

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 W. Washington St., Rm W470
Indianapolis, IN 46204-2745
Telephone: (317)234-0906
Email: pac@opac.in.gov
Website: www.IN.gov/pac

April 6, 2023

Monroe County Board of Commissioners
Penny Githens, Board President
100 W Kirkwood Ave
Bloomington, IN 47404

VIA EMAIL: pgithens@co.monroe.in.us

Re: Notice of Formal Complaint; 23-FC-44

Dear Ms. Githens:

In accordance with Indiana Code section 5-14-5, a formal complaint has been filed with the Public Access Counselor alleging a violation of the Open Door Law by the Monroe County Board of Commissioners. A copy of the formal complaint is included for your reference.

Under Indiana Code Section 5-14-5-5, a public agency must cooperate with the counselor in any investigation or proceeding. Therefore, the Board's response to the formal complaint allegations must be received by this office no later than April 26, 2023. The Public Access Counselor will issue an advisory opinion within a reasonable amount of time, following the date the complaint was received.

You may email your response to pac@opac.in.gov, fax it to the number listed in the letterhead, or send it by standard mail. Please contact our office with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kaitlyn Holmecki".

Kaitlyn Holmecki
Public Access Coordinator
www.IN.gov/pac

cc: Seth J. Mutchler



OFFICE OF THE PUBLIC ACCESS COUNSELOR
FORMAL COMPLAINT
 State Form 49407 (R6 / 3-14)

PUBLIC ACCESS COUNSELOR
 Indiana Government Center South
 402 West Washington Street
 Indianapolis, Indiana 46204
 Telephone: (317) 234-0906
 Toll free: (800) 228-6013
 Fax: (317) 233-3091

INSTRUCTIONS: This form is to be used only when filing complaints under Indiana Code 5-14-5. All information provided is disclosable under the Access to Public Record Act. PLEASE TYPE OR PRINT.

FOR OFFICE USE ONLY		
Date received (month, day, year) 4-6-2023	Complaint number 23-FC-44	Date due (month, day, year) 5-6-2023

COMPLAINANT INFORMATION			
Name (last, first, middle initial) Mutchler, Seth, J			
Address (number and street) 706 W Wylie Street		City Bloomington	State Indiana
Telephone number (812) 878-4206		Fax number () N/A	E-mail address Seth.Mutchler@gmail.com

INFORMATION ABOUT PUBLIC AGENCY DENYING ACCESS			
Name of public agency Monroe County Board of Commissioners			
Address (number and street) 100 W Kirkwood Ave		City Bloomington	State Indiana
Telephone number (812) 349-2550		Fax number (812) 349-7320	E-mail address commissionersoffice@co.monroe.in.us
Name of elected / appointed official or presiding officer responsible for the denial Penny Githens, President of Board of Commissioners and responsible for RFQ Committee			

COMPLAINT (Check all that apply.)	
<input checked="" type="checkbox"/> Open Door Law Violation <input checked="" type="checkbox"/> Executive Session <input checked="" type="checkbox"/> Notice <input checked="" type="checkbox"/> Other: <u>Final Action taken outside of public meeting</u>	<input type="checkbox"/> Public Records Access Violation <input type="checkbox"/> Denial of Access <input type="checkbox"/> Copy Fee <input type="checkbox"/> Denial of Electronic Access <input type="checkbox"/> Other: _____
<input type="checkbox"/> Request for priority status [See Indiana Administrative Code (62 IAC 1-1-3).] (Must include in narrative the reason for priority status.)	

IMPORTANT	
Date denied access to public record (month, day, year) January 17 - 19, 2023	Date notified of denial of access to meeting (month, day, year) March 8, 2023

Please describe denial of access to meeting or public records below. Attach additional sheets if necessary. (Required)

Please see attached page titled "1 - Formal Complaint - Mutchler - 4-5-23.pdf"

PLEASE ATTACH COPIES OF ANY WRITTEN DENIAL OR DOCUMENTATION CONCERNING DENIAL.	
Signature 	Date (month, day, year) April 5, 2023

Formal Complaint

Seth Mutchler

April 5th, 2023

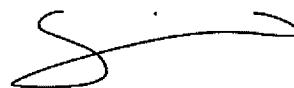
Submitted to office of Indiana Public Access Counselor

