

Invitation No.: 235-13  
 Location: All Districts  
 Commodity: EPA Testing & Sampling Services  
 Multiple Award  
 Pricing: <http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/PurchDocs/235pricing.xls>

**INVITATION TO BID**

**STATE OF OHIO**  
**DEPARTMENT OF TRANSPORTATION**  
 Office of Contracts, Purchasing Services  
 JERRY WRAY, Director

Opening Date: 8/14/2012  
 Time: 11:00 A.M.

**DO NOT SUBMIT MORE THAN ONE BID PROPOSAL FOR EACH BID**

**NAME AND ADDRESS INFORMATION MUST APPEAR BELOW**

**Submitted by:**

**Company Name:** \_\_\_\_\_

**Federal Tax ID No.:** \_\_\_\_\_

Correspondence Address Information	Remit to Payment Address Information
Street Address:	
P.O. Box:	
City:	
St:	
Zip:	
E-Mail Address:	

Telephone Number	800 Number	Fax Number

**Purchasing Coordinator: Jim Schurch**  
**E-Mail Address: [jim.schurch@dot.state.oh.us](mailto:jim.schurch@dot.state.oh.us)**  
**Telephone: (614) 644-7870 or (800) 459-3778**

Visit our web site at: <http://www.dot.state.oh.us/Divisions/ContractAdmin/Pages/default.aspx> Select Purchasing Contracts,  
 Upcoming ITBs



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ITB 235 –Sampling of Hazardous Waste 7/26/12  
Requirements/Specifications

**Section 1: Intent**

The purpose of this invitation is to establish pricing for Sampling of Hazardous Waste for the State of Ohio Department of Transportation.

**Section 2: Contract Duration**

The contract duration will be for twenty-four (24) months from the date of award.

**Section 3: Multiple Award**

ODOT will accept all responsive bids submitted on or before the specified bid opening date and make an award to all responsive bidders pursuant to O.R.C. 5513.02.

**Section 3: Free on Board (F.O.B.) Destination**

Please be advised, the vendor must honor any bid price submitted in this Invitation to Bid for all of ODOT’s twelve (12) Districts and eighty-eight (88) counties in the State of Ohio. All Services shall be Free on Board (F.O.B.) to any of ODOT’s twelve (12) Districts and eighty-eight (88) county destination locations in the State of Ohio, as per the enclosed map. Purchase orders when issued, will detail specific service points. The Department will not accept any additional charges for these services.

District 1 – Lima	District 7- Sidney
District 2 - Bowling Green	District 8 - Lebanon
District 3 - Ashland	District 9 - Chillicothe
District 4 - Akron	District 10 - Marietta
District 5 - Jacksontown	District 11 - New Philadelphia
District 6 - Delaware	District 12 - Garfield Heights
Central Garage - Columbus (CG)	

**Section 4: Services**

Services must be provided within 5 calendar days after receipt of written or verbal notification against a valid State of Ohio purchase order.

**4.1: Service Hours**

All services must be made between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday, excluding State holidays, unless special permission is granted by the Department to temporarily waive or adjust this requirement.

**Section 5: Proposal Submission and Format**

**5.1 Sampling & Analysis Requirements:** The submitted samples should be analyzed in accordance with the preferred methods provided in this Invitation to Bid.

**5.2 Personnel Profile and Qualifications**

Vendor must submit with their Invitation to Bid a list identifying project staff. All members of the project must be identified by name and credentials provided for each. Credentials for project staff must specify: educational background and/or formal training in performing laboratory analysis, number of years in the position, and a summary of duties. Evidence must exist that all employees that perform analytical work must have read, understood, and are using the latest version of the laboratory's in-house quality documentation and procedures. Documentation must be provided in a statement that explains the laboratory's in-house training and method performance demonstrations for employees. A clear description of the lines of responsibility in the laboratory must be provided. Information must also be provided on the responsibilities of senior staff that perform QA/QC review.

**5.3 Technical Qualifications**

The Vendor must currently be performing analyses by Gas Chromatograph/Mass Spectrometer and Inductively Coupled Plasma, as well as SW-846, Methods 5035 and 1311 on-site. Vendor must submit with their Invitation to Bid a list identifying each analytical method, as specified that the Vendor can currently perform on the premises of the Vendor submitting the proposal. ODOT requires that at least 50 percent of the methods specified in the ITB Scope of Work, Attachment I, can be performed on-site by the winning Vendor.

The bid **must** also specifically identify the analyses that cannot be performed on-site by the Vendor submitting the bid. Prior to issuance of the contract, for each method that cannot be performed on-site by the winning Vendor, the Vendor must supply the name, address, and telephone number of each laboratory that will be providing analytical support for the method.

The bid **must** include **all** Standard laboratory Operating Procedures (SOPs) for the analyses requested in the Statement of Work. SOPs may be submitted as part of the bid in electronic or written format. SOPs submitted in electronic format must be formatted in Word. A standardized format should be followed for all SOPs.

The bid **must** include a complete copy of a written laboratory Quality Assurance Project Plan (QAPP) which has been prepared in accordance with U.S. EPA's guidance: "Preparation Aids for the Development of Category I Quality Assurance Project Plans," EPA/600/8-91/003, February, 1991 or comparable U.S. EPA QAPP related guidelines, or the Vendor or sub vendor is an Ohio EPA VAP and/or Drinking Water Certified Laboratory.

Elements that should be contained in the QAPP or provided in separate documents include, but are not limited to:

- Detailed methods documentation.
- Laboratory sub-sampling procedures. Procedures required for laboratory personnel to obtain sub-samples of soil or waste should be documented. Where sampling (as in obtaining an aliquot from a submitted sample) is required by the test method, the laboratory must use the documented procedures in the test method.
- Laboratory procedures for labeling and documentation of standards, and reagents.
- Data verification procedures, including: example of procedures write-up, QC personnel flow diagram and QC review percentage.
- Sample handling, sampling acceptance policy, sample receipt and sample tracking.
- Sample disposal procedures and Vendor qualifications.
- Chain-of-custody procedures.
- Copies of chain-of-custody form and sample labels.
- Laboratory access control and security procedures.
- Transfer procedures to another party.

- Laboratory quality system, audits, internal audits, quality control, and data verification.
- Laboratory Quality Assurance and Quality Control for matrix spike/matrix spike duplicate, laboratory control samples, surrogates compounds, internal standards and metals spikes (may be included within or as an attachment to the QAPP).
- Method detection limits for SW-846, Methods 8260B, 8270C and 6010B.
- Subcontracted laboratories= QAPPs and SOPs.
- Corrective measures.
- Example of chain of custody.
- Description of facility/accommodations and HVAC system.
- Personnel training.
- Preventive maintenance.
- Internal quality control.
- Statement of data quality objectives.
- Statement of archival of data, including laboratory notebooks.

The bid must include an example hard copy of an analytical deliverable for TCLP VOC analysis, TCLP RCRA 8 metals analysis and ignitability, all for a non-drinking water matrix. The bid must also include an example hard copy of an analytical deliverable for a New Well. Documentation to be included with the deliverables must include, but are not limited to, those detailed in section 6.13 of the RFP Scope of Work for standard data packages. The deliverable will be evaluated for completeness using Ohio EPA's Tier I Data Validation Checklist, and must include completed TCLP and ignitability preparatory bench sheets. For an example of the Tier I Data Validation Checklist and the information to be included for evaluation of completeness, check the following website (paying particular attention to Appendix II):

Data Validation site:

<http://epa.ohio.gov/portals/32/pdf/TierIDVManual.pdf>

The bid should include an example of electronic deliverables on a CD-ROM, and all necessary information (system specifications and modem numbers) concerning the ability to provide electronic transfer of data. This electronic deliverable should also include all information included in the section 6.13 of the Invitation to Bid Scope of Work for standard data packages.

The bid should include performance evaluation (PE) results from a minimum of the two most recent **consecutive** rounds of either the Contract Laboratory Program or applicable state or national certification round robin(s). This should be in PDF format.

The bid should include copies of the most recent state or government system audit, or American Association for Laboratories Accreditation or National Environmental Laboratory Accreditation Program system audit, and copies of complete audit reports, including findings and responses, for **all** such accreditations.

The bid **must** include the names, addresses, telephone numbers, and contacts for all companies currently used for the disposal of hazardous waste streams generated from lab operations. ODOT retains the right to request that alternate companies be used, due to potential conflicts-of-interest.

## **Section 6: Scope of Work**

### **6.1 Scope of Work.**

During the term of this Contract, the Vendor, at the direction of the ODOT Contract Manager or designees, shall provide the services described herein:

To obtain the sampling services necessary to collect media to identify potential hazardous waste(s) or New Well analysis to determine the concentration of organic and inorganic constituents of concern.

ODOT may request the vendor to provide field staff to conduct sampling under the following (but not necessarily limited to) circumstances:

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- Sampling of contaminated media, such as soil, to detect the presence of hazardous waste(s) and/or hazardous waste constituents;
- Sampling of process waste streams to determine the presence of hazardous waste(s) and/or hazardous waste constituents;
- Sampling of known hazardous wastes to confirm the accuracy and adequacy of the waste generator's characterization of the waste; and
- Sampling of unknown media and/or materials from an abandoned site to determine the presence of hazardous waste(s) and/or hazardous waste constituents.
- Sampling of new wells to detect the presence and concentration of organic and inorganic constituents of concern.

The ODOT field staff may conduct sampling under the following (but not necessarily limited to) circumstances:

- Sampling of contaminated media, such as soil, to detect the presence of hazardous waste(s) and/or hazardous waste constituents;
- Sampling of process waste streams to determine the presence of hazardous waste(s) and/or hazardous waste constituents;
- Sampling of known hazardous wastes to confirm the accuracy and adequacy of the waste generator's characterization of the waste; and
- Sampling of unknown media and/or materials from an abandoned site to determine the presence of hazardous waste(s) and/or hazardous waste constituents.
- Sampling of new wells to detect the presence of concentration of organic and inorganic constituents of concern.

To obtain the laboratory services necessary to conduct analysis of media to identify potential hazardous waste(s), and/or a new well to determine the concentration of organic and inorganic constituents of concern.

Under the terms and conditions of the contract, ODOT will require the Contractor to do the following:

- To provide field personnel who will collect samples of media, a new well, and/or waste which will then be analyzed by the vendor.
- Conduct laboratory analyses of media, a new well and/or waste samples collected by ODOT field personnel.
- Compile written reports summarizing the results of the laboratory analyses and submit these reports to appropriate ODOT personnel.
- Provide general sampling supplies (e.g., sample containers, preservative ampules, packaging materials, coolers and chain-of-custody forms) as necessary to ODOT field personnel.
- Provide special sampling supplies (e.g. United Nations certified containers, packaging or coolers) as necessary to ODOT field personnel.

- Provide for the transportation and delivery of samples for analysis to the laboratory. Pick up locations will be: Ohio Department of Transportation Central Office, Ohio Department of Transportation District Offices, County Garages, and outpost as specified in Section 3 and field locations as necessary to ODOT field personnel.
- Provide technical assistance or training relating to sample collection, laboratory analyses or operations, and provide information on reading the reports.

