

FEBRUARY 2008

**APPLICANT HANDBOOK FOR USING  
THIRD-PARTY CONTRACTORS IN SUPPORT OF THE  
APPLICATION PROCESS FOR AN ELECTRIC  
TRANSMISSION CONSTRUCTION PERMIT**

**For Electric Transmission Facilities Located in  
National Interest Electric Transmission Corridors**



**Federal Energy Regulatory Commission  
Washington, DC 20426**

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**ACRONYMS:**

- 3PC.....Third Party Contractor
- ADEIS.....Administrative Draft EIS
- CEII.....Critical Energy Infrastructure Information
- CD.....Compact Disk
- DEIS.....Draft Environmental Impact Statement
- EIS.....Environmental Impact Statement
- EA.....Environmental Assessment
- FEIS.....Final Environmental Impact Statement
- FERC.....Federal Energy Regulatory Commission
- NEPA.....National Environmental Policy Act
- OCI.....Organizational Conflict of Interest
- OEP.....Office of Energy Projects
- OGC.....Office of General Counsel
- PF.....Pre-Filing
- PADEIS.....Preliminary Administrative Draft EIS
- PMBOK.....Project Management Body of Knowledge
- PMP.....Project Management Plan
- QACP.....Quality Assurance and Control Plan
- RFP.....Request for Proposals
- RR.....Resource Report

## Chapter 1.0 INTRODUCTION AND OVERVIEW

The Federal Energy Regulatory Commission (FERC or Commission) Office of Energy Projects' (OEP) third-party contracting program provides for applicants seeking construction permits for electric transmission projects to fund a third-party contractor (3PC) to assist the Commission in reviewing the environmental aspects of applications and preparing the environmental documents required by the National Environmental Policy Act of 1969 (NEPA).<sup>1</sup> These environmental documents could be environmental assessments (EA) or environmental impact statements (EIS), depending upon the potential project impacts.

This handbook provides guidance to the applicant on the selection and hiring of a 3PC for electric transmission projects analyzed by the Commission's OEP.

### 1.1 PROGRAM OVERVIEW

The Commission's "third-party contracting" program involves the use of an independent contractor to assist the staff in its environmental analyses and review of a proposal. Under this program, the independent contractor is:

- a) Selected by and works under the direct supervision and control of the OEP staff;
- b) Responsible for conducting environmental analyses and preparing environmental documentation; and
- c) Paid by the project applicant(s).

Third-party contracting provides additional flexibility in satisfying the Commission's NEPA responsibilities. It also complements and supports the Commission's Pre-Filing (PF) Process.

### 1.2 PRE-FILING CONSULTATION

As part of the Commission's review process to site new electric transmission facilities or to modify existing facilities, all applicants must comply with the PF Procedures as outlined in §50.5 of the Commission's regulations prior to filing an application with the Commission. As part of this procedure, an initial consultation meeting with the Director of OEP (Director) is required. If the Director, as part of the initial PF meeting, deems a 3PC is required for the project, the applicant must submit a list of 3PCs from which the Commission staff may make a selection to assist in the preparation of the requisite NEPA document. This handbook

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<sup>1</sup> See the Energy Policy Act of 1992, P.L. No. 102-186.

serves as a guideline for the applicant’s solicitation for prospective 3PCs to support the PF and application review process.

### 1.3 PREPARATION OF A DRAFT RFP

Following a determination of need for a 3PC and before a request for use of the Commission’s PF Process is submitted, the applicant will prepare a draft Request for Proposals (RFP). The draft RFP shall contain a list of screening criteria and an explanation of how the criteria will be used by the applicant to select the best three candidates from the contractors who respond to the RFP. If the RFP will be offered to specific contractors only, the draft RFP submitted to the OEP staff will be accompanied by a list of the targeted contractors.

The draft RFP must be submitted for review and approval by the OEP staff before the RFP is issued by the applicant. The draft RFP should include a sample contract and be submitted directly to the OEP staff, rather than formally filed with the Commission. Any list of targeted contractors accompanying the draft RFP will be provided for information purposes only; OEP will neither approve nor disapprove of any contractor targeted to receive the RFP.

To assist applicants in developing a RFP for selection of 3PCs, we have included specific guidelines for the content of RFPs in Chapter 2. **The elements presented in these guidelines must be incorporated into all draft RFPs.** In addition, Chapter 3 contains a sample RFP that shows how the specific guidelines in Chapter 2 might translate into an actual RFP.

### 1.4 SELECTION OF THE THIRD-PARTY CONTRACTOR

Following OEP staff's review and approval of the draft RFP, the applicant will:

- a) Issue the approved RFP to each company on the list of targeted contractors;
- b) Screen all proposals received for technical adequacy and Organizational Conflict of Interest (OCI);<sup>2</sup>
- c) Select the three best-qualified candidates, and submit two copies of: a written rationale for their selection, their OCI statements together with their technical and cost proposals, and their Critical Energy Infrastructure Information (CEII) non-disclosure agreements to the OEP staff. For each proposal submitted, the applicant must provide an OCI certification stating that it has reviewed the proposal for OCI and found it to be acceptable; and

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2 OEP staff will not participate in any portion of the initial screening of the proposals.

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- d) The material listed under item c above must be provided to the OEP staff no later than the request for approval to use the PF process.

The lack of an OCI Statement, or the existence of an identifiable OCI that cannot be mitigated to the Commission staff's satisfaction, shall be sufficient grounds to reject the proposal. It is the applicant's responsibility to review carefully all OCI materials (submitted as part of each proposal) to determine whether the candidate contractor, including any subcontractor(s), is capable of impartially performing the environmental services required under the third-party contract. Guidance concerning the Commission's OCI requirements, including the format of an applicant's OCI certification, is presented in Chapter 4. Questions concerning OCI and CEII matters should be directed to the Office of General Counsel (OGC). See the listing at the end of this chapter for the appropriate OGC contacts.

Final contractor selection will be made by the OEP staff, based on an evaluation of the technical, managerial, and personnel aspects of the qualified candidates' proposals.

In the rare instance where the applicant determines that fewer than three contractors are qualified, fewer than three proposals *may* be submitted. However, specific justification must accompany the proposals and include a description of the efforts the applicant undertook in attempting to obtain qualified contractors. Should OEP identify an appropriate 3PC from the list submitted by the applicant, an approval letter will be issued to the applicant. The approval letter will clarify any details and/or resolve any outstanding issues.

Within 14 days from the receipt of the Commission's PF approval letter, the applicant will award a contract to the OEP-selected 3PC, direct the 3PC to contact and meet with OEP staff, and notify the Commission that the contract has been awarded. The applicant and the 3PC shall determine the appropriate form of agreement for payment of the 3PC by the applicant.

## **1.5 PREPARATION OF THE ENVIRONMENTAL DOCUMENT**

Once the selected 3PC has been retained by the applicant, the 3PC will immediately begin work for the Commission, supervised by the OEP staff. Although the applicant will pay for the 3PC's work, it will have no control over the work done under the contract, and will not be able to review a work product before its release to the public. In addition, the contract must indicate that the applicant retains no right to the products of the contract. The OEP staff shall:

- a) Have complete control over the scope, content, and quality of the contractor's work;
- b) Independently evaluate the results of the contractor's work;

- c) Have sole ownership of all documents (other than those related to financial aspects) produced under the contract; and
- d) Have complete control over the schedule for completion of the 3PC's work.

The Commission, through its staff, shall bear ultimate responsibility for full compliance with the requirements of NEPA. However, the 3PC is expected to be extremely knowledgeable in regards to NEPA and associated regulations, and able to offer recommendations on compliance and standard practices.

If essential information, critical to the integrity of OEP's environmental document, is found missing from the applicant's environmental report and related documents, the 3PC will be directed by OEP staff to acquire the missing information in one of two ways. The OEP staff will instruct the 3PC to either:

- a) Prepare a data request, which the staff will review and forward to the applicant to obtain the information; or
- b) Perform supplemental studies or data gathering to acquire the missing information.

Following public release of the environmental document, the 3PC will organize, analyze, and prepare draft responses to public comments (including those comments filed by the applicant). However, OEP staff will review, edit and may modify, and retain final responsibility for the final document.

## **1.6 FERC CONTACTS**

This handbook is intended to provide a basic understanding of the Commission's program for the use of 3PCs to prepare environmental documents for new electric transmission facilities or the modification of existing transmission facilities within DOE's designated National Interest Electric Transmission Corridors (National Corridors). However, the Commission encourages applicants with specific questions about the third-party contracting program or its applicability to a specific project to contact OEP directly. Additional information may be obtained from the following Commission staff:

### **1.6.1 Transmission Line Siting Program:**

Jeff Wright  
Deputy Director, OEP  
[jeff.wright@ferc.gov](mailto:jeff.wright@ferc.gov)

Telephone: (202) 502-8617

John Schnagl  
OEP, Energy Infrastructure Policy Group  
[john.schnagl@ferc.gov](mailto:john.schnagl@ferc.gov)  
Telephone: (202) 502-8756

**1.6.2 All inquiries regarding OCI:**

Charles A. Beamon  
General and Administrative Law (GC-13)  
[charles.beamon@ferc.gov](mailto:charles.beamon@ferc.gov)  
Telephone: (202) 502-8780

**1.6.3 All inquiries regarding off-the-record communications (ex parte):**

Wilbur Miller  
General and Administrative Law (GC-13.1)  
[wilbur.miller@ferc.gov](mailto:wilbur.miller@ferc.gov)  
Telephone: (202) 502-8953

**1.6.4 All inquiries regarding CEII:**

Jeffrey Kaplan  
General and Administrative Law (GC-13.1)  
[jeffrey.kaplan@ferc.gov](mailto:jeffrey.kaplan@ferc.gov)  
Telephone: (202) 502-8788

The mailing address for all Commission staff contacts listed in this handbook is:

(contact name and organization)  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Because of additional security procedures, mail deliveries to staff may be delayed. Phone or email contacts are encouraged.