On January 17th, 18th, and 19th of 2023, the "RFQ Committee" met without public notice and without access by the public, in violation of Indiana's Open Door Law. The RFQ Committee was created by the office of the Monroe County Board of Commissioners to hear presentations from architecture firms and recommend a firm to design a new jail / justice campus in Monroe County (see *Request for Qualifications*). At the committee's creation, it was intended the presentations from the firms and any deliberations would be open to the public, as discussed at Monroe County Board of Commissioners' work session on October 26, 2022 (<https://catstv.net/m.php?q=11826>, 00:11:55 – 00:26:12). This committee was comprised of Richard Crider, Building and Fleet Manager, David Gardner, ASI Contractor, Lee Baker, County Attorney, Kyle Gibbons, Jail Commander, Matt Demmings, Assistant Jail Commander, and Angie Purdie, Commissioners' Administrator. In the following months, there was discussion of companies responding to the RFQ (Request for Qualification), but no meeting dates were explicitly stated until March 8th of 2023 at the Monroe County Board of Commissioners' Work Session (See *March 8 Summary Minutes*, page 9). At this meeting, Richard Crider, Monroe County Building and Fleet Manager, stated that "the RFQ Committee met on January 17th, 18th, and 19th to hear from three respondents" (<https://catstv.net/m.php?q=12192>, 00:04:09). Mr. Crider went on to state that they received presentations from the three companies and decided on DLZ as their official recommendation to the Monroe County Board of Commissioners. This was the first public acknowledgment of these meetings, to the best knowledge of the citizen filing this claim. I have been unable to find any posting notice or memorandum. I spoke to Lee Baker, Monroe County Attorney, and he told me that these meetings did not need to be open to the public as they are not a governing body required to hold public meetings. It seems in my opinion however, that this committee is indeed a governing body of a public agency that met to conduct official action and would thus be required to hold public meetings under the Open Door Law.

After these events, Monroe County Sherriff Ruben Marté sent an email to the Monroe County Board of Commissioners, among others, regarding these meetings and the selection process. I have attached a copy of this email (see *2023-04-03 Sheriff Email*) as well as the referenced attachments to that email (see the 16 items named *Sherriff Attachment - ...*). This email both corroborates the claims made above and also provides context to the greater issues surrounding these meetings and decisions made within.

This issue is ongoing and was most recently discussed at time of submission at the Monroe County Board of Commissioners Regular and Work Sessions on April 5th. The videos for these meetings are not available at time of submission but will be available on catstv.net, Monroe County's public access television provider. The packets for these meetings are attached (see *April 5 Commissioners Regular Session Packet* and *April 5 Commissioners Work Session Packet*).

Please contact me if you would like any further information or have questions regarding this claim. Thank you for your time and attention to this matter.



Seth Mutchler



**MONROE COUNTY BOARD OF COMMISSIONERS'
WORK SESSION SUMMARY
Wednesday, March 8, 2023**

Nat U. Hill Meeting Room - 3rd Floor, Courthouse and Zoom Connection

Members

Penny Githens, President, Present, In Person
Julie Thomas, Vice President, Present, In Person
Lee Jones, Present, In Person

Staff

Angie Purdie, Commissioners' Administrator, Present, In Person
Jeff Cockerill, Legal Counsel, Present, In Person

- 1. Youth Services Bureau, Angie Purdie on behalf of Vicki Thevenow**
Amended Residential Treatment Services Provider Contract with the Department of Child Services.

Thomas made motion to approve. Jones seconded.
Cockerill asked Ms. Purdie to confirm if the cyber insurance has \$1M limit for this contract.
Thomas made motion to approve pending confirmation. Jones seconded.
Githens called for a voice vote on amendment.
Motion carried 3-0.
Githens called for voice vote on amended agreement.
Motion carried 3-0.

- 2. RFQ Committee Members**
Richard Crider, Building and Fleet Manager
David Gardner, ASI Contractor
Lee Baker, County Attorney
Kyle Gibbons, Jail Commander
Matt Demmings, Assistant Jail Commander
Angie Purdie, Commissioners' Administrator

The RFQ Committee met with three respondents on January 17-19, 2023. The RFQ Committee formally recommends the Commissioners enter into contract negotiations with DLZ, LLC., for construction of the new jail facility. The RFQ Committee also recommends DLZ, LLC. Provide a presentation to the CJRC.

Request for Qualifications

*Monroe County Justice Complex
Issued 10/27/2022*

Purpose: The Monroe County Board of Commissioners are seeking the services of qualified firms to provide planning, architecture, and engineering services for master planning and design of a criminal justice center, which will include related justice components in addition to the jail, sheriff's department, court rooms and related court space.

The master planning and design, may include, but is not limited to other facilities that help promote transition from jail and mental health treatment facilities. The plan is expected to focus on a correctional facility that employs best practices and emerging trends. The resulting facility should be treatment-based and outcomes-focused rather than the County's current containment model facility. We expect all jail operations to be re-imagined developing a more intentional, coordinated, and robust process of intake, assessment, program matching, service tracking, behavioral incentivization, and transition planning for inmates.

