

Request for Qualifications (RFQ)

Ohio Department of Natural Resources, Division of Oil and Gas Resources Management

Contracting Authority: Ohio Department of Natural Resources, Division of Oil and Gas Resources Management

Project Name	Ohio Utica/Point Pleasant Shale Play Oil and Gas Production Forecast	Response Deadline	01/22/2015	1:00 p.m.	Eastern Time
No. of paper copies requested (stapled, not bound)	1	No. of electronic copies requested on CD (PDF)	2		

Submit the requested number of responses directly to Ohio Department of Natural Resources, Division of Oil and Gas Resources Management; Attention Ms. Tina Ray; 2045 Morse Road, Building F-3; Columbus, OH 43229-6605. Response packages must be received by 1:00 PM Eastern Time on January 22, 2015.

Project Overview

A. Project Description

The Ohio Department of Natural Resources (ODNR), Division of Oil and Gas Resources Management (DOGRM), invites interested parties to submit a statement of qualifications to provide a "quick" analysis within three weeks of entering into a contract of future oil and natural gas production capability for the Utica/Point Pleasant Shale Play.

The consultant shall estimate both "total" and "recoverable" reserves derived from horizontal drilling activity for the Ohio portion of the Utica/Point Pleasant Shale Play. Additionally, the consultant will review current ODNR forecasts to determine accuracy and to provide updated projections regarding future horizontal Utica/Point Pleasant Shale production.

DOGRM does not guarantee that a contract will be awarded.

B. Scope of Services

This scope of work includes the analysis of the following:

1. Estimate total oil/condensate and natural gas reserves and total recoverable reserves for the Ohio portion of the Utica/Point Pleasant Shale Play;
2. Estimate total recoverable wet gas reserves for the Ohio portion of the Utica/Point Pleasant Shale Play;
3. Estimate annual production volumes derived from horizontal wells for oil/condensate by year for calendar years 2015 through 2025;
4. Estimate annual production volumes derived from horizontal wells for natural gas by year calendar years 2015 through 2025;
5. Estimate annual production volumes derived from horizontal wells and forecast market pricing for natural gas liquids (C₂ – C₅; C₆+) by year for calendar years 2015 through 2025;
6. Forecast market pricing for both oil/condensate and natural gas for calendar years 2015 through 2025;
7. Consultant shall use ODNR DOGRM production data to verify projections, but will be allowed to utilize other methods to develop forecasts;
8. Consultants shall use oil/condensate and gas production information supplied by ODNR from Ohio wells that are in production;
9. Consultants shall use ODNR DOGRM data regarding wells that have been drilled, but have not been put into production;
10. Consultants shall consider using leasing data activity in the Ohio portion of the Utica/Point Pleasant Shale Play; and
11. Consultants shall consider evaluating market dynamics impacting the exploration and production of oil/condensate and natural gas resources in Ohio.

ODNR DOGRM compiles quarterly production information as reported by oil and gas producers operating in Ohio. The ODNR DOGRM reported information will be the foundation of the data analysis and conclusions presented to ODNR DOGRM.

The analysis will take into consideration infrastructure that impacts well production including but not limited to: gathering pipelines, high pressure transmission pipelines, compressor stations, natural gas liquid processing plants, fractionators, ground transportation, and railroad infrastructure and equipment.

The consultant shall provide analytics that will be suitable for the ODNR DOGRM to project staffing requirements for regulatory staffing levels and administrative staffing levels.

Request For Qualifications continued

The scope of services will also include on call services to be provided on a short term basis as required by ODNR DOGRM.

The consultant will be expected to provide written reports as well as verbal discussion, by phone or webinar, for the purpose of providing ODNR DOGRM management with an executive review of any report developed under the contract. The consultant may be requested to provide public presentation services that are not included in this contract for analytical services. These services will be negotiated outside of this contract as additional services provided when required.

C. Funding / Estimated Budget

Estimated Fee	Not to exceed \$50,000 for fiscal year ending June 30, 2015.
Contract Extension	Possible contract extension starting July 1, 2015 not to exceed an additional \$50,000.
Funding Source	ALI # 725643, Fund 5180 – Oil & Gas Permit Fees.

D. Anticipated Schedule

Consultant RFQ Response deadline is 1:00 PM Eastern Time January 22, 2015.

ODNR DOGRM review and evaluation by no later than February 23, 2015.

Candidates should be aware that interviews of top candidates will occur as part of the final determination.

F. Evaluation Criteria for Selection

The consultant in its response to this RFQ will demonstrate and attest to have the following direct experience, knowledge, and qualifications to be considered for this contract:

1. Twenty or more years of experience providing financial and technical analysis of the energy sector and not less than ten years experience with emphasis on the oil/condensate and gas energy sector;
2. Entity must be in good standing with a full time staff greater than ten employees and operational expenditures no less than \$850,000;
3. Entities must provide qualifications of anticipated staff resources on this project;
4. No direct affiliation with any company, focus group, political affiliate or interest associated with an oil/condensate and gas firm operating in Ohio;
5. No less than ten years experience analyzing oil/condensate and natural gas reserves;
6. Consultant must have a direct working knowledge of production life cycles;
7. Please provide two references and two examples of similar prior projects; and
8. Extensive knowledge of:
 - a. Oil and gas well construction.
 - b. Oil and gas gathering systems;
 - c. Natural gas gathering, transmission process, and fractionation plants and processing;
 - d. Commodity markets for oil, gas, and natural gas liquids and how demand drives production; and
 - e. Oil and condensate use as a primary feed stock or energy supply for major energy production and relation to market demand and forces.

G. Submittal Instructions

Paper copies or submittals that are e-mailed or faxed will NOT be accepted.

Electronic submittals must be combined into one PDF file named with the project number listed on the RFQ and the firm's name. Use the "print" feature of Adobe Acrobat Professional or similar software for creating a PDF rather than using a scanner. If possible, please reduce the file size of the PDF. In Adobe Acrobat Professional, go to Advanced, then PDF Optimizer.

Send submittals in an envelope, sealed, addressed, and delivered to the Ohio Department of Natural Resources, Division of Oil and Gas Resources Management, Attention: Ms. Tina Ray, 2045 Morse Rd., Building F-3, Columbus, Ohio 43239 by 1:00 PM Eastern Time on January 22, 2015. Label the CD with the project name listed on the RFQ and your firm's name.

Request For Qualifications continued

INQUIRIES: All inquiries should be submitted a minimum of five (5) working days prior to the bid opening date through the Procurement website, www.procure.ohio.gov. Click "Find it Fast," select "Doc/Bid/Schedule#" in Step 1, enter the Bid Number in Step 2, click "Find it Fast." The "Submit Inquiry" button is at the bottom of the Opportunity Detail page. Bidders will not receive a personalized e-mail response to their question, nor will they receive notification when the question is answered. Responses may be viewed by clicking the "View Q & A" button located beneath the "Submit Inquiry" button.

