

# Request for Proposals

## RFP-UESP-2019-023

**Activity Title: “Legal Representation and Assistance”**

**Issuance Date: December 17, 2019**

**Deadline for Receipt of Questions: December 23, 2019 at 14:00**

**Closing Date and Time: December 26, 2019 at 14:00**

*Issuance of this RFP does not constitute an award commitment on the Tetra Tech ES, Inc., nor does it commit to pay for any costs incurred in preparation or submission of comments/suggestions of a proposal. Proposals are submitted at the risk of the offerors. All preparation and submission costs are at the offeror’s expense.*

## Table of Contents

<b>1. INTRODUCTION .....</b>	<b>3</b>
<b>2. OFFEROR’S QUALIFICATIONS .....</b>	<b>3</b>
<b>3. SOURCE, ORIGIN AND NATIONALITY RESTRICTIONS.....</b>	<b>3</b>
<b>4. SUBMISSION OF PROPOSALS .....</b>	<b>4</b>
<b>5. QUESTIONS AND CLARIFICATIONS.....</b>	<b>4</b>
<b>6. PROPOSALS PREPARATION INSTRUCTIONS .....</b>	<b>4</b>
<b>7. EVALUATION CRITERIA .....</b>	<b>7</b>
<b>8. TERMS OF PAYMENT .....</b>	<b>8</b>
<b>9. DUNS NUMBER AND SAM.GOV REGISTRATION .....</b>	<b>8</b>
<b>10. NEGOTIATIONS.....</b>	<b>8</b>
<b>11. MULTIPLE AWARDS/NO AWARD.....</b>	<b>8</b>
<b>ATTACHMENT A – TECHNICAL SPECIFICATION.....</b>	<b>9</b>
<b>ATTACHMENT B – DETAILED BUDGET .....</b>	<b>12</b>
<b>ATTACHMENT C – REPRESENTATIONS AND CERTIFICATIONS .....</b>	<b>14</b>
<b>ATTACHMENT D – CERTIFICATE OF CURRENT COST OR PRICING DATA .....</b>	<b>15</b>

## 1. INTRODUCTION

The purpose of this RFP is to solicit proposals for Legal Representation and Assistance within the Scope of Work (SOW) specified in the Attachment A – Technical Specification within the Energy Security Project implementation funded by the U.S. Agency for International Development (USAID) and implemented by Tetra Tech ES, Inc. (Tetra Tech).

## 2. OFFEROR'S QUALIFICATIONS

Offeror must provide the following information and references in order to be qualified for the procurement process:

1. Company's information, including official registered title, type of business, address, and contact person information.
2. A short description of the company and of past similar experience in providing the services described in the Attached A -Technical Specification.
3. Overall technical approach to fulfill the specifications defined in Attachment A – Technical Specifications.
4. Certification that company is not owned or controlled in total or in part by any entity of any government.
5. The Offeror shall complete and sign the Representation and Certifications found in Attachments C to this document and include them with the Offeror's proposal. Proposals that do not include these certifications will not be considered.
6. Offerors listed in the Excluded Parties List System will not be considered. The Excluded Parties List can be found at <https://www.sam.gov/SAM/pages/public/searchRecords/searchResults.jsf>
7. Certificate of current cost or pricing data (Attachment D).
8. Offeror's must not be conflicted with respect to any of the nine PSAs covered under this scope of work (PSA awards and respective companies are available in the public domain). Specifically, as the scope will require representation and legal support across all 9 PSAs (7 bidders/PSA structures), the offeror cannot have been involved in the drafting, preparation, representation of any of the PSA awarded bidders. Specifically, the offeror must provide the following in order to be qualified for the procurement process:
  - Cover letter confirming the Offeror is not conflicted in any of the 9 PSAs and has not supported the preparation, drafting or in any other way supported any of the 9 PSAs, by representation of the awarded PSA bidders.

