Kansas Department of Agriculture
Division of Water Resources
Request for Proposals
Water Structures Program Dam Safety Regulatory Evaluation

July 28, 2022
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1.0 Introduction:

The Kansas Department of Agriculture, Division of Water Resources (KDA-DWR) has been charged with administering the Obstructions in Streams act, K.S.A. 82a-301 et. seq. since 1929. Under the obstructions in streams act, KDA-DWR Water Structures Program (WSP) regulates dams, stream obstructions other than dams, channel changes and dredging operations. The WSP also administers the Watershed District Act, K.S.A. 24-1201 et. seq. Additionally, the WSP regulates levees and floodplain fills under the levee law, K.S.A 24-126.

The National Dam Safety Program (NDSP) Act was established in 1996. In summary, the program was established to improve safety around dams by: 1) providing grants to state dam safety agencies to assist them in improving their regulatory programs; 2) funding research to enhance technical expertise as dams are built and rehabilitated; 3) establishing training programs for dam safety inspectors; 4) creating a national inventory of dams; 5) providing funding for breach analysis of dams; and 6) providing funding and materials to conduct seminars for information regarding ownership of dams. Each state must establish how to administer their regulatory programs.

This Request for Proposals (RFP) solicits proposals from vendors to provide a dam safety regulatory evaluation to the KDA-DWR Water Structures Program (WSP). This RFP provides vendors with the relevant information needed to submit the proposal.

1.1 Purpose:

The KDA-DWR will select a consultant to evaluate the effectiveness of the WSP regulatory program. The objective is to select the vendor which most fully meets the requirements identified in this RFP, has proven history of success with similar projects, and is competitively priced. Within the RFP, vendors will find all the information necessary to do a proper assessment of the KDA-DWR requirements. Service providers are invited to respond to this RFP by describing how they can meet the requirements set out in this RFP and by providing other information. Responses to this RFP will be used to qualify service providers for the final evaluation and price negotiation phases of the selection process.
1.2 Scope of Work:

The objective of the evaluation is to compare the WSP’s regulatory process to other states, national averages, and industry standards and give recommendations, with supporting documentation, to the WSP on changes that are needed for more efficient and effective protection of life and property.

1.2.1 Project Goals:

Project goals for the study should include, but not be limited to, recommendations on the topics listed below. Examples given are not intended to be the complete scope of the goal. Vendors that intend to add additional goals are encouraged to do so with a detailed narrative of the proposed goal in the proposal.

1) Thorough evaluation of the current statutory and regulatory framework to determine necessary changes to be more consistent with other high-performing states, providing more service and protection to Kansas citizens. The following need to be addressed in the evaluation, but do not constitute an exhaustive list of questions: What is the appropriate size of a regulated dam? Is there a need to assess civil penalties for not complying with statutes and regulations? Is the size of the WSP staff adequate to appropriately handle the statutory requirements? Are salaries of WSP adequate to attract and retain qualified engineers?

2) How to incorporate risk-based decision making into the dam safety inspection schedules of existing or new dams. Recommendations on the frequency and requirements of safety inspections. For example, should a licensed professional engineer be required to perform the inspections, or could the licensed engineer review inspection reports from other trained staff? Likewise, should the frequency and items covered under a required inspection vary based on the age, hazard class, and geographic location of the dam?

3) Evaluation of the need to regulate significant hazard potential (SHP) and high hazard potential (HHP) dams. For example, currently there are SHP and HHP dams in Kansas; does this meet the intent of the NDSP Act or current Kansas statute?

4) Evaluation of the need to regulate low hazard potential (LHP) dams. Currently, there is very minimal oversight to LHP dams after review and approval is granted for construction. What, if any, challenges does this present to urbanizing areas of the state and how should the WSP address these challenges?

5) How should liabilities be assigned among dam owners, downstream landowners and developers? For example, should zoning requirements apply within a breach inundation area or who should be responsible for the upgrade of a dam when development occurs downstream? What approach or standards are used by other states with similar situations?

6) Evaluation of the Watershed District Act, K.S.A. 24-1202 et. seq. For example, are all of the current statutory requirements being met by the WSP and local watershed districts? Is there enough public accountability?
1.2.2 Deliverables:

The selected vendor will provide the WSP with three bound copies of the study, recommendations, and all supporting material that led to the recommendations. Additionally, an electronic version of the study, recommendations and supporting materials will be provided to the WSP.

2.0 Vendor Instructions:

2.1 Background:

This RFP is open to all organizations interested in providing a proposal. The RFP identifies WSP requirements in sufficient detail in order to identify a preferred vendor.

2.2 General Instructions:

Vendors are requested to consider the following instructions when preparing their responses:

- All vendors are invited to respond to this RFP.
- Vendor responses must be valid for 6 months from the date of submission.
- Vendors must be commercially bound to their response.
- Vendors must address all items specified in this RFP.

Submission of proposals shall constitute evidence that the vendor has made all the above-mentioned examinations and is free of any uncertainty with respect to conditions that would affect the execution and completion of the project.