## 6.2 Definitions:

Hazardous waste" and "hazardous waste constituents" in this section are used as defined in Ohio Administrative Code Rule 3745-50-10.

"New Well" in this Invitation to bid is defined as the Public Drinking Water Standards for Ohio found in the Ohio Administrative Code Rule 3745-81.

Drinking water MCL

<http://www.epa.state.oh.us/portals/28/documents/DWStandardsList.pdf>

- ## 6.3 Special Limitations.
- The Vendor warrants that they will bring to the location for sampling only such equipment, personnel or other resources as is necessary to conduct the sampling of media or waste.

Neither the Vendor, its subvendor(s), nor any of its employees, shall supervise or have authority over, directly or indirectly, any permanent or temporary employee of the Department.

ODOT reserves the right to order, at any time with or without cause, suspension and/or cessation of any response action of the Vendor, in whole or in part.

## 6.4 Applicable Method Documents

The following documents (with current revisions) may be applicable to laboratory operations in whole or parts as determined by ODOT. The Vendor will not substitute or modify those methods provided in the following documents or listed without prior written approval by ODOT.

40 Code of Federal Regulations (CFR), Parts 136, 141, 261, 264, and 761, 1989 and 1990.

U.S. EPA CLP :

U.S. EPA, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition, 1986 with revisions (or most recent promulgated version).

- CLP Statement of Work (SOW) for "Inorganic Analysis, Multi-Media, Multi-Concentration," Document number ILMO.30. Dec. 1994.
- CLP SOW for "Organic Analysis, Multi-Media, High Concentration," Document number IHCO1.2.
- CLP SOW for "Organic Analysis, Multi-Media, High Concentration," Revision from 9/88 and 4/89.
- CLP SOW for "Organic Analysis, Multi-Media, High Concentration," Document number OLMO1.0 - OLMO1.7.
- U.S. EPA, "Method for Chemical Analysis of Water and Waste," EPA 600/4-79-020, March 1993 with revisions.



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- U.S. EPA, Method for Organic Chemical Analysis of Municipal and Industrial Wastewater," EPA 600/4-82-057, July 1982 with revisions.
- American Society for Testing and Materials (ASTM).
- American Public Health Association, American Water Association, Water Environment Federation (APHA, AWWA, WEF), "standard Methods for the Examination of Water and Wastewater," 20<sup>th</sup> Edition, 1999.
- U.S. EPA, Compendium of Methods for the Determination of Toxic Organic Compounds in Ambient Air," EPA 600/4-84-011.
- U.S. EPA, "Method for the Determination of Organic Compounds in Drinking Water," EPA/600/4-88/039, 1988 & 1991.

ODOT may request the laboratory to perform other tests or methods. Under these circumstances, the Vendor will provide on company letterhead a Unit Cost for each test/matrix requested by ODOT. The Vendor must receive written acceptance of this cost prior to beginning these other laboratory methods. This correspondence may be submitted by facsimile.

ODOT will only pay the actual cost, plus a percentage markup which, may not exceed 5% to cover the vendor's source of supply costs for the parts and components used. The vendor must submit to ODOT as part of an invoice package, copies of invoice(s) from their source of supply documenting their cost for the parts and components. In addition, ODOT will only pay the actual cost of inbound freight to the awarded vendor of this contract for these special order parts and components. The vendor must submit a copy of the freight bill to ODOT as part of the invoice package.

### **6.5 Applicable Regulations**

The Vendor will provide analytical services that require the qualitative and quantitative identification of material commonly referred as:

- Hazardous Waste as defined in Ohio Administrative Code Rule 3745-51-10.
- Analytical Methods for Water Quality Standards as defined in Ohio Administrative Code Rule 3745-1-03.
- Priority Pollutants as defined in Section 101 of CERCLA.
- Polychlorinated biphenyls (PCBs) as defined in 40 CFR Part 761.
- Ground Water Monitoring Parameters as Defined in 3745-54-98, Appendix IX.
- Tentatively Identified Compounds (TICs). TICs are compounds for which a standard is not available per the SW-846 method(s), but can be identified by comparison of the sample spectra with the mass spectrum defined in the EOA/NIH Mass Spectral Library.

**6.6 Laboratory Coordination**

The Vendor and ODOT will designate individuals to serve as contacts. The names of these contacts and their District Office addresses will be provided upon award of a contract.

The Vendor will also designate one (1) person to serve as a Laboratory Representative, who will act as a liaison between ODOT and the laboratory(ies). Please provide the name, title, address, telephone number and pager number of this Laboratory Representative on the Pricing Page.

All general correspondence, including analytical results, will be conducted through the District Office Laboratory Coordinator specified on the chain-of-custody (COC) form. All correspondence concerning the submission of invoices will be conducted through the District Office Laboratory Coordinator. The Vendor will not conduct business, accept requests for analytical work, and agree to perform work or otherwise work directly with other ODOT individuals unless written pre-approval has been provided by the appropriate District and/or Central Office Laboratory Coordinator.

Each District Office Laboratory Coordinator will be responsible for coordinating that district's sampling events with the Vendor. The District Office Laboratory Coordinator will be responsible for requesting the appropriate sample supplies from the Vendor.

ODOT will identify each sampling event and District Office using a sample control number. ODOT will include this number on each COC form. An example of this numbering format is as follows:

**6.7 Example: FRASludge01**

FRA-	the County abbreviation;
Sludge	the media sampled
01	and the daily sampling number.

**6.8 Sampling Services**

- The vendor may be requested to supply either laboratory personnel or contracted personnel to collect samples of contaminated medial, a new well and or process waste streams to determine the presence of hazardous waste(s) and/or hazardous waste constituents.
- The vendor will ensure that laboratory personnel or contracted personnel have received instruction on sample collection, preservation and transportation. These persons must have received the appropriate Hazwoper training to collect RCRA samples.

**6.9 Sample Supplies and Laboratory Services**

- Sample containers - preserved or un-preserved: The laboratory will have and follow a Standard Operating Procedure (SOP) that will be used by laboratory personnel for preserving sample containers. They will package the sample containers and a custody seal will be used to insure tampering has not occurred during transit. All sample containers will meet U.S. EPA specifications, unless otherwise requested.
- ODOT requires that all sample containers used in the collection of Volatile Organic Compounds be of Level AI@ cleanliness and that these sample containers be accompanied with a ACertificate of Cleanliness.@ All other containers will be of minimum Level AII@ cleanliness (e.g., cleaned to the same standards as Level AI@, except without a ACertificate of Cleanliness@). All shipping costs required for the delivery of sample supplies (i.e., containers, trip blanks, preservatives, coolers, COC) to the District Offices or sampling sites from the laboratory will be borne by the Vendor and will be included in the Unit Cost per parameter.

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- If ODOT requires specialized sample containers or shipping/packaging materials, (e.g., United Nations certified containers/packaging) the Vendor will supply these to ODOT. ODOT will pay the costs of these items upon receipt of an itemized invoice by the Vendor. Pricing of the specialized containers or shipping/packaging materials will be by a mutually agreed upon price by the ODOT Central Office Laboratory Coordinator and the Vendor. All shipping costs required for the delivery of specialized sample containers or shipping/packaging materials to the District Offices or sampling sites from the laboratory will be borne by the Vendor and will be included in the Unit Cost per parameter.
- Trip Blanks: The laboratory will provide trip blanks with each cooler for aqueous samples for volatile analysis. Trip blanks will consist of organic-free water preserved with hydrochloric acid to a pH < 2. The laboratory will seal all trip blanks before shipping, using custody seals, to insure no tampering. COCs will also accompany all trip blanks from the laboratory.
- Preservatives: The laboratory will have available and provide ODOT sample containers containing preservative or, if requested by ODOT, containers accompanied by preservative samples. They will provide these materials along with sample containers when applicable. Preservatives will include hydrochloric acid, nitric acid, sodium hydroxide, and any other preservative that may be required for the methods listed in and requested in the sample container order.
- Sample labels, COC forms, and custody seals: The laboratory will provide self-adhesive sample labels, COC forms, and custody seals. These forms will consist of carbon copies in triplicate.
- Coolers and shipping materials: The laboratory will be requested to supply ODOT with shipping materials for samples shipped to their laboratory (e.g., packaging materials, labels). Overnight shipping of supplies must be made available.
- The Vendor will make overnight transportation of samples available to ODOT using a mutually agreeable carrier. The Vendor's carrier may be asked to pick up samples from either the District Office or the sampling site.
- All costs associated with standard, non-dangerous goods designated, non-Vendor pickup/shipment of samples from the ODOT Central Office and ODOT District locations or the sites to the laboratory will be borne, within the unit analytical cost, by the Vendor. The Vendor's commercial carrier account number will be made available to ship samples at ODOT's request.
- The commercial carrier's hours of operation will be flexible enough that samples may be picked-up or delivered between the hours of 7:30 a.m. and 4:00 p.m. EST. Monday through Friday.
- The Vendor will have a sample receiving department established at one central location. The Vendor's sample receiving department will accept samples between the hours of 8:00 a.m. and 6:00 p.m. EST Monday through Friday.
- All costs associated with the shipment of sampling supplies to the District Offices or the sampling site (e.g., containers, coolers, preservatives, COC, shipping, etc.) will be included in the Unit Cost per parameter as listed.

**6.10 Sample Turn-Around-Times, Surcharges, and Penalties**

All turn-around-times (TAT) will begin from the verified time of sample receipt into the laboratory's sample receiving area (i.e., the commercial carrier can verify that the Vendor signed for the samples) and end on the postmark date on the final report. On results that require analysis in seven (7) days or less, the TAT will be from the verified time of sample receipt into the laboratory's sample receiving area to the date of receipt of the facsimile or electronic data file by ODOT.

The vendor must meet the following TATs:

- 80% of the total environmental samples submitted will require a thirty (30) day TAT:
- 20% of the total environmental samples will require a fourteen (14) day TAT:

**6.11 Sample Custody and Storage Procedures**

The laboratory will preserve the COC procedure for all samples submitted by ODOT by using internal COC forms. These procedures include recording the names of all people handling the samples, time and samples handled, and location(s) of the samples at all times. These samples will be maintained in a secured location with controlled access (monitored or locked).

**6.12 Performance Evaluation Samples**

The Vendor may be requested to analyze performance evaluation samples during the term of the Contract. The results of these samples will be used to demonstrate the Vendor's ability to perform the analytical methods samples as required. Costs associated with sample purchase, analysis and reporting will be borne by ODOT as per the Rate Schedule for Analytical Services in Section 9 and 10.

These samples are used to evaluate laboratory personnel involved in the measurement process and the laboratory's ability to:

- Identify substances;
- Quantify substances;
- Reproduce analytical data;
- Assess accuracy of analytical data;
- Perform mass spectral library searches;
- Maintain a contaminant-free environment;
- Understand documentation, reporting, and quality assurance and quality control requirements.

