



ALTERNATE PROCUREMENT REQUEST

Office of Budget and Management

CSD/State Procurement Office

SFN 51403 (12/2004)

Name of Agency or Institution <i>DSC</i>		Business Unit Number <i>408</i>	Date Of Request <i>3-8-07</i>	Requisition/Tracking Number (Optional)	
Procurement Officer <i>Stona Berger</i>		Telephone Number <i>328 2401</i>	Fax Number <i>328 2133</i>	E-Mail <i>gberger@</i>	
Description Of Service or Commodity Describe the intended purpose. (Include manufacturer, brand, model, and other identifiers.) <i>Consulting Services for Advance Procurement</i>					
Total Estimated Cost- If a term contract, include any provisions for contract renewal or extension (e.g. \$10,000/yr with two (2) annual renewal options). <i>\$50,000</i>					
Future Considerations <input type="checkbox"/> Recurring Purchase <input checked="" type="checkbox"/> One-time Purchase Will this purchase obligate us to a particular vendor for future purchases? (Either in terms of maintenance or if we purchase this item, will we need or be required to purchase more "like" items in the future to match this one?)					
Procurement Type <input checked="" type="checkbox"/> Limited Competitive Procurement. <input type="checkbox"/> Noncompetitive Procurement					
Contractor Information (Non-Competitive Only)					
Contractor <i>Raley, Thomas Fox & Clark</i>		Contact Person <i>Thomas Denson</i>	Telephone Number <i>850 425 6654</i>	Fax Number	
Address <i>301 South Blount St</i>		City <i>Tallahassee</i>	State <i>FL</i>	Zip Code <i>32301</i>	
Indicate whether registration with Secretary Of State is required. See OMB Guidelines for Vendor Registration Requirements) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>Yes they will testify in NT</i>					
Price Considerations (Noncompetitive Only) Why is the price for this product or service considered fair and reasonable? Describe the negotiation efforts, if any, that have been made with the vendor to obtain the best possible price.					
Authority for Limited or Noncompetitive Procurement					
Competition can be limited under the following N.D.C.C. or N.D.A.C. provisions. Check the appropriate authority reference and provide factual material evidence in Section 16 to support the request.					
<input type="checkbox"/> The commodity or service is available from only one source. [N.D.C.C § 54-44.4-05 (2)(a)]					
<input type="checkbox"/> The commodity or service is available from another government entity's contract. [N.D.C.C. § 54-44.4-05 (2)(b) and N.D.C.C. § 54.44.4-05 (3)]. NOTE: The contract must be reviewed by OMB State Procurement Office.					
<input type="checkbox"/> The commodity or service is to be purchased for experimentation or trial. [N.D.C.C. § 54-44-4-05 (2)(c)]					
<input checked="" type="checkbox"/> No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process. [N.D.C.C. § 54-44-4-05](2)(d)] NOTE: If only one responsive bid or proposal was received in response to a solicitation, the procurement officer may make an award to the vendor upon determination that the specifications were not restrictive in accordance with N.D.A.C. Section 4-12-11-06-02. If only one responsive bid or proposal is received in response to a solicitation, and the price submitted is not fair and reasonable and there is not time for resolicitation, or it is unlikely that resolicitation will increase the number of bids or proposal, the procurement may be conducted as a limited competitive or noncompetitive purchase, as appropriate.(N.D.A.C. 4-12-11-08)					
<input type="checkbox"/> Commodities are being purchased for over-the-counter resale. [N.D.C.C. § 54-44.4-05 (2)(e)]					
<input type="checkbox"/> A used commodity is advantageous to the state and the commodity is available only on short notice. [N.D.C.C. § 54-44-05 (2)(H)]					
<input type="checkbox"/> The commodity is a component or replacement part for which there is not commercially available substitute and which can be obtained only from the manufacturer. [N.D.C.C. § 54-44-4.05 (2)(i)]					
<input type="checkbox"/> Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment.[N.D.C.C. § 54-44-05 (2)(j)]					
<input type="checkbox"/> Products or services exclusive to particular individuals or business entities are required, but competition for that proprietary product or service exists. [(N.D.A.C. 4-12-09-02 (1)(a)]					
<input type="checkbox"/> Circumstances require that commodities or services be provided by vendors within a specific geographic area, such as equipment requiring local service, on-site service within a specific time, or delivery of perishables.(N.D.A.C. 4-12-09-03 (1)(b)					
<input type="checkbox"/> It is determined that a competitive sealed bid or competitive sealed process is impracticable or not in the best interest of the state. [(N.D.A.C. 4-12-09-02 (1)(C)]					
<input type="checkbox"/> The services or the circumstances are of such a nature that deviation from the procurement process is appropriate. [N.D.C.C. § 54-44-4.05 (2)(k)] NOTE: The agency must provide substantiating documentation.					

