

April 4, 2022

Teresa Deaton-Reese, CPPB, CPPO
Procurement Consultant
Indiana Department of Administration
Procurement Division
402 W. Washington St., Room W468
Indianapolis, Indiana 46204

RE: Response to RFP Number 22-70230 for IEDSS System Maintenance and Operations

Dear Ms. Deaton-Reese,

Deloitte is pleased to submit this proposal to provide Maintenance and Operations services for the Indiana Eligibility Determination Services System (IEDSS). We have collaborated with the State of Indiana for 30 years to build, maintain, and enhance the eligibility systems, including the legacy system of ICES and the modernized replacement system of IEDSS. This relationship has enabled Indiana to effectively implement and administer critical programs such as Medicaid, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) to its citizens. In our proposal, we demonstrate our commitment to continuing this momentum as we look forward to delivering solutions to support your evolving needs.

2.2.1 Agreement with Requirements listed in Section 1

Deloitte acknowledges understanding of the general information presented in Section 1, and we agree with the requirements/conditions listed in Section 1.

2.2.2 Summary of Ability and Desire to Supply the Required Products or Services

Deloitte understands that the Indiana Department of Administration (IDOA), acting on behalf of the Indiana Family and Social Services Administration (FSSA), Division of Family Resources (DFR) requires maintenance and operations services for the Indiana Eligibility Determination Services System (IEDSS), which includes system M&O, system enhancements, and maintenance of the decommissioned legacy systems.

Deloitte is the only vendor that knows the IEDSS systems and software, both from a technology and business perspective. We also know you, your stakeholders, and your constituents – federal, county, community, and contract partners – as well as Indiana’s citizens. We thoroughly understand the expectations of managing Federal and State funds and can work with the State to leverage them in a meaningful and impactful way. We understand how it all works, how it is used, the programs and policies it supports, why it is built the way it is, and how it is evolving through key initiatives. This experience cannot be understated. Having the historical context of IEDSS enables us to provide Indiana with the insightful guidance to navigate tomorrow. In addition, it allows us to respond quickly and efficiently to your changing needs and offer innovative and pragmatic ideas that align with your technical, business, and organizational environment. With Deloitte, IEDSS continues to be reliably maintained and supported from day one.

Deloitte is willing to provide the products and/or services defined in Section 2.4 of the RFP subject to the Sample Contract terms set forth in RFP Attachment B, including the mandatory contract terms as listed in Section 2.3.5 of the RFP, as further explained in our response in Section 2.3.5 of our Business Proposal. With certain clarifications, including those described in Section 2.3.5 of our Business Proposal, we accept in principle, the contract terms and conditions included in the RFP as drafts of certain provisions of a contract, the final terms of which will be negotiated by the Indiana Department of Administration and Deloitte if we are awarded the contract. Deloitte acknowledges that the State has identified certain clauses in RFP Section 2.3.5 as mandatory and agrees that these clauses should remain as mandatory in the final contract.

2.2.3 Signature of Authorized Representative

Seth Mandel is authorized to commit Deloitte to its representations and can certify that the information offered in our proposal meets all general conditions including the information requested in RFP Section 2.3.4 (Authorizing Document). We have provided a letter of signatory authority as part of our Business Proposal. Seth will serve as the principal contact for this proposal. His contact information is:

Mr. Seth Mandel
Deloitte Consulting LLP
111 Monument Circle, Suite 4200
Indianapolis, Indiana 46204
Phone: +1 412.398.5878
Facsimile: +1 877.536.2497
Email: smandel@deloitte.com

2.2.4 Respondent Notification

Deloitte understands that notification will occur via email. We understand that it is our obligation to notify the Procurement Division of any changes in any address.

2.2.5 Confidential Information

In accordance with Section 1.15 (Confidential Information) of the RFP, Deloitte is claiming a statutory exception to the Access to Public Records Act (APRA). As instructed, we are specifying (see the Confidential Information Designation section to this Transmittal Letter) which statutory exceptions of APRA apply and to which material the exceptions apply. We have also provided a separate redacted (for public release) version of the proposal.

2.2.6 Other Information

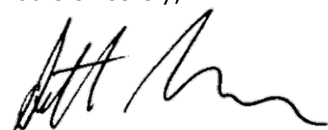
We successfully perform maintenance, operations, and enhancements for HHS systems across many states. Our clients have indicated that our work results in stability and improvements in service delivery. Throughout our proposal, we highlight how the State of Indiana benefits from continuing the IEDSS journey with Deloitte. In summary:

- A seamless transition is the lowest risk to the State.
- We are committed to continuing the momentum we have built with the State.
- Deloitte is the national leader in eligibility and enrollment systems.
- Our IEDSS team provides business agility and technical strength.
- We bring innovation in government and insights that will truly help Indiana.
- We work with the State to impactfully leverage Federal and State funds.