## 3. SOURCE, ORIGIN AND NATIONALITY RESTRICTIONS

The USAID authorized geographic code for the Energy Security Project is 937 and 110. Code 937 is defined as the United States, the Cooperating Country, and developing countries other than advanced developing countries, but excluding any country that is a prohibited source. Code 110 is defined as the United States, the independent states of the former Soviet Union, or developing country, but excluding any country that is a prohibited source.

Reference: USAID ADS Chapter 310, and all its sub-sections. These documents are available on the Internet.

#### **4. SUBMISSION OF PROPOSALS**

All proposals are due on **December 26, 2019** by no later than **14:00** local time in Ukraine. Proposals must be submitted via e-mail at the address **UESPprocurement@tetrattech.com** in the following formats: Adobe Acrobat and Microsoft Word and/or Excel.

All proposals must fully respond to the Technical Specifications enclosed as **Attachment A** and must include quotes in the format provided in the **Attachment B - Table 1 – Detailed Budget**. Proposals received after the above-stated due date and time will not be considered for this procurement.

#### **5. QUESTIONS AND CLARIFICATIONS**

All questions or clarifications regarding this RFP must be in writing and submitted, in English, to **UESPprocurement@tetrattech.com** on **December 23, 2019** no later than **14:00** local time in Ukraine. Questions and requests for clarification, and the responses thereto, will be circulated to all RFP recipients.

Only written answers from ESP Procurement Office of Tetra Tech will be considered official and carry weight in the RFP process and subsequent evaluation. Any answers received outside the official channel, whether received verbally or in writing, from employees or representatives of Tetra Tech, or any other party, will not be considered official responses regarding this RFP.

#### **6. PROPOSALS PREPARATION INSTRUCTIONS**

All Offerors must follow the instructions set forth herein in order to be qualified for the procurement process. If an Offeror does not follow the instructions set forth herein, the Offeror's proposal may be eliminated from further consideration or the proposal may be downgraded and not receive full credit under the applicable evaluation criteria.

Separate Technical and Cost Proposals must be submitted. All proposals should be submitted in English.

##### **TECHNICAL PROPOSAL**

The technical proposal (excluding CVs) shall not exceed **11** pages. Proposals will be scored on a 100-point scale. Available points for each evaluation factor are given below. Offerors must address each evaluation factor.

The suggested outline for the technical proposal is stated below:

##### **A. Organization's Information (maximum 2 pages)**

- Organization's information, including official registered title, type of business, list of offices if applicable, address, telephone, fax and website.
- Organization's DUNS number.
- Authorized point of Contact with phone number(s) and email address.
- Experience of the firm of at least 5 years in the public and private sector

##### **B. Company Technical Capability (maximum 2 pages)**

Description of organization, including activities/qualifications carried out like the scope of work requested.

##### **C. Technical Approach (maximum 3 pages)**

Present a narrative that describes how the Offeror would implement the tasks identified in the scope of work. This narrative must also include:

- A management approach which describes how the Offeror will manage the delivery of the services and how the Offeror will interact with ESP.
- A draft work plan that outlines the proposed activities over the course of the period of performance.
- Proposed performance indicators to measure the impact of the Offeror’s planned activities and the progress of the Awardees as a result of the Offeror’s assistance.

Information which the Offeror considers proprietary, if any, should be clearly marked “proprietary” next to the relevant part of the text and it will then be treated as such.

**D. Proposed Staff (maximum 2 pages, excluding CVs)**

Present a narrative that includes the following:

- Team composition (names, specialties/area of expertise, position/role, etc.), with detailed bios, and task assignments to perform the activities described in the SOW.
- Curriculum Vitae (CV) for all labor categories named in the Attachment A. (CVs shall be limited to 3 pages each) that describes their experience and lists the following:
  - Affiliation/Organization
  - Education
  - Years of Professional Experience
  - Relevant Experience to the SOW in this RFP
  - Fluency in English

In addition to presenting the CVs, offerors should complete and include the table below:

Proposed Personnel’s Name, Last Name	Proposed Position Under This Assignment	Qualification	Years of Professional Experience

**E. Company Past Performance (maximum 2 pages)**

Offerors should provide a summary of relevant studies or other assignments including the Title, Client, Date, and a brief description. The qualifications section is limited to 5 of the most relevant studies or other assignments performed in the last 5 years, presented in the following table format. If the client is confidential, simply list “confidential”.