Justification Of Limited Competitive/Noncompetitive Purchase And Supporting Documentation

Explain why a fully competitive procurement method is impracticable or not in the best interest of the state. Why is the commodity or service available from limited sources or one source? Provide factual material evidence, such as written documents, records, supporting data, affidavits, or other information. (e.g. describe research conducted, obtain and attach a letter from the manufacturer, etc.)

See attached

Disapproval Consequences

What are the consequence(s), including a dollar estimate of the financial impact, if this request for limited competitive or non-competitive purchase is not approved?

Agency Approval (Up To \$25,000)	
Instructions for Agency Head or Designee: the procurement officer must cite the authority for the limited competitive or noncompetitive purchase and provide evidence necessary for an independent examination and determination of the material facts of the procurement (N.D.A.C. 4-12-09-02).	
Name	Telephone Number
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Returned For Further Justification <input type="checkbox"/> Send Notice Of Intent To Make A Noncompetitive Purchase Award	
Comments:	

I certify to the best of my knowledge and belief that all the information on this request, including any attachments, is true and accurate.

Signature	Date
-----------	------

Office of Management and Budget – State Procurement Office Approval (\$25,000 and Over)	
Name	Telephone Number
Angie Scherberske	328-2779
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Returned For Further Justification <input type="checkbox"/> Send Notice Of Intent To Make A Noncompetitive Purchase	
Comments:	
Approved per N.D.A.C. 4-12-11-08(1a). RFP was issued 1-5-07	
Signature	Date
Angie Scherberske	3-8-07

**STATE OF NORTH DAKOTA
Public Service Commission
600 E Boulevard
Bismarck, ND 58505
Telephone # (701) 328-2400
Fax # (701) 328-2410**

March 8, 2007

**Notice of Intent
To Make a Noncompetitive Purchase**

The State of North Dakota intends to purchase a commodity or service for which we believe only limited competition exists. This document contains the specifications and justification for the noncompetitive procurement.

Requestor: Public Service Commission

Purchase Description: Consulting services for the determination of advance prudence related to Big Stone II, Case No.s PU-06-481 and PU-06-482.

Intended Source: Radey, Thomas, Yon and Clark, Attorneys & Counselors at Law, *301 South Bronough Street, Suite 200, Tallahassee, Florida 32301*

Price: \$50,000.

The commission issued Requests for Proposals (RFP No. PU-06-481-482) to its vendor list as well as state procurement's vendor list (Commodity No. 91897) to procure consulting services to evaluate the prudence of Montana-Dakota Utilities Co. and Otter Tail Corporation building a new generation station at Big Stone II. The request did not have a price cap but still received no bids. It is our understanding that regulatory consultants are very busy right now and that this particular request is beyond the normal scope.

Procurement Officer: Annette Bendish
Procurement Officer
Public Service Commission
Bismarck, ND 58505
(701) 328-2421
abendish@nd.gov

Enclosure

From: Bendish, Annette M. [mailto:abendish@nd.gov]
Sent: Wednesday, January 31, 2007 4:32 PM
To: Anderson, Lori D.
Subject: FW: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

Please docket in 06-481 and 06-482

Annette

From: Charlie King [mailto:charlieking@snavely-king.com]
Sent: Wednesday, January 31, 2007 3:42 PM
To: Bendish, Annette M.
Subject: RE: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

We responded to the NSP rate case proposal, for which we are very well qualified. We are not so experienced in doing prudency reviews, and our resources would be strained were we to attempt to do both projects at the same time. Thanks for the inquiry.

Charles W. King

From: Bendish, Annette M. [mailto:abendish@nd.gov]
Sent: Wednesday, January 31, 2007 4:32 PM
To: charlieking@snavely-king.com
Subject: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

In order to initiate sole source procurement for consultant services for the Advance Determination of Prudence Cases 06-481 and 06-482 the North Dakota Public Service Commission is seeking feedback from individual vendors. The Commission would like to know why you and your company choose to not submit a proposal in response to RFP number PU-06-481-482.

Any information you can provide would be helpful to the Commission.

If you have questions please contact me,

Annette Bendish
Public Utility Analyst
North Dakota Public Service Commission
600 E Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480
701-328-2421
fax: 701-328-2410
TDD: 800-366-6888
abendish@nd.gov

45 PU-06-482

Pages: 1

40 PU-06-481

Pages: 1

E-mail from C. King re: not submitting
proposal
by Public Service Commission
01/31/2007 CC: Comm. Legal Ilona, Annette, Mike . .