H. Additional Information

All information submitted by the consultant will be subject to Ohio's Public Records laws, including responses to this RFQ.

A sample personal services contract that the consultant would be expected to execute is attached as Exhibit A.

See attached Exhibit B for information on the Utica and Marcellus activity in Ohio.

Consultant Selection Rating

State of Ohio Standard Forms and Documents

Project Name Ohio Utica Shale Play Oil and Gas Production Forecast

Proposer Firm _____
 City, State, Zip _____

Selection Criteria	Value	Score
1. Qualifications (Maximum 60 points)		
a. Twenty or more years of experience providing financial and technical analysis of the energy sector and not less than ten years experience with emphasis on the oil and gas sector	0-10	
b. Entity must be in good standing with a full time staff greater than ten employees and operational expenditures no less than \$850,000	0 - 5	
c. Entities must provide qualifications of anticipated staff resources on this project	0-10	
d. No direct affiliation with any company, focus group, political affiliate or interest associated with an oil and gas firm operating in Ohio	0-10	
e. No less than ten years experience analyzing oil/condensate and natural reserves	0-10	
f. Consultant must have a direct working knowledge of production life cycles	0-10	
g. Please provide two references and two examples of similar prior projects	0-10	
h. References	0-10	
i. Examples of prior similar projects	0-10	
j. Extensive knowledge of oil and gas well construction	0-5	
k. Extensive knowledge of oil and gas gathering systems	0-10	
l. Extensive knowledge of natural gas gathering, transmission process, and fractionation and processing plants	0-10	
m. Extensive knowledge of commodity markets for oil, gas, and natural gas liquids and how demand drives productions	0-10	
n. Extensive knowledge of oil and condensate use as a primary feed stock or energy supply for major energy production and relation to market demand and forces	0 - 5	
Total		

Notes:

Evaluator:

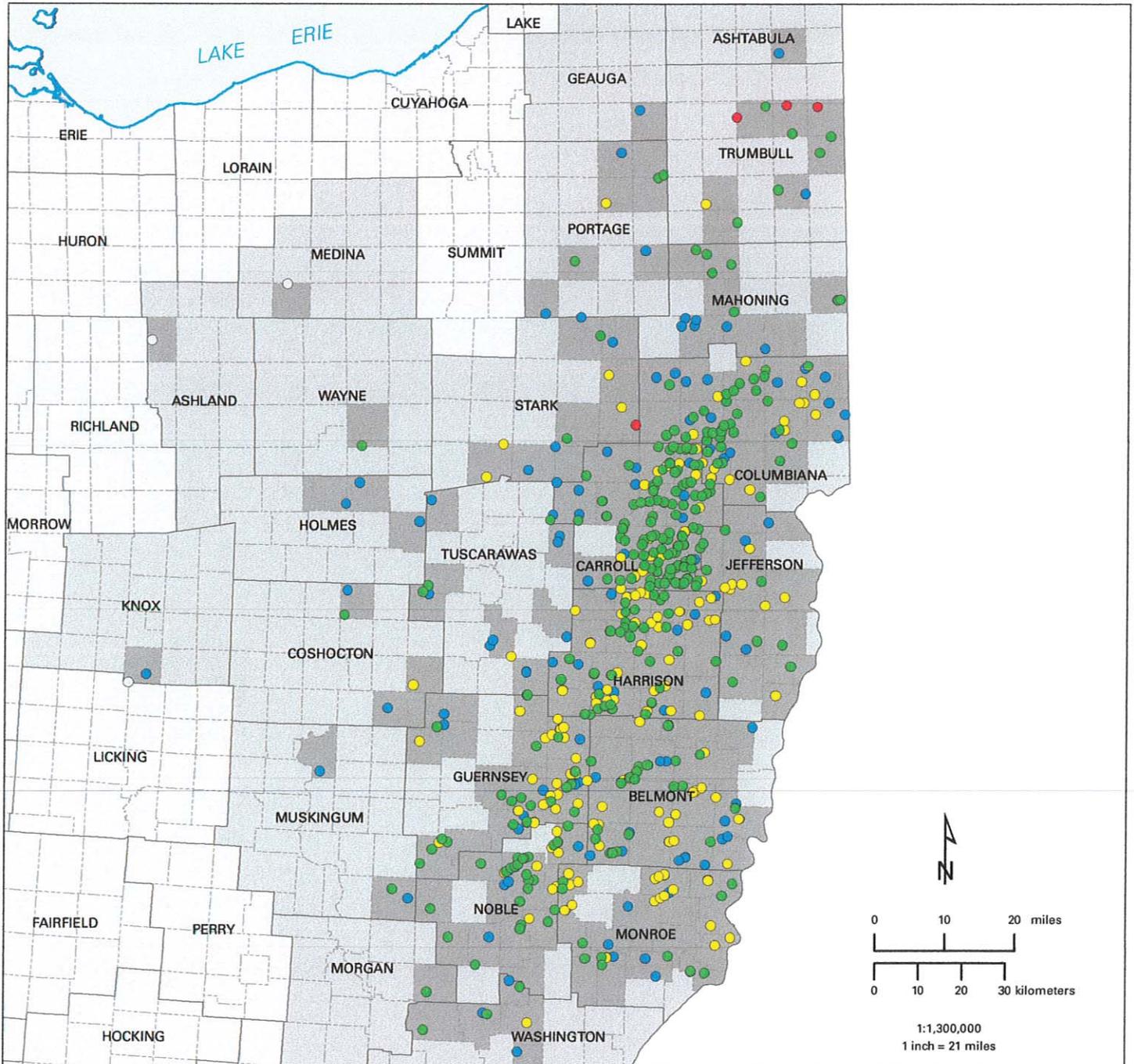
Name _____

Signature _____

Date _____

OHIO DEPARTMENT OF NATURAL RESOURCES

HORIZONTAL UTICA - PT PLEASANT WELL ACTIVITY IN OHIO



EXPLANATION

Horizontal well status as of 12/6/2014

- PERMITTED - Permitted, Not Drilled, or Canceled (447)
- DRILLED - Drilled or Drilling (511)
- PRODUCING - Producing or Plugged Back (700)
- INACTIVE - Drilled Inactive or Shut in (1)
- PLUGGED - Final Restoration or Lost Hole (23)
- Dry and Abandoned (3)



Well permit information from the ODNR Division of Oil and Gas Resources Management