Project (task) name (title)	Description of the project (task) and services provided	Client name, phone number and email address	Dates of execution

## FINANCIAL PROPOSAL

### a. Detailed Budget

Offeror shall complete the **Table 1 of the Attachment B “Detailed Budget”** in order to allow Tetra Tech ES, Inc. to compare all quotes and make a competitive selection. The budget should be provided in Excel format with unlocked cells and formula.

A price must be provided for each project component to be considered compliant with this request. The price proposal should include the individual line items shown in the template, e.g., fully-burdened daily rates, travel costs, and other direct costs. Offers must show unit prices, quantities, and total price. All items, services, etc. must be clearly labeled and included in the total offered price. The price proposal shall also include a budget narrative that explains the basis for the estimate of every cost element or line item. Supporting information must be provided in sufficient detail to allow for a complete analysis of each cost element or line item. Tetra Tech reserves the right to request additional cost information if the evaluation committee has concerns of the reasonableness, realism, or completeness of an Offeror’s proposed price.

Offeror shall provide unit pricing in **US dollars (USD)**. Prices quoted in this document shall be valid for a 60-day time period, include all taxes and other costs but excluding the VAT tax originated in Ukraine.

### b. 1420 Forms for the proposed personnel

For each staff member proposed, the Offeror shall submit a completed and signed USAID 1420 forms.

USAID form 1420 can be downloaded here: <https://www.usaid.gov/forms/aid-1420-17>

### c. Proposed Billing Rates Certification

Document on company letterhead certifying the labor rates being proposed are standard rates and have been previously billed to clients for similar work.

### d. Representations and Certifications

These documents can be found in Attachments C of this RFP and must be submitted as part of the Cost Proposal.

Under no circumstances may cost information be included in the technical proposal. No cost information or any prices, whether for deliverables or line items, may be included in the technical proposal. Cost information must only be shown in the cost proposal.

## 7. EVALUATION CRITERIA

Award will be made to the offeror representing the best value in consideration of past performance, qualifications, and price factors. Technical criteria are more important than cost, although prices must be reasonable and will be considered in the evaluation. Offeror are encouraged to provide a discount to their standard commercial rates.

Tetra Tech reserves the right to conduct discussions with selected offeror (s) in order to identify the best value offer. Award of any resulting Subcontract Agreement shall be made by Tetra Tech on a best value basis. Tetra Tech reserves the right to request a test assessment from offerors to assess their qualifications.

The submitted technical information will be scored by an evaluation committee using the following technical evaluation criteria (80 points) and cost proposal (20 points).

Given the specific expertise required to perform the services in question only offers with a technical score of 50 points or more will be considered for evaluation of their cost proposals.

Proposals will be scored on a 100-point scale. Available points for each evaluation factor are given below.

### TECHNICAL PROPOSAL (80 POINTS)

Evaluation Criteria for Technical Proposal		Points
I.	Company Technical Capability	20
II.	Technical Approach	20
III.	Proposed Staff	10
IV.	Company Past Performance	30
<b>TOTAL</b>		<b>80</b>

### FINANCIAL PROPOSAL (20 POINTS)

The lowest qualified financial proposal will receive the maximum score of 30 points.