## **Chapter 2.0 SPECIFIC GUIDELINES FOR REQUEST FOR PROPOSALS**

**At a minimum**, an applicant's RFP shall include the following components:

### **2.1 COVER PAGE**

A cover page identifying that the RFP is not a Federal procurement, and that the parties agree to hold harmless and indemnify the Commission and its staff. (See Disclaimer page in Chapter 3.)

### **2.2 ROLES & RESPONSIBILITIES**

A statement describing the third-party arrangement and establishing the roles and responsibilities of the applicant, 3PC, and Commission staff as follows:

- a) The applicant issues the RFP to a group of potential contractors and screens all bid proposals to compile a list of the three best-qualified contractors. The names of these contractors, and supporting material for their technical and cost proposals, will be submitted to the OEP staff.
- b) The OEP staff will review the technical proposals submitted and select a 3PC. The selected contractor must be found free of OCIs (or be able to mitigate any OCI to the satisfaction of the Commission staff).
- c) The applicant shall finalize and award the contract to the 3PC selected by the OEP staff.
- d) The OEP staff shall be solely responsible for the scope of the environmental document, the schedule for completion of the document, and for ensuring the technical quality of the 3PC's work.
- e) The 3PC shall support the PF process and prepare the environmental document (and/or perform related tasks as may be specified in the RFP) under the technical direction of the OEP staff, although the financial contract is between the applicant and the contractor for payment.
- f) The 3PC shall provide special consultants and conduct special evaluations required by the OEP staff for analysis of the project even if not specifically identified in the RFP. The cost for any such requirements will be borne by the applicant.

- g) The documents produced under the contract shall be the sole property of the Federal government.

## 2.3 OVERVIEW OF PROPOSED PROJECT

A brief overview of the proposed project that contains:

- a) The general purpose of the project;
- b) A description of the project location by state, county, and pertinent landmarks;
- c) The length and width of right-of-way, voltage, and interconnections of the proposed transmission facilities, including potential transmission line routes different from the proposed one; and
- d) A list of available data pertinent to the project's environmental review.

## 2.4 3PC SERVICES SPECIFICATIONS

A detailed description of the services required of the 3PC, including:

- a) Preparing all project-related documents, reports, and notices. In addition to paper copies, all materials must be provided to the OEP staff on compact disks in Microsoft (MS) Word 2002 format, or as otherwise agreed to by the OEP Environmental Project Manager. Any required databases (such as mailing lists) must be MS Access compatible.
- b) Provide Monthly Status Reports directly to OEP staff, consisting of one bound document and one CD, that includes at a minimum:
  - i. A dated *cover sheet* that includes the period covered.
  - ii. One-page maximum *summary sheet*.
  - iii. An overall *schedule summary*, clearly showing estimates against actuals and proposing modifications as appropriate.
  - iv. A *Progress Made this Period* sheet.
  - v. A *Quality Assurance Monitoring* sheet which summarizes quality activities.
  - vi. A *Project Management* sheet which summarizes near term activities.
  - vii. An *Outstanding Issues* sheet.
  - viii. A *Projected Activities for Next Period* sheet.
  - ix. A *Summary of Communications, Contacts, and Correspondence* sheet.

- x. An updated *full schedule* in MS Project<sup>3</sup>, clearly showing baseline and all variations and issues.
- c) Arranging for and participating in public and/or interagency meetings, and preparing reports that summarize the results of the meetings.
- d) Developing and maintaining a computerized (sortable database) mailing list of interested parties.
- e) Facilitating issue identification and resolution, and during the Commission's PF Process reviewing draft Environmental Reports or Environmental Resource Reports (RRs) for the FERC application.

## 2.5 ENVIRONMENTAL DOCUMENT GUIDANCE

- a) Preparing an environmental document to meet the requirements of NEPA and the Council on Environmental Quality, as well as other applicable environmental regulations, including but not limited to, the National Historic Preservation Act, Federal and relevant state Endangered Species Act(s), the Clean Air Act, and the Clean Water Act and any additional requirements of the OEP staff. The document shall include:
  - i. Characterizations of and impact assessments for all resource areas having the potential to be significantly affected by the proposed facilities' construction, operation, and maintenance.
  - ii. A rigorous exploration and objective evaluation of feasible alternatives.
  - iii. Discussion of proposed mitigation as well as 3PC and staff recommended mitigation measures designed to reduce potential impacts to acceptable levels.
  - iv. Consideration of issues raised during scoping.
  - v. Detailed maps showing the location of all project facilities and alternative routes or locations under consideration, related areas of disturbance, and pertinent resource data. Project maps shall be provided in an appendix, or if appropriate, provided as a separate map volume in a three-ring binder format. The scale of the supporting maps should be appropriate to the project scope and the complexity/sensitivity of the resources potentially affected, but never less detailed than 1:250,000.

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3 MS Project or other software pre-approved by OEP staff.

- vi. A visual simulation of the proposed transmission line, and any other pertinent features of the project, from selected key observation points along the proposed project route.
- b) Make timely revisions and additions to draft documents as may be directed by Commission staff.
- c) Providing the camera-ready document in hard copy as well as electronically on CDs as pdf files. Also, provide separate CDs for the public text and the “Non-internet Public” material as further specified by the OEP staff, and the CDs shall include the public Adobe Acrobat Reader.
- d) Maintaining an ongoing review of potential issues and an assessment of adequacy of the overall scope of the environmental analysis, for the purpose of immediately advising the OEP staff of any potential data gaps or analysis shortcomings, as well as recommended resolution.
- e) Arranging for site inspections and, as appropriate, right-of-way inspections (including overflights) for 3PC personnel and OEP staff. The applicant may be consulted for logistical information.
- f) Compiling, analyzing, and preparing draft responses to comments on the draft and final environmental documents.
- g) Preparing a Biological Assessment and other documents for Endangered Species Act compliance, as appropriate.
- h) Management of project to meet the schedule for deliverables established by OEP staff.

## 2.6 PROPOSED SCHEDULE

The applicant's proposed schedule with dates for the following key milestones:

- a) RFP issued to contractors;
- b) Top technical proposals submitted to OEP;
- c) 3PC selected by OEP;
- d) *Federal Register* Notice of Intent and mailing list submitted to OEP;
- e) Preliminary administrative draft environmental document submitted to OEP;
- f) Administrative draft environmental document distributed to OEP and cooperating agencies;
- g) *Federal Register* Notice of Availability submitted to OEP;

- h) Camera-ready draft environmental document submitted to OEP;
- i) Preliminary final environmental document submitted to OEP;
- j) *Federal Register* Notice of Availability submitted to OEP; and
- k) Camera-ready final environmental document submitted to OEP.

## **2.7 OCI STATEMENTS**

A requirement that each bid address OCI by including:

- a) Either an OCI Representation Statement or an OCI Disclosure Statement, indicating that the contractor has no financial or other conflicting interest in the outcome of the project;
- b) An OCI Questionnaire; and
- c) An abstract, listing all Commission-regulated industries that the 3PC and any subcontractors have had either an ongoing or previous business relationship with and whether that relationship results in either no conflict, or a real or perceived conflict.

Detailed information concerning the Commission's OCI disclosure requirements is presented in Chapter 4.

## **2.8 CEII STATEMENTS**

A requirement that each bid include a CEII non-disclosure agreement signed by the contractor submitting the bid and any subcontractors proposed for use. (A format for this agreement is included as appendix C.)

## **2.9 3PC QUALIFICATIONS**

A requirement that each bid include the following information:

- a) A description of the 3PC's technical approach for preparing the environmental document and a management plan for the project. Any proposed subcontractors should be identified.
- b) A description of the qualifications and experience (curriculum vitae) of both the 3PC and the key personnel (including subcontractors). Include the identification and resume of a highly qualified and experienced project manager.

- c) A proposed schedule in MS Project<sup>4</sup> for completing major work tasks (which highlights any differences from the applicant's proposed schedule as presented in the RFP). Any changes to the schedule presented in the RFP must be fully justified.
- d) A statement disclosing any potential OCI, and any proposed mitigation.
- e) An itemized estimate of cost.
- f) A Project Management Plan (PMP), specific to the project, in detail commensurate with the project complexity.

## 2.10 APPLICANT EVALUATION CRITERIA FOR 3PC SELECTION

A list of the criteria and an explanation of how the applicant will use the criteria to evaluate and select the best three contractors for final consideration by OEP. These criteria must include:

- a) A highly qualified and experienced project manager that has knowledge and expertise with large, complex projects, high level of public involvement, specifically transmission lines and other linear projects.
- b) A company that demonstrates extensive prior experience in preparing environmental documents for large electric transmission construction projects, or other linear projects, that have satisfied NEPA requirements.
- c) A demonstrated understanding of the project, potential issues, available data, and needed supplemental analyses.
- d) Sufficient resources to meet the schedule requirements.
- e) Ability to assign and commit key personnel to the project.
- f) Past record in meeting performance and delivery requirements of similar contracts.
- g) Three recent references for the company and three recent references for the proposed project manager.
- h) Ability to satisfy the logistical requirements to effectively manage the project such as materials, transportation, document production, computer services, etc.
- i) Ability of the 3PC, key personnel, and any subcontractors to meet the Commission's OCI requirements.
- j) Total cost.

