



Citizens Advisory Board
Idaho National Engineering and Environmental Laboratory

DRAFT REQUEST FOR PROPOSAL FOR MANAGING AND OPERATING THE IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY

INTRODUCTION

The Idaho National Engineering and Environmental Laboratory (INEEL) Citizens Advisory Board (CAB) reviewed the draft Request for Proposal (RFP) for Managing and Operating the INEEL as posted on the U.S. Department of Energy, Idaho Operations Office (DOE-ID) Internet homepage. We appreciated the opportunity to review the draft RFP and to provide comments to DOE-ID on how we think the draft RFP might be revised. We hope that the public review period will contribute to your efforts to ensure that the final RFP accurately reflects the situation at the INEEL.

We focused our review on Section C “Description/Specification/Work Statement,” Section L “Instructions, Conditions, and Notices to Offerors,” and Section M “Evaluation Factors for Award.” Our overall goal is to help ensure that the procurement process can result in selection of the highest quality contractor possible for the INEEL. The following are our recommendations for improvements to the draft RFP that could be made before it is released to prospective bidders.

We have four general comments that do not apply to specific sections of the draft RFP, but rather have broader implications. They are listed first. The rest of our comments address the wording in specific locations in the draft RFP. Each of the specific recommendation is accompanied by references to the location in the draft RFP that apply. Most include comments to help ensure that the rationale for the recommendation is well understood. We encourage DOE to make additional changes based on the specific recommendations, as appropriate, to ensure that the final RFP is internally consistent.

RECOMMENDATION

Comment: The INEEL CAB notes that the public rarely understands the manner in which the contractor is paid for performance at the INEEL. **Recommendation:** Due to the misperceptions among the public about how the contractor is paid for services at the site, the INEEL CAB recommends that the fee structure and the basis for fee calculations be clearly communicated whenever possible, including each time the fee is awarded. In addition, the CAB believes that the fee structure should be incentivized to the extent possible to help ensure that the public does not conclude that the contractor is being awarded extraordinary amounts of money for mediocre performance.

Comment: The INEEL CAB believes that there should be no reduction in the overall compensation to employees simply as a matter of course with the changeover in the site contractor. **Recommendation:** The INEEL CAB recommends DOE encourage potential bidders to demonstrate a commitment to a continuing current salary and benefits packages for the existing workforce.

Comment: The INEEL CAB hopes potential bidders will maximize their teaming arrangements and resources to take the fullest possible advantage of existing human infrastructure and facilities at the INEEL. **Recommendation:** The INEEL CAB recommends that DOE encourage bidders to outline how they intend to expand upon the existing and historic resources of the site.

Comment: The INEEL CAB is concerned about the site contractor being “squeezed” when decisions and documents under DOE’s control are delayed. One example arose during review of the text in attachment C-A-1, Section (a) (4), which notes that the High-Level Waste Environmental Impact Statement (EIS) and the Record of Decision (ROD) are DOE responsibilities. If either the EIS or the ROD is delayed, the contractor should be afforded a commensurate slip in its schedules. **Recommendation:** The INEEL CAB recommends that any delay in documents or decisions that are DOE responsibility should result in day-for-day slippage for all subsequent related deliverables under the Contractor’s responsibility.

Location: Section C.2 (a) (iv), page C-3. **Comment:** On the fourth line on the page, there is a sentence that states “The Contractor shall provide general management and operating oversight . . .” The last sentence in the same paragraph uses the term “oversight” again. The INEEL CAB feels the term should be reserved for describing the activities of DOE-ID and the regulators. **Recommendation:** The INEEL CAB recommends use of a different term. We suggest that the first instance could be changed to read “. . . Contractor shall provide general and operating management . . .” The second could be changed to “. . . the Contractor is responsible for the control of operation . . .”