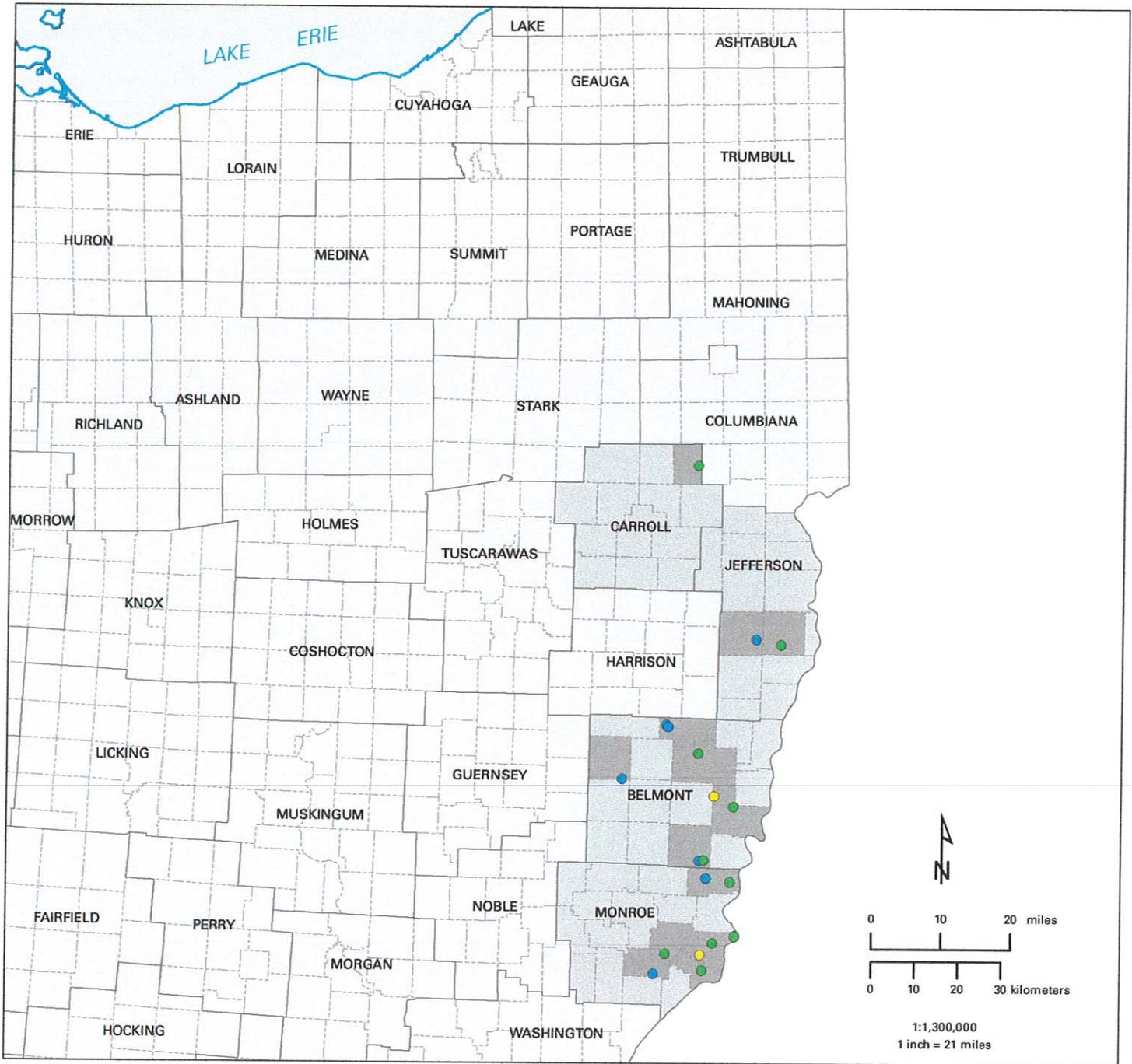
Recommended citation:

Ohio Department of Natural Resources, 2014, Horizontal Utica-Point Pleasant Well Activity in Ohio: Columbus, scale 1:1,300,000, revised 12/9/2014.

OPERATOR	COUNT
AMERICAN ENERGY UTICA LLC	107
ANADARKO E & P ONSHORE LLC	1
ANTERO RESOURCES CORPORATION	125
ARTEX OIL COMPANY	10
ATLAS NOBLE LLC	12
BELSA ENERGY LLC	1
BP AMERICA PRODUCTION COMPANY	1
BRAMMER ENGINEERING INC.	2
CARRIZO (UTICA) LLC	13
CHESAPEAKE EXPLORATION LLC	729
CHEVRON APPALACHIA LLC	10
CNX GAS COMPANY LLC	47
DEVON ENERGY PRODUCTION CO.	13
ECLIPSE RESOURCES I LP	81
EM ENERGY OHIO LLC	6
ENERVEST OPERATING LLC	22
EQT PRODUCTION COMPANY	8
GULFPORT ENERGY CORPORATION	203
HALCON OPERATING COMPANY INC.	13
HALL DRILLING LLC (OIL & GAS)	8
HESS OHIO DEVELOPMENTS LLC	68
HG ENERGY LLC	19
HILCORP ENERGY COMPANY	23
MOUNTAINEER KEYSTONE LLC	8
NGO DEVELOPMENT CORP.	1
PDJ ENERGY INC	36
R E GAS DEVELOPMENT LLC	41
RICE DRILLING D LLC	17
SIERRA RESOURCES LLC	3
STAFFORD USA ONSHORE PROP INC.	3
SWEPI LP	1
TRIAD HUNTER LLC	18
XTO ENERGY INC.	35
TOTAL	1,685

OHIO DEPARTMENT OF NATURAL RESOURCES

HORIZONTAL MARCELLUS WELL ACTIVITY IN OHIO



EXPLANATION

Horizontal well status as of 12/6/2014

- PERMITTED - Permitted, Not Drilled, or Canceled (16)
- DRILLED - Drilled or Drilling (15)
- PRODUCING - Producing or Plugged Back (12)
- INACTIVE - Drilled Inactive or Shut in (1)
- PLUGGED - Final Restoration or Lost Hole (0)
- Dry and Abandoned (0)

OPERATOR	COUNT
AMERICAN ENERGY UTICA LLC	3
CHESAPEAKE EXPLORATION LLC	1
CNX GAS COMPANY LLC	1
ECLIPSE RESOURCES I LP	1
EM ENERGY OHIO LLC	1
GULFPORT ENERGY CORPORATION	1
HESS OHIO RESOURCES LLC	3
PHILLIPS EXPLORATION INC	1
PROTEGE ENERGY II LLC	1
STATOIL USA ONSHORE PROP INC.	14
TRIAD HUNTER LLC	13
XTO ENERGY INC.	4
TOTAL	44

Well permit information from the ODNR Division of Oil and Gas Resources Management

Recommended citation:

Ohio Department of Natural Resources, 2014, Horizontal Marcellus Well Activity in Ohio: Columbus, scale 1:1,300,000, revised 12/9/2014.