**6.13 Final Analytical Report**

The Vendor will provide ODOT all analyses (e.g., original analyses and re-analyses) in one final, standard data package, as outlined in Section 5 of the Invitation to Bid (ITB). No addendums for re-analyses will be issued unless circumstances warrant. The final report submitted to the District Laboratory Coordinator and Central Office Laboratory Coordinator will be submitted on company letterhead with a cover letter stating, at a minimum, the following information:

- Site name;
- Laboratory coordinator's name;
- ODOT sample control number;
- Correlation between laboratory sample number, ODOT sample control number;
- Case narrative;
- Copy of the COC;
- QC officer sign-off sheet;
- Sample/cooler receipt form;
- Applicable bench sheets (e.g., TCLP bench sheets);
- Analytical results;

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- Identification of analytical method(s) used; including detection limits;
- Date and time sample received;
- Extraction date and time;
- Analysis date and time;
- Percent solids raw data;
- Supportive quality control data, including
- MS/MSD data
- Blanks/blank spike recoveries
- Surrogates
- Internal standard recoveries
- Laboratory control samples
- TCLP blanks
- TCLP spikes.

If requested, the Vendor will supply an Expanded analytical report. The information included in the Expanded analytical report that the Vendor submits to the requesting Laboratory Coordinator will closely approach the level of reporting for the U.S. EPA Contract Laboratory Program. The expanded data package will consist of all information contained in the standard analytical report, and in addition will include:

- Initial instrument calibration date/time/results;
- Raw data calculation worksheets;
- Chromatograms; and/or
- Mass spectral data for each sample.

The final laboratory report supplied to the requesting District Laboratory Coordinator will be in hard copy format, and a CR-ROM. In addition, the Vendor will submit a duplicate of the final laboratory report to the Central Office Laboratory Coordinator. This report may be in either an identical hard copy format as submitted to the District Laboratory Coordinator or in an electronic format which would include all of the information submitted to the District Laboratory Coordinator.

All final analytical reports must be bound and paginated. ODOT reserves the right to change the final report structure to meet ODOT's needs. The laboratory will provide a final report within the designated TAT.

### **6.14 Penalties for Laboratory Error**

The Vendor will immediately report by telephone to the designated District Office Laboratory Coordinator all samples that are lost or broken or exceed the recommended holding time (as stipulated in SW-846, U.S. CLP, or in the laboratory QAPP) for preservation, extraction or analysis. If the District Office Hazardous Waste Coordinator is unavailable by telephone, they will report the incident to the Central Office Laboratory Coordinator.

If samples are otherwise broken, lost or exceed their holding time before extraction or analysis because of laboratory error, the Vendor will immediately (no later than 24 hours from discovery) report by telephone these incidents to the District Hazardous Waste Coordinator. The Vendor will then provide an e-mail to ODOT's District Hazardous Waste Coordinator and Central Laboratory Office Coordinator stating the reason(s) for the loss, breakage or exceeded holding time within five (5) working days of the initial report of the incident.

ODOT may assess the following penalties for samples broken or lost in the laboratory, or held past the recommended holding times. These penalties may be assessed at the discretion of ODOT:

- The Vendor will not charge ODOT for the Unit Cost of the broken/lost sample(s) or sample(s) held over the holding time.

In case of laboratory error, such as analyses with QA data out of the established control limits (method blank contamination that exceeds criteria, surrogate(s) outliers, check sample outliers, etc.) as specified in SW-846 or other relevant guidance documents and methodologies. ODOT will not pay the charges for any analysis that is not correct.

#### **6.15 Penalties for Late Delivery**

ODOT may assess late delivery penalties based on the number of days the preliminary or final analytical reports are received at ODOT after the requested turn around time (TAT). ODOT may assess these penalties as a percentage of the Unit Cost for all sample analyses exceeding the required TAT.

Preliminary results sent to ODOT by e-mail within the requested TAT will not be assessed penalties. ODOT may assess penalties if it does not receive the final analytical report within two weeks after receipt of the preliminary results.

ODOT may assess the following penalties for sample results received after the requested TAT. In situations where extenuating circumstances are the cause of failure to meet TAT, penalties will be assessed on a case by case basis. These penalties will take into account the nature of the laboratory problem encountered, advance notice of difficulty in meeting TAT and the importance of TAT for the particular sample. Any analytical reports which are requested with an expedited TAT, but not provided in that expedited TAT will be charged by the Vendor at the normal unit cost as per 30-day TAT. If these analytical reports are not provided within the 30-day TAT, they will be assessed the same penalties as analytical reports requested with a 30-day TAT.

- 5% of the Unit Cost per calendar day exceeding a TAT of thirty (30) days.

#### **6.16 Laboratory Analysis Reimbursement**

ODOT will compensate the Vendor on a Unit Cost per completed parameter as listed in pricing page Section 9 and 10. The Vendor's invoice must include: (a) sample supplies; (b) storage of unused samples and/or digests and extractions; (c) shipping of sample supplies; (d) analysis; (e) interpretation, (f) final analytical reporting for each sample per parameter; the proper disposal of the samples and materials associated with the analysis of the samples.

In billing the State of Ohio, the Vendor will indicate the number of completed samples per requested parameter. ODOT requests that each sampling activity, identified by ODOT control number, be invoiced separately. These invoices will include the site name, ODOT's project number, the District Hazardous Waste Coordinator's name, date samples were received by the Vendor, Vendor's invoice number, Vendor's identification number, number of samples required per parameter and the parameter(s). The Vendor will submit invoices to the appropriate ODOT District Office Hazardous waste Coordinator for review and approval.

The original invoices must be submitted for review and approval to the District Office requesting the services. Payment shall be made within thirty (30) days after the materials/services have been received and approved by ODOT. Invoices that do not meet ODOT's approval will be returned to the Vendor for correction. The resubmitted invoices will be returned to ODOT, District Office within fourteen (14) days of receipt of returned invoices. ODOT reserves the right to refuse reimbursement for any invoices that are not submitted within these time frames.

**6.17 Laboratory Access and Technical Support**

Upon request, the Contractor will provide technical support (training on the proper sample collection, preservation, QA/QC, etc.) and access to its facilities. Training materials which will be provided to attendees and a suggested agenda will be submitted in draft form to the ODOT Central Office Laboratory Coordinator three weeks prior to the scheduled course for review and comment. The Contractor in response will modify the training material to incorporate the suggested revisions by ODOT before the training session. All technical support and facility access will be coordinated through the District Office Laboratory Coordinator(s) and/or the Central Office Laboratory Coordinator and the Laboratory Representative. ODOT will reimburse the Contractor for the training as specified in the rate schedule in Section 11.

**6.18 Reimbursement for Laboratory Access and Technical Support**

ODOT will compensate the Contractor on an Hourly Rate for training as listed in - Sections 11. The Contractor=s invoice must provide an itemized accounting of: (a) the number of hours used by training staff and clerical personnel, (b) travel expenses and (c) other direct costs associated with the training program.

The Contractor must submit invoices, including the date(s) of training or technical support, and the site name or location where training took place to the Central Office Laboratory Coordinator for review and approval.

The original invoices must be submitted for review and approval to the ODOT, Central Office Laboratory Coordinator within sixty (60) days from the time that training was completed. Any invoices that do not meet ODOT's approval will be returned to the Contractor for correction. The resubmitted invoices must be returned to ODOT, Central Office within fourteen (14) days of receipt of returned invoices.

**6.19 Sample Collection by Laboratory Personnel**

Upon request, the Contractor will provide for the sampling of waste and, a new well or contaminated media from an ODOT designated location by vendors personnel or **an approved subcontractor**. All costs associated with the collection and delivery of the sample will be based on the sample collectors' time and the round trip mileage from the laboratory=s location to the ODOTs designated sampling location. ODOT sampling locations may consist of the following: ODOT Central Office or any of the twelve (12) ODOT Districts, the ODOT County garages, outpost and/or field sampling locations.

**6.20 Reimbursement for Sample Collection by Laboratory Personnel**

ODOT will compensate the Vendor on an hourly rate as agreed in section 12 and per mile basis for sample collection pick-up and delivery as requested. Mileage will be calculated based only on the miles driven between the laboratory and the ODOT designated pick-up location. The amount paid per mile will not exceed the mileage rates allowed by the State of Ohio. Mileage will not include miles accumulated related to the Vendor servicing other clients. The Vendor's invoice must provide an accounting of: (a) the number of miles driven, round-trip, for collection and delivery of the samples. The vendor may ship collected sample via common carrier which the cost is included in the analysis unit pricing set in Sections 9 and 10.

The Vendor must submit invoices, including the date(s) of service, and the site name or location where sample collection took place and the sample control number to the appropriate District Laboratory Coordinator for review and approval.

The original invoices must be submitted for review and approval to the ODOT location as listed on the purchase order. Invoices must be submitted within sixty (60) days from the time the samples were submitted to the Vendor. Any invoices that do not meet ODOT's approval will be returned to the Vendor for correction. The resubmitted invoices will be returned to the ODOT purchasing location within fourteen (14) days of receipt of returned invoices. ODOT reserves the right to refuse reimbursement for any invoices that are not submitted within these time frames.

**6.21 Record Retention and Storage**

The Vendor must maintain all analytical records (e.g., instrument printouts, preparation logs, Certificates of Cleanliness, calculation forms) and Vendor invoices/vouchers for samples submitted by ODOT for a period extending three (3) years beyond the expiration date or termination of the contract. All records must be maintained in the document control center with controlled access. These records must be filed by the site name(s), ODOT control number(s), and laboratory sample numbers for ease of accessibility. All records or copies will be made available to ODOT at all times, at no additional cost.

**6.22 Sample Analyses Confidentiality**

ODOT may submit samples for analysis that will be used for active litigation. Due to these circumstances, sample data must not be identified in any document to parties not bound by this contract. This requirement will apply to the Vendor and any subcontracted laboratory.

**6.23 Sample Inventory and Disposal**

The Vendor must develop and maintain a thorough sample inventory (written and/or computerized). Samples will be tracked by ODOT control number, laboratory sample number, site name, and date of sample analysis, parameters, and contaminants found, U.S. EPA hazardous waste codes, sample matrices, and remaining sample volume.

The Vendor will assume all costs associated with sample disposal. These samples will be disposed of according to all State and Federal laws and regulations, and will not bring liability to ODOT and the State of Ohio will not be responsible or liable for such disposal. There will be no additional charge for extended storage of samples.

**6.24 Invoicing for Re-analyses**

ODOT will not reimburse the Vendor for re-analyses other than those requested by ODOT. The cost associated with sample re-analyses resulting from method and/or laboratory quality control outliers (e.g., internal standards, surrogates, and laboratory check samples) will be borne by the Vendor.

**Section 7: Insurance**

The Vendor will provide the following insurance coverage at its own expense throughout the term of this Contract:

1. Workers' compensation insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where work on the Project will be done. The Vendor will also maintain employer's liability insurance with at least a \$1,000,000.00 limit.



