



REQUEST FOR PROPOSALS – LOWER DUWAMISH SUPERFUND COST ALLOCATOR

I. INTRODUCTION

The City of Seattle, King County, the Port of Seattle, and Boeing (together the Lower Duwamish Working Group, or LDWG) are requesting proposals from individuals or organizations to serve as the Allocator to apportion liability under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Washington State Model Toxics Control Act (MTCA) among the LDWG members and other potentially responsible parties (PRPs).

II. BACKGROUND

The four LDWG parties have been investigating the environmental contamination in the Lower Duwamish under an Administrative Order and Settlement Agreement issued jointly by the Environmental Protection Agency (EPA) and the Washington Department of Ecology in 2000. EPA expects to issue a Record of Decision in early 2014, setting forth cleanup requirements. In anticipation of the Record of Decision, LDWG and other PRPs want to participate in a voluntary, non-binding alternative dispute resolution process to allocate shares of liability. The process will require an Allocator, who will be responsible for allocating past costs and liability for future costs among the parties. LDWG is seeking a qualified person or organization to provide such services.

III. SCOPE OF SERVICES

LDWG seeks an individual or organization experienced in developing allocations of liability for complex sites under CERCLA. LDWG has developed and agreed upon an allocation

process to be implemented by the Allocator. That process involves thirty or more parties responding in writing to a questionnaire, sharing documentary information, and submitting written papers to the Allocator. The submissions to the Allocator will include expert reports and large quantities of documents. The Allocator will not be investigating independently and will not be building a document database for use by the parties. The Allocator also will resolve legal disputes between the parties, such as whether a contract shifts liability from one to another. The process would commence sixty days after EPA issues its Proposed Plan or April 15, 2013, whichever is sooner. The entire process must be completed no later than eighteen months after EPA issues the Record of Decision (ROD), which is currently anticipated in early 2014.

IV. MINIMUM QUALIFICATIONS

LDWG has established minimum qualifications that must be met in order to be considered under this RFP. Any individual or entity that does not demonstrate the minimum qualifications in its response will not be considered for final interviews or contract award. A candidate may propose to hire specific subcontractors with expertise needed to meet the minimum qualifications.

The minimum qualifications are:

- Experience in developing cost allocations for complex sites under CERCLA.
- Expertise and capacity to evaluate the parties' written submissions, including reports by experts and large volumes of documents.
- The Allocator or a member of the Allocator's team must be an attorney with significant experience in litigation or allocation under CERCLA.

V. PROPOSAL CONTENT

Proposals must fully respond to each of the requests below. Failure to fully respond may disqualify your proposal. LDWG reserves the right, however, to request clarification, to waive immaterial variations, or to consider proposals that vary from the following scope, as determined in the discretion of the LDWG.

1. In five double-spaced pages or less, explain why you or your organization should be considered for this work. Be sure to include a description demonstrating all aspects of your experience developing cost allocations for complex sites under CERCLA.
2. Provide a summary of the qualifications and experience of the specific individual(s) who will comprise the team providing services under this engagement, including demonstration of the minimum qualifications. Identify the Allocator and the role of each additional person. If you propose to hire subcontractors, provide the same information for the individuals in the subcontracted entity that will work on this project.
3. Provide a copy of the resume of each individual who is proposed to be part of the team providing services. If available, an organization or individual brochure also should be included.
4. Provide at least two references who participated in prior allocations that the proposed Allocator performed. Provide the contact person's name, agency, address, and telephone number for each reference.
5. Disclose any potential or actual conflicts of interest. "Conflict of interest" shall have the meaning as described in the Washington Rules of Professional Conduct for attorneys.
6. List the hourly rates of each individual who will provide services under this contract, and the hourly rates of any other personnel for whom hourly rates will be charged. The hourly rate quoted should include all salary, compensation, and employee-related overhead costs. Indicate what, if any, expenses or costs you propose to bill in addition to the hourly fees and the basis for the charges for such expenses. If rates will be adjusted at any time during the course of representation, the method for such adjustment should be identified.

7. Describe any particular payment provisions that you propose, such as retainers, bonuses for timely completion of the services, or penalties for exceeding the time frame (completion of the allocation process no later than eighteen months after EPA issues the ROD).
8. LDWG may request that the successful candidate provide evidence of Professional Liability (E&O) insurance. List any such policy maintained by you or your organization, and for each, include (a) whether it contains a minimum limit of liability of \$1,000,000 each claim and \$2,000,000 in aggregate to cover the organization, its employees, and others retained by your organization; (b) whether, if coverage is to be provided on a claims-made basis, your organization will warrant that any policy retroactive date precedes the effective date of the contract; and (c) whether you or your organization will maintain continuous coverage throughout the contract term and for one year beyond the contract term.
9. LDWG will not guarantee any volume of work; however, proposals may propose alternative fee arrangements based upon the volume of work or other factors.
10. All costs of responding to this RFP and traveling for an interview shall be the sole responsibility of the proposers.