EXHIBIT A
SAMPLE AGREEMENT
BETWEEN THE
OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF _____
AND
NAME OF CONSULTANT

THIS AGREEMENT is between the Ohio Department of Natural Resources, Division of _____ (the "ODNR, **Insert Division Name or Acronym here & then do a global document "find and replace" to make consistent references throughout the remainder of the document**"), with offices located at 2045 Morse Road, Building ___, Columbus, Ohio 43229, and **Insert name of Consultant** ("Consultant") with offices located at **Insert Street Address and Zip**, a **Insert type of business entity** organized and in good standing under the laws of the State of _____.

The parties agree as follows:

I. NATURE OF AGREEMENT

A. Consultant shall be employed as an independent contractor, to fulfill the terms of this Agreement and to act as a consultant to the ODNR, _____. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that the ODNR, _____ is the sole judge of the adequacy of such services.

B. The ODNR, _____ enters into this Agreement in reliance upon Consultant's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Consultant warrants that it does possess the necessary expertise and experience.

C. Consultant shall perform the services to be rendered under this Agreement and the ODNR, _____ shall not hire, supervise, or pay any assistants to Consultant in its performance of services under this Agreement. The ODNR, _____ shall not be required to provide any training to Consultant to enable it to perform services required hereunder.

II. SCOPE OF WORK

A. Consultant shall perform the services (the "Work") set forth in the attached Exhibit 1, Scope of Work, which is incorporated as part this Agreement.

B. In order to facilitate the Work, the ODNR, _____ shall provide the resources set forth in Exhibit 1, Scope of Work.

III. TIME OF PERFORMANCE

A. The Work shall be commenced on or after the date of an approved purchase order.

B. The Work shall be concluded on or before [Insert termination date], and this Agreement shall terminate on the earlier to occur of: (i) the date on which the Work is completed to the satisfaction of the ODNR, _____ or (ii) the date on which this Agreement is terminated as provided in Article VI, Termination of Consultant's Services.

C. Notwithstanding the foregoing, this Agreement shall expire no later than June 30, 2014. The ODNR, _____ may renew this Agreement for an additional one year term on the same terms and conditions by giving written notice prior to expiration. As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement and any renewal shall in any event expire no later than June 30, 2015.

D. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio R.C. ("R.C.") §§ 3517.13, 127.16, or Chapter 102.

IV. COMPENSATION

A. The ODNR, _____ shall pay Consultant no more than \$ _____ for the Work.

B. The total amount due and its manner and schedule of payment shall be computed according to the following cost schedule established in Exhibit I, Scope of Work.

C. Consultant shall be reimbursed for the Consultant's reasonable, actual and necessary travel, lodging, and other travel-related expenses incurred in the performance of the Work to the extent that such reimbursement is in the best interest of the state.

1. Only travel expenses which are pre-approved by the ODNR, _____ will be reimbursed.

2. Travel expenses shall be reimbursed under the same rules and conditions that apply to state employees under Ohio Administrative Code ("O.A.C.") rule 126-1-02, pursuant to the Ohio Office of Budget and Management ("OBM") Travel Policy, attached as Exhibit II.

3. If it is not possible to follow the OBM Travel Policy, with prior approval of the ODNR, _____, Consultant shall be reimbursed pursuant to the federal rates for reimbursement in the Continental United State ("CONUS").

4. Meals shall not be reimbursed unless overnight travel is both critical and essential.

D. Consultant must receive a purchase order from the ODNR, _____ prior to filling an order or performing any of the Work.

E. After Consultant receives a purchase order, Consultant shall submit an **[Insert Invoice Frequency]** invoice for the Work performed consistent with this Article IV, Compensation. Each invoice shall contain an itemization of the Work performed, including dates the Work was performed and total hours worked, if required by Paragraph B.1., above, the location or address where the Work was performed, and the sum due at that time pursuant to this Agreement. All invoices shall contain Consultant's name and address and shall reference the ODNR, _____'s Office and list the billing address as Division of _____, Attn. Fiscal Officer, 2045 Morse Road, Building ____, Columbus, Ohio 43229. After receipt and approval by the ODNR, _____ of a proper invoice, as defined in paragraph (A)(5) of O.A.C. Rule 126-3-01), payment will be made pursuant to O.A.C. rule 126-3-01. Unless otherwise directed by the ODNR, _____, invoices should be directed via email to: **[Insert Division Fiscal Officer E-mail address]**. In the event that any customer of Consultant negotiates a lower fee structure for the Work or comparable services Consultant shall promptly notify the ODNR, _____ and shall extend the lower negotiated rate to the ODNR, _____ retroactively to the first date the lower rate was offered to another customer.

V. CERTIFICATION OF FUNDS

A. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the R.C., including, but not limited to, R.C. § 126.07, have been met, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that the ODNR, _____ gives Consultant written notice that such funds have been made available to the ODNR, _____ by the ODNR, _____'s funding source.

VI. TERMINATION OF CONSULTANT'S SERVICES

A. The ODNR, _____ may, at any time prior to completion of the Work, suspend or terminate this Agreement with or without cause by giving written notice to Consultant.

B. In the event that the Work includes divisible services, the ODNR, _____ may, at any time prior to completion of the Work, by giving written notice to Consultant, suspend or terminate any one or more such portions of the Work.

C. Consultant, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by the ODNR, _____, furnish a report, as of the date Consultant receives notice of

suspension or termination, describing the status of all Work, including, without limitation, results, conclusions resulting there from, and any other matters the ODNR, _____ requires.

D. Consultant shall be paid for services rendered up to the date Consultant received notice of suspension or termination, less any payments previously made, provided Consultant has supported such payments with detailed factual data containing Work performed and hours worked. In the event of suspension or termination, any payments made by the ODNR, _____ for which Consultant has not rendered services shall be refunded.

E. In the event this Agreement is terminated prior to completion of the Work, Consultant shall deliver to the ODNR, _____ all work products and documents which have been prepared by Consultant in the course of performing the Work. All such materials shall become, and remain the property of, the ODNR, _____, to be used in such manner and for such purpose as the ODNR, _____ may choose.

F. Consultant agrees to waive any right to, and shall make no claim for, additional compensation against the ODNR, _____ by reason of any suspension or termination.

G. Consultant may terminate this Agreement upon sixty (60) days' prior written notice to the ODNR, _____.

VII. RELATIONSHIP OF PARTIES

A. Consultant shall be responsible for all of its own business expenses, including, but not limited to, computers, email and internet access, software, phone service, and office space. Consultant will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.

B. While Consultant shall be required to render services described hereunder for the ODNR, _____ during the term of this Agreement, nothing herein shall be construed to imply, by reason of Consultant's engagement hereunder as an independent contractor, that the ODNR, _____ shall have or may exercise any right of control over Consultant with regard to the manner or method of Consultant's performance of services hereunder.

C. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

D. It is fully understood and agreed that Consultant is an independent contractor and neither Consultant nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of the ODNR, _____ or the State of Ohio.