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2. Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the State of Ohio as an additional insured, as its interest may appear. The policy will also be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance shall be:

\$ 2,000,000 General Aggregate  
\$ 2,000,000 Products/Completed Operations Aggregate  
\$ 1,000,000 Per Occurrence Limit  
\$ 1,000,000 Personal and Advertising Injury Limit  
\$ 100,000 Fire Legal Liability  
\$ 10,000 Medical Payments

The policy shall also be endorsed to provide the State with 30-day prior written notice of cancellation or material change to the policy. It is agreed upon that the Vendor's Commercial General Liability shall be primary over any other insurance coverage.

- (a) Commercial Automobile Liability insurance with a combined single limit of \$500,000.
- (b) Professional Liability insurance covering all staff with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate. If the Vendor's policy is written on a "claims made" basis, the Vendor shall provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Vendor must purchase and maintain "tail" coverage through the applicable statute of limitations.

The certificate(s) must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

**Pricing**

**Department Price Sheet Must be Submitted on a CD**

The Department shall not accept any Invitation to Bid that fails to include a compact disk (CD) with a completed price sheet from the Department's provided Microsoft Excel file. The Department will only accept and consider a price sheet that has been produced from the electronic completion of the Department's Microsoft Excel file which must be saved and submitted on a CD with the bid. Failure to submit a CD with a completed price sheet from the Department's Microsoft Excel file shall make the bid non-responsive. The CD shall be marked with the bidder's name and the Invitation to Bid number. The link for the price sheet from the Department's Microsoft Excel file is indicated on the front cover of this bid.

A hard copy print out of the completed price sheet should also be included in the bid package. In the event there is a discrepancy between the information submitted on the CD and the hard copy price sheet submitted with the bid, the information on the CD will govern.

**OFFICE OF CONTRACTS  
PURCHASING SERVICES**

**INSTRUCTIONS FOR SUBMITTING BIDS**

1. The original bid response must be submitted in a sealed envelope (envelope means any type of sealed, opaque container) with the bid number clearly marked on the outside of the envelope. If bidder is using an "Express Mail" or similar type of service, the bid response must be contained in a sealed envelope within the "Express" mailer (the bid number must be listed on the exterior of the sealed envelope contained within the "Express" mailer). Failure to submit the bid in a sealed envelope without the bid number clearly marked on the exterior shall result in immediate disqualification and no further consideration given for the award.
2. The original bid response (unless otherwise stated, hereinafter referred to as "bid") must be submitted to ODOT Purchasing prior to 11:00 a.m., on the scheduled day of opening as listed on the Invitation to Bid (ITB). All bids will be time/date stamped upon receipt by ODOT Purchasing, and such shall be the official time/date of receipt. Postmarks, or other times/dates appearing will not be considered as the official time/date of receipt. Bids may be submitted or delivered to ODOT Office of Contracts, Purchasing Services section - 1st floor, 1980 W. Broad Street, Columbus, Ohio 43223. Delivery to any other location, does not constitute bid being received by ODOT Purchasing. Bids submitted with insufficient postage will not be accepted. Bids will be received during regular business hours, 7:00 a.m. - 4:30 p.m., Monday through Friday, excluding recognized holidays. **Bids with stamped or copied signatures will be considered non-responsive.** Telegraphic, facsimiles, or any other mode of transmission other than stated above shall not be considered as a valid submission to ODOT Purchasing. Bidders using "express mail" or similar types of service, should verify with the service as to which address is required to ensure proper delivery of the response to ODOT Purchasing. ODOT will not be held liable for non-delivery and/or late delivery of any bid response due to a bidder listing an incorrect address.
3. The original bid response **with all pages** must be properly completed, signed by the bidder, accompanied by copies of all necessary supportive documentation **and returned in its entirety**. The original bid response must contain an authorized original signature of the bidder on the signature page. **If the entire ITB is not submitted with all pages, the bid will be deemed non responsive and ineligible for award.**
4. Any bid received after 11:00 a.m., on the scheduled day of opening, will be marked as late, remain sealed, and will receive no further consideration for award. Late bids will be returned to the Vendor. Bidders should allow sufficient time for mailing their bids to ensure delivery to ODOT Purchasing prior to the opening time and date. ODOT will not be responsible for a late bid due to failure of the bidder to allow sufficient time for delivery of the bid.
5. In order to protect the integrity of the bidding process, bids shall not be prepared, completed or altered on the premises of ODOT Purchasing. Any bid which is prepared, completed or altered on the premises of ODOT Purchasing shall be immediately disqualified and receive no further consideration for award.
6. Pursuant to Section 5513.01 of the Ohio Revised Code, ODOT Purchasing is required to mail ITBs to Vendors properly registered with ODOT. A copy of the ITB may be obtained by visiting the Office of Contracts during regular business hours. Vendors who wish to become registered to receive ITBs by mail, should contact Purchasing Services Section at (614) 466-3778 or 800-459-3778 for further information.

In addition, your company now has the ability to access ITB's and addenda at <http://www.dot.state.oh.us>. Go to Divisions – Contract Administration – Purchasing Services – Vendor Information – Upcoming Invitations to Bid.

7. Bids shall be publicly opened, at ODOT, starting at 11:00 a.m. on the scheduled date of opening. All bids will be opened and read. Bids, unless otherwise provided herein, are subject to the Public Records Law, Section 149.43 of the Ohio Revised Code. Copies of bid responses must be requested and will be provided within a reasonable period of time and at a fee established by the Director of ODOT. To expedite and properly respond to such public records requests, a written request should be submitted. To prevent delays in evaluating bids and awarding contracts, such requests for recently opened bids, will be honored upon completion of the contract award by the Director of ODOT.

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8. BIDDERS MAY REQUEST CLARIFICATION: If any bidder discovers an inconsistency, error, or omission in this ITB, the bidder should request clarification. Any pre-bid questions or inquiries must be submitted in writing and received no later than three (3) business days before the scheduled opening date. The issuance of an addendum is dependent upon the information received and the impact on the competitive bid process. Pre-bid questions can be sent e-mailed or faxed to the buyer listed on the front page. The Office of Contracts fax number is 614-728-2078. All pre-bid inquiries must have the following information:

The name of sender,  
Company name,  
Phone number,  
Opening date,  
Bid number,  
A detailed description of the question,  
Any other pertinent information

Bidders are not to contact any other office, including District offices, for responses to pre-bid questions.

**GENERAL DEFINITIONS**

When used in this Invitation to Bid or any ensuing contract, the following definitions shall apply. If a conflict exists between these definitions and any definition listed in the bid specifications, the bid specifications shall prevail.

1. AGENCY: Ohio Department of Transportation.
2. AUTHORIZED DISTRIBUTOR: The bidder/vendor who maintains written legal agreements with manufacturers/producers to act as their agent and provide supplies, materials, equipment or services listed in the bid/contract. The authorized distributor must maintain active and sufficient facilities necessary to perform the awarded contract, own title to the goods inventoried within these facilities and maintain a true stock of these goods on a continuing basis and in sufficient quantity to provide uninterrupted service to ordering agencies.
3. BIDDER: The company and/or authorized representative of the company who has signed and is submitting the signed bid response and who will be responsible to ensure proper performance of the contract awarded pursuant to the bid.
4. EDGE CERTIFIED: EDGE stands for Encouraging Diversity, Growth and Equity. EDGE is an innovative program to serve socially and economically disadvantaged businesses in Ohio. Reference Ohio Revised Code 123.152. Please visit <http://www.ohio.gov> for additional information.
5. EQUIPMENT: Items, implements and machinery with a predetermined and considerable usage life.
6. INVITATION TO BID/CONTRACT: All documents, whether attached or incorporated by reference, utilized for soliciting bids. Upon completion of the evaluation of the bidder's response, the Invitation to Bid then becomes the contract between ODOT and the successful bidder, both governed by the laws of the State of Ohio.
7. INVOICE: An itemized listing showing delivery of the commodity or performance of the service described in the order, and the date of the purchase or rendering of the service, or an itemization of the things done, material supplied, or labor furnished, and the sum due pursuant to the contract or obligation.
8. LOWEST RESPONSIVE\RESPONSIBLE BIDDER: A bidder who offers the lowest cost for the goods or services listed in the bid; and whose proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give him a competitive advantage; and whose experience, financial condition, conduct and performance on previous contracts, facilities, management skills evidences their ability to execute the contract properly.
9. MATERIALS: Items or substance of an expendable or non expendable nature from which something can be made, improved or repaired.
10. PURCHASE: To buy, purchase, installment purchase, rent, lease, lease purchase or otherwise acquire equipment, materials, supplies or services. "Purchase" also includes all functions that pertain to obtaining of equipment, materials, supplies or services, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.
11. SERVICES: The furnishing of labor, time or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.
12. SPECIFICATION: Any description of the physical or functional characteristics or of the nature of supplies, equipment, service, or insurance. It may include a description of any requirements for inspecting, testing, or preparing supplies, equipment, services, or insurance.
13. SUPPLIES: Provisions and items normally considered expendable or consumable.

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14. UNBALANCED: Any unit price contained in the bid schedule which is obviously unbalanced either above or below reasonable cost analysis and or unreasonably disproportionate to current market prices as determined by the Director of ODOT, or if such unbalanced prices are contrary to the interest of the department.
15. VENDOR: The bidder who, upon awarding of a contract, becomes the prime Vendor who is considered to be the primary source for providing the goods or services listed in the awarded contract and the party to whom payment will be made upon delivery of the goods and/or completion of the contract.
16. SUBVENDOR: An individual, firm or corporation to whom the Vendor sublets part of the contract to be performed.