Location: Section C.2 (a) (v), page C-3. **Comment:** The Draft RFP states that the Contractor will be required to delay execution of work until approval of a detailed Annual Work Plan delineating the scope of work to be performed under projected available funding. This will result in delays and unnecessary complexity in the conduct of the work. Is this cumbersome process really necessary? **Recommendation:** The INEEL CAB recommends that the Contractor be allowed to proceed with execution following approval of an outline of the Annual Work Plan.

Location: Section C.2 (b), page C-3. **Comment:** The final sentence in the paragraph encourages bidders to use a “graded approach.” **Recommendation:** The INEEL CAB recommends the addition of a definition for the term.

Location: Section C.3 (a), page C-4, and Attachment C-A-1, Section (a) (2), page C-8. **Comment:** Section C-4 states that the Subsurface Disposal Area (SDA) covers 97 acres; the description of the SDA in Attachment C-A-1 states that it is 89-acres in size. Which description is correct? **Recommendation:** The INEEL CAB recommends consistency and accuracy.

Location: Attachment C-A-1, Section (a) (2), page C-8, second full paragraph on the page, last sentence. **Comment:** This sentence states “The Contractor is expected to evaluate performance of technologies and make recommendations to support decision-making, as well as be responsible for successful implementation of the cleanup activities.” **Recommendation:** The INEEL CAB recommends that the RFP clearly identify the various levels of decisions that occur within the cleanup program and clearly state the roles and responsibilities of DOE and the Contractor regarding each level of decisions.

Location: Attachment C-A-1, Section (a) (2), page C-8, third full paragraph on the page, last sentence. **Comment:** This sentence states that “The Contractor will be encouraged to propose innovative technological approaches to achieve cleanup needs in a cost-effective manner.” The INEEL CAB wonders who will be responsible for implementing the cleanup actions if the Contractor is only responsible for proposing approaches. **Recommendation:** The INEEL CAB recommends that the Contractor be given responsibility for implementing innovative technological approaches, not just for proposing those approaches.

Location: Attachment C-A-1, Section (a) (3), page C-9, first three paragraphs. **Comment:** The description of the Idaho Settlement Agreement refers to major milestones for spent nuclear fuel. The INEEL CAB believes there are intermediate milestones that will be of concern to the bidders. **Recommendation:** The INEEL CAB recommends that information related to all significant and relevant intermediate milestones under the Idaho Settlement Agreement, and all other enforceable agreements, be included in the appropriate sections.

Location: Attachment C-A-1, Section (a), last paragraph (5), page C-10, second paragraph in the section, and Table C-A-3, page C-21. **Comment:** The CAB has previously recommended against closing the Waste Experimental Reduction Facility (WERF) until the Advanced Mixed Waste Treatment Facility (AMWTF) is fully operational and available to process mixed low-level (MLLW) not already in the bermed storage area (which is covered by the existing contract for the Advanced Mixed Waste Treatment Project contractor). Why is DOE planning to close WERF down? **Recommendation:** The INEEL CAB recommends that the Request for Proposal not include dates for closure of WERF but rather require that WERF not be closed down until after the AMWTF is operational and can accept non-bermed MLLW in addition to bermed waste. Likewise, the dates for conducting closure activities at WERF should not be specified.

Location: Attachment C-A-1, Section (a) , (5), pages C-10 and C-11. **Comment:** The sentence that reads “In cases where the AMWTF cannot provide treatment, the Contractor is responsible to obtain treatment, which is compatible with off-site disposal.” It is not clear that the contractor will be able to obtain treatment of MLLW if WERF has closed down and AMWTF cannot provide treatment. At this point in time there does not appear to be any incinerator facility available for treatment of MLLW from the INEEL. Neither the Oak Ridge incinerator that is currently certified to accept Toxic Substances and Control Act listed wastes nor the Consolidated Incineration Facility at Savannah River Site will accept offsite waste. A planned facility for Hanford is expected to be very small and has not yet been funded. **Recommendation:** The INEEL CAB recommends deletion of the sentence as the Contractor cannot be responsible for that which is outside its control. Alternatively, the sentence might be modified to state that “the contractor shall use its best efforts to obtain treatment.”