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4 MS Project or other software pre-approved by OEP staff.

## **2.11 NON-SELECTION STATEMENT**

A statement that the applicant, rather than the Commission staff, shall answer any questions from non-selected contractors following the contract award.

## **2.12 VOIDED SELECTION OF THE 3PC CONTRACTOR**

Selection of the 3PC contractor may be voided for:

- a) Unilateral changes in 3PC personnel, their roles, or other unilateral changes in the 3PC selection criteria.
- b) Failure of the 3PC or its subcontractors to maintain the appearance of fair and ethical conduct.
- c) Failure of the 3PC to demonstrate technical or editorial competence.

If voided for any of the above reasons, the applicant will be notified and a new list of prospective 3PCs will be provided within 14 days. In the above determinations, the 3PC agrees that the determination of OEP staff is final and unappealable.





## Chapter 3.0 SAMPLE REQUEST FOR PROPOSALS

The following section contains a sample RFP. The RFP is presented as a generic document to illustrate how the guidelines presented in Chapter 2 can be quickly and easily adapted for application to a wide variety of proposals and situations. In addition, the sample RFP demonstrates how the Chapter 2 guidelines might merge with the Commission's PF Process for a transmission line project. **Note that handbook appendices A through G should be included as appendices to all RFPs.**

*The sample RFP includes the seven appendices at the end of this handbook.:*

- A. OCI Representation and Disclosure Statements*
- B. OCI Questionnaire*
- C. Contractor CEII Non-Disclosure Agreement*
- D. OCI Certification*
- E. Project Overview Map*
- F. List of Available Background Documents*
- G. Sample Contract*

Italicized items in parentheses represent information to be inserted by the user, supply guidance, or have been included for illustrative purposes.



### **3.1 SAMPLE RFP COVER SHEET**

## **Request for Proposal for Preparation of Third-Party Environmental Impact Statement**

*(applicant name)*

*(date)*



## 3.2 DISCLAIMER & HOLD HARMLESS STATEMENTS

### DISCLAIMER

THIS IS NOT A FEDERAL PROCUREMENT.

THE FOLLOWING REQUEST FOR PROPOSALS (RFP) WILL RESULT IN A PRIVATE CONTRACT BETWEEN (*applicant name*) AND A CONTRACTOR, AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF (*state name*). NEITHER THE PROCUREMENT NOR ADMINISTRATION OF THE RESULTING CONTRACT IS SUBJECT TO FEDERAL PROCUREMENT LAWS, REGULATIONS, OR PROTEST PROCEDURES. ANY DISPUTES NOT SETTLED BY THE PARTIES THEMSELVES MUST BE RESOLVED BY A COURT OF COMPETENT JURISDICTION, OR THROUGH ALTERNATIVE DISPUTE RESOLUTION PROCEDURES TO BE DETERMINED BY THE PARTIES AND DESCRIBED IN THE CONTRACT.

QUESTIONS CONCERNING THIS PROCUREMENT SHOULD BE DIRECTED ONLY TO (*applicant name*). (*Applicant name*) MUST PROVIDE INFORMATION SUPPLIED TO ANY INDIVIDUAL OFFEROR TO ALL OFFERORS SUBMITTING A LETTER OF INTENT TO RESPOND TO THE RFP.

THE FEDERAL ENERGY REGULATORY COMMISSION STAFF SHOULD NOT BE CONTACTED AND WILL NOT RESPOND TO ANY QUESTIONS CONCERNING THE PROCUREMENT PROCESS.

### HOLD HARMLESS

The parties agree that the Federal Energy Regulatory Commission and its employees are not liable for any costs or judgments arising from the conduct of this procurement, and administration or supervision of the contract for the environmental services described herein.

*(Applicant Letterhead)*

**TO:** (name of potential contractor)

**FROM:** (name and title of applicant contact)  
(applicant name)

**DATE:** (issuance date)

**SUBJECT:** Request for Proposals (RFP) to Prepare an Environmental Impact Statement (EIS) for the (project name) Project

(Proposal Due Date: (due date & time))

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### **3.3 BACKGROUND, OVERVIEW, AND SCOPE**

#### **3.3.1 Background**

(Applicant name) proposes to construct or modify (a transmission line and related transmission facilities) at (location and state) to be known as the (project name) Project. (Applicant name) is soliciting proposals for the consultation and coordination of the development of an Environmental Impact Statement (EIS) and alternatives, early identification and resolution of issues, and preparation of related documents to address the proposed (project name) Project as more specifically described in Section 3.3.2. The EIS will be prepared under a third-party contractor arrangement with (applicant name) as the Applicant and the Federal Energy Regulatory Commission (FERC or Commission) as the lead Federal agency for the National Environmental Policy Act (NEPA) process. (Applicant name) intends to request FERC to begin the NEPA review prior to filing its application, in accordance with the Commission's PF Process detailed in Section 50.5 of the Commission's regulations. The FERC's Office of Energy Projects (OEP) will be responsible for providing technical direction to the third-party contractor throughout the NEPA review process. A contract will be executed pursuant to the third-party contracting procedures set forth in 40 CFR 1506.5(c).

As the Applicant, (applicant name) is soliciting proposals through this RFP for a third-party contractor to provide the services described in Section 3.4. The technical and cost proposals will be initially reviewed and evaluated by (applicant name) who will then submit the top three proposals to the OEP staff. The OEP staff will make the final selection of the third-party contractor, based on its independent review of the technical, managerial, personnel, and Organizational Conflict of Interest (OCI) aspects of each proposal. Upon selection of the third-

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party contractor, (*applicant name*) will finalize a contract with and fund the successful contractor for the scoped activities. (*Applicant name*) will be responsible for answering any questions from non-selected bidders. Bidders who are not selected are not permitted to solicit an explanation from the FERC staff.

Once a third-party contractor is selected, the OEP staff will direct the activities of the contractor in the consultation, reviews, and preparation and processing of documents within the scope identified herein. The third-party contractor will provide technical support to staff up until the time of Commission action on a permit request. (*Applicant name*) will have no control over nor direct the activities of the contractor. Federal agencies participating in the NEPA process may include (*identify potential Federal cooperators*). Appropriate regulatory agencies in (*state where facilities would be located*) will be invited and encouraged to participate in the NEPA process.

(*Applicant name*) has selected a site for the (*specify the general facilities*) and has secured the services of (*consultant name*), (*applicant name*)'s environmental consultant to assist in the development and preparation of the Environmental Resource Reports (RRs) required for the application to be filed with the FERC.

### **3.3.2 Overview of the Project**

*(Summarize the general purpose of the project. Provide a detailed description of all proposed facilities, and potential routes and site locations, including alternatives. Tailor details to project specifics. Any locational or other project information that is not available should be specifically highlighted.*

*For transmission lines: provide details such as the length, voltage, interconnects, type and number of transmission towers, and number and location of new or modified substations. Identify any potential alternative routes or facility locations. Describe any temporary and permanent workspace, temporary and permanent maintenance and access roads, and equipment yards. Identify any potential alternative sites. Identify the land requirements of all facilities. Include the size and location of any new substations, and details of any other project-related activities that would occur at existing substations. Indicate the width of the construction right-of-way, and the extent to which the transmission line would parallel other existing rights-of-way.)*

Maps of the proposed (*project name*) are included as appendix E. (*Applicant name*) will identify any nonjurisdictional facilities associated with its proposal for possible inclusion in the scope of the review as soon as possible.



### 3.3.3 Scope

#### 3.3.3.1 Pre-Filing Activities

In an effort to resolve issues early and to obtain stakeholder concurrence with the proposed transmission line route, (*applicant name*) has requested Commission staff to begin its NEPA PF Review Process. Accordingly, (*applicant name*) has provided as much information as is currently available about project scope at this time in the process. To help ensure success of the PF process, the schedule includes:

- a) A camera-ready draft EIS is to be prepared and submitted to the OEP staff before (*applicant's name*) files an application with the Commission; and
- b) In this process, most reasonable questions should be developed and answered prior to filing the application, resulting in fewer or no environmental data requests from the OEP staff after filing.

It is (*applicant name*)'s intention to hire a third-party contractor, under the direction of the OEP staff, to:

- a) Comply with strict timelines established by OEP staff;
- b) Verify, update, and maintain mailing lists;
- c) Coordinate and attend scoping meetings and other meetings and site visits, as required by the OEP staff;
- d) Identify and summarize concerns raised by regulatory agencies and other stakeholders;
- e) Attend (*applicant name*)'s open house/public meetings;
- f) Work with OEP staff to identify additional concerns of affected/adjacent landowners, landowner organizations, environmental groups, and federal, state and local agencies;
- g) Communicate with and assess information from those concerned parties and advise (*applicant name*)'s environmental consultant and (*applicant name*)'s staff in the collection of data and the suggestions of alternative routes and sites, and propose mitigation measures to respond to these concerns;
- h) Prepare a draft Notice of Intent for public scoping, and coordinate and participate in public scoping meetings;

- i) Review and comment on field surveys conducted by (*applicant name*)’s environmental consultant, e.g.,
  - i. Review information that will be the basis of both the RRs and the EIS;
  - ii. Anticipate the OEP staff's questions, or communicate directly with the OEP staff to determine possible environmental questions so that the appropriate answers may be developed while conducting environmental surveys;
  - iii. Identify potential alternatives for further review;
  - iv. Prepare and submit a preliminary administrative DEIS (PADEIS) to the OEP staff;
  - v. Incorporate comments from OEP staff into an administrative DEIS (ADEIS);
  - vi. Submit the ADEIS to OEP staff and the cooperating agencies;
  - vii. Incorporate/resolve comments on the ADEIS from OEP staff and the cooperating agencies; and
  - viii. Submit a camera-ready DEIS to OEP staff before (*applicant name*) files an application with FERC.