**STANDARD TERMS AND CONDITIONS**

1. HEADINGS: The headings used in this Invitation to Bid (hereinafter referred to as an "ITB") are for convenience only and shall not affect the interpretation of any of the terms and conditions thereof. When terms and conditions set forth elsewhere in the ITB conflict with these terms and conditions, the ITB standard terms and conditions shall prevail.
2. GOVERNING LAW/SEVERABILITY: The ITB, award and the agreement entered into with the successful bidder (hereinafter referred to as "the Contract") are governed by the laws of the State of Ohio. If any provision of this Contract, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Contract, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
3. INFORMATION REQUESTED: Bidders shall furnish all information as requested in the ITB. At the discretion of the Director, additional information, necessary for evaluation of the bid, may be attached to the bid and shall be properly identified as being part of the bid. ODOT reserves the right to request literature, or other documentation for clarification, although such may not have been set forth in the ITB. ODOT also reserves the right to require a Vendor to have a complete W-9 on file with the Department prior to a contract being awarded. Failure to provide the required information or a complete W-9 may render the bid invalid.
4. SAMPLES REQUESTED: When requested, samples shall be furnished at bidders' expense, and unless otherwise specified, prior to opening of the bid. Samples shall be clearly identified by bidder's name, the bid number, corresponding item in the bid and bid opening date. ODOT acknowledges that it may receive bids from multiple distributors bidding the same manufacturer's products. In such situations, samples may be submitted by manufacturers on behalf of multiple distributors, provided that such samples shall be accompanied by written documentation, on manufacturer's letterhead, signed by authorized representative of manufacturer, listing the named distributors for whom the samples are provided. Any bidder not appearing on this listing and who has failed to furnish requested samples shall be considered non-responsive. Unless otherwise stated, any sample submitted with the bid shall not be deemed to vary from any of the provisions, specifications, or terms and conditions of the bid. When requested in writing, samples not destroyed in testing, shall be returned at the bidder's expense. Samples not so requested shall become the property of ODOT. Unsolicited samples which are submitted, shall be at the bidder's risk and, shall not be examined or tested, and shall not be considered in the evaluation process. ODOT reserves the right to request samples although such may not have been set forth in the ITB.
5. SPECIFICATIONS: ODOT is authorized to prepare specifications to obtain supplies and services. The purpose of the specification is to describe the supplies or services to be purchased and will serve as a basis for comparison of quotes. The Department may use any form of specification it determines to be in the best interest of the State and that best describes the supplies or services to be purchased. Specifications may be in the form of a design specification or a combination thereof. If the department determines that a design, performance or a combination specification is not in the best interest of the State, it may use brand name or equal specifications. Where a brand name or equal specification is used, use of brand name is for the purpose of describing the base standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. Substantially equivalent supplies or services to those designated will be considered for award.

The Department may also use a qualified products list of the Federal government or may develop a qualified products list applicable to ODOT. When developing a qualified products list, the Department shall solicit a sufficient number of suppliers to ensure maximum coverage with providers of the supplies or services. Any supplier, not solicited, may request inclusion on the qualified products list. Potential suppliers will be required to furnish exact samples of the supplies or services to be provided for testing and examination by ODOT. Only those supplies or services that conform to ODOT's requirements will be considered for inclusion on a qualified products list.

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Specifications as shown in the Construction and Materials Handbook are incorporated into the ITB and made a part thereof and are found in the current Ohio Department of Transportation Construction and Materials Specifications handbook and provisions of the current version of supplemental specification 800 that is in force at the time of award. To obtain the current specifications, contact:

Ohio Department of Transportation  
Office of Contracts, Purchasing Services  
1980 W. Broad Street, 1<sup>st</sup> Floor  
Columbus, Ohio 43223  
Telephone (614) 466-3778 or (800) 459-3778

The cost of the handbook is \$12.00. You can access Supplemental Specification 800 on ODOT's Web Site at: <http://www.dot.state.oh.us/drrc/>.

6. UNIT PRICE GOVERNS: The unit price governs the award unless otherwise specified in the ITB. The unit price must be entered for each item being bid. Use of ditto marks, arrows, or other markings in lieu of the actual unit price shall be deemed non-responsive. Lot prices listed in the unit price area shall be considered as the unit price unless clearly identified as the lot price. Any request to change or alter the price after opening of the bid shall not be allowed. Bidders should review bid pricing carefully, as once a contract is awarded; the Vendor shall be required to deliver the goods or services at the prices quoted. Bidders shall not insert a unit cost of more than three (3) digits to the right of the decimal point. Digit(s) beyond three (3) will be dropped and not used in the evaluation of the bid or payment thereof.
7. BIDS FIRM: Once opened, all bids are firm and cannot be altered. Once a contract is awarded, the Vendor shall deliver at the prices and terms quoted. The Ohio Department of Transportation shall receive the benefit of any decrease in price during the guaranteed price period. Unless otherwise stated, all bids shall remain valid for a period of sixty (60) calendar days after the bid opening date.
8. MODIFICATION OF BIDS: A bidder may request to modify their bid response prior to the scheduled date and time set for bid opening. If changes or alterations are made to the bid response, the original information must be lined or opaqued out with the new information inserted. All changes, corrections, or alterations must be legible and initialed by the bidder. Illegible modifications shall result in disqualification of the items. Failure of the bidder to initial any such modifications may result in disqualification of the items which have been modified. ODOT reserves the right to request written certification from the bidder verifying that such changes were made by the bidder and are applicable to the ITB and any resulting contract. All documents relating to the modification shall be made a part of the bid file.
9. WITHDRAWAL OF BIDS: **Prior to the scheduled time and date for opening:** A bidder may, by written notice to the Director of ODOT, request to withdraw their bid response. Such written notice must set forth reasons for the withdrawal. **After bid opening,** a bidder may request to withdraw their bid response from consideration if the price bid is substantially lower than the other bids, providing the bid was submitted in good faith, and the reason for the bid price being substantially lower was due to an unintentional and substantial arithmetical error or unintentional omission of a substantial quantity of material or labor in the compilation of the bid. Written notice of any such request to withdraw must be sent by fax, email, or certified mail, and received within forty-eight hours after the bid opening date. All requests to withdraw a bid must be placed in writing to the Director of ODOT and no bid may be withdrawn without written approval from the Director of ODOT. The decision to allow a bid to be withdrawn is at the sole discretion of the Director of ODOT. If the bid is to be awarded by category, the withdrawal request will apply to all items within the category. All documents relating to any withdrawal request will become a part of the permanent bid file. Pursuant to Ohio Revised Code Section 5525.01, the Director may declare forfeited any bid bond associated with a bid if the terms of this paragraph are not met.
10. TAXATION: ODOT is exempt from federal excise taxes and all state and local taxes, unless otherwise provided herein. ODOT does not agree to pay any taxes on commodities, goods, or services acquired from any Vendor.
11. REJECTION OF ANY/ALL BIDS: The Director of ODOT reserves the right to accept, or reject, any or all bids, in whole or in part, and may determine that any irregularities or deviations from the specifications do not result in the bid being non-responsive, provided however, that the Director of ODOT determines that this does not affect the amount of the bid or result in a competitive advantage to the bidder.



12. DISQUALIFICATION OF BIDDERS: Any of the following reasons may be considered as being sufficient for the disqualifications of a bidder and the rejection of their proposal:
- A. More than one proposal for the same work from an individual, firm or corporation under the same or different name.
  - B. Evidence of collusion among bidders.
  - C. Bid prices which are in ODOT's opinion unbalanced.

The bid supplied by a disqualified bidder shall be rejected, and the disqualification determination will be used to evaluate the responsibility of the bidder in future ITBs.

The Department will not award a contract for goods or services, funded in whole or in part with Federal funds, to a Vendor who has been suspended or debarred from doing business with the State of Ohio or who appears on the Federal List of Excluded Parties Listing System <http://www.epls.gov/>.

- 12A. NOT RESPONSIBLE VENDORS: ODOT maintains a list of vendors who have not acted in a responsible manner while doing business with ODOT. This list can be found through the following link:

<https://extranet.dot.state.oh.us/groups/purchasing/default.aspx>

Bidders are required to disclose any relationship they may have with vendors on the above list. Disclosure of the relationship with the vendors shall include but not be limited to the name of vendor, name of Chief Operating Officer, and address of the vendor.

- 12B. DISTRIBUTOR'S DISCLOSURE INFORMATION: Bidders who are not the original manufacturer of the product to be supplied to ODOT are required to supply the name of the original manufacturer. Thus, if the bidder is not the manufacturer of the product supplied to ODOT, the bidder should disclose the following: The name, Chief Operating Officer, location, primary phone contact number, and primary vendor contact individual of the manufacturing company. The bidder should also disclose any other relevant information that would allow ODOT to evaluate the product or producer.

Failure to provide any of the above information may deem the bidder non-responsive.

13. CREATION OF THE CONTRACT: A contract is created between the Vendor and the Ohio Department of Transportation when the Director of Transportation accepts the competitive bid and acknowledges the acceptance in writing. The contract shall become operational only when either a purchase order has been issued or the Department's payment card is presented to the awarded Vendor. The contract shall contain all the terms and conditions of this ITB, as well as the accepted responses in the bid proposal, except that no responses may change or alter the terms and conditions of this ITB.

This Contract will be constructed in accordance with the plain meaning of its language and neither for nor against the drafting party.

14. NON-ASSIGNMENT OF INTEREST: The Vendor shall not assign any interest, duty or right under the Contract, in whole or in part, without prior written approval from the Director of ODOT.
15. PURCHASE ORDER/PAYMENT CARD REQUIRED: The ODOT is not obligated to purchase any goods or services provided by the Vendor as a result of the award of the contract to the Vendor. An official ODOT purchase order must contain approval signatures of the Office of Budget and Management, the Department of Administrative Services, and the Director of Transportation. The approved purchase order shall authorize the Vendor to provide goods or services listed on the order and will obligate ODOT to pay for such goods or services upon completion of delivery or performance of service by the Vendor. Any order placed, not using an approved ODOT purchase order or payment card, shall not be considered a valid order and may result in denial of payment and/or return of goods at the Vendor's expense.

**Note:** Payments for purchases at the contract price are made within three (3) days of the actual sale date with a State of Ohio payment card. If you are able to accept the State of Ohio payment card, your company must meet the policies and procedures of the Department's Office of Accounting. Payment cards cannot be used for service contracts when the Vendor is not on the approved list of incorporated vendors. In addition, unit prices quoted shall include all costs associated with the use of the State's payment card if you have checked that your company is able to accept a credit card.

16. DELIVERY/FREIGHT CHARGES: Unless otherwise stated, ODOT shall not be responsible for freight or delivery charges. Prices are to be based upon the products or services being offered F.O.B. destination, freight prepaid by the Vendor to the locations set forth in the ITB or as listed on the purchase order issued pursuant to any contract awarded. Any shipment marked C.O.D. shall be rejected and returned at the Vendor's expense.
17. DELIVERY/INSPECTION, ACCEPTANCE AND AMENDMENTS: Upon delivery of the product/service, ODOT retains the right to inspect the product/service prior to final acceptance and/or payment for the product/service. The purpose of the inspection process is to ensure that the product/service is in compliance with the specifications set forth in the awarded contract. In the event that the product/service does not meet the specifications, ODOT shall notify the Vendor for removal/replacement of the product or service. ODOT shall retain all rights and remedies as described herein. Wherein products ordered by ODOT are delivered to a facility, which is not owned by ODOT and where ODOT has contracted with this facility to take delivery of products ordered by ODOT, acceptance will occur when the products have been inspected and accepted by ODOT within a reasonable amount of time after delivery to the facility. ODOT shall not be responsible for any storage costs incurred prior to the inspection and acceptance.

No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties.