Closing

Deloitte is the right choice for Indiana to continue maintaining, operating, and enhancing IEDSS. We refer you first to the General Section 2.3.1 of our Business Proposal to learn more about Deloitte's corporate capabilities, experience and the key elements of our technical proposal and further understand why Deloitte is the right choice to work with the State on continuing to support IEDSS. Should you have any questions, please contact me at smandel@deloitte.com or +1 412.398.5878.

Yours sincerely,



Seth Mandel
Principal, Deloitte Consulting LLP

Enclosure: Confidentiality/APRA Letter



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Teresa Deaton-Reese, CPPB, CPPO
Procurement Consultant
Indiana Department of Administration
Procurement Division
402 West Washington Street, Room W468
Indianapolis, Indiana 46204

Re: Confidential Information Designation
Request for Proposal: 22-70230
IEDSS System Maintenance and Operations

Dear Ms. Deaton-Reese:

In accordance with Sections 1.15 and 2.2.5 (Confidential Information) of the above-referenced Request for Proposal issued by the State of Indiana Department of Administration on behalf of the FSSA Division of Family Resources (the "State"), this letter serves to identify the information contained in Deloitte Consulting LLP's proposal (the "Deloitte Proposal") which it claims to be confidential and exempt from public disclosure pursuant to the Indiana Access to Public Records Act ("APRA"). Deloitte Consulting LLP ("Deloitte Consulting") requests the State maintain the confidentiality of the specific items identified herein, as required under applicable Indiana law (the "Protected Information").

Deloitte Consulting provides professional consulting services to government entities and companies around the world. This services market is a dynamic market with many participants vying for a limited universe of clients. In this regard, Deloitte Consulting objects to the release of certain information included in the Deloitte Proposal on the basis, among other things, that it will cause competitive harm to Deloitte Consulting if it is released by the State.

The Indiana Access to Public Records Act provides the following mandatory exemptions from public disclosure:

- (a) The following public records are excepted from section 3 [IC 5-14-3-3] of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

* * *

- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

Ind. Code Ann. §5-14-3-4(a).

The definition of “trade secret” contained in the Indiana Uniform Trade Secrets Act applies for purposes of the Access to Public Records Act. See Ind. Code Ann. §5-14-3-2(t). That definition is as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Ind. Code Ann. §24-2-3-2.

“Thus, a protectable trade secret has four characteristics: (1) information, (2) which derives independent economic value, (3) is not generally known, or readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and (4) the subject of efforts reasonable under the circumstances to maintain its secrecy.” *Hydraulic Exch. & Repair, Inc. v. KM Specialty Pumps, Inc.*, 690 N.E.2d 782, 785-86 (Ind. Ct. App. 1998). Indiana Courts have held that “the threshold factors [to be considered] are the extent to which the information is known by others and the ease by which the information could be duplicated by legitimate means.” *Franke v. Honeywell, Inc.*, 516 N.E.2d 1090, 1093 (Ind. App. 1987). Importantly, Indiana Courts have found trade secrets to include “customer lists, pricing, labor rates, overhead costs, suppliers, designs, blueprints, and specific needs of customers.” *Infinity Prods. v. Quandt*, 810 N.E.2d 1028, 1032 (Ind. 2004).

As set forth below, the Protected Information is exempt from disclosure under the APRA which permits an agency to withhold trade secrets and confidential financial information if disclosure would cause substantial harm to the competitive position of a company. The Protected Information falls within the meaning of said exemption and is therefore exempt from disclosure for two independent reasons. *First*, the Protected Information is *not* the kind of information that Deloitte Consulting customarily discloses to the public and was provided voluntarily to the State with the reasonable expectation that such information would not be released. *Second*, disclosure of the Protected Information would cause substantial harm to Deloitte Consulting’s competitive position by permitting its competitors to leverage Deloitte Consulting’s innovative business strategies, methodologies and approaches, all of which have significant commercial value and represent the investment of substantial time, effort and money.

I. Identity and Qualifications of Personnel and Subcontractors.

The Deloitte Proposal includes confidential information and protected trade secrets concerning the identity and qualifications of individual Deloitte Consulting personnel and its proposed subcontractors, the compilation of which Deloitte Consulting deems trade secret. See 1 MILGRAM ON TRADE SECRETS, § 109[8][g] (“Information which can be protected under a trade secret theory [includes the] effectiveness and good performance of key sales personnel and other personnel”). Deloitte Consulting holds the identity of its personnel and proposed subcontractors in the strictest confidence.