E. For any employees or subcontractors working onsite at any ODNR, _____ location, Consultant understands that these employees or subcontractors are subject to a background check conducted by the ODNR, _____. Such a background check may include criminal records, tax records, driving records, verification of academic credentials or degrees. The ODNR, _____ may also conduct drug testing, field investigation, and polygraph examinations of certain employees of the Consultant or its subcontractors, if the ODNR, _____ believes such action is necessary. The ODNR, _____ reserves the right to refuse access to the job site at any time if the ODNR, _____ determines in its discretion that Consultant's employee or subcontractor presents a potential security threat or if there is a change in the results of the background check at any time during the completion of the Work.

VIII. RECORD KEEPING

A. During performance of this Agreement and for a period of three (3) years after its completion, Consultant shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to the ODNR, _____ as the ODNR, _____ may reasonably require.]

B. The Contractor shall, for the purpose of compliance with R.C. § 145.036, provide the Division with a list of all individuals employed specifically on the Project by the Contractor and its sub-contractors, and agents to provide personal services under this Agreement only if such entities have no more than four employees.

IX. RELATED AGREEMENTS

A. All Work is to be performed by Consultant, who may subcontract without the ODNR, _____'s approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in Exhibit 1, Scope of Work, but which are required for satisfactory completion of the Work.

1. Consultant shall not enter into subcontracts related to the Work without prior written approval by the ODNR, _____. All work subcontracted shall be at Consultant's expense.

2. Consultant shall furnish to the ODNR, _____ a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

B. Consultant shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind the ODNR, _____ to terms inconsistent with, or at variance from, this Agreement.

C. Consultant warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of the ODNR, _____, to perform substantially identical work for the State of Ohio such that the Work duplicates the work called for by the other agreements.

X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

A. The ODNR, _____ shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data, or materials prepared by Consultant pursuant to this Agreement. Consultant shall obtain ODNR's written consent before disseminating any reports, data, or other materials prepared for ODNR to third parties. No such documents or other materials produced (in whole or in part) with funds provided to Consultant by the ODNR, _____ shall be subject to copyright by Consultant in the United States or any other country. If Consultant has reason to believe that use of a specified item is subject to patent or copyright protection, Consultant shall immediately notify the ODNR, _____.

B. Consultant agrees that all original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by the ODNR, _____. Any requests for distribution received by Consultant shall be promptly referred to the ODNR, _____.

XI. CONFIDENTIALITY

A. Consultant shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the ODNR, _____.

B. Consultant acknowledges that this Agreement is subject to the requirements, conditions and restrictions set forth in IRS Publication 1075 (available at <http://www.irs.gov/pub/irs-pdf/p1075.pdf>), as such publication may be revised, amended or replaced (the "Publication"). The terms set forth in Exhibit III attached hereto are hereby made a part of this Agreement as if fully set forth herein.

XII. LIABILITY

A. Consultant agrees to indemnify and to hold the ODNR, _____ and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement which are attributable to Consultant's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third party agents or joint venturers while acting under this Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime or employment matters, and any claims involving patents, copyrights, and trademarks.

B. Consultant shall bear all costs associated with defending the ODNR, _____ and the State of Ohio against any claims.

C. In no event shall either party be liable to the other party for indirect, consequential, incidental, special or punitive damages, or lost profits.

XIII. ANTITRUST ASSIGNMENT

A. Consultant assigns to the ODNR, _____ all State and Federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

XIV. CONSULTANT'S REPRESENTATIONS AND WARRANTIES

A. COMPLIANCE WITH LAWS. Consultant, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

B. DRUG FREE WORKPLACE. Consultant agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the Work purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

C. NONDISCRIMINATION OF EMPLOYMENT. Pursuant to R.C. § 125.111 and the ODNR, _____'s policy, Consultant agrees that Consultant, any subcontractor, and any person acting on behalf of Consultant or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the Work. Consultant further agrees that Consultant, any subcontractor, and any person acting on behalf of Consultant or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.

D. AFFIRMATIVE ACTION PROGRAM. Consultant represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to R.C. § 125.111(B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.

E. CONFLICTS OF INTEREST.

1. No personnel of Consultant who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any of the Work shall, prior to the completion of the Work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of the Work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the ODNR, _____ in writing. Thereafter, he or she shall not participate in any action affecting the

Work, unless the ODNR, _____ shall determine in its sole discretion that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

F. ETHICS COMPLIANCE. Consultant represents, warrants and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Consultant further represents, warrants, and certifies that neither Consultant nor any of its employees will do any act that is inconsistent with such laws.

G. QUALIFICATIONS TO DO BUSINESS. Consultant affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If at any time during the term of this Agreement Consultant, for any reason, becomes disqualified from conducting business in the State of Ohio, Consultant will immediately notify the ODNR, _____ in writing and will immediately cease performance of the Work.

H. CAMPAIGN CONTRIBUTIONS. Consultant hereby certifies that neither Consultant nor any of Consultant's partners, officers, directors or shareholders, nor the spouse of any such person, has made contributions to the ODNR, _____ in excess of the limitations specified in R.C. § 3517.13.

I. FINDINGS FOR RECOVERY. Consultant warrants that it is not subject to an "unresolved" finding for recovery under R.C. § 9.24.

J. DEBARMENT. Consultant represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. §§ 153.02 or 125.25.

K. EXPENDITURES OF PUBLIC FUNDS ON OFFSHORE SERVICES

EXECUTIVE ORDER REQUIREMENTS:

The Consultant affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States. The Executive Order is available at the following website: (<http://www.governor.ohio.gov/ExecutiveOrders.aspx>).

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

TERMINATION, SANCTION, DAMAGES:

The State is not obligated and shall not pay for any services provided under this Agreement that the Consultant or any of its sub consultants 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 Agreement, and Consultant shall immediately return to the State all funds paid for those services.

If the Consultant or any of its sub consultants prepares to perform services, changes or shifts the location(s) of services performed by the Consultant or its sub consultants under this Agreement to a location(s) outside of the United States, but no services are actually performed, the Consultant has a maximum of twenty-one (21) calendar days to change or shift the location(s) of services performed to location(s) within the United States. The State may recover liquidated damages for every day past the time permitted to change or shift the location(s).

If the Consultant or any of its sub consultants prepares to perform services, changes or shifts the location(s) of services performed by the Consultant or its sub consultants under this Agreement to a location(s) outside of the United States, but no services are actually performed, the Consultant has a maximum of twenty-one (21) calendar days to change or shift the location(s) of services performed to location(s) within the United States. The State may recover liquidated damages for every day past the time permitted to change or shift the location(s).

If services are performed outside of the United States without consent, the State may, at any time after the breach, terminate this Agreement for such breach, upon written notice to the Consultant. If the State terminates the Agreement, the State may buy substitute services from a third party, and the State may recover the additional costs associated with acquiring the substitute services.