18. DELIVERY/TITLE TO THE MERCHANDISE: Title to the product(s) passes to ODOT upon inspection and acceptance. ODOT shall approve and process payment for the product(s) upon passing of the title.
19. CONTRACT REMEDIES:
  - A. ACTUAL DAMAGES: Vendor is liable to the State of Ohio for all actual and direct damages caused by Vendor's default. The State may substitute supplies or services, from a third party, for those that were to be provided by Vendor. In accordance with Ohio Revised Code §5513.05(c), the State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Vendor's default, from Vendor.
  - B. LIQUIDATED DAMAGES: If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the order, deliverable or milestone that is the subject of the default for every day that the default is not cured by the Vendor. If Delay of the cure is caused by ODOT, the delivery date shall be extended accordingly to offset such delays. Approval to extend any scheduled delivery date shall be at the sole discretion of ODOT.
  - C. DEDUCTION OF DAMAGES FROM CONTRACT PRICE: The State may deduct all or any part of the damages resulting from Vendor's default from any part of the price still due on the contract, upon prior written notice issued to the Vendor by the State.

20. INVOICING & PAYMENT:

- A. In consideration for Vendor's performance, ODOT shall pay Vendor directly at the rate specified in the Bid. Payments may be made by the Ohio Payment Card, an Auditor of State warrant or by electronic funds transfer (EFT). For all transactions, Vendor must have a valid W-9 form on file with ODOT.

**By Purchase Order** Upon delivery of goods or performance of the service, as described on any purchase order placed against the Contract, Vendor shall submit proper invoices within 30 calendar days after ODOT's receipt of goods or services, in quadruplicate, directly to the ordering agency billing office as indicated on the purchase order. A proper invoice is defined as being free from defects, discrepancies, errors or other improprieties and shall include, but may not be limited to:

- 1) Vendor's name and address as designated in the Quote.
- 2) Vendor's federal E.I. number.
- 3) Invoice remittance address as designated in the Quote.
- 4) The Purchase Order number authorizing the purchase of goods or services.
- 5) Description, including time period, unit price, quantity, and total price of goods or services delivered or rendered as specified in the Quote.
- 6) Assessments for load limit violations, non-compliance with specifications, late delivery, and other necessary deductions have been properly applied, etc.

Defective invoices shall be returned to the Vendor noting areas for correction. If such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

**By Payment Card**: ODOT may use the Ohio Payment Card in accordance with the OBM guidelines. Vendor may process a payment in the payment card network only upon delivery and acceptance of the supplies or service ordered. For partials deliveries or performance, Vendor may process a payment for the amount delivered or completed only and not for the entire amount ordered by ODOT.

- B. **Defective Invoices**: In the event the Department is in receipt of defective or improper invoices, the Department shall postpone payment pursuant to Section 126.30 of the Ohio Revised Code. Invoices shall be returned to the Vendor noting areas for correction. If such notification of defect is sent, the required payment date shall be thirty (30) calendar days after receipt of the corrected invoice.
- C. **Payment of Invoices**: Pursuant to Section 126.30 of the Revised Code, and the applicable rules thereto, all state agencies shall make prompt payment for any goods or services acquired from the Vendor. Upon receipt of a proper invoice, payment, subject to the foregoing provision and, unless otherwise stated, shall be made within thirty (30) calendar days. The Department will make payment to the same company name and Federal tax identification number awarded the contract and mail to the Vendor address indicated in the response to the invitation. No payments shall be made to parent or subsidiary companies. Any changes regarding payment after formation of the contract will not be permitted.
- D. **Electronic Commerce**: The State of Ohio is an active participant in Electronic Data Interchange (EDI). This program will benefit both the state and the Vendor by reducing time delays in receiving orders and payments that are associated with the existing manual processes. It is the goal of the State of Ohio to conduct all procurement activities through electronic commerce technologies. All Vendors are encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio in the future. The following EDI information is offered to assist all interested businesses in their efforts to move toward becoming a trading partner with the State of Ohio through the electronic commerce technologies.

- E. Electronic Data Interchange: EDI is another major piece of the state's electronic procurement model. EDI is presently used for electronic invoicing and payment of large dollar purchases. The program includes the receipt of electronic invoices from Vendors and the transmission of payment and remittance information back to the Vendor. A complete implementation guide for doing business with the State of Ohio using EDI, can be found on the Internet at: <http://www.state.oh.us/ecedi>. This guide contains all of the information necessary for a business to become EDI compliant. By following all of the links, the entire guide may be viewed, downloaded and printed at your location. The state has implemented the purchasing transaction set and Vendors are encouraged to receive the electronic purchase order (850). The state will provide implementation guidelines for this activity which will involve participation by the Vendor. Once you become an EDI trading partner, incorporating additional transaction types will require minimal effort. If you are currently unable to perform EDI and would like to have assistance in establishing capabilities to conduct business with the State of Ohio through this technology, please contact: Greg Miller at (614) 466-3459 or Ruth Ann Neely at (614) 995-0755.

21. BREACH OF CONTRACT:

- A. When the Vendor fails to perform its contract obligations or refuses to correct problems identified by department personnel or fails to perform with diligence and adequate effort as required to complete the contract in a timely manner, the Vendor will be declared to be in breach of contract. A Vendor complaint form will be filed by the district with the Office of Contracts, Purchasing Services.
- B. The Vendor shall be given a written notice of its breach of contract by the Department. This notice will clearly state the performance problems that need to be cured. The notice will be sent certified or express mail.
- C. The Vendor shall commence its cure within **ten (10) calendar days** or within a time frame agreed upon by the parties or risk being defaulted. If the performance problems have not been cured or good faith efforts have not been made within either the **ten (10) calendar day period or another agreed upon time frame**, the Director may declare the Vendor in default.
- D. Pursuant to Section 5513.05 of the Ohio Revised Code the Department may recover from a Vendor who fails to promptly provide conforming articles, any incidental or consequential damages as defined in Section 1302.89 of the Ohio Revised Code incurred by the Department in promptly obtaining the conforming articles.

22. TERMINATION FOR CAUSE - DEFAULT

- A. When the Vendor is declared to be in default, a written Notice of Default will be faxed and sent certified or express mail to the Vendor and the contract will be terminated.
- B. Once the Vendor has been defaulted and the contract is terminated the Vendor shall cease all work or deliveries. Further, all pay estimates or invoices shall cease until the department conducts a final accounting.
- C. The department may take possession of all materials, supplies and equipment at the project or those stored off site for which the department has paid the Vendor. The department may complete the work by such means as it deems appropriate. The department may also purchase, on the open market, any materials or supplies that have not been delivered by the Vendor.
- D. If the department incurs further expense in completing the work or purchasing materials or supplies on the open market, the excess costs shall be paid by the terminated Vendor.

23. FORCE MAJEURE: Except as otherwise provided herein, neither the Vendor nor ODOT shall be liable to the other for any delay or failure of performance of any provisions contained herein, nor shall any such delay or failure or performance constitute default hereunder, to the extent that such delay or failure is caused by force majeure. The term force majeure, as used herein shall mean without limitation: acts of God such as epidemics; lightning; earthquakes; fire; storms; hurricanes; tornadoes; floods; washouts; droughts, or other severe weather disturbances; explosions; arrests; restraint of government and people; and other such events or any other cause which could not be reasonably foreseen in the exercise of ordinary care, and which is beyond the reasonable control of the party affected and said party is unable to prevent.
24. NON-DISCRIMINATION/COMPLIANCE WITH APPLICABLE LAWS: The Vendor, as a term of the Contract, shall comply with Civil Rights Act of 1964, the Federal Rehabilitation Act of 1973, any and all applicable Federal Executive Orders, any and all applicable Ohio Governor Executive Orders, and any and all other statutes, rules and regulations pertaining to non-discrimination. The Vendor further agrees that he/she is in compliance with the requirements of Ohio Revised Code Section 125.111.
25. NON-APPROPRIATION OF FUNDS: It is understood that ODOT's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. Subject to the applicable provisions of the Ohio Revised Code, ODOT represents: that it has adequate funds to meet its obligations under any Contract awarded as a result of this ITB during the current fiscal year; that it intends to maintain any Contract awarded as a result of this ITB for the full period set forth herein; and that it has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period. However, if the Ohio General Assembly fails at any time during such Contract period to continue funding for any Contract awarded as a result of this ITB, ODOT's obligations under such Contract are terminated as of the date that the funding expires without further obligation of ODOT.

Furthermore, if the source of funding for the ITB is supplied by an entity other than ODOT, and if said funding is withdrawn prior to the acceptance by the Director, ODOT's obligations under this contract are terminated without further obligation of ODOT.

Article II, Section 22, of the Constitution of the State of Ohio prohibits the current General Assembly from committing a future General Assembly to an expenditure. In addition, no state contract may extend beyond June 30 of the current biennium. Should the effective date of any state contract extend beyond June 30, of the current biennium, such contract shall be null and void unless the state affirmatively renews the contract through issuance of a valid ODOT Purchase Order or by actions of ODOT of the decision to renew. A biennium will expire on June 30 of an odd numbered calendar year. (For example, the 94/95 biennium expires on June 30, 1995.).

26. ANTITRUST: ODOT and the Vendor recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by ODOT. As consideration for the Award of the Contract, and intending to be legally bound, the Vendor assigns to ODOT all right, title and interest, to all claims and causes of action the Vendor now has or may acquire under state or federal antitrust laws **provided** that the claims or causes of action relate to the goods or services that are the subject of the Contract, and **except** as to any claims or causes of action which result from antitrust violations that occur after the price is established under the Contract and that are not passed on to ODOT. Additionally, Vendor warrants that any overcharges resulting from antitrust violations by Vendor's first tier suppliers and sub Vendors shall not be passed on to ODOT.
27. TERMINATION OR SUSPENSION: Any contract awarded as a result of this proposal may be terminated by either party after the expiration of sixty (60) days from the effective date of the contract by giving thirty (30) days prior written notice of intent to cancel to the other party. However, in the event that services/materials supplied by the Vendor do not comply with the terms/specifications in this invitation, the Department of Transportation reserves the right to cancel this contract immediately. Notwithstanding the above, the Department further reserves the right to cancel this contract for the following reasons within the following respective time frames.
- A. TERMINATION FOR FINANCIAL INSTABILITY: ODOT may cancel this contract immediately by written notice to the Vendor if a petition in bankruptcy or similar proceeding has been filed by or against the Vendor.

Invitation No. 235-13

- B. CANCELLATION: Any contract awarded in error may be rescinded at the Directors discretion. If cancellation is for the convenience of ODOT, the Vendor will be entitled to compensation for any deliverable that the Vendor has delivered before the cancelation. Such compensation will be the Vendor's exclusive remedy and provided only after a proper invoice is submitted and approved by ODOT.
- C. TERMINATION FOR DELINQUENCY, VIOLATION OF LAW: The State may terminate this Contract by written notice, if it determines that Vendor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. The State also may cancel this Contract, if it determines that Vendor has violated any law during the performance of this Contract. However, the State may not terminate this Contract if the Vendor has entered into a repayment agreement with which the Vendor is current.
- D. TERMINATION FOR SUBCONTRACTOR DEFAULT: The State may terminate this Contract for the default of the Vendor or any of its subcontractors. The Vendor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Subcontractors will hold the State harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Vendor for any compensation to which they may be entitled.
- E. TERMINATION FOR FAILURE TO RETAIN CERTIFICATION: Pursuant to section 125.081 of the Revised Code, the State may set aside a quote for supplies or services for participation only by minority enterprises (MBE's) as certified by the State of Ohio, Equal Opportunity Coordinator. After award of the Contract, it is the responsibility of the MBE Vendor to maintain certification as a MBE. If the Vendor fails to renew its certification and/or is de-certified by the State of Ohio, Equal Opportunity Coordinator, the State may immediately cancel the Contract.
- F. SUSPENSION: If Vendor fails to perform any one of its obligations under this Contract, it will be in default and ODOT may suspend rather than terminate this Contract with ODOT believes that doing so would better serve its interests.

