

Department of Energy

Office of Environmental Management

Special Notice - Modification to End State Contracting Model

December 12, 2018

Assistant Secretary White is making a concerted effort within the Department of Energy Office of Environmental Management (EM) to reinvigorate the nuclear waste cleanup completion mindset. In addition, she challenged EM's contracting community to think differently in how we approach procurement that is less burdensome on industry, as well as the taxpayer. The goal is a new contracting model that would reflect end states that achieve significant financial liability and risk reduction, accelerate cleanup, and fairly shares risk between the contractor and government.

EM released two end state oriented Draft Request for Proposals seeking industry input. DOE held industry discussions to obtain feedback on EM's Draft Request for Proposals (RFP) and the EM End State Contracting Model (ESCM). EM held an Industry Exchange on August 14-16, 2018 and a Pre-Solicitation Conference on October 15-18, 2018, in Richland, WA for the Central Plateau Cleanup Contract (CPCC) Acquisition. CPCC was the first draft "end state" Cost Plus Incentive Fee contract model. Concurrently, EM held a Pre-Solicitation Conference on August 14-16, 2018, in Henderson, NV for the EM Nevada Environmental Program Services (EPS) Acquisition. EM released Nevada as a single award Indefinite Delivery/Indefinite Quantity (IDIQ) contract model soliciting end state input from industry.

As a result of the comments received from interested parties (industry, community, and stakeholders), EM decided to move forward with the ESCM utilizing a single award (IDIQ) contract for each acquisition with the ability to issue both Cost Reimbursable (CR) and Firm-Fixed-Price Task Orders. Attached is the ESCM with additional details. EM is seeking comments on the ESCM.

The proposed two-step ESCM IDIQ model provides EM the needed flexibility to partner with industry and its stakeholders at this critical juncture of the Program to openly negotiate the right end states and regulatory framework to reach completion at many of our sites. End states that measurably reduce environmental risk and financial liability. In addition, the IDIQ model allows for better contract management and tasking of discrete scopes of work for more realistic, reliable pricing and appropriate incentive structures consistent with the progress and technical challenges in the cleanup. EM believes the IDIQ model addresses the significant number of comments that we received from industry on the CPCC end state model, which are summarized below in major CPCC themes. It takes advantage of significant lessons learned from DOE successes at other completion and closure sites.

DOE invites all interested parties to review the ESCM and to submit comments in writing to the following email address: EMEndState@emcbc.doe.gov. In particular, DOE is seeking feedback from interested parties on the following:

1. DOE intends to use a representative sample scope of work to competitively select the right partner to openly negotiate future end state Task Order(s). Does industry have any thoughts on how a process like this may be successful? What do you see as the key attributes to be included in such a task?

2. It is important that the sample task and evaluation criteria allow for discriminating features of offerors. Does industry have any feedback on the technical evaluation criteria outlined in the attached ESCM?
3. DOE is planning a 25-page proposal page limit and 30-day proposal preparation period. Is that a reasonable page limit for a sample task and a reasonable amount of time?
4. What cost and fee commitments should be incorporated into the IDIQ contract at contract award? What cost and fee should be openly negotiated during Step 2 of ESCM once the end states have been fully identified and agreed upon?
5. How can past performance become more of a discriminator in the source selection?
6. What “off ramps” should be incorporated into the IDIQ contract if the contractor and DOE cannot reach a fair and reasonable price during Step 2 Task Order negotiations? DOE desires at a minimum that negotiations be complete within 180 days. What can the contractor and DOE do better to ensure end state negotiations are successful?
7. Are there any comments and/or concerns from a contractor human resource management perspective?
8. The revised ESCM model continues DOE’s focus on meaningful Small Business involvement and community commitment requirements within the IDIQ construct. DOE envisions the same requirements as provided in the CPCC Draft RFP. Please provide any input regarding these important areas as it relates to the revised RFP IDIQ model.