Because Deloitte Consulting considers its staffing strategy and proposed team to be trade secrets, Deloitte Consulting does not customarily release its staffing arrangements to third parties. Further, in order to protect the confidentiality of certain information, not all team members are provided access to all sections of Deloitte Consulting's proposals. To the extent Deloitte Consulting must disclose information to its subcontractors and/or teaming partners, prior to doing so, Deloitte Consulting ensures that all subcontracts and/or teaming agreements to which Deloitte Consulting is a party contain restrictions on the release of information between Deloitte Consulting and its subcontractors and/or team members.

Disclosure of this Protected Information would injure Deloitte Consulting's competitive position by providing competitors with insight into the manner in which Deloitte Consulting assembles individuals with particular types of education, experience and talents into project teams. In addition, disclosure of such information would allow Deloitte Consulting's competitors with visibility into how we may position subcontracts for the potential engagement. Deloitte Consulting's competitors could use this Protected Information to free ride on its years of experience by assembling project teams virtually identical to those of Deloitte Consulting in terms of composition and qualifications. Providing competitors with the identification of our firm's resources not only would result in placing Deloitte Consulting in a less competitive position in the future but could also compromise our ability to perform in the present, should those resources be pirated by competitors.

Further, Deloitte Consulting is not aware of any public interest in the disclosure of the names of Deloitte Consulting personnel in the Deloitte Proposal and certainly such individuals have a reasonable belief that their names would not be disclosed pursuant to the APRA. Accordingly, Protected Information regarding the identity and qualifications of Deloitte Consulting personnel and the composition of Deloitte Consulting's project teams, including its proposed subcontractors, is exempt from disclosure under the APRA. *See Prof'l Review Org. of Fla., Inc. v. Dep't of Health and Human Servs.*, 607 F. Supp. 423, 425 (D.D.C. 1985) (information regarding contractor's organizational structure and staffing was exempt from disclosure under the FOIA); *Audio Technical Services LTD. v. Department of the Army*, 487 F. Supp. 779, 782 (D.D.C. 1979) (same for "biographical data on key . . . employees").

Based upon this Section, the provisions contained in the Deloitte Proposal listed on Attachment A to this letter and as set forth in the attached redactions should be withheld from disclosure by the State.

II. Proprietary Tools, Methodology and Approach.

The Protected Information in this category reflects confidential and proprietary patterns, methods, techniques and technical data, the confidentiality and proprietary status of which Deloitte Consulting makes every effort to maintain.¹

In developing the Deloitte Proposal, Deloitte Consulting was required to use its ingenuity and originality to determine how best to accomplish the State's objectives. For example, the Deloitte Proposal reflects Deloitte Consulting's overall proprietary approach to providing ongoing maintenance and operations services for the Indiana Eligibility Determination Services System (IEDSS) and reveals Deloitte Consulting's innovative ideas on how to further enhance the capabilities of the IEDSS system in the future. The Deloitte Proposal further highlights Deloitte Consulting's industry-leading and

¹ For example, Deloitte Consulting routinely requires its personnel, teaming partners and subcontractors to: (a) sign non-disclosure agreements; (b) implement reasonable security measures to protect information at their offices and in their computer systems; and (c) limit disclosure of sensitive marketing and proposal materials to a select group of individuals on a strict need-to-know basis.

differentiated experience designing, developing, implementing, maintaining, and operating other large-scale Eligibility and Enrollment (E&E) Systems for State government agencies across the country, including the use of proprietary custom-designed tools and accelerators. Additionally, the Deloitte Proposal includes confidential and proprietary details regarding how Deloitte Consulting will deliver innovative solutions and new technologies to optimize the IEDSS solution in order to satisfy the State's desired enhancement goals.

The Deloitte Proposal also reveals Deloitte Consulting's confidential business decisions regarding its proposed project management approach, including its transition plan, turnover plan, and training plan; its staffing organizational structure and strategy; project plan and schedule; proposed project timelines; key activities; milestones; and deliverables - the compilation of which constitutes Deloitte Consulting's trade secret information. These details have not been disclosed outside of Deloitte Consulting's team except on a limited basis and only for the limited purpose of furthering the development of the underlying strategic approach.