The other proposals will be scored inversely proportional to their price and computed as follows:

$$S_f = 20 * F_m / F$$

where

S<sub>f</sub> = financial Score of the proposal evaluated

F<sub>m</sub> = price of the lowest priced Financial Proposal among those qualified

F = price of the Financial Proposal under consideration

Offeror should submit a Detailed Budget reflecting the cost of completing the scope. Offerors shall complete the Attachment B – Detailed Budget. Labor rates quoted in this document shall be fully-burdened with all indirect costs, taxes and fee, if any. The period of performance (level of effort) is **3 months**.



Tetra Tech reserves the right to conduct discussions with selected offeror(s) in order to identify the best value offer. Award of any resulting Subcontract Agreement shall be made by Tetra Tech on a best value basis, with evaluation of proposed price as well as proposed services and implementation schedule.

#### **8. TERMS OF PAYMENT**

Payment terms for the awarded Subcontract Agreement shall be fifteen (45) days after satisfactory completion and acceptance and of services and deliverables according to the schedule in the Table 2. Payment shall be made by Tetra Tech ES, Inc. via bank wire transfer in **Ukrainian Hryvnias or US dollars**. Any request for advance payment should be stated in the Response.

#### **9. DUNS NUMBER AND SAM.GOV REGISTRATION**

If the proposed fixed price is above \$30,000, the successful offeror will be required to furnish a DUNS number and proof of SAM.gov registration within 48 hours of notice of award. Information regarding obtaining a DUNS number may be found here: <https://fedgov.dnb.com/webform>

#### **10. NEGOTIATIONS**

Best offer proposals are requested. It is anticipated that a subcontract will be awarded solely on the basis of the original offers received. However, Tetra Tech reserves the right to conduct discussions, negotiations and/or request clarifications prior to awarding a subcontract. Furthermore, Tetra Tech reserves the right to conduct a competitive range and to limit the number of offerors in the competitive range to permit an efficient evaluation environment among the most highly-rated proposals. Highest-rated offerors, as determined by the technical evaluation committee, may be asked to submit their best prices or technical responses during a competitive range.

#### **11. MULTIPLE AWARDS/NO AWARD**

Tetra Tech ES, Inc. reserves the right to issue multiple awards. Tetra Tech ES, Inc. also reserves the right to issue no awards.



## ATTACHMENT A – TECHNICAL SPECIFICATION

**SCOPE OF WORK: Legal Representation and Assistance**

**PERIOD OF PERFORMANCE: 3 months**

**PLACE OF PERFORMANCE: Kyiv, Ukraine**

### 1. Background

The purpose of Energy Security Project (ESP) is to enhance Ukraine's energy security. Improving the energy legal and regulatory environment and increasing resilience of energy supply will help USAID to achieve broad-based, resilient economic development as a means to sustain Ukrainian democracy. Providing assistance for the creation and development of free market mechanisms is the main goal of ESP. The assistance to key energy institutions supports the implementation of an essential component of USAID's Ukraine Country Development Cooperation Strategy. ESP will help the Government of Ukraine (GOU) to provide affordable, reliable, resilient and secure energy to its citizens; assist the Government of Ukraine to integrate into European energy markets by helping key government agencies and the energy regulator to meet EU energy acquis requirements, including the Third Energy Package; improve energy security establishing competitive energy markets in electricity, natural gas and district heating sectors; and increase energy supply in Ukraine by facilitating private sector-led energy investments in, and increasing production of renewable energy sources.

### 2. Objectives

To provide the Inter-Agency Commission, through the Ministry of Energy and Environmental Protection, the necessary legal support and resources to effectively conduct negotiations with bidders on the 9 PSA blocks that have been tendered and awarded. The objective will do protect the interest of Ukraine and the Government by entering into agreements that do not contain unfavorable terms that may otherwise be missed by the Government of Ukraine if Legal Counsel is not engaged during negotiations.

### 3. Scope of Work

To represent the Ministry of Energy and Environmental Protection, as lead on the Interagency Commission, the position of the Ministry of Energy and Environmental Protection with respect to the negotiation and conclusion of PSAs with multiple investors.

Representation and legal support will across all 9 PSAs (**7 bidders/PSA structures**).