The third-party contractor will also review and comment on the background data developed by (*applicant name*)'s environmental consultant to support the RRs. The contractor awarded this contract should request additional data through the OEP staff, where needed for the development of the EIS and anticipate the OEP staff's questions with the goal of minimizing environmental data requests after the filing of the application. This review may include the following items:

- a) Maps and alignment sheets;
- b) Work required to comply with the Endangered Species Act, including field surveys;
- c) Work required to comply with the National Historic Preservation Act;
- d) Work required to delineate waters of the U.S. and wetlands that will be subject to the Federal permitting requirements; and
- e) Work required to comply with the Coastal Zone Management Act.

(*Applicant name*)’s environmental consultant will prepare the RRs for filing with (*applicant name*)’s application, in compliance with FERC's regulations. The

content of each of the eleven RRs is listed in the FERC's regulations at 18 CFR 380.16.

### **3.3.3.2 Post-Filing Activities**

Once (*applicant name*) has filed its application with the Commission, in addition to performing the functions listed in section 3.3.3.1 above, the selected third-party contractor will:

- a) Assist the OEP staff in preparing responses to public comments on the DEIS;
- b) Prepare and submit an administrative final EIS (AFEIS) to OEP staff and the cooperating agencies, as necessary; and
- c) Prepare and submit a camera-ready FEIS to the OEP staff.

## **3.4 SERVICES REQUIRED**

The selected third-party contractor shall work along with (*applicant name*)'s environmental consultant, the OEP staff, and the various stakeholders while (*applicant name*)'s RRs are being developed. The selected third-party contractor shall keep the OEP staff apprised of issues as they arise, and, when the OEP staff determines it is appropriate, participate in stakeholder meetings and site visits to identify and possibly help resolve issues.

The selected third-party contractor will also be responsible for assisting the OEP staff in conducting the NEPA review, preparing an EIS, and completing related work within the agreed-upon schedule and approved budget. It shall be the contractor's responsibility to notify (*applicant name*) if the work effort ultimately required by the OEP staff exceeds the work effort on which the bid was based, or the approved budget.

The third-party contractor will be responsible for satisfactory completion of the following tasks:

- a) Preparation of all project-related documents, reports, and notices required by OEP staff. In addition to paper copies, all materials must be provided to the OEP staff on compact disks in Microsoft Word 2002 format, or as otherwise agreed to by the OEP Environmental Project Manager. Any required databases (such as mailing lists) must be Access 2002 compatible.

The camera-ready EA or DEIS and FEIS shall be provided as pdf files as specified by the OEP staff in addition to hard copy.

- b) Preparation of notices and presentation materials for public scoping meetings and public comment meetings on the DEIS. This task will require close coordination with the OEP Environmental Project Manager. Required work shall include arranging for meeting places, preparing notices/announcements in the appropriate news media (local newspapers, radio stations, etc.), developing materials for meetings, participating in meetings, and preparing reports summarizing the results of the scoping meetings/process and public meetings on the DEIS. The contractor shall prepare a summary of agency scoping comments/issues for subsequent agency review and concurrence. Assume at least (*number*) scoping meetings and public comment meetings will be conducted. Potential locations for these meetings will be (*list the locations*).
- c) Preparation and maintenance of a computerized (sortable database) mailing list of agencies, officials, community/environmental groups, concerned citizens, affected property owners and other interested parties. (*Applicant name*) will provide initial agency and affected property owner lists.
- d) Characterization of existing environmental conditions, incorporation of issues identified during scoping, assessment of the significance of the potential environmental effects of the proposed project, identification of potential site, route, and facility location alternatives (both locally and regionally), and determination of mitigation necessary to avoid or reduce impacts to acceptable levels for the environmental topics listed below. Studies shall take into account both direct and indirect effects of project facility construction, operation, and maintenance for all proposed and alternative project facilities. Special expertise may be needed for areas of non-routine environmental sensitivity. The RRs contained in other major applications, if any, and other already available technical data shall be used to the maximum extent practicable. Use of any data not in the public record for the project must be approved by the OEP Project Manager.
- e) Preparation of the EIS to meet the requirements of NEPA, all other applicable laws and regulations, any additional requirements of the OEP staff, and to address any scoping and public meeting issues.

The EIS shall include, but not necessarily be limited to, the following sections:<sup>5</sup>

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<sup>5</sup> See 18 CFR 380.7 and 40 CFR 1502.10 for additional guidance. This format may be modified by staff.

- i. Cover Sheet
- ii. Executive Summary (including Impact Summary Table)
- iii. Introduction
- iv. Description of Proposed Project
- v. Alternatives
- vi. Affected Environment and Environmental Consequences
- vii. Environmental Consequences (including Cumulative Impacts)
- viii. Comparison of Alternatives
- ix. Staff Conclusions (including summary of unavoidable significant adverse effect) and Recommendations (mitigation measures, including mitigation monitoring plan)
- x. Agencies and Sources Consulted
- xi. List of Preparers and Contributors
- xii. References
- xiii. EIS Distribution List
- xiv. Index
- xv. Comments and Responses (FEIS only)
- xvi. Appendices and Technical Reports (including Essential Fish Habitat Assessment, if appropriate)

In conjunction with the OEP staff, the third-party contractor shall be responsible for identifying and assessing potential alternatives to the proposed project that are capable of meeting the project's goals and are sufficient to meet the requirements of NEPA, including reducing potentially significant effects associated with the proposed project and fostering informed decision-making. Potential alternatives to the (*project name*) Project identified by (*applicant's name*) will be identified in Resource Report #9. Any project alternatives identified by the OEP staff will also be addressed.

The Description of the Proposed Project should include, at a minimum, the following subsections:

- i. Background statement defining how the project meets the statutory requirements of the Energy Policy Act of 2005
- ii. Purpose and Need for the Project
- iii. Approvals to be Sought through Use of the EIS
- iv. Transmission Line Route Description
- v. Ancillary Facilities
- vi. General Design Parameters
- vii. Construction Methods (*for transmission line, substations and other peripheral structures, as applicable*) including Applicant-Proposed Mitigation Measures
- viii. Construction Schedule and Work Force
- ix. Operation and Maintenance Procedures
- x. Abandonment/Destruction Procedures, as applicable
- xi. Interrelationships with Other Planned Projects and Nonjurisdictional Facilities

The majority of this information will be available in the RRs. The third-party contractor shall review the RRs for accuracy and adequacy to meet the needs of NEPA for the preparation of an EIS, and prepare a data request(s) to (*applicant name*) (routed through the OEP staff) requesting any other data that may be needed. The EIS should fully address the following resource topics (as applicable):

- i. General Project Description
  - ii. Water Use and Quality
  - iii. Fish, Wildlife, and Vegetation
  - iv. Cultural Resources
  - v. Socioeconomics
  - vi. Geological Resources
  - vii. Soils
  - viii. Land Use, Recreation, and Aesthetics
  - ix. Alternatives
  - x. Reliability and Safety
-

## xi. Design and Engineering

- f) Prepare supporting maps showing the location of all project facilities and related areas of disturbance, and pertinent resource data. (*Applicant name*) shall be responsible for developing most maps requested by the third-party contractor. The scale of the supporting maps will be commensurate with the project size and the potential impacts.
- g) Maintain ongoing review of potential environmental issues and assessment of adequacy of overall scope of the environmental analysis. The OEP staff shall be advised immediately of any potential data gaps or analysis shortcomings, as well as recommended resolution.
- h) Arrange with (*applicant name*) to participate in inspections of the proposed facility locations (including overflight, as appropriate) with the OEP staff. This may occur in conjunction with the scoping meetings. (The Commission shall reimburse [*applicant name*] for all costs associated with OEP staff participation in overflights.)
- i) Analyze comments and prepare draft responses to comments on the PADEIS, ADEIS, DEIS, and FEIS, and related documents.
- j) Prepare camera-ready copies of the DEIS and FEIS and any required notices for submission to the FERC staff for printing and mailing. For purposes of proposal preparation, assume that the contractor will print and distribute at least (25) copies of the preliminary documents (ADEIS, etc.) to cooperating agencies. (The actual number of preliminary documents needed shall be determined based on consideration of cooperating agencies' needs.)
- k) Develop and maintain a formal project management system to allow for weekly or biweekly, as mutually agreed, tracking of schedule; as well as monitoring, assessing, and reporting on project quality and risks.
- l) Prepare a Biological Assessment, if appropriate.
- m) Prepare an Essential Fish Habitat Assessment, if appropriate.
- n) Prepare visual simulations of the proposed transmission line from key observation points along the proposed route.
- o) Submit Monthly Status Reports directly to OEP staff, consisting of one bound document and one CD, that includes at a minimum:
  - i. A dated *cover sheet* that includes the period covered.
  - ii. One-page maximum *summary sheet*.
  - iii. An overall *schedule summary*, clearly showing estimates against

actuals and proposing modifications as appropriate.