The Deloitte Proposal also contains Deloitte Consulting's proprietary graphics, figures, screenshots, tables, sample dashboards, reports, and user stories and other artwork and design samples. The proprietary graphics reflect a general creative direction and approach that could be used by Deloitte Consulting with another current or potential client. This information is part of Deloitte Consulting's creative body of work that may be used in other proposals/projects. Disclosure of this information would place Deloitte Consulting at a competitive disadvantage by allowing its competitors to have access to and the ability to utilize the graphics that it expended considerable time and resources to design. Deloitte Consulting has marked these graphical items for protection against disclosure because they contain confidential information and the format is proprietary to Deloitte Consulting. Disclosure of the confidential information and the format would provide an unfair advantage to Deloitte Consulting's competitors, as they would then be in a position to use Deloitte Consulting's graphical format in proposals when competing against us.

Much of the substantive discussion throughout the Deloitte Proposal refers to Deloitte Consulting's proven methodologies and techniques gained through its market leading experience in maintaining and operating custom enterprise systems in health and human services as well as public and commercial sectors. Deloitte Consulting's methodologies and approaches are proprietary and are used repeatedly in its consulting work. Deloitte Consulting developed and continues to enhance and maintain these methodologies at considerable expense. The methodologies facilitate both efficiency and enhanced service quality, which give Deloitte Consulting a significant competitive advantage in bidding on projects, both in the public sector and commercial arenas. Because these methodologies reflect the expertise and experience of Deloitte Consulting, it is not easily replicated by a competitor, except through improper means. The release of this information to Deloitte Consulting's competitors would do considerable harm to Deloitte Consulting's competitive position in this market by allowing its competitors to gain access to such content in order to mature their own capabilities and offerings in this space. Accordingly, such information is protected confidential commercial and trade secret information and should be withheld from public disclosure.

This information has application well beyond the instant procurement and reflects Deloitte Consulting's experience with similar projects. Accordingly, its disclosure would seriously undermine Deloitte Consulting's competitive advantage by allowing competitors to have access to Deloitte Consulting's ideas, processes, and methodologies that they would not have had or would have had to spend considerable funds to develop on their own. *See SMS Data Prods. Group, Inc. v. Dep't of the Air Force*, 1989 WL 201031 at *3-4 (D.D.C. 1989) ("proprietary technical information" in successful offeror's

technical proposal is exempt from disclosure under the FOIA); *Landfair v. Dep't of the Army*, 645 F. Supp. 325, 328-29 (D.D.C. 1986) (same for "technical designs"); *Prof'l Review Org. of Fla., Inc. v. Dep't of Health and Human Servs.*, 607 F. Supp. 423 (D.D.C. 1985) (same for "review process with an outline of data capability and processes"); *Audio Technical Services LTD. v. Department of the Army*, 487 F. Supp. 779, 782 (D.D.C. 1979) (same for "design recommendations" and "design concepts including methods and procedures"). Disclosure of this Protected Information would impair Deloitte Consulting's ability to successfully compete for future work by relinquishing our approach to our competitors who may then fashion future proposals to utilize a similar strategy. Therefore, it is protected, trade secret information and cannot be released.

Based upon this Section, the provisions contained in the Deloitte Proposal listed on Attachment A to this letter and as set forth in the attached redactions should be withheld from disclosure by the State.

III. Past and Present Clients/Customers.

The Deloitte Proposal reveals several of Deloitte Consulting's and its proposed subcontractors' clients, as well as provides contact information and details about the work performed for those clients. The identities of clients (and the information about the projects completed for those clients) and contact information are protected, confidential trade secret information. The release of the past performance material in the various documents would cause substantial competitive harm to Deloitte Consulting, and is also, therefore, exempt from disclosure. Past performance information necessarily discloses the identity of a contractor's clients/customers, both in the private and public sectors. Indiana and many other jurisdictions have found customer lists to constitute protectable trade secret information. See *Ackerman v. Kimball Int'l*, 634 N.E.2d 778 (Ind. App. 1994) (customer lists and pricing information constitute trade secrets); see also *Infinity Prods. v. Quandt*, 810 N.E.2d 1028 (Ind. 2004); *Titus v. Rheitone, Inc.*, 758 N.E.2d 85, 95, LEXIS 1959, *22, 18 I.E.R. Cas. (BNA) 133 (Ind. Ct. App. 2001). Information relating to a company's customers is exempt from disclosure, because "disclosure of this type of information would threaten the competitive position of the submitter." *Audio Technical Services LTD. v. Department of the Army*, 487 F. Supp. 779 at 782 (D.D.C. 1979); see also *Fund for Constitutional Government v. Federal Trade Commission*, No. CA 79-0250, 1981 WL 2117, at *2 (D.D.C., July 10, 1981) (identity of customers and information concerning contracts with customers exempt). Further, this information contains technical details and methodologies employed by Deloitte Consulting in performing other contracts for the design, development, implementation, and maintenance and operations of modernized Eligibility and Enrollment systems relevant to the State's IES project, and, as discussed above, such information is exempt from disclosure.