The scope should include:

- Representation of the state and participation in the meetings between the state and investors on each of 9 draft PSAs (7 individual PSA structures);
- Participation in the meetings with IAC/Ministry of Energy and other reps of the state regarding negotiations, as requested by the State;
- Amending draft PSAs to reflect the position of the State and the outcome of each round of negotiations with investors;
- Providing analysis, advice and recommendations regarding the amendments suggested by investors on the Draft PSAs as a result of negotiations, keeping the interests of the State as the primary priority. Including advising the State to not conclude.
- Instructing the IAC/Ministry of Energy on the legal issues, interpretation of relevant laws, negotiation strategy and positions.
- Support the state in the provision of reports required for funding from the Donor.

#### 4. Deliverables and Due Dates

The successful offeror shall deliver to Tetra Tech the following, in accordance with the schedule set forth below.

**Deliverable 1: 1<sup>st</sup> monthly report: detailing meeting and call engagement. (progress, engagement and status reports)**

Round table discussions, etc. to outline the content of discussions and comments presented by investors as well as rebuttals and legal position regarding negotiation points raised by the investors. Include and raise attention to red line items that are being negotiated.

The reports should be in summary form; 5-10 pages.

**Deliverable 2: 2nd monthly report: detailing meeting and call engagement. (progress, engagement and status reports)**

Round table discussions, etc. to outline the content of discussions and comments presented by investors as well as rebuttals and legal position regarding negotiation points raised by the investors. Include and raise attention to red line items that are being negotiated.

The reports should be in summary form; 5-10 pages.

**Deliverable 3: 3rd monthly report: detailing meeting and call engagement. (progress, engagement and status reports)**

round table discussions, etc. to outline the content of discussions and comments presented by investors as well as rebuttals and legal position regarding negotiation points raised by the investors. Include and raise attention to red line items that are being negotiated.

The reports should be in summary form; 5-10 pages.

**Deliverable 4: Newly marked up versions of the PSAs following negotiations.**

*Mark ups to the drafts submitted by the IAC to the Investors taking into consideration the outcomes of negotiations.*

**Deliverable 5: Close out**

If PSAs agreed – a end of engagement report to outline the position recommended by the awarded legal firm vs. the position taken by the State.

**If PSAs not agreed** – a report to outline why, and expected time taken to close, challenges with investors and recommendations for steps ahead (including whether to continue negotiations or termination of the process).

The successful offeror shall submit the deliverables described above in accordance with the following deliverables schedule:

<b>Deliverable Number</b>	<b>Deliverable Name</b>	<b>Due Date</b>
1	1 <sup>st</sup> monthly report: detailing meeting and call engagement. (progress, engagement and status reports)	End of first month of engagement
2	2 <sup>nd</sup> monthly report: detailing meeting and call engagement. (progress, engagement and status reports)	End of second month of engagement
3	3 <sup>rd</sup> monthly report: detailing meeting and call engagement. (progress, engagement and status reports)	End of third month of engagement
4	Newly marked up versions of the PSAS following negotiations.	No later than 3 months from engagement, unless negotiations ongoing.
5	Close out	End of 3 months. If negotiations close – a report for close out. If not closed, a report to outline the need for extension and expected LOE for extended services.

