



## Ohio Revised Code

### Section 5501.72 Unsolicited proposals.

Effective: June 29, 2011

Legislation: House Bill 114 - 129th General Assembly

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(A) The department of transportation may receive, consider, evaluate, and accept an unsolicited proposal for a public-private initiative if the proposal meets all of the following:

(1) Addresses the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, or enhancing economic efficiency and the proposal is on the transportation improvement program for the affected metropolitan planning organization or state transportation improvement program;

(2) Is independently originated and developed by the proposer;

(3) Benefits the public;

(4) Is prepared without department supervision;

(5) Includes sufficient detail and information for the department to evaluate the proposal in an objective and timely manner;

(6) Is made by a private entity that is not prohibited from making an unsolicited proposal under division (AA)(1) of section 3517.13 of the Revised Code.

(B) Within ninety days after receiving an unsolicited proposal, the department shall undertake a preliminary evaluation of the unsolicited proposal to determine if the proposal complies with the requirements of division (A) of this section.

(C) Any materials or data submitted to, made available to, or received by the director of transportation under this section, to the extent that the material or data consist of trade secrets, as defined in section 1333.61 of the Revised Code, are confidential and are not public records for the purposes of section 149.43 of the Revised Code. Financial information received by the director that



is related to a proposal is confidential and not a public record for purposes of section 149.43 of the Revised Code until the department accepts or rejects the proposal. Prior to submission of an unsolicited proposal or a competing proposal, a private entity may request a review by the department of information that the private entity has identified as confidential to determine whether such information would be subject to disclosure under section 149.43 of the Revised Code.

(D) If the unsolicited proposal does not comply with division (A) of this section, the department shall return the proposal without further action.

(E) If the unsolicited proposal complies with division (A) of this section, the department may continue to evaluate the proposal in accordance with this section.

(F)(1) If the unsolicited proposal complies with division (A) of this section, the department shall advertise the unsolicited proposal for the purpose of receiving competitive proposals for the proposed transportation facility.

(2) The advertisement shall outline the general nature and scope of the unsolicited proposal, including the location of the transportation facility and the work to be performed on or in connection with the transportation facility and shall specify an address to which a competing proposal may be submitted.

(3) The advertisement shall specify a reasonable time period by which competitors must submit a competing proposal to the department.

(G) The department shall charge a reasonable fee to cover its costs to process, review, and evaluate an unsolicited proposal and any competing proposals.

(H) Upon receipt of any competing proposals, the department shall do all of the following:

(1) Determine if any competing proposal is comparable in nature and scope to the original unsolicited proposal;

(2) Evaluate the original unsolicited proposal and any comparable competing proposal;



(3) Conduct any good faith discussions and, if necessary, any negotiations concerning each qualified proposal.

(I) The department shall evaluate an unsolicited proposal and any comparable competing proposal using the following factors:

(1) Novel methods, approaches, or concepts demonstrated by the proposal;

(2) Scientific, technical, or socioeconomic merits of the proposal;

(3) Potential contribution of the proposal to the department's mission;

(4) Capabilities, related experience, facilities, or techniques of the private entity or unique combinations of these qualities that are integral factors for achieving the proposal objectives;

(5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel, who are critical to achieving the proposal objectives;

(6) How the proposal benefits the public;

(7) Any other factors appropriate to a particular proposal.

(J) After evaluating the unsolicited proposal and any competing proposals, the department may do any of the following:

(1) Accept the unsolicited proposal and reject any competing proposals;

(2) Reject the unsolicited proposal and accept a comparable competing proposal if the department determines that the comparable competing proposal is the most advantageous to the state;

(3) Accept both an unsolicited proposal and a competing proposal if accepting both proposals is advantageous to the state;



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(4) Reject the unsolicited proposal and any competing proposals.