- iv. A *Progress Made this Period* sheet.
- v. A *Quality Assurance Monitoring* sheet which summarizes quality activities.
- vi. A *Project Management* sheet which summarizes near term activities.
- vii. An *Outstanding Issues* sheet.
- viii. A *Projected Activities for Next Period* sheet.
- ix. A *Summary of Communications, Contacts, and Correspondence* sheet.
- x. An updated *full schedule* in MS Project<sup>6</sup>, clearly showing baseline and all variations and issues.

### 3.5 PROJECT TIMELINE

Proposals submitted in response to this RFP shall identify any perceived need for specific supplemental studies to fully comply with NEPA and the Commission's implementing regulations.

Adherence to the proposed schedule is essential. Assuming (*applicant name*) responds expeditiously to data requests, the major milestones of the project schedule are summarized below:

#### 3.5.1 Third-Party Contractor Selection

- a) (*Applicant name*) sends out RFP to contractors:
- b) Hold contractors' (*tele*)conference:
- c) Submit proposals to (*applicant name*) by 5:00 p.m. on:
- d) Hold short-listed contractors' oral presentations (if required):
- e) Submit top three proposals to OEP staff:
- f) OEP selects third-party contractor:
- g) Complete contract negotiations with (*applicant name*):
- h) Third-party contractor begins work:

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6 MS Project or other software pre-approved by OEP staff.



### 3.5.2 (*Applicant name*)'s Certificate Application Development Work

- a) Conduct open houses/public meetings:
- b) Begin environmental surveys:
- c) Completion of civil and design survey:
- d) Completion of environmental surveys:
- e) Submission of draft RRs to OEP Staff:
- f) Submission of FERC application and RRs:
- g) Receive FERC authorization:

### 3.5.3 (*Applicant name*) Project Schedule Milestones

The following EIS review tasks will be conducted by the third-party contractor and/or OEP staff:

#### 3.5.3.1 *Pre-Filing*

- a) Study (*transmission line route and facility locations*) plans, attend open house/public meeting(s):
- b) Coordinate agency scoping meetings:
- c) Issue Notice of Intent, hold EIS scoping meeting(s):
- d) Conduct site visit(s) (*route investigations*) and alternatives analysis:
- e) Review draft RRs:
- f) Begin preparation of PADEIS:
- g) Contractor delivers PADEIS to OEP staff:
- h) Comments on PADEIS returned to contractor:
- i) Contractor delivers ADEIS to OEP staff and Cooperating Agencies:
- j) Comments on ADEIS returned to contractor:
- k) Contractor delivers camera-ready DEIS to OEP staff:

#### 3.5.3.2 *Post-Filing*

(File FERC application on day 0)

- a) OEP mails DEIS: \_\_day

- b) Hold public meetings to receive comments: \_\_day
- c) Prepare responses to comments received on DEIS: \_\_day
- d) Contractor delivers preliminary FEIS to OEP staff and Cooperating Agencies: \_\_day
- e) Comments on preliminary FEIS returned to contractor: \_\_day
- f) Modifications made in response to comments: \_\_day
- g) Contractor delivers camera-ready FEIS to OEP staff: \_\_day
- h) OEP mails FEIS: \_\_day
- i) Provide technical support to staff up until time of Commission action on permit request.

### **3.6 PROPOSAL REQUIREMENTS AND PROCESS**

*(Applicant may elect to use a Letter-of-Intent and Contractors' (Tele)Conference approach)*

#### **3.6.1 Letter of Intent**

*Third-party contractors shall submit a Letter of Intent before the Contractors' (Tele)Conference to offer a proposal to (applicant name) at the e-mail address or the regular address listed in section 3.6.3.12. Those submitting a Letter of Intent will receive amendments to this RFP, if any, and copies of any written material from the (tele)conference as described in section 3.6.2. This letter will facilitate the distribution of written information but does not obligate the contractor to submit a proposal.*

#### **3.6.2 Contractors' (Tele)Conference**

*A Contractors' (Tele)Conference will be held by (applicant name) on (conference date) beginning at (time). At the conference, questions will be answered by (applicant name). Contractors who submit a Letter of Intent and who do not attend the (tele)conference will be notified of any modifications and receive a copy of the minutes of the meeting within two (2) days of the meeting if an e-mail address or telephone facsimile number is provided. Otherwise, minutes of the meeting will be sent via regular mail.*

*The purpose of this (tele)conference shall be to:*

- a) *Answer contractors' questions about the RFP;*
- b) *Discuss any other information to be used in the submission of a proposal;*
- c) *Discuss software that will be used by (applicant name)'s environmental consultant and engineering consultant in the development of documents for the FERC certificate application; and*
- d) *Entertain requests for other background documents, which may be available for use during the preparation of the proposal but were not sent to contractors.*

*All third-party contractors are strongly encouraged to participate in this Contractors' (Tele)Conference since this is the only opportunity to receive responses to questions. Individual telephone calls are not permitted; no questions related to this RFP will be answered in any forum other than at the Contractors' (Tele)Conference. All questions must be answered while the conference is in open session so that all participants have equal access to the responses.*

### **3.6.3 Proposal Requirements**

If a contractor provides a Letter of Intent to bid on the RFP, and subsequently does not intend to submit a proposal, the contractor shall notify *(applicant name)* as soon as possible, but in any event no later than *(number)* of days prior to the proposal due date. Contractors shall also return all material to *(applicant name)*. Contractors must provide *(number)* copies of the technical proposal and cost estimate; *(applicant name)* will coordinate distribution, and ultimately provide the OEP staff with two copies of the top-rated proposals. Cost estimates must be submitted in separate sealed envelopes labeled "COST ESTIMATE." The proposal is limited to *(50)* pages (single-sided, space and a half). All materials should be easily readable. The proposal should be concise, well organized and contain the following information in the order presented below:

#### **3.6.3.1 Introduction**

Explain the contractor's understanding of the project and a summary of the contractor's qualifications for this project in one or two pages. Because the project is located in *(identify state(s))*, qualifications for assessing impacts to the environment of this region of the country should be highlighted.

#### **3.6.3.2 Technical Approach**

Present both an overall technical approach for the preparation of the EIS and the approach proposed for individual technical areas and tasks. Include any recommendations to improve the scope (including rationale) and reflect those recommendations in the cost estimate.

### **3.6.3.3      *Project Organization and Management Approach***

Describe the proposed project organization, with an organization chart including positions, responsibilities, and reporting relationships. The senior specialist and/or subcontractor(s) with responsibility for each resource area must be identified and their location specified. These key personnel shall not be reassigned within the project or to other projects without prior written approval from the OEP staff.

Describe the proposed management scheme for the project, with a discussion of where the work will be done and where each key person and subcontractor presently resides. Provide the proposed mechanisms for communication, reporting, technical direction and control, schedule control, quality control, quality assurance, risk management, and control of subcontractors.

### **3.6.3.4      *Qualifications and Experience***

Describe qualifications and prior experience in completing similar NEPA compliance projects, particularly transmission line construction projects or other linear right-of-way projects. Emphasize prior work experience with the FERC (*identify affected state(s)*) state agencies, major relevant construction projects, and the geographical areas of study. Discuss the contractor's understanding of the FERC environmental requirements for projects under the Energy Policy Act of 2005 as reflected in FERC's regulations and current policies.

Statements of qualifications and prior experience should be provided not only for the contractor but also for the key personnel and subcontractors that will be assigned to the project, along with their **specific experience with the type of project under consideration**.

The past, current, and proposed use of small and small disadvantaged owned business enterprises by the contractor should be described.

### **3.6.3.5      *Project Schedule***

Submit a proposed schedule delineating dates for completion of the major work tasks specified in section 3.5.3 of this RFP, while specifically adhering to NEPA

and FERC mandated timelines. The selected contractor must adhere to the completion dates as specified in section 3.5.3 of this RFP. Any suggested modifications to the schedule must be presented with reasons for the changes.

**Note, however, that the ultimate schedule will be determined by the OEP staff, not the applicant.**

It is important that contractors demonstrate to (*applicant name*) and the OEP staff that ample resources exist to meet the project schedule. If a contractor has multiple EIS obligations underway concurrently, it must clearly show separate resources or provide convincing evidence that it can meet the schedule.

#### **3.6.3.6      *References***

List and describe three successfully completed or in-progress projects of a similar nature with the name and phone number of the client's project manager. Additionally, list three client references specifically for the proposed project manager.

#### **3.6.3.7      *Conflicts of Interest and Critical Energy Infrastructure Information***

Identify possible conflicts of interest that may require investigation by the FERC staff. Include a discussion of all work completed by the contractor for similar work on electric transmission projects within the last 3 years. Pursuant to 40 CFR 1506.5(c), contractor selection is based on ability and absence of conflicts of interest. The contractor must also submit a Critical Energy Infrastructure Information (CEII) Non-Disclosure Agreement for itself and each subcontractor used.

All proposals must include the following items:

- a) Either the FERC's (a) Organizational Conflict of Interest (OCI) representation statement, or (b) OCI Disclosure Statement, prepared by a responsible official attesting the contractor and its subcontractor(s) have no financial or other conflicting interest in the outcome of the project, or proposing a mitigation plan if an actual or potential OCI exists. (See appendix A.)
- b) The FERC's OCI Questionnaire. (See appendix B.)
- c) A Contractor CEII Non-Disclosure Agreement. (See appendix C.)

- d. *(Applicant name)* will complete an OCI Certification. (See appendix D.)

