



August 9, 2021

To: Chairman Do and OCTA Board of Directors

*Cofiroute USA Comment Submission re: Agenda Item 16 – Contractor Selection for the Back-Office System and Customer Service Center Operations for the 405 Express Lanes in Orange County*

Dear Board of Directors:

We are writing this letter to express our concern about potential irregularities in the procurement process that we perceived during and after the Finance Committee meeting on Wednesday, July 28, 2021. Notably, a couple hours after the committee meeting concluded, a consultant from HNTB initiated a phone call with an employee of TollPlus to ask about TollPlus's proposed system – particularly how it used the cloud and Amazon Web Services. We find this call to be concerning on two counts. First, because it seems to be in direct violation of the procurement rules set out in the RFP, and second, because it bolsters our impression that during the committee meeting the system proposed by Cofiroute was not fairly explained.

On the first point, Section I.D ("Authority Contact") of RFP 0-2690 ("Back Office System and Customer Service Center Operations Services for the 405 Express Lanes in Orange County") states that all communications should take place directly through Mr. Robert Webb, Principal Contracts Administrator "unless expressly permitted." The prohibition on other contacts specifically extends to consultants. However, on July 28, 2021, a key Agency consultant who evaluated proposers' technology solutions called an employee of our subcontractor – who was not listed anywhere in our proposal – to get information about how the proposed back-office system ("BOS") operates. Cofiroute is highly concerned about this apparent violation of the stated RFP process.

Secondly, this call was concerning because it seems that the consultant either did not properly review or did not understand Cofiroute's RFP response, which clearly sets forth how the proposed BOS operates. This suggests that Cofiroute's proposal was not properly evaluated or was not subject to the proper clarifying questions during the allotted procurement period, which could explain some of the inaccurate information that was provided in the Contractor Selection Memo dated July 14, 2021 and during the July 28, 2021 Finance Committee meeting.

A theme that ran throughout the July 28 committee meeting was that the system proposed by Cofiroute was somehow old or outdated and that the WSP system was newer. For example, at 20:17, Director Hernandez stated that his understanding for why staff chose the more expensive bid was that OCTA was getting "newer technology" with WSP. Similarly, at 21:02, Director Harper remarked on the "bells and whistles" the Agency would get with WSP's "newer technology." And while Dan Baker of HNTB did state at 26:32 that neither party's system was antiquated, there was no attempt by staff to move the committee off the idea that WSP's solution was technologically superior to Cofiroute's. In fact, staff reinforced this view shortly before the vote, starting at 48:23, when Director Hernandez had the following conversation with Mr. Avila:

Hernandez:                      ... But I would say what Cofiroute is using is the 2019 ... technology  
and I'm going to assume that technology wasn't cutting edge

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*then so it's probably a couple of years older than that. So what I don't want to see happen is that all of a sudden we go with someone using older technology then we get a change order because yeah they recognize trends and we're going to go in that direction and all of a sudden that 8 million gets gobbled up as a change order. So sounds like the material we're getting now is going to be good for the long term and we have enough safeguard in our contract that if there's a failure to perform that we will be covered so is that accurate? Am I stating that point accurately?*

*Avila: Yes, Director Hernandez.*

*Hernandez: Thank you Kirk. That's all I got. Thank you.*

The approach of consistently agreeing with the Committee's assertions that Cofiroute offered a somehow inferior product is quite different than how staff responded to questions regarding WSP's and ETC's historical performance. For example, in the initial summary of why staff recommended WSP, Kirk Avila said at 13:23 that "The WSP team has teamed up with Electronic Transaction Consultants or ETC, with ETC providing the back-office system. The WSP and ETC team have a large and diverse portfolio of back-office systems on deployment in customer service center operations. These include clients in Colorado, Minnesota, Washington, Texas, Louisiana, Georgia, and Utah." Director Muller followed up on this question at 33:32 and did not receive direct answers:

*Muller (33:32) So with ETC ... how have they performed? I heard that they're in multiple states. I think you said 4 or 5 different states, is that correct?*

*Avila (33:51) They have experience in deploying systems in those states.*

*Muller (33:55) When you say "deploying systems", is that operating systems or are they acting as consultants to help develop the systems?*

*Avila (34:00) There are various different levels of activity that they have. In Texas, they have deployed a back-office system. In the State of Washington, they've deployed a back-office system. So it just depends on the state and what experience that they've had. They've had a number of experiences with back-office systems – they've been around for twenty years – some of them are active, some of them have come and gone ...*

Director Muller continued, asking at 34:28 whether ETC or WSP had any problems or lost projects because of performance issues. Mr. Avila referenced litigation in Florida in which ETC was successful, but said "other than that, I'm not aware of any other situation that they are encountering at this point." Director Muller then pointed out at

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36:20 that a simple web search will provide examples of botched deliveries and penalties, but staff did not seem to have done any research to determine past success or failures of the proposers.

Director Muller also asked at 43:17 whether WSP and ETC had ever successfully implemented the system being proposed for this procurement. Mr. Avila responded that ETC was working with Harris County, Texas on a back-office system. He did not know “if it’s the exact system” but said that “the Harris County is very similar to the 405.” Director Muller followed up at 44:02 with a comment suggesting he’d reached out to Seattle who said they weren’t using the functionality. He asked again: “have they ever implemented an automated system like this? Because it’s not inexpensive and if it doesn’t work, we’re going to have to take it out.” Mr. Avila referred the question to Dan Baker from HNTB who gave some nonresponsive answers about agencies sometimes not being comfortable with high tech bots. Director Muller followed up again at 46:25 that “it doesn’t answer the question: have they ever implemented it?” Mr. Baker said he didn’t know off the top of his head and he’d “have to be very sure of exactly what they put in their proposal.”

