



TO: FINANCE COMMITTEE & GOVERNANCE COMMITTEE
FROM: EXECUTIVE DIRECTOR'S OFFICE
SUBJECT: PERMITTING SERVICES SOLE SOURCE JUSTIFICATION
DATE: OCTOBER 25, 2018

Recommendation:

The Executive Director's Office (EDO) recommends the Governance Committee (GC) approve a three-year (2019 – 2021) sole source contract with HDR Engineering, Inc. (HDR) to perform permitting services for the Program.

Background:

In 2014, the Program released a Request for Proposals to procure professional services to assist the Program in obtaining US Army Corps of Engineers Section 404 authorizations and associated Nebraska Section 401 certifications for Program management actions. HDR Engineering Inc. (HDR) was selected and awarded a three-year contract not to exceed \$150,000. Since 2014, the agreement has been amended several times to authorize permitting tasks. This extended the term of the agreement term and slightly increased the budget to \$156,327.

We have now passed the amended contract termination date; multiple permitting tasks are nearing completion and associated expenditures are nearing the authorized budget cap. As such, this is an appropriate time to revisit procurement of permitting services. Based on our experience with HDR and other permitting contractors, we have found HDR's permitting team to be uniquely qualified to perform this work due to their ability to work effectively with the U.S. Army Corps of Engineers, Nebraska Regulatory Offices to obtain permit authorizations. No other contractors have been able to navigate the permitting process as quickly, efficiently, or cost-effectively as HDR.

The EDO recommends that the GC sole-source permitting services to HDR with the same general terms of the previous contract. The term of the agreement would three-years (2019 – 2021) and the total time and materials expenditure cap during that period would be \$150,000, based on an annual budget estimate of \$50,000 per year. As with the original agreement, task orders will be developed for specific services, as they become necessary. A draft scope of services, as well as a fee schedule, are provided in Attachment A.

Budget Implications:

The Program has recently budgeted \$50,000 annually for permitting services (line item PD-15). This contract would not allocate additional funds, it would simply allow HDR to be "on-call" to perform permitting services under this established average annual amount. Task orders will be developed to authorize specific scopes of work.



Attachment A
Platte River Recovery Implementation Program
2019 – 2021 Permitting Services

The Platte River Recovery Implementation Program’s (Program) Adaptive Management Plan and Water Plan include management actions and projects that require coordination with and approval from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (Section 404) and from the Nebraska Department of Environmental Quality (NDEQ) under Section 401 of the Clean Water Act (Section 401). The following tasks have been identified to assist the Executive Director’s Office (EDO) in obtaining Section 404 authorizations and Section 401 water quality certifications for projects and management actions.

Task Series 100 – Program Coordination

Objective: Coordinate with the EDO to discuss planned activities, develop permitting strategies, and initiate agency coordination.

Activity: Coordinate and attend meetings with the EDO to discuss details of Program management actions and projects requiring Section 401 certifications and 404 authorizations. Develop a permitting strategy for the Program project/action that is documented via official meeting notes, memorandum, email, scope of work, and/or similar documentation.

Coordinate and attend/lead agency meetings that present information on pending Program projects/actions. Assist in material development for meetings.

Meetings: Attend and/or call into meetings at the EDO in Kearney, Nebraska, at HDR in Omaha, Nebraska, at the USACE offices in Omaha, Nebraska, and/or at the project location in central Nebraska. Coordination conference call or phone call are also likely.

Deliverables: EDO Coordination – agenda, minutes, memo, emails, scope of work and/or similar documentation outlining permitting strategy.

Agency meetings – agenda, minutes, meeting materials.

Key Understandings:

- Program coordination activities not listed can be added via work orders for specific projects, including public outreach to support Section 404/401 related actions.

Task Series 200 – Development of Individual Permit Applications and Nationwide Permit Pre-Construction Notifications



- Objective:** Develop individual permit applications and Nationwide Permit pre-construction notifications (PCN) for Program actions/projects.
- Activity:** **Task 201 – Agency Coordination**
Coordinate and attend pre-application meeting with the USACE and NDEQ during permit development. Respond to comments/questions from USACE and coordinating agencies throughout the application/PCN development and USACE review.
- Meetings:** Pre-application meeting with the USACE to discuss wetland delineation and permit application. Site visits with the USACE and NDEQ, as needed.
- Deliverables:** Agenda, meeting materials, and meeting minutes; responses to comments/questions from USACE and NDEQ.
- Key Understandings:**
- Agency coordination activities not listed can be added via work orders for specific projects.
 - Meetings are assumed to occur at USACE Nebraska Regulatory Field Office (Lake Weherspann, Omaha, NE), but may occur on-site or at other locations as appropriate.
- Activity:** **Task 202 – Individual Permit Application or PCN Development**
The following components of the IP application or Nationwide Permit PCN will be developed:
- Project purpose
 - Nature of activity
 - Reason for discharge
 - Type and amount of discharge
 - Impacts on wetlands and other waters of the U.S. (see Task 203)
 - Alternatives analysis discussion
 - Demonstration of compliance with Section 7 of the Endangered Species Act (ESA)
 - Demonstration of compliance with Section 106 of the National Historic Preservation Act (Section 106)
 - Compensatory Mitigation Plan (if required)
 - Response to comments received on the Public Notice, if requested
 - Any other activities and coordination associated with IP applications or Nationwide Permit PCNs
- Deliverables:** Draft and final IP applications or PCNs, and written responses on the Public Notice
- Key Understandings:**



- Application and PCN activities not listed can be added via work orders for specific projects. This may include development of functional assessment methodologies and/or stream/wetland mitigation plans.

Activity: Task 203 – Environmental Analysis

Develop an environmental analysis suitable for USACE to use in its decision document. A baseline assessment will be performed to update the existing environment relative to the final EIS developed for the Program. The following elements will be discussed:

- Wetlands and other waters of the U.S.
- Fish and wildlife
- Threatened and endangered species
- Water quality
- Floodplain
- Regulated materials

In addition, a general discussion of the following Public Interest Review factors will be provided if deemed necessary by USACE to support an individual permit decision document:±

- Land use
- Economics
- Prime and unique farmland
- Recreation
- Air quality
- Noise
- Historic and archeological properties

Deliverables: Draft and final environmental analysis

Key Understandings:

- The deliverable for this task is anticipated to occur concurrently with the submittal of the IP
- Environmental analysis activities not listed can be added via work orders for specific projects.
- The magnitude of effort or need for environmental analysis for Nationwide Permits would be assessed by project/activity.

Activity: Task 204 – Wetland Delineation and Functional Assessments

Perform wetland delineations necessary for permit development in accordance with the 1987 USACE Wetlands Delineation Manual and the Great Plains Regional Supplement to the USACE Wetland Delineation Manual.

Documentation of wetlands and other waters of the U.S. will be provided on Water of the U.S. Determination Data Forms. Photograph documentation will be taken at all wetlands, sample locations, and identified waters of the U.S. Field



work will include HDR professionals. A wetland delineation report will be developed for inclusion in the IP.

Perform functional assessments, as needed, to support wetlands and other waters of the U.S. impact analysis and demonstration of Program action/activity net ecological benefit.

Deliverables: Wetland delineation and functional assessment reports.

Key Understandings:

- Wetland delineation and functional assessment activities not listed can be added via work orders for specific projects.