In the case of a suspension for ODOT's convenience, the amount of compensation due the Vendor for work performed before the suspension will be determined in the same manner as provided in this section for termination for ODOT's convenience or the Vendor may be entitled to compensation for work performed before the suspension, less any damage to ODOT resulting from the Vendor's breach of this Contract or other fault.

The notice of suspension, whether with or without cause, will be effective immediately on the Vendor's receipts of the notice. The Vendor will immediately prepare a report and deliver it to ODOT which will include a detailed description of work completed, percentage of project completion, estimated time for delivery of all orders received to date, and costs incurred by the Vendor.

- 28. INDEMNIFICATION: The Vendor shall defend, indemnify and hold harmless ODOT for any and all claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which arise as a result of the services performed by the Vendor or its employees or agents which is in any way connected with, or based upon services rendered in performance of the Contract. Reference 107.12 the Construction & Materials Specification handbook.
- 29. CONFIDENTIALITY: The Vendor acknowledges that some of the information, documents, data, records, or other material provided by ODOT during the performance of the Contract may be of a confidential nature. The Vendor agrees that it will not disclose any information obtained by it as a result of the Contract, without written permission from the Director of ODOT. Further, Vendor agrees to make all reasonable efforts to ensure that no such confidential information is disseminated by its employees. The restrictions herein shall survive termination of the Contract. The Vendor shall assume that all aspects of information, documents, data, records or other material are confidential unless otherwise indicated.

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30. CONFIDENTIAL DATA: ODOT reserves the right to request additional confidential information, including but not limited to financial information, to be used for evaluation purposes even though such information may not have been required by the ITB. In the event such information is requested, ODOT agrees to retain such information as confidential to the extent permitted by law.
31. DRUG-FREE WORKPLACE: By virtue of the signature on the last page of this ITB, the bidder certifies, to the best of his/her ability, that its employees will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs, in any way, while working on state property. Failure to comply will result in immediate termination of any contract awarded and the Vendor will be subject to the provisions as set forth in Paragraph 21.
32. PATENTS: Section 107.03 concerning patented devices, materials and processes, as stated in the Ohio Department of Transportation Construction and Materials Specifications current issue, is incorporated by reference, as if rewritten herein for this Invitation to Bid. A copy of Section 107.03 is available upon request.
33. WORKERS' COMPENSATION: Vendor shall be in compliance with all State and Federal laws pertaining to the type of service requested, such as Workers' Compensation. ODOT is hereby released from any and all liability for injury received by the Vendor, its employees, agents, or subcontractors, while performing tasks, duties, work, or responsibilities as set forth in this contract.
34. PROTEST PROCEDURE:
  - Pursuant to Ohio Revised Code Section 9.312, an apparent low bidder found not to be responsive or responsible shall be notified of that finding and the reasons for it. The notification shall be given in writing and by certified mail.
  - Bidder shall have five (5) calendar days after receipt of notification to file a written protest. The Department shall meet with the apparent low bidder or bidders at their option upon the filing of a timely written protest.
  - No final award shall be made until the Department either affirms or reverses its earlier determination.
35. TIE BID PROCESS: If two or more bids offer the same unit price and are determined to be responsive and responsible, ODOT will break the tie as follows: during the bid evaluation process, the bidders that submitted tie bids will be contacted and given a deadline to submit a written revised unit price for the affected item or items. If a tie still exists, ODOT may repeat this process or look to past or current performance in order to secure the item or items. ODOT will not allow a tie bid situation to otherwise unnecessarily delay a potential award.
36. DEVIATIONS: Statements or modifications that deviate from the Invitation's terms, conditions, specifications and requirements (such as altering delivery, changing F.O.B., price list changes, etc.) may render the bid non-responsive if the Director determines that the deviation or modification affects the amount of the bid or results in a competitive advantage for the bidder.
37. FINDING FOR RECOVERY: The Vendor affirmatively represents to the Department that it is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that it has taken the appropriate remedial steps required under Section 9.24 or otherwise qualifies under that section. The Vendor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the Department hereunder shall be immediately repaid to the Department, or an action for recovery may be immediately commenced by the Department for recovery of said funds.

38. **DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION:** The Bidder being awarded the Contract must complete the enclosed Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization (DMA). This form is to certify that the Vendor does not provide material assistance to any organization on the United States, Department of State's terrorist exclusion list. The completion of this form is considered a Condition Precedent for Execution of a Contract. Failure to complete the certification may result in the bidder being deemed not responsive and/or may invalidate any Contract awarded. If not submitted with the bid response, the bidder will have seven (7) calendar days, after notification, to submit the completed form.
39. **OHIO ETHICS LAW:** Contractor agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.
40. **CERTIFICATE FOR DOMESTIC AND OHIO PREFERENCE FORM:** Those Bidders claiming preference for Domestic Source End Products and/or the Ohio preference, pursuant to Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06 must complete the enclosed Certificate for Domestic and Ohio Preference Form. Bidders who qualify as an "Ohio" Bidder (offer an Ohio product or who have significant Ohio economic presence) or who qualify as a Border State Bidder are eligible to receive a five percent (5%) preference over non-Ohio/Border state bidders. The state reserves the right to clarify any information during the evaluation process. Bidders must complete this certification to receive the preference.
41. **OHIO ELECTION LAW:** Contractor affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.
42. **CONSIGNMENT:** The products requested in this ITB may be considered for consignment by mutual acceptance of the parties. The parties, meaning any ODOT facility identified in the ITB and the awarded Vendor (s).

If a consignment arrangement is mutually acceptable to both parties, ODOT will send the awarded Vendor (s) a "Consignment Agreement" which may be executed by the Vendor (s). If the Vendor (s) decides to execute the "Consignment Agreement," it must be submitted to the Office of Contracts. The Office of Contracts will execute the "Consignment Agreement" of behalf of the Department and send a copy of the executed agreement to all the parties.

If a "Consignment Agreement" is established, the prices established in the ITB must remain firm for the duration of the contract. The prices can not and will not be increased to cover any increased costs associated with entering into a "Consignment Agreement" with the Department.
43. Any person executing this Contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Contract on such principal's behalf.
44. Any general rule of construction to the contrary notwithstanding this Contract shall be liberally construed in favor of the effect the purpose of this Contract and the policy and purposes of the Department. If any provisions in this Contract are found to be ambiguous, an interpretation consistent with the purpose of this Contract that would render the provision valid shall be favored over any interpretation that would render it invalid.
45. This Contract sets forth all understandings between the parties respecting the subject matter of this transaction, and all prior agreements, understandings, and representations, whether oral or written, representing this subject matter are merged into and superseded by this written Contract. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, to explain, or to vary any of the terms of this Contract.



46. SWEATSHOP FREE CERTIFICATION: The Vendor certifies that all facilities used for the production of the supplies or performance of services offered in the bid are in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by the Vendor in furnishing the supplies or services described in this Contract and awarded to the Vendor.

**47 and 48 - To Be Referenced on the Salt Contract Only**

47. 018 – SALT CONTRACT ONLY - 19. LATE DELIVERY CHARGE: The Vendor shall be responsible for any and all damages for noncompliance with the delivery schedules set forth in the ITB or any awarded contract. The Vendor shall be required to make delivery of the product or service in accordance with the terms of the contract. Unless prior approval to extend the delivery date has been granted to the Vendor, by the ordering agency, any failure to meet the scheduled delivery date may result in the Vendor being assessed a "late delivery charge." Said late delivery charge shall be either 1% of the value of the Sub-Purchase Order or \$50, whichever is greater, for each calendar day beyond the scheduled 7 calendar day delivery date. The Sub-Purchase Order shall be defined as that remaining portion of the Purchase Order that was not delivered on the scheduled delivery date. As time is of the essence, if the Vendor does not deliver the ordered material within 7 days and ODOT is required to move material from one facility to another to meet operational need, the Vendor will be assessed an addition \$5.00 per ton for each ton transported. If such delay is caused by ODOT, the delivery date shall be extended accordingly to offset such delays. Approval to extend any scheduled delivery date shall be at the sole discretion of ODOT. Continued failure to meet scheduled delivery dates may result in the Vendor being found to be in default.
48. 018 – SALT CONTRACT ONLY - FORCE MAJEURE: Neither party shall be liable to the other for any delay or failure of performance, nor shall any such delay or failure constitute a default, where an event of such catastrophic significance, that could not be foreseen in the exercise of ordinary care and which is beyond the reasonable control of the affected party, prohibits the mining or delivering of salt. The Director reserves the discretion to pay the Vendor for unforeseen and unforeseeable events as the Director deems appropriate under the respective circumstances at an amount the Director determines to be reasonable.
- 48A. MULTIPLE AWARD CONTRACTS ONLY: The Contract shall be awarded to all responsive bidders who meet or exceed the requirements specified in the ITB, pursuant with Section 5513.01 and 5513.02 of the Ohio Revised Code. Bid evaluation and awards are subject to the domestic preference provisions of 41 U.S.C.A. 10a -10d (Buy America), and Sections 125.09 and 125.11 of the Ohio Revised Code (Buy Ohio), and any rules promulgated by the Department of Administrative Services as adopted by ODOT. Unless otherwise stated, the Contract may be awarded, at the sole discretion of the Director of ODOT, as a whole or in part, by item, county or ODOT Geographic District. Bidders may offer cash discounts for prompt payment of invoices, however, such discounts will not be used in determining the final net prices offered. ODOT may take advantage of such discounts, if offered. The Director of ODOT shall award Contracts within a reasonable period of time after the bid opening. **ODOT reserves the right to extend all term contracts 30 days beyond the contract expiration date without notice. ODOT further reserves the right to extend 30 additional days by addendum, with notice and written acceptance from the bidder.**
49. VENDOR-SUBSIDIARY DISCLOSURE FORM: If the Contractor does business under any other name with the State of Ohio or any local government, or if the Contractor is a subsidiary or parent company to any other corporation that does business with the State of Ohio or any local government, the Contractor agrees to review, execute and submit a Vendor-Subsidiary Disclosure form found at the following web address: <https://extranet.dot.state.oh.us/groups/purchasing/default.aspx>

**50, 51 and 52 - To Be Referenced in Contracts for Services**

50. EXECUTIVE ORDER 2011-12K REQUIREMENTS: The Contractor affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and shall abide by those requirements in the performance of this Contract, shall sign and require its subcontractors (if any) to sign the attached “**Standard Affirmation and Disclosure Form,**” and shall perform no services required under this Contract outside of the United States. The Executive Order is incorporated by reference and also is available at the following website: (<http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>).