### **3.6.3.8 Resumes**

Resumes may be submitted as an attachment to the proposal or as a separate volume. All resumes should be limited to two pages and must include the institution and date of graduation for all academic degrees as well as a summary of relevant work experience and the specific dates of performance.

### **3.6.3.9 Cost Estimate**

*(The applicant should identify the type of contract, such as time and materials, cost plus, etc., and provide additional guidance on how the cost of the contract is to be estimated.)*

*(Applicant name)* anticipates awarding and signing a *(identify type)* contract. Since the specific dates and number of field teams required are strictly estimates, each contractor shall submit a daily crew billing rate and expense rate sheet. *(Applicant name)* will compensate the contractor based upon the actual crews and hours worked. All preparation and processing of documents, RR review, NEPA review, EIS submission, and any other costs not associated with the daily crew rate shall be submitted as a fixed-price proposal with an attached cost breakdown. *(Applicant name)* understands that there may be out-of-scope requirements for the completion of this project and any resultant costs will be handled between the contractor and the applicant under the provisions of the contract.

Any limiting assumptions used to prepare the cost estimate should be clearly specified in the proposal. Also include a rate schedule that will apply to the project and for any work beyond the scope stated in this RFP.

Assume that *(applicant name)*, through the OEP staff, will provide the successful contractor with copies of all environmental information filed with FERC, including base maps, air photos, and computerized mailing lists of agencies, officials, community/environmental groups, concerned citizens, affected property owners and known interested parties at the time that contract negotiations are completed. *(Applicant name)* will provide aerial overflights for key contractor and OEP staff (weather conditions permitting), either prior to or in conjunction with the open house/public meetings, or at the OEP staff's request. (However, the FERC will reimburse *(applicant name)* for all costs associated with OEP staff participation in aerial overflights.)

### **3.6.3.10 Available Materials**

Appendix F presents a list of documents available from (*applicant name*) that should assist contractors in preparation of their proposals. Please contact (*name and telephone number of applicant's contact*) to arrange for review of these documents. Note that (*applicant name*) will only entertain questions about this RFP at the Contractor's (Tele) Conference discussed in section 3.6.2.

### **3.6.3.11 Sample Contract** (*provided by the applicant*)

Appendix G to this RFP presents a sample (*applicant name*) contract. Contractors are asked to review this contract and point out any difficulties with contract language in their proposal. The OEP staff may not be contacted on any contractual issue. The proposal must indicate the contractor's review and acceptance of the contract or identify issues that require resolution during negotiations. Issues raised after submittal of the proposal will not be subject to negotiation. The person(s) authorized to negotiate on behalf of the contractor should be identified. (*Applicant name*), in consultation with the OEP staff, reserves the right to reject any or all submittals.

### **3.6.3.12 Addresses**

Submit Letters of Intent via e-mail or facsimile to:

*(contact name, e-mail/facsimile address, etc.)*

Submit Technical Proposals and Cost Estimates to:

*(contact name, mailing address, phone number, etc.)*

Technical Proposals and Cost Estimates should be submitted to (*applicant name*) by (*time and date*).

## **3.7 SELECTION CRITERIA**

Only those proposals submitted by contractors prior to the deadline stated herein will be evaluated. The proposals will be initially reviewed by (*applicant name*), and the three best-qualified proposals will then be submitted to the OEP staff. The OEP staff will make the final selection of the contractor. Lack of an OCI Statement, or the existence of an identifiable OCI (relative to the contractor, its key personnel, or any proposed subcontractor) that cannot be mitigated to the satisfaction of the FERC staff, will be

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sufficient grounds for proposal rejection. (*Applicant name*) will be responsible for answering any questions from contractors who are not selected.

Criteria for screening to determine the best-qualified proposals will be based on a qualifications appraisal of all proposals submitted.

### **3.7.1 Qualifications Appraisal**

#### **3.7.1.1 Technical Approach (40 percent)**

The proposal must show:

- a) Familiarity with environmental regulations and procedures for satisfying NEPA and related requirements;
- b) Ability to prepare NEPA documentation for projects involving construction of facilities of the type being proposed, including transmission line facilities or other linear facilities, as appropriate;
- c) Familiarity with how to proceed in the environmental evaluation of the proposed project, understanding of the available data, identification of possible issues and a description of any needed supplemental analyses;
- d) Ability to prepare a complete PMP, that thoroughly addresses the various parts of the RFP, recognizes any pitfalls or shortcomings, and presents innovative approaches for the tasks presented; and
- e) Ability of the contractor's proposed technical and procedural approach to the preparation of the identified tasks to result in compliance with NEPA and other environmental documentation requirements.

#### **3.7.1.2 Organization Qualifications and Experience (20 percent)**

The proposal must show:

- a) Experience in managing major NEPA reviews for large projects, preferably the same or similar types of construction projects. Highlight experience with projects which used the Commission's PF Process;
- b) Past record of the contractor's organization in meeting performance and delivery requirements for similar contracts;



- c) Resources and facilities available to the organization to fulfill contract requirements, including those of any subcontractor(s) proposed for use;
- d) Familiarity with the specialized issues and requirements of proposed facility construction; and
- e) Experience in working with multiple Federal and state agencies on large construction projects, particularly in *(identify state(s) where the project would be located)*.

### **3.7.1.3 Project Management and Personnel (20 percent)**

The proposal must show:

- a) A highly skilled and experienced project manager, knowledgeable in NEPA and experienced in managing large, complex linear construction projects;
- b) Adequacy of contractor's approach for OEP staff interface, and for planning and scheduling task activities as presented in the RFP;
- c) Ability to assign and commit key personnel to the project, and use of appropriate personnel to accomplish specific tasks;
- d) Ability to satisfy logistical requirements such as materials, transportation, office location(s), document production, computer services and so forth to ensure an effectively managed program;
- e) Experience, education, and location of the Project Manager;
- f) Experience, education, and location of the Deputy Project Manager;
- g) Experience of the Project Manager and Deputy Project Manager in working with multiple Federal and state agencies on large contentious construction projects, particularly in *(identify state(s) where the project would be located)*;
- h) Experience, education, and location of various key environmental specialists, and any subcontractors proposed for use; and
- i) Qualifications and experience of the administrative support personnel.

### **3.7.1.4 Schedule and Project Management Plan (20 percent)**

The proposal must show:

- a) An understanding of the legally mandated time frame relevant to NEPA, FERC, et. al. and demonstrate an ability to meet schedule requirements using staff and resources separate from (or not conflicting with) other EIS efforts underway or scheduled for the same time frame;
- b) Presentation of a detailed Schedule and PMP to perform the tasks as presented in the RFP; and
- c) Adequate support for any schedule changes.

### 3.7.2 Oral Presentation

Following review of the proposals, (*applicant name*) may request oral presentations from the short-listed bidders. At a minimum, the Project Manager, Deputy Project Manager, and other key technical staff identified in the proposal's organization chart will be required to present their team's capabilities to (*applicant name*). If oral presentations are required, they will be held in (*location and date*) and the short-listed bidders will be contacted with further details regarding the presentation.

### 3.7.3 Selection of the Third-Party Contractor

Upon completion of the oral presentation (if required), each short-listed bidder will be ranked using the qualification appraisal, the oral presentation, and the cost proposal. (*Applicant name*) will provide the OEP staff with the ranking, its rationale for the ranking, and two copies of the top three contractors' proposals, along with the contractors' OCI statements, CEII non-disclosure agreements, and (*applicant name*)'s OCI certification of each contractor. The FERC staff will then conduct an independent review of the proposals and make a selection. Once the OEP staff has notified (*applicant name*) of its selection, (*applicant name*) will negotiate and fund a contract with the contractor. (*Applicant name*) will keep the OEP staff apprised of the negotiations with the contractor. Once the contract has been executed, the contractor will proceed to work solely under the direction and guidance of the OEP staff. Pursuant to 40 CFR 1506.5(c), the responsible official (i.e., the OEP staff) "shall furnish guidance and participate in the preparation and shall independently evaluate the [environmental document] prior to its approval and take responsibility for its scope and contents."

### 3.7.4 Voided Selection of the Third-Party Contractor

Selection of the 3PC contractor may be voided by OEP staff for:

- d) Unilateral changes in 3PC personnel, their roles, or other unilateral changes in the 3PC selection criteria.
- e) Failure of the 3PC or its subcontractors to maintain the appearance of fair and ethical conduct.
- f) Failure of the 3PC to demonstrate technical or editorial competence.

If voided, the 3PC agrees that the determination of OEP staff is final and unappealable.

### **3.7.5 Non-Selection Statement**

The *(applicant name)* will answer any questions from non-selected contractors following the contract award. Please direct such inquiries to *(applicant's contact)*, who can be reached at \_\_\_\_\_.

### **3.8 APPENDICES**

*(Samples for the appendices are at the end of this handbook.)*

- A. OCI Representation and Disclosure Statements*
- B. OCI Questionnaire*
- C. Contractor CEII Non-Disclosure Agreement*
- D. OCI Certification*
- E. Project Overview Map*
- F. List of Available Background Documents*
- G. Sample Contract*

## Chapter 4.0 FERC's ORGANIZATIONAL CONFLICT OF INTEREST AND OFF-THE-RECORD COMMUNICATIONS (EX PARTE) REQUIREMENTS

### 4.1 Organizational Conflict of Interest

An OCI exists when the nature of the work to be performed may, without some restriction on future activities:

- a) result in an unfair competitive advantage to a contractor; or
- b) impair the contractor's objectivity in performing the contract work.