The client information in the Deloitte Proposal contains a trove of valuable information. The clients' identities themselves are valuable, trade secret data. Additionally, the client contact information and the descriptions of the work performed for Deloitte Consulting's clients constitute trade secret data. The client lists in these materials is not simply information related to a single or ephemeral event in the conduct of Deloitte Consulting's business. Many of these clients are repeat customers of Deloitte Consulting's services, and Deloitte Consulting seeks to engage these customers for more business opportunities in the future. Deloitte Consulting is actively working on ongoing business for some of these clients. Likewise, the descriptions of the work performed for these clients is not simply information about single, completed projects. Deloitte Consulting often applies similar methodologies in projects for the same client or for different clients. The descriptions (coupled with the client identities and contact information) are a crucial part of Deloitte Consulting's business formula. Deloitte Consulting is seeking to protect traditional trade secret information: the compilation of the client

identities, contact information and descriptions of work processes that may be used repeatedly in Deloitte Consulting's business of delivering quality services.

The client information that Deloitte Consulting seeks to protect is confidential information that is not widely known outside of Deloitte Consulting. These clients are not identified in documents that are disseminated widely nor are they made known on Deloitte Consulting's internet website. Further, these clients and the details about the work performed for them are not known by all Deloitte Consulting employees or others involved in Deloitte Consulting's business.

The identity of Deloitte Consulting's clients is very valuable information to Deloitte Consulting and its competitors. Deloitte Consulting is in the business of providing services to the particular clients that Deloitte Consulting manages. The identity of these clients reveal important information about Deloitte Consulting's capacities. Deloitte Consulting's competitors can use such information to undermine Deloitte Consulting's future efforts to develop business with new clients as well as maintain business relationships with their past clients. For example, if the client information discussed above was obtained by Deloitte Consulting's competitors, then the competitors could make targeted "pitches" that highlight the competitor's differences with Deloitte Consulting to those businesses and government agencies.

Additionally, the compilation of client names, contract information, project descriptions, and lessons learned constitute Deloitte Consulting's demonstrated competence and qualifications to perform the services requested by the State. This collection of information as a whole would take Deloitte Consulting's competitors significant time and effort to collect and disclosure of this information would certainly provide competitors with valuable insight on how to structure their qualifications for future bids.

There are many other ways in which Deloitte Consulting's competitors could make use of the valuable client and project information. For example, Deloitte Consulting's competitors could use the client identities and contact information to attempt to obtain negative reviews of Deloitte Consulting's work for those clients; such negative reviews could then be used against Deloitte Consulting when the competitors submit proposals in competition with Deloitte Consulting on future private and public projects.

Deloitte Consulting has expended a substantial amount of time, effort and money to develop their relationships with the clients revealed in the Deloitte Proposal to the State. Without access to the client information contained in the Deloitte Proposal, Deloitte Consulting's competitors would be unable to "properly acquire" that information. Deloitte Consulting does not customarily release this Protected Information to competitors or otherwise to the public. Therefore, as such client information would give Deloitte Consulting's competitors an advantage, such information is protected from disclosure as a trade secret.

Based upon this Section, the provisions contained in the Deloitte Proposal listed on Attachment A to this letter and as set forth in the attached redactions should be withheld from disclosure by the State.

IV. Pricing.

The Cost Proposal contained in the Deloitte Proposal reflects Deloitte Consulting's costs to "manufacture" its product. Deloitte Consulting does not sell goods; Deloitte Consulting's product is the

knowledge of its employees and their knowledge services. This information is not specific to the Deloitte Proposal; this information goes to the heart of Deloitte Consulting's business of providing services. This "compilation of information" regarding the rates Deloitte Consulting charges for the knowledge of its employees is used in every Deloitte Consulting proposal, which includes proposals for jobs at private entities as well as government agencies.