Interested parties will have until December 21, 2018, to submit comments regarding the ESCM. All comments shall be submitted in the Microsoft Word format provided on the procurement website.

Questions and Answers

Q1: Why did you change the EM End State model that was released with the CPCC Draft RFP?

A1. The model was changed in response to interested parties’ feedback from both the CPCC and EPS draft solicitations. This feedback included concerns such as how DOE will evaluate different End States proposed by Offerors; fee structure; opportunities to interface with the Regulators in the pre-award stage; and, Offerors were concerned that the proposal preparation was too costly.

Q2: Will interested parties have an opportunity to comment on the new EM End State Model?

A2. Yes, the Model framework has been posted on the EMCBC website at https://www.emcbc.doe.gov/SEB/em_escm/. DOE has provided specific questions for interested parties to comment on and provide feedback. The comments are due by December 21, 2018.

Q3. How is this Model improved from the End States Model that was released prior?

A3. This Model is improved in several ways (this list is not all inclusive):

- Reduces upfront proposal preparation costs.
- Aligns the requirements for all offerors, thereby leveling the playing field.
- Shortens the procurement process timeframe.
- Cost realism evaluation will be reduced and less risky due to evaluating one or more sample task(s) and transition as compared to five to 10 years of cost data.

- Minimal contract true-up required upon award.
- Open negotiation of future tasks are based on current Site conditions and regulatory framework. Leading to better contract with fair risk sharing.
- Flexibility of task orders addresses funding instability and work scope that requires additional characterization.
- Lowers the cost of entry for companies new to the EM market.

Q4. How does this End State Contracting Model support the requirement of contract reform, as outlined in the DOE Deputy Secretary Dan Brouillette Memo, *Improving Acquisition Management*, dated September 12, 2018.

A4. This IDIQ Contract construction provides EM the needed flexibility to task its contractors using a risk-based approach to better define discreet scopes of work for site closure or End States for more realistic, reliable pricing, and appropriate incentive structures to yield significant reductions in EM’s Environmental Financial Liability. In addition, single or multi-year task orders can be utilized in this process to achieve end state.

Q5. How does this affect Small Business?

A5. EM values Small Business’ contribution to achieving the EM Mission. The modified ESCM does not change the required subcontracting or Small Business goals for the acquisitions, nor does it change the definition for what DOE considers meaningful work.

Q6. Which contracts are affected by the ESCM?

A6. The following contracts fall under the ESCM: CPCC, TWCC, Nevada EPS, West Valley, Idaho Cleanup, Portsmouth Decontamination and Decommissioning, and the Oak Ridge Remediation Contract.

Q7. How does this End States Model affect the various sites’ work force?

A7. The contract model is not the mission driver impacting the workforce. The fact that the environmental cleanup mission is reaching completion may have future impacts on the workforce. Specific work force impacts will be handled on a site-by-site basis and adhere to local bargaining agreements.

Q8. How will fee work under the ESCM?

A8. Fee will be determined on a task-by-task basis and will be commensurate with the associated complexity of work and risk.

Q9. How will the contractor be selected?

A9. EM intends to award IDIQ contracts to the best qualified, best value contractor through a rigorous, competitive source selection process.

Summary of Major Themes Received from Industry: Central Plateau Cleanup Contract (CPCC)

Feedback from Industry	How IDIQ Model Resolves Industry Concerns
Industry Defined End States –Industry was concerned with evaluation fairness due to the fact that industry would be proposing different end states and potential regulatory frameworks.	DOE competitively awards through a 2-step process, where a sample task is used to procure the best value partner to openly negotiate future task orders with the right end state requirements and regulatory