E-mail from C. King re: not submitting
proposal
by Public Service Commission
01/31/2007 CC: Comm. Legal Ilona, Annette, Mike . .

1/31/2007

Anderson, Lori D.

From: Bendish, Annette M.
Sent: Friday, February 02, 2007 8:41 AM
To: Anderson, Lori D.
Subject: FW: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

Please docket in 06-481 and 06-482

Annette

From: tina-miller@comcast.net [mailto:tina-miller@comcast.net]
Sent: Friday, February 02, 2007 8:35 AM
To: Bendish, Annette M.
Subject: RE: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

Ms. Bendish,

I apologize for the oversight! The main consideration for not submitting a proposal for that project was the timeframe. Our consultants already have commitments during that period. However, we would be interested in similar work in the future. Thank you for your interest in our feedback.

--
Tina Miller
Regulatory Analyst
Larkin & Associates, PLLC
734/522-3420

----- Original message -----

From: "Bendish, Annette M." <abendish@nd.gov>
Thank you for your response, however my inquiry relates to the other RFP for the Advance Determination of Prudence Cases, not the NSP gas case referenced in your letter.

Annette

From: tina-miller@comcast.net [mailto:tina-miller@comcast.net]
Sent: Thursday, February 01, 2007 9:13 AM
To: Bendish, Annette M.
Subject: Request for feedback for failed procurement of services for Advance Determination of Prudence Cases 06-481 and 06-482

Ms. Bendish,

We sent the attached declining bid letter on 1/24/07 via US Mail. If you have any further questions, please do not hesitate to contact us.

--
Tina Miller 49 PU-06-482 Pages: 2 44 PU-06-481 Pages: 2

E-mail msg re: feedback for failed procurement of services by Public Service Commission by Larkin & Associates
02/02/2007 CC: Comm. Legal Illona, Annette, Mike . .

E-mail msg re: feedback for failed procurement of services by Public Service Commission by Larkin & Associates
02/02/2007 CC: Comm. Legal Illona, Annette, Mike . .

2/2/2007

**STATE OF NORTH DAKOTA
Public Service Commission
600 E Boulevard
Bismarck, ND 58505
Telephone # (701) 328-2400
Fax # (701) 328-2410**

March 8, 2007

**Notice of Intent
To Make a Noncompetitive Purchase**

The State of North Dakota intends to purchase a commodity or service for which we believe only limited competition exists. This document contains the specifications and justification for the noncompetitive procurement.

Requestor: Public Service Commission

Purchase Description: Consulting services for the determination of advance prudence related to Big Stone II, Case No.s PU-06-481 and PU-06-482.

Intended Source: Radey, Thomas, Yon and Clark, Attorneys & Counselors at Law, *301 South Bronough Street, Suite 200, Tallahassee, Florida 32301*

Price: \$50,000.

The commission issued Requests for Proposals (RFP No. PU-06-481-482) to its vendor list as well as state procurement's vendor list (Commodity No. 91897) to procure consulting services to evaluate the prudence of Montana-Dakota Utilities Co. and Otter Tail Corporation building a new generation station at Big Stone II. The request did not have a price cap but still received no bids. It is our understanding that regulatory consultants are very busy right now and that this particular request is beyond the normal scope.

Procurement Officer: Annette Bendish
Procurement Officer
Public Service Commission
Bismarck, ND 58505
(701) 328-2421
abendish@nd.gov

Enclosure

SPECIFICATIONS

Review bid processes to secure power plant resources and services

Review and compare proposals made by non-selected entities with selected bids

Ensure reasonableness of the Joint Ownership Agreement including governance, operating parameters and cost sharing between the participating partners

Review the reasonableness of cost projections for BS2 including: capital expenditures; cost of capital (implicit rate of return); O&M expenses; and fuel costs

Reasonableness of coal procurement contract and associated costs

Reasonableness of rail transportation agreement and associated costs

Coal deliverability to BS2

Reasonableness of projected transmission costs and cost sharing among joint participants

Review projected construction time lines of BS2

Impacts of anticipated transmission upgrades on adequacy and overall reliability of the grid

Determine the possible need for post-decision reporting requirements

Determine the need for any conditions to be placed on the approval of BS2

Determine if there are recommended enhancements to the review process that could be incorporated in future advance prudence determination cases

Provide written testimony by May 1, 2007 and incorporate and summarize the work of other staff members to the extent possible

Appear as an expert witness for two days beginning May 29, 2007