**ATTACHMENT B – DETAILED BUDGET**
**PROPOSED DETAILED BUDGET**
**TABLE 1 – Overall Subcontract Detailed Budget**

	unit	Total	
	cost/вартість одиниці	units/Кількість ОДИНИЦЬ	cost/вартість
<b>Total Direct Labor/Прямі витрати - персонал</b>			
<b>LABOR (rate; level of effort; total)/Персонал (ставка; рівень зусиль; загалом)</b>			
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
Title,Labor Category - Name, Last Name (Full time / Short Term)/ Назва позицій - ім'я, прізвище (повний робочий день / короткостроковий контракт)	\$0.00	days	\$ -
<b>Subtotal Direct Labor</b>			<b>\$ -</b>
<b>Travel, Transportation &amp; Per Diem/Подорожі, транспорт та суточні</b>			
Airfare/Авіапереліт	\$0	0 trips	\$ -
Per Diem Meal/Харчування	\$0	0 days	\$ -
Per Diem Lodging/Проживання	\$0	0 days	\$ -
Travel Miscellaneous/Подорожі різне	\$0	0 trips	\$ -
Insurance/Страховання	\$0	0 people	\$ -
Local Ground Transportation/Місцевий наземний транспорт	\$0	0 days	\$ -
Communications/Зв'язок	\$0	0 trips	\$ -
<b>Subtotal Travel, Transportation &amp; Per Diem/Вартість подорожей, транспорту та суточних</b>			<b>\$ -</b>
<b>Other Direct Costs/Інші непрямі витрати</b>			
<b>Subtotal Other Direct Costs/Вартість інших непрямих витрат</b>			<b>\$ -</b>
<b>TOTAL ESTIMATED COST/ЗАГАЛЬНА ВАРТІСТЬ</b>			<b>\$ -</b>

\*LOE = Level of Efforts, budgeted number of days assigned for the work

Rate = fully loaded daily rate

Prices quoted must be valid for 60 days, and account for ALL remuneration, per diem, travel, communications, report reproduction and other out-of-pocket expenses, taxes and other costs,

but excluding the VAT tax that may be originated in **Ukraine**. On this basis Tetra Tech will issue a **Fixed Price Subcontract**, and payment shall be based upon acceptance of services and deliverables described in the Table 2.

**TABLE 2 – Payment schedule/Таблиця 2 – Графік платежу**

Offeror Deliverable	Expected Due Date	Fixed Price Payment Amount
1. 1st monthly report: detailing meeting and call engagement. (progress, engagement and status reports)	...	[20%]
2. 2nd monthly report: detailing meeting and call engagement. (progress, engagement and status reports)	...	[20%]
3. 3rd monthly report: detailing meeting and call engagement. (progress, engagement and status reports)		[20%]
4. Newly marked up versions of the PSAS following negotiations.		[10%]
5. Close out		[30%]

## ATTACHMENT C – REPRESENTATIONS AND CERTIFICATIONS

### Offeror Representations and Certifications

---

**1. Organizational Conflict of Interest Representation**

The offeror represents, to the best of its knowledge and belief, that this award:

does [ ] or does not [ ] involve an organizational conflict of interest.

*Please see FAR 52.209-8 for further explanation.*

**2. Data Universal Numbering System (DUNS) Number** *(required if cost proposal is more than USD \$30,000)*

--	--	--	--	--	--	--	--	--	--	--

*(please use one box per number or dash)*

**3. Source and Nationality of Goods and Commodities**

(i) This is to certify that the Offeror is:

- a. an individual who is a citizen or legal resident of \_\_\_\_\_.
- b. a corporation of partnership organized under the laws of \_\_\_\_\_.
- c. a controlled foreign corporation of which more than 50% of the total combined voting power of all classes of stock is owned by United States shareholders; or
- d. a joint venture or incorporated association consisting entirely of individuals, partnerships or corporations. If so, please describe separately the citizenship or legal status of the individuals, the legal status of the partnership or corporations, and the percentage (%) of voting power of the corporations.

(ii) This is to certify that the **Source** (the country from which a commodity is to be shipped from) of the Equipment to be supplied under this Order is:

*name of country or countries*

By signing below, the Offeror certifies that the representations and certifications made, and information provided herein, are accurate, current and complete.

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

Name of and title of authorized signature: \_\_\_\_\_



**ATTACHMENT D – CERTIFICATE OF CURRENT COST OR PRICING DATA**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to Tetra Tech in support of [Firm/Organization] are accurate, complete, and current as of [DATE]. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: \_\_\_\_\_

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