Industry expressed concern that this created protest risk, as well as increased proposal costs.	framework that appropriately shares risk following contract award.
Fee Structure – Industry felt the CPCC Draft RFP placed too much risk on the contractor.	The fee structure remains up to 15% for the master IDIQ; the Offeror proposes fee for a CPAF sample task and in the follow on CPIF task order(s) the fee is negotiated with DOE. Note: The Sample Task for Step 1 is CPAF for ease of evaluation.
Regulatory Interface – Industry was concerned with the confidentiality of proprietary information and pre-award regulatory acceptance of technical approach transferring to post-award.	The concerns with the Regulatory approach are resolved as these negotiations are now post-award during Step 2.
Proposal Costs – Industry continued to be concerned with the cost of proposal preparation.	The new IDIQ model reduces upfront proposal costs, as the Offeror is now proposing on a sample task, versus the entire Performance Work Statement.

Attachment

End State Contracting Model (ESCM)

Issue: Major EM competitive acquisitions take too long to complete, require extensive “contract true-ups” post award due to shifting and/or inadequately defined scopes of work, and are very costly to both EM and Industry. Moreover, many EM contracts are not maximizing risk-based cleanups, not adequately reducing EM’s environmental financial liability, and do not contain appropriate cost, schedule, and performance risk sharing between the Government and the contractor.

Solution: EM is in the process of reinvigorating the completion mindset. Site closure and focused, accelerated site cleanup by EM contractors is contingent on awarding contract vehicles to the best-qualified, best value contractor through a rigorous, competitive source selection process. To achieve success similar to that experienced at the Rocky Flats, Mound, and Fernald Sites, EM must negotiate contracts with appropriate requirements, incentives, and risk models. As detailed below, EM’s new End State Contracting Model (ESCM) will employ a two-step process using a competitive qualifications-based Request for Proposal (RFP) for selection of the offeror representing the best value and subsequent single source, Task Order(s) negotiations through effective partnering.

Step 1: Issue Master IDIQ and Award Contract

- Issue single award Indefinite Delivery/Indefinite Quantity (IDIQ) RFP capturing EM cleanup work at the site (site closure or defined End States, as appropriate).
 - Up to 10-year ordering period;
 - Minimum guarantee of \$TBD; and
 - Ability to issue Firm-Fixed-Price (FFP) and Cost-Reimbursement (CR) Task Orders.
- Master IDIQ award based upon CR Sample Task on actual work to be performed, plus Contract Transition (as defined in Section C of RFP).
 - Technical and Management Proposal 25 pages;
 - Includes proposed responses to DOE provided Performance Based Incentives (3 to 5); and
 - Cost reasonableness and realism of CR task and contract transition costs (including cost of negotiations).
- Proposal Evaluation.
 - Key Personnel
 - Interview with contractor Program Manager
 - Conduct Orals
 - Technical and Management Approach
 - Relevant Past Performance.

- Source Selection.
 - Offeror representing best value where key personnel, plus technical and management approach and past performance are significantly more important than evaluated price.
- Contract Award.
 - IDIQ contract award to most qualified Offeror that proposes the best value to the government.
 - First Task Order for contract transition and work scope task, and any workforce pension/medical.

Step 2: Post Award negotiated Task Order(s)

- Evaluate and definitize one-year of base operations proposal submitted to DOE five-days after transition start (Task Statement included in RFP). Task Order issued no later than end of transition (approach, estimate, and schedule).
- Pension and Benefit scope awarded at NTP.
- Open negotiations for a Cost Plus Incentive Fee (CPIF) Task Order(s) for site closure/defined End State(s). Complete negotiations within 180 days at a minimum.
 - Agree on scope, schedule and cost, inclusive of discussions with Regulators, as necessary;
 - Identify ownership of risks and mitigations;
 - Identify any required Government Furnished Services and Information;
 - Develop completion criteria and incentive fee structure (ceiling for scope of work beyond sample task period to include flat portion of CPIF Cost Curve [+/- % of cost]);
 - Encourage profit sharing with employees; and
 - If cannot agree on reasonable price, re-compete the contract as minimum guarantee has been satisfied.