VI. SERVICES AGREEMENT

LDWG will select one candidate to provide the Allocator services described in Section III – Scope of Services. The selected candidate will be asked to execute a consultant agreement, according to the applicable City of Seattle contracting requirements, prior to commencing any services. If unable to reach agreement with the candidate initially selected, LDWG may terminate contract negotiations and select and negotiate with the candidate with the next highest ranked proposal. Additionally, LDWG reserves the right to reject all proposals.

VIII. WASHINGTON STATE PUBLIC RECORDS ACT

Under RCW Chapter 42.56 (the *Public Records Act*) all materials received or created by the City of Seattle are considered public records. These records include, but are not limited to, proposal submittals and agreement documents. Under the Public Records Act, the City is required to promptly make public records available upon request. However, under Washington State Law some records or portions of records are considered legally exempt from disclosure. A list and description of records identified as exempt by the Public Records Act can be found in RCW 42.56 and RCW 19.108. If you believe any of the records you are submitting to the City as part of your proposal are exempt from disclosure, you can request that the City notify you before releasing the records. To do so, you must very clearly and specifically identify each record and the exemption(s) that may apply.

If the City receives a public disclosure request for any records you have properly and specifically identified and claimed as exempt from disclosure, the City will notify you in writing of the request. It will be up to you up to seek a court injunction to bar the City from releasing the records (reference RCW 42.56.540). The City will NOT assert an exemption on your behalf.

IX. PROPOSAL FORMAT, DELIVERY, AND OTHER REQUIREMENTS

Proposals must be received by **5:00 p.m. Pacific Time on November 27, 2012**. Late proposals will not be considered. Submit one original and eight hard copies of your proposal organized in divided sections with numbers that correspond to the numbered sections under “Proposal Content” above. Proposals must be signed by the individual proposer or by an authorized representative of the organization, and they should identify a primary contact for LDWG communications to the proposer, including an email address for communications regarding requests for clarification.

Proposals may be hand delivered to:

Laura Wishik
Seattle City Attorney’s Office
Seattle City Hall
600 Fourth Ave., 4th Floor

Seattle, WA

Proposals may be mailed to:

Laura Wishik

Seattle City Attorney's Office

P.O. Box 94769

Seattle, WA 98124-4769

All proposer inquiries or communications regarding this RFP must be sent via email to:

Name: Michele Worthy

Email: Michele.Worthy@Seattle.gov

Please note that if the City receives questions requesting clarification or further instructions regarding this RFP, the City may, in its discretion, post both the inquiry and any response on the City's website as an addendum to this RFP.

X. METHOD OF PROPOSAL EVALUATION AND FINAL SELECTION

The evaluation committee will include at least one representative from each of the four LWVG parties to evaluate all properly submitted proposals. The committee will initially screen the proposals and will exclude any proposals that do not demonstrate the minimum qualifications. The committee will evaluate the remaining candidates based upon the quality of the written proposals and the factors below, and will select one or more candidates for an interview in person. The committee will prepare an evaluation report and recommendation to their respective decision-makers, who must agree on the person or organization selected. All proposers will be contacted in writing upon the selection of the successful proposer.

Selection will be subject to applicable laws and ordinances regarding equal employment opportunity.

The primary factor the evaluation committee will use to select a proposer will be the anticipated quality of services relating to the requested scope of work as demonstrated by the written materials, references, and personal interview. The factors considered when evaluating proposers for final selection will be as follows:

- a) Past experience of the candidate and his or her team in providing allocation services for complex sites under CERCLA, as demonstrated through written materials and responses to interview questions;
- b) References from parties who participated in allocations by the candidate, indicating the candidate is competent to address complex sites, able to move the process forward within a reasonable time frame, able to contain costs and avoid unnecessary procedures; and
- d) The candidate's fees and billing policies should be commensurate with the candidate's qualifications and experience; however, LDWG is not required to select an Allocator based upon the lowest price.

XI. SCHEDULE

LDWG anticipates the following schedule for review and evaluation of proposals:

October 29 & November 1, 2012:	RFP publication
November 27, 2012:	Proposals must be received by 5:00 p.m. Pacific Time
December 17, 2012:	Interviews of leading candidates
December 18, 2012:	Completion of candidate interviews, if necessary
December 20, 2012:	Selection decision

LDWG reserves the right to modify the schedule, and it will use its best efforts to keep all proposers informed regarding changes to the schedule.

XII. LDWG'S RESERVATION OF RIGHTS

LDWG reserves the right to reject any and all proposals and to waive immaterial irregularities in its sole discretion. This Request for Proposals and any resulting contract shall not be construed to confer any exclusive benefit to a proposer to provide Allocator services to LDWG. Depending upon its needs, LDWG may elect to use another individual or company to provide the services described in this Request for Proposals, including individuals or companies

that do not submit a proposal in response to this Request for Proposals, consistent with Seattle Municipal Code Chapter 20.50.