This information—especially coupled with information available in the Deloitte Proposal regarding how Deloitte Consulting staffs projects like the State project—constitutes the direct "formula" for Deloitte Consulting's approach to staffing many different projects. This is not merely information as to what overall price Deloitte Consulting would charge for the State's project, or what levels of staff it would utilize. This information would reveal Deloitte Consulting's measured, focused approach for providing exceptional client services while maximizing revenue for Deloitte Consulting. This Protected Information derives independent economic value from not being generally known or readily ascertainable by competitors. Deloitte Consulting makes every effort to maintain the secrecy of its pricing and cost information, and Deloitte Consulting does not customarily release this Protected Information to competitors or otherwise to the public. This information would be extremely valuable to a competitor and should be withheld as trade secret information and is clearly protected from disclosure as a trade secret. See *Ackerman v. Kimball Int'l*, 634 N.E.2d 778 (Ind. App. 1994) (customer lists and pricing information constitute trade secrets); *Orbitz v. Ind. Dep't of State Revenue*, 997 N.E.2d 98, LEXIS 25, 2013 WL 5630987 (Ind. Tax 2013) (if competitors have access to pricing information, they could possibly gain a competitive advantage by negotiating better rates with clients; and as such pricing is protected from public disclosure pursuant as a trade secret under the APRA).

While the public may have an interest in the aggregate price of a bid proposed to a government agency, there is no similar public interest in the hourly billing rates for particular employees, the estimated project or FTE hours, or the unit pricing formula and structure. The aggregate price may reflect the costs to the government, but the hourly rates are actually costs incurred by Deloitte Consulting in "manufacturing" its services and include staff time, travel costs, overhead, and other costs. The release of even one element of a cost structure has been found to result in substantial competitive harm, because release of such "separate pieces of this financial puzzle would enable competitors, who may somehow have gathered other pieces, to complete the picture." *Braintree Electric Light State v. DOE*, 494 F. Supp. 287, 290 (D.D.C. 1980); see also *Sterling Drug, Inc. v. Federal Trade Commission*, 450 F.2d 698, 708-709 (D.C. Cir. 1971); *Timken Co. v. Customs Service*, 531 F. Supp. 194 (D.D.C. 1981); *Timken Co. v. Customs Service*, 491 F. Supp. 557 (D.D.C. 1980).

Deloitte Consulting's costs and pricing information is very valuable to the company, and it would be very valuable to its competitors. The costs and pricing information in the Deloitte Proposal reveals a roadmap for successful staffing on projects. If a competitor was given access to the details of Deloitte Consulting's costs and pricing used to calculate the bid submitted in the Deloitte Proposal, the competitor could "reverse engineer" Deloitte Consulting's time and work estimates for each piece of the overall service package that Deloitte Consulting has offered the State. By combining the employee hourly rate data with the information about the duration of each step of the whole project and the price for each step, an informed competitive company could calculate estimates of the type and duration of staffing used for each step of the project. These estimates would reveal the formula that Deloitte Consulting employs when designing its consultation projects. This is not information that is limited to a single proposal; it is information that is ubiquitous throughout Deloitte Consulting's operations. The Supreme Court of Indiana found in *Amoco Prod. Co. v. Laird*, 622 N.E.2d 912 at *918, LEXIS 152, 30 U.S.P.Q.2D (BNA) 1515 at *1519, 62 U.S.L.W. 2294, 128 Oil & Gas Rep. 484 (Ind. 1993) that "...

information which can be duplicated only by an expensive and time-consuming method of reverse engineering, for instance, could be secret.”

Deloitte Consulting has invested considerable sums of money and amounts of time to develop its pricing and staffing expertise. Without access to the types of information about costs and pricing, Deloitte Consulting’s competitors would not be able to acquire or duplicate the expertise that Deloitte Consulting has built. Deloitte Consulting’s pricing methodology is not known outside of the company except to those who are party to its agreements. The agreements are available and known inside the company on a need-to-know basis. Hard copies are maintained in restricted access files. Electronic copies are likewise restricted. Hence, this Protected Information amounts to trade secret information. *See Infinity Prods. v. Quandt, supra.*

Based upon this Section, the provisions contained in the Deloitte Proposal listed on Attachment A to this letter and as set forth in the attached redactions should be withheld from disclosure by the State.

