



United States Department of State
Bureau of Oceans and International
Environmental and Scientific Affairs
Washington, D.C. 20520

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UNCLASSIFIED

July 13, 2012

**ACTION MEMO FOR ASSISTANT SECRETARY
DR. KERRI-ANN JONES**

FROM: OES/ENV - George Sibley *GUS*

SUBJECT: Selection of Independent Third-Party Contractor for Keystone XL
Review

Recommendation

That you approve the selection of Environmental Resources Management as the Department of State's independent third-party contractor for the Keystone XL Review.

Approve ✓ KAG. 7/13/12. Disapprove _____

Background

On May 4, 2012 the Department received an application from TransCanada Keystone Pipeline, L.P. (TransCanada) for a Presidential Permit to construct, operate and maintain pipeline facilities at the border of the United States and Canada (the Project). The Department posted a notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) in the Federal Register on June 15, 2012 (Tab A). The Department would benefit from the selection of an independent third-party contractor to assist in the preparation of the SEIS.

OES/ENV, in consultation with L and with ENR, issued a Request For Proposal (RFP) to solicit interest from potential contractors (Tab B). OES/ENV, in

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

consultation with L and ENR, carefully reviewed all 3 of the proposals submitted and interviewed the interested potential contractors.

Recommended Offeror

Following our review and consultations, and consistent with the National Environmental Policy Act (NEPA) as well as the Department's interim guidance on selecting third-party contractors (Tab C), we recommend that you select Environmental Resources Management (ERM) as the Department's independent third-party contractor for the Keystone XL environmental review. The selection process we followed in making this recommendation is detailed in an attached document (Tab D).

ERM would bring a wealth of technical expertise and resources to the Project. The proposed project team is part of a global staff of 4,000 specialists representing more than 30 disciplines including engineering, natural and earth sciences, social science, economics, planning and business management. The Project Manager and senior leaders of the ERM team have experience on environmental (and/or cultural resources reviews) on dozens of similar projects of size and scope, including oil and gas pipelines. The proposed Project Manager has 25 years of experience in environmental assessments of oil and gas projects, and the senior leaders of the project team have a combined total of over 100 years of relevant experience. In both its written and oral presentations ERM demonstrated that it has the necessary understanding of the Project and the necessary resources to meet any scheduling requirements. Moreover, ERM is the only candidate that has not worked for TransCanada or its subsidiaries or affiliates, nor has ERM been a third-party contractor on any reviews of TransCanada projects.

As part of our assessment we spoke with several references, none of whom provided any negative information on ERM. Furthermore, all of the Department's participants at the candidate interviews felt that ERM's overall presentation best evidenced an ability to prepare a timely, comprehensive, and defensible SEIS that is consistent with NEPA.

Other Offerors

OES/ENV, in consultation with L and ENR, also received and analyzed proposals from Ecology and Environment, Inc. (E&E) and ICF International (ICF). Both companies presented proposals that were worthy of consideration, and likely have the technical approach that could meet the challenges of the NEPA review. However, the Department's participants in the selection process concluded that each of those companies' proposals had at least one significant deficiency when compared with that of the recommended offeror. E&E's proposal and presentation raised concerns as to whether it had as many resources as the recommended offeror to ensure that it could prepare a timely and comprehensive SEIS for the Project. ICF's proposal raised concerns as to whether its approach to the SEIS may entail a methodology that is less likely to ensure a comprehensive review. Both proposals by E&E and ICF indicate some ongoing work on TransCanada projects. Upon review by L, such work is not likely a conflict that would result in automatic disqualification from selection. Nevertheless, to the extent the work identified is an actual conflict under the OCI guidelines, both E&E and ICF have indicated that they would be willing to mitigate these issues through appropriate firewalls.

In sum, the collective recommendation of OES/ENV, in consultation with L and ENR, is that ERM is the best candidate to prepare a timely, comprehensive and defensible SEIS for the Keystone XL review.

Attachments:

- Tab A – Notice of Intent to Prepare SEIS
- Tab B – Request for Proposals
- Tab C – Interim Guidance for the Use of Third-Party Contractors in Preparation of
Environmental Documents by the Department of State
- Tab D – Selection Process

Drafted: Genevieve Walker, OES/ENV, x7-9798

Approved: Dan Clune, PDAS, OES/FO

Clearances:

| | | |
|-------------|----------------|--------|
| L/OES | Benes/Pearsall | (ok) |
| ENR/FO | Cekuta | (ok) |
| ENR/EDP/AWH | Brennan | (ok) |
| WHA/CAN | Kastning | (info) |

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Third Party Contractors

| Contractor | Received RFP | Read RFP | Participated in technical call | Formally acknowledged will bid | Formally declined to bid | No response |
|-----------------|--------------|----------|--------------------------------|--------------------------------|--------------------------|-------------|
| AECOM | Yes | Yes | Yes | | | |
| Cardno Enrix | Yes | Yes | Yes | Sub-contractor | | |
| CH2MHill | Yes | Yes | | | Yes | |
| E & E | Yes | Yes | Yes | Yes | | |
| ERM | Yes | Yes | No | Yes | | |
| ICF | Yes | Yes | Yes | Yes | | |
| JBR | Yes | Yes | | | Yes | |
| Merjent | Yes | Yes | Yes | | Yes | |
| SAIC | Yes | Yes | | | | Yes |
| Tetra Tech | Yes | Yes | Yes | | | |
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