OCIs typically exist where the contractor and/or its employees have a past, present, or ongoing financial interest in a project to be covered by the third-party contract. For example, an OCI exists if the contractor:

- a) has been involved with the applicant on the project before it is proposed to the Commission, or while it is pending before the Commission;
- b) has an ongoing relationship with the applicant;
- c) would be called on to review its own prior work; or
- d) has a financial or other interest in the outcome of the Commission's decision.

The contractor may work on the project for the applicant after the Commission has decided whether to approve the project as long as there was no prior agreement or expectation that approval of the project would result in such involvement.

All contractors (offerors) must submit as part of their proposals a statement of **Offeror's Organizational Conflicts of Interest (OCI) Disclosure or Representations**.

Specifically, offerors must reveal all relationships, including ownership interests, with all FERC regulated entities and their affiliates. Offerors must state whether or not there is an OCI, and if so, to what extent. Offerors must provide an abstract listing of all the above entities with which it or its subcontractors have had a business relationship and indicate whether or not that relationship results in a real or perceived conflict. In the event an apparent or real conflict is listed, a detailed mitigation plan to resolve and isolate any OCI should be included in the abstract. Detailed guidance regarding the OCI Statement, including requirements and definitions, is discussed in Section 4.3.

**The above obligation carries through the actual performance period of the work covered by this RFP. In other words, if during the performance of that work the offeror has, or is contemplating a relationship, including ownership interest, with any of the entities identified in the preceding paragraph, then the OEP staff must be notified and a conflict mitigation plan, if necessary, must be proposed.**

The offeror's conflict mitigation plan should describe the mechanism used to ensure availability of and access to resources, and the mechanism used by project manager(s) to gather resources to ensure continuation and timely completion of assigned tasks when a real or apparent OCI occurs.

The applicant will review each OCI Statement and abstract to determine whether the offeror is capable of impartially performing the environmental services required under the contract. The applicant shall certify that neither the offeror nor its subcontractors have an OCI. A format for this certification is included as appendix D. All OCI materials submitted to OEP (including the offeror's OCI Statement, mitigation plans, and the applicant's certification) will be reviewed by OGC.

The selected contractor will have a continuing obligation to identify conflicts that may arise because of changes in corporate identity, affiliation, structure, or ownership, or changes to the contract. In the event an OCI is discovered after award, the contractor shall stop work on the assigned task immediately, notify the OEP Project Manager (who will notify OGC) of the OCI, create a plan to mitigate the conflict through assignment to a subcontractor and get OGC approval, in writing, to implement that plan. The decision of OGC shall be final. As more thoroughly discussed below, post-award communications between the applicant and the contractor will be limited by the Commission's off-the-record communications rule. Therefore, **any post-award OCI issue or problem shall be reported directly to the OEP Project Manager in writing.**

Subcontractors also must submit an OCI Statement and, where necessary, a mitigation plan to resolve real or perceived OCIs.

## **4.2 Off-the-Record Communications**

In order to avoid all possibilities of prejudice, real or apparent communications between the applicant and contractor are subject to the Commission's off-the-record communications (sometimes referred to as ex parte) rule found at 18 CFR 385.2201. Note that the restrictions on off-the-record communications do not apply during the Commission's PF Process. However, the OEP staff will treat most communications between itself or the third-party contractor and the applicant during this period as subject

to public disclosure to ensure openness of the NEPA process. An off-the-record communication is a written or oral communication that is:

- a) off the record; and
- b) deals with the merits of a pending proceeding.

The Commission will treat the prohibitions on off-the-record communications as being applicable to communications between an applicant and a third-party contractor under Commission supervision and control. The contractor shall report all such communications to both OEP and OGC. Oral communications are generally not considered off-the-record if reasonable prior notice and an opportunity to participate have been given to the parties to the case. Other exceptions are listed at 18 CFR 385.2201(b) and (e).

All inquiries regarding OCI and off-the-record communications should be directed to the OGC contact persons listed at the end of this chapter.

### **4.3 Offeror's OCI Disclosure and Representations**

#### **4.3.1 Requirements**

All offerors must provide the information and assurances called for by this section.

The offeror must submit (as a separate volume) the following documents from each of the entities listed herein:<sup>7</sup>

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<sup>7</sup> The five types of entities or individuals required to complete the forms listed above are as follows:

- a. The prime contractor.
- b. The subcontractor(s) (unless the subcontractor(s) is only providing supplies) and consultants at every tier.
- c. All affiliates of the foregoing if the prime or subcontractors do not file on their behalf.
- d. Any entities owned or represented by the chief executives or directors of: the prime contractor; any of the subcontractors, except for those only providing supplies; and any of the consultants.
- e. Chief executives and directors - if they will be involved in performing the proposed work of: the prime contractor; the subcontractors at every tier (except for subcontractors which are only providing supplies); consultants at every tier; and all affiliates of the foregoing.

- a) Either (a) the OCI Representation Statement (representing that the offeror has no OCIs), or (b) the OCI Disclosure Statement (in the event that the offeror has information relevant to a potential OCI). (See appendix A.) If the OCI Disclosure Statement is signed, provide an attachment showing the information required.
- b) The OCI Questionnaire (see appendix B). If you answer any questions "YES," provide an attachment showing the requested information in detail. Please do not reference any information in other sections of your proposal.

### 4.3.2 Notice

Apart from other remedies allowed by law or contract, any deliberate non-disclosure or misrepresentation of facts relevant to the OCI disclosure required by the Commission may result in immediate termination and disqualification of the offeror/contractor from future third-party contracts.

### 4.3.3 Discussion

It is the policy of the Commission to identify and avoid or mitigate an OCI before selecting a third-party contractor.

Generally, to determine whether an OCI exists, the Commission considers these two questions:

- a) Are there conflicting roles (including potential financial involvement) which might bias a contractor's judgment in relation to its work for the Commission?<sup>8</sup>
- b) Is the contractor being given an unfair competitive advantage based on the performance of the contract?

Using common sense and good business judgment, OGC will determine whether an OCI exists after examining:

- a) all relevant facts submitted by the offeror;
- b) the statement of work; and

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<sup>8</sup> These may include work for the applicant on this project, or for applicant or another energy firm in the same general project area, especially if the work is for a similar project.

- c) information gained from other sources.

If an OCI does exist, OGC shall require the offeror/contractor to submit an acceptable mitigation plan. If the conflict cannot be resolved through an adequate mitigation plan, the offeror/contractor will be ineligible for selection or for proceeding with the third-party contract.

To avoid the potential for actual or perceived OCI after a contract is signed under this RFP, the offeror must not enter into any agreements with the applicant to perform any function on this project outside of that contemplated in this RFP, until after the Commission has issued a final order on the project. The offeror must similarly avoid agreeing to perform any function for another company on a similar project in the same geographic area, and over the same time period if the facilities would be located in the same area or if there could be a perception that there would be a conflict.

#### **4.3.4 Definitions**

- a) The term "organizational conflicts of interest" means that a relationship or situation exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors where they may be performing services similar to the services provided by the prime) has past, present, or currently planned interests that either directly or indirectly (through a client, contractual, financial, organizational or other relationship) may relate to the work to be performed under the third-party contract and that (a) may diminish its capacity to give impartial, technically sound, objective assistance and advice, or (b) may result in the offeror/contractor gaining an unfair competitive advantage. OCI does not include the normal flow of benefits from the performance of the contract.
- b) The term "affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.
- c) The term "energy concern" includes:
  - i. Any person significantly engaged in the business of developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for



use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

- ii. Any person holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;
- iii. Any person significantly engaged in the business of producing, generating, transmitting, distributing, or selling electric power;
- iv. Any person significantly engaged in development, production, processing, sale or distribution of nuclear materials, facilities or technology; and
- v. Any person --
  - (1) significantly engaged in the business of conducting research, development, or demonstration related to an activity described in paragraphs (i) through (v); or
  - (2) significantly engaged in conducting such research, development, or demonstration with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Chair of the Commission.

#### **4.3.5 Contacts**

Direct all inquiries regarding OCI to:

General and Administrative Law  
Telephone (202) 502-6457, specifically:

Charles A. Beamon  
General and Administrative Law (GC-13)  
[charles.beamon@ferc.gov](mailto:charles.beamon@ferc.gov)  
Telephone: (202) 502-8780

All inquiries regarding off-the-record communications (ex parte) to:

Wilbur Miller  
General and Administrative Law (GC-13.1)  
[Wilbur.miller@ferc.gov](mailto:Wilbur.miller@ferc.gov)  
Telephone: (202) 502-8953

All inquiries regarding CEII to:

Jeffrey Kaplan  
General and Administrative Law (GC-13.1)  
[jeffrey.kaplan@ferc.gov](mailto:jeffrey.kaplan@ferc.gov)  
Telephone: (202) 502-8788

**COMPLETE EITHER THE REPRESENTATION OR THE DISCLOSURE –  
NOT BOTH**

**OCI Representation Statement**

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, no facts exist relevant to any past, present or currently planned interest or activity (financial, contractual, personal, organizational or otherwise) that relate to the proposed work; and bear on whether I have (or the organization and any of its affiliates has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice; or (2) being given an unfair competitive advantage.<sup>1</sup>

Signature : \_\_\_\_\_ Date : \_\_\_\_\_

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Organization : \_\_\_\_\_

**OCI Disclosure Statement**

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, all relevant facts -- concerning past, present or currently planned interests or activities (financial, contractual, organizational or otherwise) that relate to the proposed work and bear on whether I have (or the organization has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage<sup>1</sup> -- are fully disclosed on the attached \_\_\_ page(s) and formatted to show:

- For ease of presentation, the OCI information is divided into four parts, indicating whether the possible OCI is: organizational, contractual, financial, or other;
- The company, agency, organization in which I (or my organization) have a past, present, or currently planned interest or activity (financial, contractual, organizational, or otherwise);
- A brief description of the relationship;
- The period of the relationship;

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<sup>1</sup> An unfair competitive advantage does not include the normal flow of benefits from the performance of the contract.