The Contractor also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

51. TERMINATION, SANCTION, DAMAGES: The State is not obligated and shall not pay for any services provided under this Contract that the Contractor or any of its subcontractors performed outside of the United States. If services are performed outside of the United States, this will be treated as a material breach of the Contract, and Contractor shall immediately return to the State all funds paid for those services.

In addition, if the Contractor or any of its subcontractors perform any such services outside of the United States, the State may, at any time after the breach, terminate this Contract for such breach, upon written notice to the Contractor. If the State terminates the Contract, the State may buy substitute services from a third party, and the State may recover the additional costs associated with acquiring the substitute services.

If the Contractor or any of its subcontractors prepares to perform services, changes or shifts the location(s) of services performed by the Contractor or its subcontractors under this Contract to a location(s) outside of the United States, but no services are actually performed, the Contractor has 30 days to change or shift the location(s) of services performed to location(s) within the United States. The State may recover liquidated damages in the amount of 5 % of the value of the contract for every day past the time permitted to change or shift the location(s).

52. ASSIGNMENT / DELEGATION: The Contractor will not assign any of its rights nor delegate any of its duties and responsibilities under this Contract without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

**NOTICE TO VENDORS  
ODOT COOPERATIVE PURCHASING PROGRAM**

In accordance with Ohio Revised Code Section 5513.01 (B), the Director of Transportation may permit any political subdivision to participate in selected contracts into which the Ohio Department of Transportation has entered for the purchase of certain machinery, materials, supplies or other articles.

The Ohio Department of Transportation may permit political subdivisions in Ohio to participate in this term contract. Section 5513.01 (B) defines "political subdivision" as any County, Township, Municipal Corporation, Conservancy District, Township Park District, Park Districts created under Chapter 1545 of the Revised Code, Port Authority, Regional Transit Authority, Regional Airport Authority, Regional Water and Sewer District, County Transit Board and State University or College as in Division (A)(1) of Section 3345.32 of the Revised Code, County Boards of Mental Retardation and Developmentally Disabled (MR/DD), the Ohio Turnpike Commission, and other agencies of the state as appropriate and by agreement; collectively "governmental entities." Therefore, vendors may receive purchase orders from these political subdivisions to participate in a contract awarded pursuant to this Invitation for Bid.

The Office of Contracts shall notify the successful vendor, under this contract, of the name of the political subdivision or other governmental entity that has been authorized by the Director of Transportation to participate in this contract. The responsibilities and obligations of the Ohio Department of Transportation shall cease at this point.

The vendors shall then deal directly with the political subdivision or governmental entity that has been authorized to participate in this contract. All orders placed by a political subdivision shall then be filled in accordance with the terms and conditions of that particular contract.

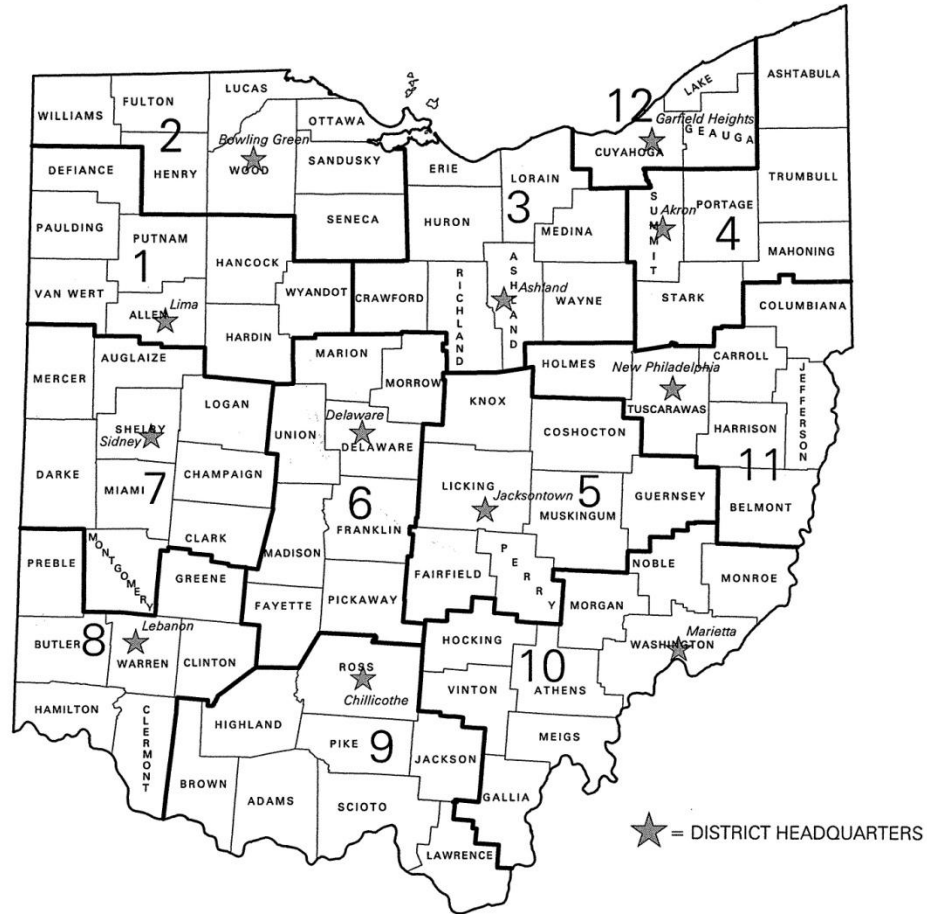
All invoices for such purchases shall be sent directly by the vendor to the political subdivision's or governmental entity's billing address. Invoices for these political subdivisions or governmental entities which are sent to the State of Ohio will be returned to the vendor.

All purchases made under the ODOT Cooperative Purchasing Program and Section 5513.01 (B) are the responsibility of the political subdivision or governmental entity and the vendor. The political subdivision or governmental entity must agree, to the extent allowed by law, to release and forever discharge the Director of Transportation and the Ohio Department of Transportation from all such claims, actions, expenses, or other damages arising out of its participation in the cooperative purchasing program which the political subdivision or governmental entity may have or claim to have against ODOT or its employees, unless such liability is the result of negligence on the part of ODOT or its employees.

Purchases made from this contract can only be made from the awarded vendor.

**DISTRICT MAP**

**OHIO DEPARTMENT OF TRANSPORTATION  
DISTRICT INFORMATION**



District	District Deputy Director, District Address	Telephone No.
1	1885 N. McCullough, Lima, Ohio 45801	419-222-9055
2	317 East Poe Road, Bowling Green, Ohio 43402	419-353-8131
3	906 North Clark St., Ashland, Ohio 44805	419-281-0513
4	2088 S. Arlington Rd., Akron, Ohio 44306	330-786-3100
5	9600 Jacksontown Road, P.O. Box 306, Jacksontown, Ohio 43030	740-323-4400
6	400 East Williams St., Delaware, Ohio 43015	740-363-1251
7	1001 St. Mary's Ave, P.O. Box 969, Sidney, Ohio 45365	937-492-1141
8	505 South State Rt. 741, Lebanon, Ohio 45036	513-932-3030
9	650 Eastern Ave., P.O. Box 467, Chillicothe, Ohio 45601	740-773-2691
10	338 Muskingum Drive, Marietta, Ohio 45750	740-373-0212
11	2201 Reiser Ave SE, New Philadelphia, Ohio 44663	330-339-6633
12	5500 Transportation Boulevard, Garfield Heights, Ohio 44125-5396, Mail: Box 258003, Garfield Heights, Ohio 44125-8003	216-581-2100

Invitation No. 235-13

Sealed replies to this invitation must be received at the following address on or before 11:00 a.m. on the opening date.

State of Ohio, Department of Transportation  
Office of Contracts, Purchasing Services  
1980 W. Broad Street, 1<sup>st</sup> floor  
Columbus, Oh 43223  
Office Hours 7:00 a.m. to 4:30 p.m., M-F

**SIGNATURE PAGE**  
**Invitation No: 235-13**

**Title: EPA Testing & Sampling Services**

Failure to **return all the pages** of this ITB and sign on this page as indicated shall render your bid non-responsive and ineligible for award.

**Your signature indicates that you attest to all statements made in this Invitation to Bid, including but not limited to the Buy Ohio Statement, and that you have read, understand and hereby agree to be bound by all Department of Transportation terms, conditions, specifications, requirements and addenda relating to this invitation.**

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Authorized signature by Officer of the Company (Signature must be in a color other than Black)**

\_\_\_\_\_  
**Type or print name shown above**

\_\_\_\_\_  
**Title of Officer Signing**

\_\_\_\_\_  
**Name of Company**

**NOTICE:** The Department will no longer provide bidders or other interested parties an opportunity to review bids on the day of the bid opening. This prohibition is necessary in order to facilitate the opening and reading of the bids in a timely and professional manner.

Pursuant to Section 149.43 of the Ohio Revised Code, interested parties may however, request to view previously submitted bids by sending a Public Records Request to ODOT:

Attn: Megan O'Callaghan  
Deputy Director  
Division of Construction Management  
1980 W. Broad Street, 1<sup>st</sup> floor  
Columbus, Ohio 43223





GOVERNMENT BUSINESS AND FUNDING CONTRACTS
In accordance with section 2909.33 of the Ohio Revised Code

DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division website for a reference copy of the Terrorist Exclusion List).

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

Form with fields: LAST NAME, FIRST NAME, MIDDLE INITIAL, HOME ADDRESS, CITY, STATE, ZIP, COUNTY, HOME PHONE, WORK PHONE

COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION

Form with fields: BUSINESS/ORGANIZATION NAME, BUSINESS ADDRESS, CITY, STATE, ZIP, COUNTY, PHONE NUMBER

DECLARATION

In accordance with division (A)(2)(b) of section 2909.32 of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

- 1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? [ ] Yes [ ] No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? [ ] Yes [ ] No

GOVERNMENT BUSINESS AND FUNDING CONTRACTS - CONTINUED

3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List?  
 Yes  No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List?  
 Yes  No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List?  
 Yes  No
6. Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism?  
 Yes  No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division website.

**CERTIFICATION**

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

**X**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**STATE OF OHIO  
DEPARTMENT OF TRANSPORTATION**

STANDARD AFFIRMATION AND DISCLOSURE FORM  
EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

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**CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:**

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2011-12K issued by Ohio Governor John R. Kasich. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States. The Executive Order is attached and is available at the following website:  
<http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>.

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror's offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

\_\_\_\_\_ (Address) \_\_\_\_\_ (City, State, Zip)

Name/Principal location of business of subcontractor(s):

\_\_\_\_\_ (Name) \_\_\_\_\_ (Address, City, State, Zip)

\_\_\_\_\_ (Name) \_\_\_\_\_ (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

\_\_\_\_\_ (Address) \_\_\_\_\_ (City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)