L. REPAYMENT. If the representations and warranties in Paragraphs I or J of this Article XIV are found to be false, this Agreement is void ab initio and Consultant shall immediately repay to the ODNR, _____ any funds paid under this Agreement.

OHIO RETIREMENT SYSTEM RETIRANT.

If Consultant is a PERS Retirant, as defined by R.C. § 145.38, Consultant shall notify the ODNR _____ of such status in writing prior to the commencement of Work. Notices pursuant to this Paragraph L shall be sent to the ODNR _____'s Director of Human Resources by mail at 2045 Morse Rd., Building D-2, Columbus, Ohio 43229, by fax at _____, or by email at _____. The ODNR _____ shall not be responsible for any changes to Consultant's retirement benefits that may result from entering into this Agreement. Consultant acknowledges and agrees any of its individual employees providing personal services under this Agreement are not public employees for purposes of R.C. Chapter 145. The ODNR _____ will not make contributions to the public employees' retirement system on behalf of any individuals employed by the Consultant, or its sub-contractors or other agents. The Consultant certifies that it is a business entity with five or more employees

as defined at R.C. § 145.037 (A) for the purposes of the application of R.C. Chapter 145, or that it has completed the necessary forms and returned them to the ODNR _____ if Provider is a business entity with no more than four (4) employees.

XV. MISCELLANEOUS

A. CONTROLLING LAW. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Consultant consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.

B. WAIVER. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

C. SURVIVAL. The provisions of Articles _____ hereof shall survive the termination or expiration of this Agreement.

D. SUCCESSORS AND ASSIGNS. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Consultant, without the prior written consent of the ODNR, _____.

E. NOTICES. Except to the extent expressly provided otherwise herein, all notices, consents and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof, and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

F. CONFLICT. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

G. HEADINGS. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

H. SEVERABILITY. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

I. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

J. EXECUTION. This Agreement is not binding upon the ODNR, _____ unless executed in full, and is effective as of the last date of signature by the ODNR, _____.

K. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

L. ELECTRONIC SIGNATURES. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

CONSULTANT

By: _____

Name: _____

Title: _____

Date: _____

OHIO ODNR, _____

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Approval as to form:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1
Scope of Work

PROJECT DESCRIPTION

1. **OBJECTIVE AND SCOPE**
2. **PROJECT MANAGEMENT**
3. **DELIVERABLES**
4. **PROJECT RISK IDENTIFICATION AND MITIGATION**

COMPENSATION

1. **NOT TO EXCEED**
2. **PAYMENT SCHEDULE**
3. **TRAVEL (See Ex. II).**

TERM & TERMINATION DATE

Consultant warrants to the ODNR, _____ that all materials and equipment furnished under this Agreement shall be new and of good quality unless otherwise required or permitted by the Agreement, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Agreement.

The ODNR, _____ may order changes in the Work without invalidating the Agreement. A change in the Work shall be governed by a change order in the form of a contract amendment. Consultant shall not proceed with any change in the Work without the ODNR, _____'s prior written authorization. Upon execution of an amendment, Consultant shall perform all changes in the Work under the applicable provisions of the Agreement and any amendments, and the Contractor shall proceed promptly with the change unless otherwise provided in the amendment. The amendment will govern any changes to the Work, changes to the fees owed to Consultant, and any changes to the time for completion of the project. By signing an amendment, Consultant irrevocably certifies that the elements of the amendment are completely satisfied, and waives all rights, if any, to seek further adjustment of the fees owed or the time for completion of the project, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

EXHIBIT II
Ohio Office of Budget and Management Travel Policy

126-1-02 Rates and requirements for reimbursement of travel expenses of state agents.

(A) Definitions

- (1) “Compensation” means payment for services rendered, whether made on an hourly, per diem, salaried, or fee basis but does not include reimbursement of travel expenses.
- (2) “Headquarters” means the office address at which a state agent has his/her primary work assignment.
- (3) “Continental U.S. travel” means travel within the Continental United States, including the lower forty-eight states, excluding Hawaii and Alaska.
- (4) “International travel” means travel outside of the Continental United States, including Hawaii and Alaska.
- (5) “Reimbursable travel expenses” means the following expenses, in addition to lodging, meals, per diem, and mileage, which are actually incurred as a necessary part of approved travel:
 - (a) Miscellaneous transportation expenses including parking charges, road tolls, and other reasonably incurred transportation expenses directly related to authorized travel, provided such expenses are listed separately on a state agent’s travel expense reimbursement request;
 - (b) Commercial transportation expenses paid by the state agent including taxi cabs, rental cars, airfare, ferries, subways, bus, trains, and other commercial transportation providers;
 - (c) Registration fees paid by the state agent, which include conferences, seminars, meetings, and other professional events;
 - (d) Miscellaneous business expenses including telephone, facsimile, internet, and other similar charges paid by the state agent for official state business;
 - (e) Miscellaneous living expenses including laundry, dry cleaning, personal telephone calls, postage, and other living expenses.
- (6) “Non-reimbursable travel expenses” include, but are not limited to, the following:
 - (a) Alcoholic beverages purchased by the state agent;
 - (b) Entertainment expenses paid by the state agent;

(c) Incidental expenses, which include personal expenses incurred during travel that are primarily for the benefit of the state agent and not directly related to the official purpose of the travel. Examples include, but are not limited to, the purchase of personal hygiene items, magazines or books, movie rentals, tips or gratuities, and other miscellaneous items;

(d) Political expenses paid by the state agent;

(e) Travel insurance expenses paid by the state agent;

(f) The cost of traffic fines and parking tickets.

(7) “State agency” means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government which uses money that has been appropriated to it directly and whose officers, members, or employees are not excluded under paragraph (A)(8) of this rule.

(8) “State agent” means any officer, member, or employee of a state agency whose compensation is paid, in whole or in part, from state funds but shall not include:

(a) Any officer, member, employee of, or consultant to the general assembly, supreme court, court of appeals, court of claims, any agency of these, or any state university or college as defined in division (A)(1) of section 3345.12 of the R.C.; and

(b) Any volunteer serving without compensation.

(9) “Travel at state expense” means travel expenses which are paid from moneys appropriated directly to a state agency by the general assembly.

(10) “Receipt” means the original document provided by a service provider or merchant that indicates the merchant’s name, date of purchase, transaction amount, and line item detail identifying the service or goods provided.

(11) “Conference” means a prearranged gathering with a formal agenda, for consultation or exchange of information or discussion that benefits the state, including seminars, meetings, and other professional events.

(12) “Paid travel status” means a state agent who is traveling on behalf of the state and is in an active pay status.