APPENDIX A

- The extent of the relationship (such as value of financial interest of work; percent of total holdings, total work, etc.); and
- A mitigation plan, as necessary.

Signature : \_\_\_\_\_ Date : \_\_\_\_\_

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Organization : \_\_\_\_\_

Name of Person  
or Organization: \_\_\_\_\_

### OCI Questionnaire <sup>1</sup>

1. Will you (or your organization) be involved in the performance of any portion of the proposed work under this solicitation?
  - No.
  - Yes. The portion of the proposed work; the proposed hours and dollar value; and the type of involvement are fully disclosed on the attached pages.
2. What is (are) the major type(s) of business conducted by you (or your organization)? Please reply on the attached pages.
3. Do you (or your organization) have any affiliates?
  - No.
  - Yes. The name and a description of the major type(s) of business that each affiliate conducts are disclosed on the attached pages.
4. Will any of the following be involved in performing the proposed work under this solicitation: (a) any entities owned or represented by you (or your organization); (b) your organization's Chief Executive or any of its directors; or (c) any affiliates?<sup>2</sup>
  - No.
  - Yes. A full disclosure and discussion is given in the attached pages.
5. Are you (or your organization) an energy concern?<sup>2</sup>
  - No.
  - Yes. A full disclosure and discussion is given on the attached pages.

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<sup>1</sup> All questions in the questionnaire apply to affiliates as well. Whenever possible, each affiliate should submit a separate questionnaire. However, in the event each affiliate does not submit a separate questionnaire (for instance, to avoid completing a large number of questionnaires), this questionnaire must incorporate information regarding all affiliates.

<sup>2</sup> See Definitions in Chapter 4.

6. Within the past 3 years have you (or your organization) had a direct or indirect relationship (financial, organizational, contractual or otherwise) with any business entity that could be affected in any way by the proposed work under this solicitation?

Your Name

or Organization: \_\_\_\_\_

- No.
- Yes. List the business entity(ies) showing the nature of your relationship (including the dates of the relationship, and the dollar value of any financial relationship) and how it would be affected by the proposed work under this solicitation.
7. What percentage of your total income for the current and preceding fiscal years resulted from arrangements with any of the entities identified in Question 6 above?
- \_\_\_ % For the current fiscal year -- from / / to / / .
- \_\_\_ % For the preceding fiscal year -- from / / to / / .
- \_\_\_ % For the second preceding fiscal year -- from / / to / / .
8. Do you (or your organization) currently have or have you had during the last 6 years any arrangements (for example, contracts and cooperative agreements) awarded, administered, or funded -- wholly or partly -- by the Commission or any other Federal agency which relate to the proposed Statement of Work?
- No.
- Yes. A full disclosure and discussion is given on the attached pages.
9. Do you (or your organization) have or have you ever had any contracts, agreements, special clauses, or other arrangements which prohibit you (or your organization) from proposing work to be performed in this solicitation or any portion thereof?
- No.
- Yes. A full disclosure and discussion is given on the attached pages.

10. Do you (or your organization) have any involvement with or interest (direct or indirect) in technologies which are or may be subjects of the contract, or which may be substitutable for such technologies?

- No.  
 Yes. A full disclosure and discussion is given on the attached pages.

Your Name  
 or Organization: \_\_\_\_\_

11. Could you (or your organization) in either your private or Federal Government business pursuits use information acquired in the performance of the proposed work under this solicitation; such as:

- (a) Data generated under the contract?  
 (b) Information concerning Commission plans and programs?  
 (c) Confidential and proprietary data of others?

- No.  
 Yes. A full disclosure and discussion is given on the attached pages.

12. Under the proposed work under this solicitation, will you (or your organization) evaluate or inspect your own services or products, or the services or products of any other entity that has a relationship (such as client, organizational, financial, or other) with you (or your organization)? This could include evaluating or inspecting a competitor's goods and services.

- No.  
 Yes. A full disclosure and discussion is given on the attached pages.

13. To avoid what you perceive as a possible OCI, do you (or your organization) propose to: exclude portions of the proposed work; employ special clauses; or take other measures?

- No.  
 Yes. A full discussion is given on the attached pages.  
 No possibility of an OCI is perceived. This answer is briefly justified on the attached pages.

I hereby certify that I have authority to represent my organization, if applicable, and that -- to the best of my knowledge and belief -- the facts and representations presented on the four pages of this questionnaire and on the \_\_\_ pages of the attachment to it are accurate and complete.

**I recognize that OCI is an ongoing obligation. Should I become aware of any actual or potential OCI during performance of this contract, I will advise the OEP staff and (*applicant name*) and propose mitigation or explain why none is needed.**

APPENDIX B

Signature : \_\_\_\_\_ Date : \_\_\_\_\_

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Organization : \_\_\_\_\_



**CONTRACTOR CEII NON-DISCLOSURE AGREEMENT**

On behalf of [*contractor name*], I certify that [*contractor name*] will abide by the following terms with respect to critical energy infrastructure information (CEII) that the company has access to because of its work for the Federal Energy Regulatory Commission:

- Only authorized company employees with a need for the information will be given access to CEII. [*contractor name*] will maintain a list of each employee who is given access to CEII, including a listing of each project for which the employee has been given CEII.
- [*Contractor name*] will not provide CEII to or discuss CEII with anyone outside the company, except that CEII may be discussed with the project's owner, operator, or applicant.
- Any copies made of CEII will be marked as CEII, and treated as CEII.
- CEII will be used only in performance of [*contractor name*]'s work for the Federal Energy Regulatory Commission. When [*contractor name*] has completed work on the project, all CEII will be returned to the Commission.
- I acknowledge that a violation of this agreement may result in negative consequences and could affect [*contractor name*]'s ability to contract with the Commission in the future.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
Date: \_\_\_\_\_

**OCI Certification**

I, (*reporting individual*), am responsible for reviewing proposals received in response to (*applicant name*)'s Request for Proposals for the preparation of an Environmental (*Assessment/Impact Statement*) and related documents and services for the proposed (*project name*) Project.

I have reviewed the proposal of (*contractor name*) for Organizational Conflicts of Interest. I hereby certify that (*contractor name*) has complied with the OCI Representation or OCI Disclosure requirements of the RFP and that there are no real or apparent disqualifying conflicts of interest.

Signature : \_\_\_\_\_

Title : \_\_\_\_\_

Date : \_\_\_\_\_

*(Project Overview Map)*

*List of Available Background Documents, might be structured as follows:*

The following background documents are available and should be reviewed by all contractors prior to preparation and submittal of proposals in response to this RFP:

- *(Draft) FERC Certificate Application environmental exhibit for the (project name)*
- FERC staff's current Wetland and Waterbody Construction and Mitigation Procedures
- FERC staff's current Erosion Control, Revegetation, and Maintenance Plan
- 1 set of *(draft)* alignment sheets
- 1 set of *(draft)* quadrangle maps
- *(any other major state or Federal applications containing pertinent environmental data)*
- FERC FEIS for the *(name of recent FERC EIS) Project* or and other recent FERC-prepared EISs

These documents (*, as well as other project-related documents not provided with the RFP,*) are available for review at:

*(location)*

Contact: *(name)*  
*(telephone number)*

*(Sample Contract)*

*There are a few concepts that we look for in all sample contracts for a third-party contractor. Although the language varies from contract to contract, the concepts are the same. These concepts as worded below should be incorporated into your contract.*

- 1. The Contractor shall meet the time frames established in the RFP, or as modified by the FERC staff during completion of the Work by contractor.*
- 2. The Contractor shall not replace the Project Manager, assistant Project Manager, or other key employee or subcontractor personnel without the prior written consent of (company name) and the FERC staff.*
- 3. Other than monthly invoices and supporting documentation as discussed in \_\_\_\_\_, the Contractor shall not release any environmental documentation or related studies, reports, or other materials prepared under and discussed in the RFP to (company name) or any other entity (other than the FERC staff and cooperating government agencies as identified by the FERC staff) without prior written consent of the FERC staff.*
- 4. (Company name) shall have the right to audit any and all records and accounts that support such charges and are pertinent to Work performed hereunder at reasonable times during the course of the Work and for a period of \_\_\_\_\_. This right shall not include inspection of the Contractor's work product or other studies, reports, or materials prepared under the RFP without the prior written consent of the FERC staff.*
- 5. (Company name) and FERC staff shall have the right, at any time and in their sole discretion, to have any personnel of the Contractor, or the Contractor's vendor or subcontractor, either temporarily or permanently dismissed from the job and removed ...*
- 6. The Contractor is an independent Contractor under the sole technical direction of the FERC staff.*
- 7. The FERC shall have all ownership rights, including exclusive copyright ownership, in all data, reports, information, manuals, computer programs, or other written, recorded, photographic, or visual materials, or other deliverables produced in the performance of this contract. Neither (company name) nor the Contractor shall retain ownership interest in any product resulting from this Work.*