Location: Attachment C-A-1, Section (a) (5), page C-10. **Comment:** This and several other sections of the RFP include the sentence “In addition, the Settlement Agreement provides enforceable milestones for removing, from Idaho, any waste currently stored at the INEEL.” That statement is untrue for LLW and MLLW. **Recommendation:** The INEEL CAB recommends that the sentence should be deleted from all sections which address wastes for which it does not in fact apply.

Location: Attachment C-A-1, Section (a) (5), page C-11, second full paragraph. **Comment:** The INEEL CAB has recommended in the past that low-level waste and MLLW should only be disposed in the SDA if it will not have to be excavated under the Record of Decision for cleanup of the Radioactive Waste Management Complex (RWMC). **Recommendation:** The INEEL CAB recommends that the first sentence be changed to say “The Contractor is responsible for disposal at the RWMC of low level waste generated on site that will not require retrieval.” The word “disposal” should be inserted between waste and options in the next sentence.

Location: Attachment C-A-1, Section (a) (6), page C-11, second paragraph. **Comment:** It is not clear that the Contractor can be held responsible for maintaining the schedule of shipment of 3,100 cubic meters to the Waste Isolation Pilot Plant in compliance with the milestones under the Idaho Settlement Agreement for shipment of transuranic waste currently at the INEEL. The current Waste Acceptance Criteria (WAC) for WIPP and the Draft Resource Conservation and Recovery Act (RCRA) Part B Permit (issued by the New Mexico Environment Department) for WIPP will not allow acceptance of the entire volume of waste currently in the SDA. It is likely that the costs involved in certifying 3,100 cubic meters per year to meet the present WIPP WAC and RCRA permit criteria would be excessive. **Recommendation:** The INEEL CAB recommends that the wording be clarified because we believe the Contractor cannot be held responsible for doing something that is beyond its control.

Location: Attachment C-A-1, Section(c) (1), page C-13. **Comment:** The section includes a statement reading “Current and planned projects at the INEEL will require the site infrastructure to exist for at least 30-50 years.” The planning basis for all environmental restoration activities has been set at 100 years and DOE has committed to maintaining institutional controls for this period of time. **Recommendation:** The INEEL CAB recommends that the RFP be changed to be consistent with the INEEL Comprehensive Facilities and Land Use Plan, which established the 100-year planning basis.

Location: Attachment C-A-1, Section(c) (4), page C-13. **Comment:** The section addresses “reindustrialization.” **Recommendation:** The INEEL CAB recommends that the term be defined.

Location: Attachment C-A-2, Section (a), page C-22. **Recommendation:** The INEEL CAB recommends the inclusion of development of international missions and work for foreign governments under the description of laboratory development efforts.

Location: Attachment C-A-2, Section (b) (2), page C-22. **Comment:** The statement “the appropriate federal role to maximize the national investment in currently operating nuclear

power plant” is not clear. **Recommendation:** The INEEL CAB recommends that the statement be clarified in the final RFP.

Location: Attachment C-A-2, Section (b) (2), page C-22 and Attachment C-A-2, Section (b) (3), page C-23. **Comment:** The text under Section (b) directs the contractor to “expand its leadership position in nuclear energy research and development” and to increase “support for the Nuclear Energy Research Initiative.” The text under Section (c) fails to direct the contractor to take a similar, aggressive approach to growth. This discrepancy is counter to the current trend in energy-related funding. It may limit the laboratory’s ability to move into new research areas. If the INEEL does not aggressively pursue non-nuclear energy projects, other national laboratories will grow at our expense. **Recommendation:** The INEEL CAB recommends that the section on non-nuclear energy provide similar direction to establish leadership in growth areas for energy research.

Location: Attachment C-A-2, Section (c) (2), page C-24, second full paragraph. **Comment:** The draft RFP describes the activities of the Office of Transportation Technologies. **Recommendation:** The INEEL CAB recommends that the final RFP include provisions for development of packaging and shipping radioactive waste transportation technologies somewhere in the description of the scope of work.

