

Request for Proposals

RFP-UESP-2020-026

Activity Title: “Ad-Hoc Legal support for Electricity/Gas/DH Sector developments and analysis”

Issuance Date: September 14, 2020

Deadline for Receipt of Questions: September 22, 2020 14:00

Closing Date and Time: September 29, 2020 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

1. INTRODUCTION	3
2. OFFEROR'S QUALIFICATIONS	3
3. SOURCE, ORIGIN AND NATIONALITY RESTRICTIONS.....	3
4. SUBMISSION OF PROPOSALS	3
5. QUESTIONS AND CLARIFICATIONS.....	4
6. PROPOSALS PREPARATION INSTRUCTIONS	4
7. EVALUATION CRITERIA	7
8. TERMS OF PAYMENT	8
9. DUNS NUMBER AND SAM.GOV REGISTRATION	8
10. NEGOTIATIONS.....	8
11. MULTIPLE AWARDS/NO AWARD.....	8
ATTACHMENT A – TECHNICAL SPECIFICATION	9
ATTACHMENT B – DETAILED BUDGET	11
ATTACHMENT C – REPRESENTATIONS AND CERTIFICATIONS	12
ATTACHMENT D – CERTIFICATE OF CURRENT COST OR PRICING DATA	16

1. INTRODUCTION

The purpose of this RFP is to solicit proposals for **Ad-Hoc Legal support for Electricity/Gas/DH Sector developments and analysis** 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).

The Offeror shall provide **Legal support** detailed herein on an “as requested” fixed-price, Task Order basis to support the implementation of the above-mentioned project outcomes.

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).

3. SOURCE, ORIGIN AND NATIONALITY RESTRICTIONS

The USAID authorized geographic code for the Energy Security Project is 935 is defined as any area or country including the United States, the Cooperating 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 **September 29,2020** 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 **September 22, 2020** 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 communication 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. 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 time needed for the Offeror to allocate resources from the moment of receiving a task order.

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.

C. A staff that was engaged in the projects (tasks) listed in section D (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

D. 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

This RFP will result in an Indefinite Delivery / Indefinite Quantity subcontract with individual fixed price Task Orders issued for each piece of work based on the agreed deliverables.

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. 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.

c. Representations and Certifications

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

d. Non-government owned certification

Certification that company is not owned or controlled in total or in part by any entity of any government.

e. Certificate of current cost or pricing data

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

The successful Offeror must comply with conflict of interest (COI) provisions and not represent any party, or be part of any other engagement, that may potentially conflict with this assignment.

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 (70 points) and cost proposal (30 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 (70 POINTS)

Evaluation Criteria for Technical Proposal		Points
I.	Technical Approach	30
II.	Company Past Performance	40
TOTAL		70

FINANCIAL PROPOSAL (30 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:

$$S_f = 30 * F_m / F$$

where

S_f = financial Score of the proposal evaluated

F_m = 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 is **12 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 forty-five (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 **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: Ad-Hoc Legal support for Electricity/Gas/DH Sector developments and analysis

PERIOD OF PERFORMANCE: 12 months

PLACE OF PERFORMANCE: 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

Tetra Tech is looking to engage one or more local law firms to provide advice and guidance to the ESP on a wide range of legal issues on an as-needed basis.

This support shall be provided on an “as-requested” fixed-price, Task Order basis to execute the services outlined below. Each subsequent Task Order issued under IDIQ subcontract will include a detailed statement of work providing background information on the activities being implemented and specify expected results, required deliverables and due dates.

3. Scope of Work

- Conduct legal analysis and research on gas, electricity, heating sector reform matters and general energy-sector legislation/matters;
- Provide advice on different legal issues and assist in drafting legal opinions, memoranda and other briefing documents;
- To be actively involved in preparing and drafting of different primary and secondary legislative acts and legal submissions;
- Draw up formalities regarding the settlement of disputes and monitor the implementation of contractual legal clauses;
- Support and advise energy-sector teams (electricity, gas, renewables, district heating) in interpreting and applying legislation, regulations, standards, policies and guidelines in support of carrying out projects, assignments or files;



- Take part in representing before or negotiating with various organizations or external partners of the project;
- Keeping up to date the ESP team with legal matters that affect particularly work streams (electricity, gas, renewables, district heating) and energy sector;
- Perform other duties as assigned;

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

Cost element	unit cost	Total units**	cost
Total Direct Labor			
LABOR (rate; level of effort; total)*			
Partner	\$0.00	days	\$ -
Director	\$0.00	days	\$ -
Senior Manager	\$0.00	days	\$ -
Manager	\$0.00	days	\$ -
Senior consultant	\$0.00	days	\$ -
Consultant	\$0.00	days	\$ -
Senior Associate	\$0.00	days	\$ -
Associate	\$0.00	days	\$ -
Subtotal Direct Labor			\$ -
Travel, Transportation & Per Diem			
Airfare	\$0	0 trips	\$ -
Per Diem Meal	\$0	0 days	\$ -
Per Diem Lodging	\$0	0 days	\$ -
Travel Miscellaneous	\$0	0 trips	\$ -
Insurance	\$0	0 people	\$ -
Local Ground Transportation	\$0	0 days	\$ -
Communications	\$0	0 trips	\$ -
Subtotal Travel, Transportation & Per Diem			\$ -
Other Direct Costs/Інші прямі витрати			
Subtotal Other Direct Costs			\$ -
TOTAL ESTIMATED COST			\$ -

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

Rate = fully loaded daily rate

**Offerors should skip filling out this column. Tetra Tech will add estimated days for each labor position during cost evaluation

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**.

The successful offeror will be awarded an Indefinite Delivery Indefinite Quantity subcontract and will be issued individual, fixed-price Task Orders on an as-needed basis.

All work performed by the successful offeror will be compensated based on fixed-price deliverables and payment schedule issued in each Task Order.

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

4. 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Items.

(a) *Definitions.* As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(d) *Representation.* The Offeror represents that—

(1) It will, will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It does, does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);



(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

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: _____