2.3 RFP Changes, Binding Bid Process:

The KDA-DWR reserves the right to negotiate any or all RFP terms and conditions, and to cancel, amend or resubmit this RFP in part or entirety at any time. This RFP has been issued exclusively for providing adequate qualifications to perform a WSP dam safety regulatory evaluation for the KDA-DWR in order to receive a proposal for this project from vendors. While one or more vendors may be selected as candidates, and the KDA-DWR may negotiate a vendor contract with one or more respondents, the KDA-DWR reserves the right to reject any or all of the responses received for any reason or no reason, and to decline negotiating and signing a vendor contract with any vendors responding to the RFP regardless of whether any vendor's response is partially or fully accepted or rejected, or contains the highest or lowest mark-up or price, or the most timely services delivery commitment, or whether a vendor responds with a no-response notice or has an existing contract with the KDA-DWR, and regardless of any other matter. The KDA-DWR further reserves the right to negotiate with any vendor who does not receive this RFP. Accordingly, responses should be submitted in the terms most favorable to the KDA-DWR. The KDA-DWR will consider vendor responses as binding offers by vendor.

2.4 Disqualification:

Statements known to be, or subsequently found to be, inaccurate or misleading may disqualify the vendor from further participation in the evaluation process.
2.5 Structure of the Response:

All responses to this RFP must follow the structure given below:

- Executive summary
- Company profile
- Similar experience and customer references
- Understanding of requirements / scope of work
- Vendor eligibility criteria
- Implementation approach
- Pricing details

2.6 Schedule:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP distribution</td>
<td>August 1, 2022</td>
</tr>
<tr>
<td>Questions from vendors about scope due</td>
<td>August 19, 2022</td>
</tr>
<tr>
<td>Responses to vendors about scope due</td>
<td>August 26, 2022</td>
</tr>
<tr>
<td>Proposal due</td>
<td>September 1, 2022</td>
</tr>
<tr>
<td>Selection of vendors for oral presentations</td>
<td>September 9, 2022</td>
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<tr>
<td>Final vendor(s) selection</td>
<td>October 3, 2022</td>
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<tr>
<td>Anticipated start date</td>
<td>November 1, 2022</td>
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<tr>
<td>Anticipated completion date</td>
<td>June 1, 2023</td>
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</tbody>
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2.7 Contacts:

Any questions concerning technical specifications, scope of work, or contractual terms and conditions should be directed to:
Terry Medley, P.E.
1320 Research Park Dr.
Manhattan, KS  66502
785-564-6657
Terry.Medley@ks.gov

Responses to the RFP are due September 1, 2022. Please submit the response in electronic format to:
Terry Medley, P.E.
1320 Research Park Dr.
Manhattan, KS  66502
Terry.Medley@ks.gov
2.8 Evaluation Criteria:

Any award to be made pursuant to the RFP will be based upon the proposal with appropriate consideration given to evaluation criteria, cost and management requirements. Evaluation of offers will be based upon the vendor’s responsiveness to the RFP and the total price quoted for all items covered by the RFP.

Proposals must address all the items identified in the RFQ. All proposals will be evaluated based on the following criteria:

- Completeness of the proposal
- Experience and past performance of similar tasks
- Total cost
- Financial stability of the company
- Flexibility of the proposed evaluation
- Oral presentation

The KDA-DWR does not represent that these are the sole criteria and reserves the right to adjust the selection criteria at any time.

2.9 Awarding of Contract:

The KDA-DWR is not bound to accept the lowest proposal and is not obliged to give a reason for rejecting a proposal. Prospective suppliers are advised that nothing in this documentation, or in any communication between the KDA-DWR and any other party, shall be taken as constituting a contract, agreement or representation between the KDA-DWR and/or any other party, except for a formal award of contract made in writing by the KDA-DWR. Neither shall it, or they, be taken as constituting a contract, agreement or representation that a contract shall be offered.

Please note that the KDA-DWR reserves the right to vary the number of vendors invited to interviews and presentations, or dispense completely with this part of the process, at its sole discretion. The KDA-DWR reserves the right at all points in the procurement process either not to select a candidate to go forward to the next stage, or following completion of the procurement process, not to make any award of contract. The KDA-DWR has prepared this RFP in good faith and excludes any liability (whether in contract, negligence or otherwise) for any incorrect or misleading information contained in this RFP.

3.0 Vendor Eligibility Criteria:

The business enterprise must currently be incorporated, or registered as a company (corporation, limited, partnership) and be able to demonstrate that it has been and is offering goods/services under the business name for a period not less than 5 years. Sole Proprietors/Independent Contractors must be able to demonstrate that they have been engaged in their business activity for not less than 5 years.
4.0 Pricing Details:

All prices quoted by the vendor must be fully itemized, in U.S. dollars, and inclusive of all taxes and all expenses. The KDA-DWR expects to contract with the vendor on a fixed price basis for all components of the study. We expect the vendor to quote a fixed price for:

- Evaluation of each of the project goals
- All deliverables

Please clearly identify all assumptions made when producing these prices.