V. Confidential Financial Information and Other Trade Secret Information.

In accordance with Ind. Code Ann. §5-14-3-4(a)(5), the Protected Information in this category reflects records that are “confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.” The term “confidential financial information” is not defined. However, in analyzing this exemption, Indiana has used the ordinary meaning of the term, finding that it excludes “information that is secret relating to finance.” *Advisory Opinion 03-FC-59; Alleged Denial of Access to Public Records* by the Indiana Department of Administration. That Advisory Opinion went on to analyze the exemption in light of the similar Federal exemption holding that “... financial information that the submitting person would not customarily release to the public may be withheld from disclosure ... pursuant to Indiana Code section 5-14-3-4(a)(5).” *Id.*; see also 2003 Ind. PUC LEXIS 171, *8-9 (“Our Order recognized a distinction between the term “confidential financial information” found in Indiana Code 5-14-3-4(a)(5) and, effectively, the same term used in the federal Freedom of Information Act, at 5 U.S.C. 552(b)(4). The distinction we noted was that 5 U.S.C. 552(b)(4) exempts both trade secrets and confidential financial information from public disclosure, while Indiana Code 5-14-3-4(a)(5) provides an exemption for confidential financial information only to the extent that the information is not required to be submitted to a public agency pursuant to state statute.”).

The Deloitte Proposal contains Deloitte Consulting’s confidential commercial information regarding its ability to meet the State’s subcontracting requirements, including the identities, qualifications, and contact information of its proposed subcontractors and teaming partners, as well as the proposed subcontract percentage and dollar amount. Disclosure of such information would allow Deloitte Consulting’s competitors with visibility into how we may position subcontracts for the potential engagement. The Deloitte Proposal also contains information regarding Deloitte Consulting’s internal organizational structure and operating model, headcount figures, revenues, working capital, and assets and liabilities for the years 2019-2021. Such information constitutes Deloitte Consulting’s internal, confidential financial information and trade secrets. The compilation of this information is not publicly reported and is not publicly disclosed. Deloitte Consulting provided this information so that the State could evaluate its responsibility and its ability to perform the work required. Because this information is not publicly disclosed, Deloitte Consulting would be disadvantaged if its competitors were made aware of this information.

The Deloitte Proposal also includes Deloitte Consulting's proposed changes and exceptions to the terms and conditions contained in the RFP and as such, constitute Deloitte Consulting's trade secret and confidential commercial information and risk position. If this information were disclosed it would substantially harm Deloitte Consulting's competitive position as its competitors, by knowing the tolerance for certain terms and conditions to which Deloitte Consulting will agree and its preferred language, could unfairly exploit that knowledge by undermining and "under-bidding" Deloitte Consulting in future solicitations across the country. Hence, disclosure of this Protected Information would impair Deloitte Consulting's ability to successfully compete for future work by relinquishing our approach to our competitors who may then fashion future proposals to utilize a similar strategy with regard to risk tolerance and preferred terms language. Furthermore, this information is not released to the public and is closely protected within Deloitte Consulting. Because this information is not publicly disclosed, Deloitte Consulting would be disadvantaged if its competitors were made aware of this information.

Based upon this Section, the provisions contained in the Deloitte Proposal listed on Attachment A to this letter and as set forth in the attached redactions should be withheld from disclosure by the State.

VI. Conclusion.

For the reasons stated above, Deloitte Consulting respectfully requests that the State protect from disclosure the categories of information discussed herein and as further identified on the enclosed Attachment A and the attached redactions, including its personnel and subcontractors, its proprietary methodology, tools, and technical approach, its customers/clients, its pricing, and its confidential financial and commercial information. Release of Deloitte Consulting's Protected Information would impair Deloitte Consulting's competitive position, undermine the integrity of the procurement process and may discourage Deloitte Consulting and other qualified firms from submitting proposals in the future.

Thank you for your consideration of this matter. In the event that the State disagrees with the information that Deloitte Consulting has identified as confidential and exempt from public disclosure, please contact me in advance of the release of any such Deloitte Consulting related information so that we can discuss the matter.

Sincerely,

DELOITTE CONSULTING LLP

By: 

Seth Mandel, Principal

Enclosures:

- 1) Attachment A
- 2) Redacted Deloitte Proposal

ATTACHMENT A
Confidential Information Designation

Deloitte Consulting LLP requests the following provisions of the Deloitte Proposal be withheld from disclosure by the State pursuant to §§5-14-3-4(a)(4), 5-14-3-4(a)(5), and 5-14-3-2(t) of the Indiana Access to Public Records Act (APRA) and Burns Ind. Code Ann. §24-2-3-2. To that end, each page

containing such exempt information has been clearly identified with the word “**CONFIDENTIAL.**” In accordance with the instructions contained in the Request for Proposal we are also providing the State with a redacted copy of the Deloitte Proposal for public release. We respectfully request that should the State receive a public records request seeking Deloitte Consulting’s Proposal, that the State respond by providing the attached redacted copy. We have organized our list below in accordance with the five (5) key elements as outlined in our letter dated April 4, 2022.