All of the answers above regarding Cofiroute’s system and WSP’s system are either inaccurate or incomplete on the basis of facts that were readily available to – and should have been known by – OCTA staff and its consultants. For example, the back-office solution in the Cofiroute system – provided by subcontractor TollPlus – was fully developed in late 2020 using the latest technology with Microservices. This back-office system was successfully tested and deployed in January 2021 and is literally the newest back-office system being offered on the market. Specifically, TollPlus successfully deployed this back-office system for the North Texas Tollway Authority (NTTA), which replaced the legacy back-office system installed by ETC (the back-office system provider for the WSP solution). By way of comparison, ETC has not deployed a new system for some time. In fact, the system in Washington state that was discussed in the Committee meeting was implemented in 2011. And the system in Harris County, Texas that was described as being very similar to the 405 proposal was last updated in 2018. So in response to Director Muller’s repeated questions: either the ETC system is the older technology referenced above or, in the alternative, ETC has proposed future technology for the 405 that has yet to be successfully implemented. Both questions were asked in the Committee meeting, and neither was accurately answered.

These mischaracterizations are compounded by specific errors in the descriptions provided by staff. For example, there were repeated descriptions of how the WSP system would integrate web chat and other forms of modern communication, and the committee focused heavily on that. However, the IVR system contained in the proposed Cofiroute solution also offered all of those features. This information was provided in Cofiroute’s response, and had staff requested backup documentation, Cofiroute could have provided extensive documentation including a Gartner analysis of the IVR systems and patents issued for the system. However, the committee’s misunderstanding of this point was not corrected. At 51:14, immediately before the vote, Director Hernandez said in response to comments from Director Muller regarding the positive aspects of talking to a human that “I really appreciate talking to someone. However, there’s a price to pay when you do that.” And Director Muller agreed, saying that he would support the motion to recommend WSP, suggesting that Cofiroute relies too much on humans. With no comment from staff, the Chairman immediately called for the Committee vote.

Cofiroute understands that analyzing systems and developing recommendations is difficult, painstaking work and we appreciate that not every bid can be successful. But in this instance, it was clear that complete or fully responsive answers to the questions were not presented to the directors. Cofiroute’s proposed solution is a highly proven and

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flexible cloud-based BOS and an innovative omni-channel IVR platform that delivers contact management for OCTA's customers via chat, email, phone, and web contacts. The proposed system is state-of-the-art, and our team has experience implementing it successfully. The suggestions by staff, and staff's failure to correct misperceptions by Committee members, that Cofiroute's system was old technology, that it didn't include modern communications tools, and that it was somehow not as automated as the WSP platform, should raise concerns from the Board of Directors.

As stated, Cofiroute's proposal includes a state-of-the-art communications solutions including a cloud-based omni-channel communications platform. And contrary to the understanding of the committee, it is notable that the staff's own presentation to the Finance Committee estimated that Cofiroute's proposal would utilize 61 full-time employees compared to 89 full-time employees for WSP. (See footnote on Slide 6 ("Proposed Costs") of the presentation given by Mr. Avila to the Finance Committee.) A more technically advanced solution should require fewer staff to operate, and it would seem to warrant investigation of why WSP would need almost 50% more full time employees to operate its solution if it is, in fact, technologically superior. This question was not addressed by staff, nor did staff correct the manifestly inaccurate assumptions made by committee members that Cofiroute's proposal somehow relied more on humans than WSP's proposal. It also bears further discussion on whether the \$8 million in additional cost for the WSP system is attributable to its significantly higher employee numbers, rather than to superior technology as some Committee members believed.

Another example is the repeated assertion that WSP's solution was somehow more "customer-centric" than Cofiroute's. While that nebulous designation may be hard to opine against, it should be noted that Cofiroute's proposal included the assembly of a Customer Service Advisory Council to bring an outside perspective to the BOS design and CSC operations "to help us challenge the traditional toll customer service model and further ensure voice of the customer input into operations." To suggest that Cofiroute was somehow not trying to focus on the end-customer is not in keeping with its RFP response.

The risks of choosing WSP are clear. The electronic tolling industry has a significant failure rate for new implementations, even for companies that are household names. Yet it is unclear – and it was not answered by staff even in the face of direct questioning by committee members – whether the system proposed by WSP has been successfully implemented anywhere. And although staff said that OCTA is familiar with WSP as a company, it is not familiar with them in the tolling space. Even more concerning is that WSP has partnered with a back-office system provider with a documented history of delivery issues and litigation with its customers.

The Board is now being asked by staff to approve what appears to be an untested system that will add an additional back-office system and customer service center operator to the region instead of a brand-new state-of-the-art system that was successfully implemented earlier this year and is provided by a company that has partnered with OCTA for the past 18 years. And the Board is not being asked to take this risk to realize the benefit of discounted pricing, but rather to spend \$8 million more for this untested system and associated operations, even though staff cannot provide direct, complete, and accurate answers to fundamental questions that were asked by Finance Committee members.

We hope that this letter helps clarify some of what we believe were mischaracterizations of our proposal and assists the board with exercising its responsibility of public fund management when it is being asked to invest an additional

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\$8 million dollars of public money with the recommended vendor. We remain committed to OCTA and its constituents to continue providing a premier level of service and trust, as we have for done for so many years.

We sincerely and with the upmost respect thank you for your time.

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