(B) Authority for travel and reimbursement

(1) Authority for travel

All travel by state agents at state expense or on paid travel status must be authorized prior to travel by the head of a state agency or his/her designee. Travel may be authorized only for

official state business and only if the state agency has the financial resources to reimburse the state agent for travel expenses. State agents who are traveling or who are on paid travel status must, at all times, use prudent judgment in the use of state resources, incurring only those expenses necessary to carry out the official business of the state.

(2) Reporting requirements

(a) A state agent who has traveled at state expense and is requesting reimbursement of his/her travel expenses by a state agency shall report his/her travel expenses as prescribed by the office of budget and management. A state agent shall submit the travel expense reimbursement request within sixty days of the last date of travel. This time frame may be extended by the head of the state agency or his/her designee if mitigating circumstances exist, but in no case may this time frame exceed ninety days. A completed request for travel expense reimbursement may be denied by the office of budget and management for reasons including, but not limited to, a state agent's failure to submit the request in a timely, accurate, or truthful manner.

(b) A state agent shall obtain and provide all receipts required by this rule.

(c) At no time shall a state agent claim or be reimbursed more than is allowable under this rule.

(3) Approval of travel

When the head of a state agency or his/her designee approves of a state agent's travel, such action constitutes certification of the propriety of the reimbursement of such state agent's travel expenses. The head of a state agency or his/her designee may require any reasonable form of verification of an expense if he/she determines that additional verification is necessary to his/her certification of the propriety of the reimbursement or if required receipts are not available.

(4) Reimbursement of expenses

A state agent shall be reimbursed for his/her travel expenses as authorized by this rule upon approval by the head of a state agency or his/her designee. Reimbursement for travel expenses shall be via electronic funds transfer (EFT) and to the same bank account that a state agent has established for receipt of his/her compensation in accordance with section 124.151 of the R.C..

(5) Submission of original receipts

As specified by the office of budget and management, original receipts shall be submitted to the office of budget and management.

(6) Direct payment to vendor

Instead of reimbursing a state agent for his/her travel expenses, a state agency may make direct payment to a vendor who provides travel services for the state agent. A direct payment shall comply with the applicable rates and requirements specified in this rule.

(C) Transportation expenses

The head of a state agency or his/her designee shall, subject to the discretion of the office of budget and management, determine the appropriate mode or modes of transportation to be utilized by a state agent.

(1) Travel by state-owned automobile

Travel by state-owned automobile is authorized only for state agents and for other parties who are properly designated by a state agency and endorsed onto insurance coverage through the department of administrative services. Reimbursement is authorized for incurred service expenses necessary to the efficient and safe operation of a state-owned automobile. The names of all persons traveling in the same state-owned automobile and names of their respective state agencies shall be listed on any travel expense reimbursement request.

(2) Travel by privately owned automobile

Travel by privately owned automobile is authorized only if the owner thereof is insured under a policy of liability insurance complying with the requirements of section 4509.51 of the R.C.. Reimbursement of mileage expenses incurred on state business is authorized at a rate up to the internal revenue service's business standard mileage rate, within the discretion of the director of the office of budget and management. The reimbursement rate for mileage expenses incurred on state business may not fall below forty-five cents per mile, unless the internal revenue service's business standard mileage rate falls below forty-five cents per mile, in which case the director may lower the reimbursement rate below forty-five cents per mile. The director of the office of budget and management will review the appropriate reimbursement rate on a quarterly basis.

A state agent shall not be reimbursed for mileage commuting from his/her residence to his/her headquarters nor from his/her headquarters to his/her residence.

Travel expense reports shall indicate all intermediate destinations (i.e., specify intermediate towns and cities but not stops within a town or city) between the commencement and termination of travel as well as all vicinity mileage after arrival at destination. Reimbursement shall be made to only one of two or more state agents traveling in the same privately owned automobile, and the names of their respective state agencies shall be listed on the travel expense reimbursement request.

(3) Travel by commercial transportation

(a) Travel by commercial transportation is authorized at the lowest available rate. When any segment of travel by commercial transportation exceeds eight hours, the head of the state agency may authorize business class travel for the state agent.

(b) State funds shall not be expended to pay for unused reservations with commercial transportation unless the state agency is satisfied that failure to cancel or use the reservation was unavoidable.

(c) Travel within the state of Ohio by common air carrier at the lowest available rate is authorized for elected officials, directors, assistant directors, deputy directors, board and commission members, and heads of state agencies. State employees not listed above are authorized to travel within the state of Ohio by common air carrier at the lowest available rate only if flying is more economical than other modes of travel.

(d) Reimbursement is authorized for car rental if car rental is more economical than any other mode of transportation or if the state agent's destination is not easily accessible by any other mode of transportation.

(4) Required receipts for transportation expenses

Except as otherwise provided, receipts are required for all service expenses incurred in connection with the operation of state-owned automobiles, all commercial transportation expenses, and all miscellaneous transportation expenses exceeding ten dollars.

(D) Meal, incidental, and miscellaneous business expenses in the Continental U.S.

(1) Restrictions and reimbursement per diem

Meals and incidental per diem for state agents is authorized only when overnight lodging is required. State agents may receive per diem for meal and incidental expenses in accordance with the per diem rates established by the U.S. General Services Administration (www.gsa.gov), which is based on the lodging location. Per diem is designed to offset the additional cost of travel, not to entirely pay for the state agent's meal and incidental expenses. The amount of per diem shall be adjusted on departure and return days based upon the time of departure and return. The standard meal and incidental expenses allowance is based on a full day of official travel (twenty-four hours) within the Continental U.S. Where overnight lodging is required and where a state agent is on travel status for less than a full day, the state agent must pro-rate the meal and incidental expenses rate for the departure and return days as follows:

(a) Twenty-five per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for less than six hours;

(b) Fifty per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for six hours but less than twelve hours;

(c) Seventy-five per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for twelve hours but less than eighteen hours;

(d) One hundred per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for eighteen hours but less than twenty-four hours.

(2) Incidental expenses included in the per diem allowance are listed below and are thus not separately reimbursable:

(a) All gratuities given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, taxi drivers, and hotel servants in foreign countries;

(b) Any transportation between places of lodging or business and places where meals are taken, if suitable meals cannot be obtained at the temporary duty site;

(c) Mailing costs associated with filing travel reimbursement requests.

(3) A receipt shall be required for any single miscellaneous business expenses charge over ten dollars. State agents shall first use any free internet or phone services prior to incurring these expenses.

(E) International meal, incidental, and miscellaneous business expenses

(1) A state agent traveling outside the Continental U.S., assigned to a foreign office, or otherwise on approved international travel status, including international conferences, shall be entitled to reimbursement of meals at actual cost when such cost is reasonable as determined by the head of the state agency or his/her designee.

(2) If the state agent is in overnight international travel status for more than one week, including a weekend, miscellaneous living expenses will be reimbursed.