The current jail facility has been operating under a Federal Order regarding its condition since 2008. In 2019, the County commissioned studies of the Criminal Justice System, that included the Jail facility. County's current facility is incapable of consistently ensuring and sustaining constitutional levels of inmate custody and care. Furthermore, the consultants looked at gaps in our community that lead to incarceration and recommendations to help alleviate these gaps.

The studies can be found here:

<https://www.co.monroe.in.us/department/board.php?structureid=178>

When relocating the jail, considerations about which related Justice components of the County will need to be relocated need to occur. While, currently, no decisions have been made about the relocation of Justice related components, potential relocation could include the Court's and their respective offices along with the offices of Probation, Community Corrections, the Clerk of Court, the Prosecutor, and the Public Defender. In addition, other supportive facilities, such as those described in the reports, may be desired for this area.

The County is currently in the process of procuring land for this endeavor. The project will ultimately be for the master planning of an entire site, but the initial construction is specific to the design and build of an innovative and outcomes focused correctional center that meets all jail operational requirements, Sheriff Department, treatment and mental health programming, visitation for families and attorneys/probation, and adequate space for the efficient use for criminal courts.

Goals:

The goals of the project are as follows:

1. The Master plan, that includes a robust public process, that includes both plans for construction for initial use (the jail, Sheriff's office, and courtrooms) and future use.

2. The Jail facility is expected to have space for to meet the current and short term needs of the County and have additional built out space for future expansion.
3. The area should have a distinctive and attractive landscaping scheme, and common signage that identifies the area.
4. The area should be attractive and inviting to residents, visitors, and serve as a gateway to the City of Bloomington.

Project Activities

Activities in this project will include:

- Master Plan and Construction design for the initial use.
- Design and construction plans for an innovative, treatment based, outcomes focused jail, sheriff's department, and adequate court space for the efficient use for criminal courts.
- Local official, community, and stakeholder involvement
- Construction document phase

Submittal requirements

1. Cover Page and Informational Cover Letter (maximum two pages).
2. Identification, Qualifications, and Key Staff:
 - a. Provide the firm name, office location from where the work will be performed and a brief introduction to the firm's background. Include the name and contact information for the person authorized to negotiate the proposed contract (maximum one page).
 - b. Include a listing of the proposed subconsultants and the tasks to be completed by the prime and each subconsultant (maximum one page).
 - c. Described the project team, organizational structure, and individuals responsible for the delivery of the key tasks (maximum 10 pages).
 - d. Describe the capacity of the team to complete the required work elements (maximum one page).
 - e. Describe the team's experience in providing the required work elements and the approach used on similar projects in the past (maximum three pages).
 - f. Provide up to five similar county jail projects or similar government projects completed by the team and include references for the projects noted (maximum five pages).

3. Presuming you are selected, provide a proposed project schedule through program, design, validation, design, construction documents, and bidding (maximum one page).

4. Provide a description of the prime firm's professional liability insurance policy, including limits (maximum one page).

Submittals must not exceed 20 pages, excluding cover page, dividers, cover letter, and title page. Print submittals one-sided and use a minimum 10-pt. font.

Selection Criteria:

The Monroe County Fleet and Building Manager, Richard Crider, David Gardner with ASI, the Sheriff Elect or his designee, Commissioners Administrator, and an Attorney from the County legal department will comprise the review committee who will evaluate and determine all qualified firm(s) to this Request for Qualifications.

The committee may contact any or all respondents to clarify submitted information. Firms will be notified in writing whether they have been placed on the Commissioner Vendor's List.

The committee will request presentations from each submitter, these presentations will be open to the public and may include a public display/presentation.

Upon identification of a need for services, the Commissioners will select a firm or team of firms.

The basis for evaluating firms shall include the ability to undertake projects, professional excellence, demonstrated experience and competence in the services to be provided by the firm(s); education and experience of the project manager and other key personnel; staffing capability, workload and record of meeting schedules, including an assessment of the firm's ability to handle additional work; the nature, quality and relevance of recently completed work; ability and willingness to respond to State and Federal requirements.

Important Considerations:

This Request for Qualifications does not obligate the Commissioners to pay any costs incurred by any respondent in the submission of statements of qualifications or in making necessary studies or design for the preparation thereof, or for procuring or contracting for the services to be furnished under this request for qualifications.

Responses Due:

All Request for Qualifications submittals are due at, or before, 3:00 PM local time on November 15, 2022.

Please submit Five (5) bound copies and one electronic copy in PDF of submittals to:

Monroe County Commissioners
C/O Legal Department
100 W. Kirkwood Ave
Bloomington, IN 47404

Qualifications delivered after the due date and time will not be considered.

Questions:

If you need additional information, please contact jcockerill@co.monroe.in.us