



EEP Survey on the Full-Delivery RFP Process

Summary of Comments Received and Changes Made to Process

The Ecosystem Enhancement Program on July 18, 2005 sent a survey to all companies that have worked with the program providing compensatory mitigation through the full-delivery process (FDP). EEP received thorough, constructive responses to the questions asked from nine (9) companies. These responses are presented below in summary form in the following section. Subsequent to the response summary is a section that describes what changes the program has made to the process based on the input received, as well as a section that provides responses to comments that did not lead to a revision to the EEP Requests For Proposals.

Summary of Comments

- 1) Are you satisfied with the methods of advertisement of the Request for Proposals (RFP); Interactive Purchasing Service website; EEP website; advance notification?**

Responses to this question were generally positive.

- 2) What do you think about the format of the RFP? Is there enough information given?**

Responses to this question were generally positive but specific comments that recommended improvements for clarity (i.e. note changes from last RFP, show mitigation need on front page) were offered. In addition, some indicated that the issue of inclusion or exclusion of hydrologic units related to project consideration were confusing.

- 3) Do you believe the Pre-Bid meeting provides value to the process?**

This question prompted mixed responses. While everyone believed that it's important to have a chance to ask questions, many did not feel that the pre-bid meeting was necessary to accomplish this. Email was noted as a good method of communication.

- 4) What, if anything, could be changed to improve the site visit portion of the process?**

Several ideas were offered in response to this question. They include:

- ⇒ Allow for open dialogue between reviewers and bidders
- ⇒ EEP staff should be familiar with type of mitigation proposed
- ⇒ People making contract decisions should see the sites
- ⇒ More schedule flexibility
- ⇒ Add regulatory personnel

5) What do you think about the overall delivery time of the process (site search time, contract execution time, proposal/bid opening session lengths)?

In response to this question, a number of suggestions were noted. Predominantly, there was an interest in having more time up front to find restoration sites and shortening the bid/contract stage.

6) Do you have any suggestions for formatting of deliverables (technical proposal, conservation easements, restoration/mitigation plans)?

The most notable comments in response to this question were related to conservation easements. A desire to have more flexibility with easement language and allowance for the easements to be held by entities other than the State were expressed.

7) How does EEP perform during the overall process? Turnaround time in review of deliverables?

Responses to this question generally noted recent improvements to turnaround times on contracts and payment of invoices.

8) Do you have any suggestions on how EEP can structure the RFP to provide a higher quality of mitigation at a lower cost?

The following suggestions were offered in response to this question:

- Provide a more favorable payment release schedule
- Hire specific firms to handle a specific part of the state (region) to prevent multiple firms from competing for easements with the same landowner
- Allow for combinations of types of mitigation to be bid together to generate economies of scale
- Proposals located in targeted watersheds should be better rewarded
- Allow for full-delivery in LWP areas
- Eliminate exclusion areas
- Bonding cost should only cover those tasks it is responsible for (3-6),
- Companies should be reimbursed for investment in site searches regardless of whether they were awarded a contract
- Contract advertised quantities of mitigation regardless of changes in DOT's mitigation needs

9) **List any other comments or concerns; provide any solutions if possible.**

Comments received in response to this question that have not already been summarized previously, included:

- EEP should define a price cap so that companies will know what costs would lead to a decision not to contract
- EEP should have a policy to not pursue projects identified as part of a full-delivery response but not awarded
- DENR DP&S and DOT should have more decision-making power
- EEP has a bias toward contracting with “engineering firms”

Changes Made to Full-delivery Process

In response to the comments received through the survey solicitation as well as internal programmatic considerations, EEP has made the following changes to the RFP process:

1. *Conservation Easements* – Provider must be original grantee and convey easement to EEP. This requirement protects the State from being attached to a direct payment for land outside of the SPO processes, confirming our award pertaining to credits delivered and not land acquired. Because the State will have ultimate responsibility for the long-term stewardship of properties acquired for compensatory mitigation, the State must hold those properties.
2. *Progress toward achieving contracted mitigation* – New language in the RFP requires the offerer to report on the project development in relation to its meeting regulatory definitions of mitigation. This will allow EEP to ensure that the program is on target for compliance accepted mitigation requirements. EEP will also increase site inspections over the next year.
3. *Bonding* – EEP has made significant changes to the bonding requirement for full-delivery projects that should reduce the overall project cost. There are no bonds required for Tasks 1 and 2, the construction bond has been reduced to 55% (from 75%) and no monitoring bond is required.
4. *Pre-bid meeting* – A pre-bid meeting will still be offered for those who wish to attend, but it will not be mandatory as it has been in the past.

Additional Comments on Responses to the Survey

Some comments that were received in response to the survey did not result in changes to the FD RFP process. The following explanations are offered related to those comments:

- Exclusion areas: some responses commented on confusion associated with exclusion areas and also noted that there should be none. EEP had changed the ‘exclusion’ areas to ‘inclusion’ areas in order to direct companies toward geographic regions as opposed to away from them. Although this was an attempt to provide some clarity on this issue, that was not the outcome. EEP will go back to expressing what areas are excluded from particular solicitations. Just as some

- comments from survey respondents indicated an interest in moving toward assigning companies to specific regions in which to work to reduce bidding wars with landowners, EEP requires providers not to seek projects in geographic areas in which the program is actively engaged in project development and procurement. To allow full-delivery providers in areas of active engagement by the program would put EEP in competition with itself on projects.
- Reimbursement for site searches: EEP recognizes that companies invest significant resources into developing and submitting proposals in response to RFPs. Sometimes these investments do not result in an awarded contract. But, because the FD process is set up to be competitively based, in part to allow the market to influence project costs, the program does not believe that reimbursement for site searches is in the best interest of the program or in the spirit of the FD process in general. Such costs are part of general overhead expenses.
 - Contract advertised mitigation quantities: During one of the FD processes, EEP contracted for substantially less mitigation than it had sought through advertisement. Some comments received noted that the program should stick to the advertised numbers for contracting. EEP's largest mitigation client is the NCDOT, due to changes in their Transportation Improvement Program, their mitigation needs can fluctuate. Because of our partnership with the NCDOT, EEP must respond to data that indicates mitigation needs have changed. EEP will continue to work with the NCDOT to try to minimize large fluctuations in the program's mitigation targets which should address concerns about discrepancies between advertised numbers and contracted numbers. EEP will, however, remain responsive to changes communicated by the NCDOT.
 - Price caps: Some issues were raised regarding maximum prices that EEP would pay for mitigation. Our position is that there is no price cap that can be applied universally as each site is unique. EEP has a fiduciary responsibility to the state to evaluate cost reasonableness regarding awards.
 - Field reviews: Some issues were raised regarding the adequacy of field reviews of proposed sites. EEP will continue to work to improve the evaluation of sites in the field based on the comments received. In general, these reviews appear to be functioning appropriately.

Many thanks to everyone who provided feedback to EEP in response to the survey! We look forward to continuing to work with our partners in the private sector on the delivery of high quality restoration projects to improve North Carolina's natural resources.