(3) Receipts shall be required for all international travel expenses, which includes commercial transportation, lodging, meal, incidental expenses, and miscellaneous living expenses. A receipt shall be required for any single miscellaneous business expense charge exceeding ten dollars. State agents shall first use any free internet or phone services prior to incurring these expenses.

(F) Lodging

(1) Continental U.S.

Reimbursement for lodging in commercial establishments is authorized per state agent per calendar day in accordance with the per diem rates established by the U.S. General Services Administration for reimbursement of expenses incurred while on official travel within the Continental U.S. at actual cost up to the maximum allowable lodging rate for that location, plus applicable taxes on the entire room.

(2) International

Reimbursement for lodging in commercial establishments is authorized per state agent per calendar day at actual cost when such cost is reasonable as determined by the head of a state agency or his/her designee.

(3) Receipts are required for all lodging expenses.

(4) Overnight lodging may be reimbursed only when the state agent is traveling on official state business and is either:

(a) At a location greater than forty-five miles of both the state agent's residence and headquarters, or;

(b) At a location greater than thirty miles of both the state agent's residence and headquarters for conference purposes.

(G) Conferences

Reimbursement is authorized for conference registration fees and conference expenses as follows:

(1) Registration fees

Conference registration fees may be reimbursed to the state agent, or conference registration fees may be paid directly by a state agency in advance of the event. If the registration fee includes any meals, the state agent shall not be reimbursed for those same meals under paragraphs (D) and (E) of this rule, and any amount reimbursed to the state agent under paragraphs (D) and (E) of this rule for meals shall be adjusted accordingly.

(2) Meal and incidental

If the event includes or provides a meal, the state agent shall not be reimbursed for that same meal under paragraphs (D) and (E) of this rule. State agents shall receive per diem for any meals not provided by the event and incidentals at the rate prescribed by the U.S. General Services Administration.

When meals are included with registration expense, the number and type of meals must be identified by the state agent. If a meal is offered as part of the event and the state agent has medical restrictions, the state agent should make every effort to have the conference facilitate his or her needs. If the event does not honor the request, the state agent is not required to deduct the applicable meal allowance from the per diem, but must include documentation explaining the situation.

(3) Lodging

Lodging at the event site or lodging at a hotel identified in the event registration materials as one of the event hotels may be reimbursed at actual cost, provided such cost is reasonable as determined by the head of a state agency or his/her designee.

(4) Required receipts for conference expenses

Receipts are required for expenses exceeding ten dollars.

(5) Direct payment

Instead of reimbursing a state agent for his/her conference expenses, a state agency may make direct payment to a vendor who provides event services for the state agent.

(H) Agency contractors

State agencies desiring to reimburse travel, lodging, and meal expenses should negotiate such reimbursement with the contractor or vendor when negotiating the cost of the contract, but shall not negotiate rates higher than those authorized by this rule.

(I) Exceptions

(1) Upon written request submitted to the director of budget and management by the head of a state agency or his/her designee prior to the expense being incurred, the director of the office of budget and management may grant exceptions to this rule only for travel by law enforcement officials, insurance examiners, state agents on continuous travel status for two or more consecutive days, state agents requiring special travel arrangements due to a disability, and state agents whose workday is other than eight a.m. to five p.m. or if state agents whose in-state travel and lodging arrangements are economically advantageous to the state. Other exceptions may be granted upon a written request submitted to the director of budget and management by the head of a state agency or his/her designee prior to the expense being incurred or, at the director's discretion, after the expense has been incurred. No exception shall remain in effect for more than one fiscal year.

(J) Amendment to this rule

An amendment to this rule applies to travel on or after the effective date of the amendment.

1075 CONTRACT LANGUAGE FOR GENERAL (NON-IT) SERVICES

I. PERFORMANCE

In performance of this Agreement, Consultant agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

- (1) All Work will be performed under the supervision of Consultant or Consultant's responsible employees.
- (2) Any Federal tax returns or return information (hereafter referred to as "returns" or "return information" or "FTI") made available shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of Consultant is prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- (4) No Work involving returns and return information furnished under this Agreement will be subcontracted without prior written approval of the ODNR, _____ and IRS.
- (5) Consultant will maintain a list of employees authorized access. Such list will be provided to the ODNR, _____ and, upon request, to the IRS reviewing office.
- (6) Incident response policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementing incident response security controls.
- (7) Audit and accountability policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate implementing audit and accountability security controls.
 - a. To support the audit of activities, Consultant must ensure that audit information is archived for six years.
 - b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.
- (8) IRS Publication 1075 compliance is mandatory. The aforementioned compliance items are a small selection of key elements contained within the requirements defined in IRS publication 1075. The ODNR, _____ reserves the right to impose additional and more stringent requirements as deemed necessary to protect FTI (Federal Tax Information).

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.
- (3) Additionally, it is incumbent upon Consultant to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

- (4) Before receiving access to FTI, Consultant must certify that each individual understands the ODNR, _____'s security policy and procedures for safeguarding IRS information. Consultant must maintain its authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the ODNR, _____'s files for review. Consultant is hereby advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6 to the Publication, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5 to the Publication, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of the Publication) For both the initial certification and the annual certification, Consultant shall sign, either with ink or electronic signature, a confidentiality statement certifying its understanding of the security requirements.

III. INSPECTION

Consultant shall comply with the requirements of the IRS Publication 1075, including all requirements referencing or related to, record retention and audit requirements to safeguard FTI.

The IRS and the ODNR, _____ shall have the right to send its officers and employees into the offices and plants, or any other site of Consultant for inspection of the facilities and operations provided for the performance of any Work under this Agreement. This will include alternate worksites where FTI is received, processed, stored, destroyed, or has been handled by any other means; this provision specifically includes private property held by Consultant if it allows its employees to establish an alternate work site within their property.

On the basis of such inspection, specific measures may be required to remedy matters of non-compliance, in cases where Consultant is found to be noncompliant with contract or measures as defined by the IRS Office of Safeguards or the ODNR, _____. The Agreement may be terminated subject to the discretion of the IRS and/or ODNR, _____ for any reason. In either case Consultant shall have no recourse and shall not be entitled to any damages as a result of the required remedy, or termination of the Agreement.

A background check must be performed, as required by IRS Publication 1075, on each of Consultant's employees or subcontractors that may be exposed to FTI provided by the ODNR, _____. Results of the background checks shall be made available to the ODNR, _____, IRS or their designees upon request.

Consultant must provide staff, logs, records, systems access, and access to the facilities at its own expense to assist during each of the inspections/audits. Inspections/Audits may be performed by the ODNR, _____, IRS or their designee at any time Consultant is in possession of Federal Tax Information (FTI) or during the subsequent years until all FTI has been return or destroyed, the return or destruction have been reported to the ODNR,

_____, and the retention periods for these records as defined in IRS publication 1075 have expired.