I. Identity and Qualifications of Personnel and Subcontractors

Section # / Page #	Description of Confidential/Trade Secret Material
2.3_Business Proposal_Attachment E Pages 12, 16-17, 19-23	Identity and contact information of Deloitte personnel and its proposed subcontractors.
Appendix 1_Executive Summary Page 7-8	Identity of personnel, including names and photos.
Attachment A_MWBE Participation Form Pages 1-20	Description of Deloitte’s proposed subcontractors, including names, contact information, signatures, qualifications, and percentage of subcontract. This section also contains the name, contact information, and signature of Deloitte personnel.
2.4_Technical Proposal_Attachment F Pages 7, 41, 44, 50, 60, 70, 76, 104, 114, 118, 135, 137, 154, 159-160, 164, 173, 186, 189, 207, 213 217, 225, 230, 231, 233-241, 243-254, 256-257	Identity and qualifications of personnel and/or subcontractors.
Appendix 11_Resumes Pages 1-119	Information regarding the identities, qualifications, and experience of Deloitte’s proposed project team and includes team member names, photos, resumes, short bios, and references to past and current Deloitte clients.

II. Proprietary Methodology and Approach

Section # / Page #	Description of Confidential/Trade Secret Material
2.3_Business Proposal_Attachment E Pages 5	Deloitte’s proprietary methodology and approach including its internal structural organization.
Appendix 1_Executive Summary Pages 4, 6	Deloitte’s proprietary methodology and approach.
Appendix 4_Contracts Terms_Clauses Pages 2-31	Deloitte’s proprietary methodology and approach.
2.4_Technical Proposal_Attachment F Pages 10-11, 22-25, 26, 38,49, 51-52, 62-63, 70, 82-84, 88, 102 108, 140, 145-146, 152, 174, 186, 186-188, 202-203, 213, 220, 232, 239, 242	Deloitte’s proprietary methodology and approach, including proprietary graphics, reports, dashboards, screenshots and key features and benefits of the Deloitte approach.
Appendix 1_Experience with the Technologies in Attachment J Pages 1-5	Deloitte’s proprietary methodology and approach.
Appendix 2_Draft Project Schedule Pages 1-15	Deloitte’s proprietary methodology and approach.
Appendix 3_Sample Requirements Documents Pages 1-75	Deloitte’s proprietary methodology and approach.
Appendix 4_Sample Master Test Management Plan Pages 3-62	Deloitte’s proprietary methodology and approach.
Appendix 5_Sample Splunk Reporting Dashboards Pages 1-5	Deloitte’s proprietary methodology and approach.
Appendix 6_Training Plan	Deloitte’s proprietary methodology and approach.

Section # / Page #	Description of Confidential/Trade Secret Material
Pages 1-7	
Appendix 7_Anticipated Upgrades and Patches Page 1	Deloitte's proprietary methodology and approach.
Appendix 8_Enhancement Impact Analysis Pages 1-92	Deloitte's proprietary methodology and approach.
Appendix 9_Initial Transition Plan Pages 1-10	Deloitte's proprietary methodology and approach.
Appendix 10_Turnover Plan Pages 1-9	Deloitte's proprietary methodology and approach.
Appendix 13_Sample SLA Reports Page 1-15	Deloitte's proprietary methodology and approach.

III. Past and Present Clients/Customers and Experience

Section # / Page #	Description of Confidential/Trade Secret Material
2.3_Business Proposal_Attachment E Pages 8, 13-14, 25-27, 29-41	References to past and current Deloitte clients, including name of client organization, name of client contact, title, telephone number, email address, and a description of the services provided.
2.4_Technical Proposal_Attachment F Pages 3-5, 9-22, 45-47, 86	References to past and current Deloitte clients, including name of client organization and a description of the services provided and other engagement-specific details.
Appendix 11_Resumes Pages 1-119	References to past and current Deloitte clients.

IV. Pricing

Section # / Page #	Description of Confidential/Trade Secret Material
Attachment A_MWBE Participation Form Pages 1-3, 16-20	Details of proposal pricing as it relates to our scope of work including subcontractors.
Attachment D Cost Proposal Template Pages 2-10	Details regarding our professional fees, including hourly rates and estimated hours that Deloitte deems trade secret.
2.5_Cost Assumptions Conditions and Constraints Pages 1	Details of Deloitte's pricing approach.

V. Confidential Financial Information

Section # / Page #	Description of Confidential/Trade Secret Material
2.3_Business Proposal_Attachment E Pages 10	Confidential Deloitte Financial Information.
2.4_Technical Proposal_Attachment F Page 273	Confidential Deloitte Financial Information.