivered or e-mailed to the Contract Services Administrator, or designee, within 72 hours after notice of the short list posting on the Consultant Contracts Services webpage, excluding Saturdays, Sundays, and legal holidays.
- c. If a timely protest is received, the Contract Services Administrator, or designee, shall schedule a meeting with the prime consultant and the DOTD Chief Engineer, or designee, within a reasonable period of time to consider the protest. At that time, the prime consultant may decline the meeting and elect to have the written protest considered.
- d. The DOTD Chief Engineer, or designee, will advise the prime consultant in writing of the decision prior to submittal of the short list to the DOTD Secretary.

## **APPARENT SELECTION APPEAL PROCEDURE**

When the DOTD Secretary selects other than the first-ranked consultant on the short list, DOTD may allow a prime consultant on that short list to appeal the selection for reasons other than clerical errors and mathematical miscalculation, in accordance with the following provisions.

- a. The appeal will only be accepted from the prime consultant that submitted the DOTD Form 24-102, and it must be submitted in writing on the prime consultant's company letterhead and delivered or e-mailed to the Contract Services Administrator, or designee, and specifically set forth the grounds and/or reasons for the appeal.
- b. The written appeal must be delivered or e-mailed to the Contracts Services Administrator, or designee, within 48 hours after notice of the selection posting on the Consultant Contract Services webpage, excluding Saturdays, Sundays, and legal holidays.
- c. If a timely appeal is received, the Contract Services Administrator, or designee, shall schedule a meeting with the prime consultant and DOTD Secretary, or designee, within a reasonable period of time to consider the appeal. At that time, the prime consultant may decline the meeting and elect to have the written appeal considered.
- d. The Secretary, or designee, will advise the prime consultant in writing of the decision prior to the Secretary's final selection.