Location: Attachment C-A-3, Section (a), page C-26. **Comment:** The INEEL CAB wonders why DOE is so supportive of the existing Integrated Safety Management System, the Voluntary Protection Program, and the Enhanced Work-Planning system. If those programs were as effective as they should be, we question how the recent fatality occurred. **Recommendation:** The INEEL CAB recommends that the section begin with a broad statement of overall safety philosophy, such as “The existing safety programs in place or being developed by the previous contractor should be implemented and maintained under the new contract to avoid any loss of continuity. Enhancements of these programs may be implemented as circumstances warrant.”

Location: (Same as above). **Comment:** In addition, the safety programs are described as “existing” and “validated.” The INEEL CAB was under the impression, however, that one of the root causes of the TRA fatality was that these programs were not yet in place and definitely not fully integrated. **Recommendation:** The INEEL CAB recommends that the final solicitation more accurately reflect what will be in place when the Contractor takes over site operations and what additional effort will be required, if any, to develop and establish a fully-integrated site safety program. This change would also provide a better connection to the specific activities described on pages C-26 and C-27.

Location: Attachment C-A-3, Section (b) (7), page C-27. **Recommendation:** The INEEL CAB recommends the addition of the words “and trained” to the sentence so that it will read “(7) Assure that employees are equipped and trained to safely perform work.”

Location: Attachment C-A-3, Section (b) (8), page C-27. **Recommendation:** The INEEL CAB recommends substituting the term “on-site performance of sub-contractors” for “sub-contracts.”

Location: Section L.4 (b), page L-6. **Recommendation:** The INEEL CAB recommends adding the following items to the list of items that should be described by offerors:

- (12) Experience in public outreach to tribal and citizen groups and organizations, including Citizen Advisory Boards to government agencies under the Federal Advisory Committee Act.
- (13) Experience in dealing with state oversight organizations and personnel.

Location: Section L.4 (d) (2), page L-7 and Section L.5 (d). **Recommendation:** The INEEL CAB recommends that a Director of Operations, with qualifications in the broad field of operations (similar to the qualifications of the Laboratory Director in the broad field of research), be added to the list of key personnel mentioned specifically (above the level of the other key personnel listed in Section L.4 (d) (3)). Similarly, the Director of Operations should be added to the list of key personnel who must participate in the interviews provided in Section L.5 (d).

Location: Section L.4 (d) (3), page L-7. **Comment:** The INEEL CAB wonders if the term “infrastructure” includes all of the landlord functions, such as transportation, security, cafeterias, computer centers, reproduction, libraries, building construction, maintenance, and decontamination and decommissioning? **Recommendation:** The INEEL CAB recommends that if the term “infrastructure” includes those functions, then the definition for the term should be supplied. If the term “infrastructure” does not include those functions, then the list of key personnel should include a listing for a manager for them.

Location: Section L.4 (e), page L-8. **Comment:** Since calculation of an award fee is largely subjective, we believe a significant portion of the fee could be incentivized. **Recommendation:** The INEEL CAB recommends that the award fee be incentivized, to the extent possible and practical, based on such factors as achievement of milestones in the Idaho Settlement Agreement, improvements in overhead efficiencies, exemplary performance, development of new technologies in waste management, and work for others.

Location: Section L.5 (c) (2), Technical Factor A-1 (a), page L-12. **Recommendation:** The INEEL CAB recommends the addition of the following to the list:

- (vii) approach to relationships with the INEEL Citizens Advisory Board and plans for responding to the CAB’s recommendations.
- (viii) approach to proactive relationships with state and Tribal officials, activist groups (such as the Snake River Alliance and Coalition 21), and media outlets throughout the state.

Location: Section L, Attachment C, page 5. **Recommendation:** The INEEL CAB recommends that item 16 on the Sample Questionnaire be amplified or that two questions be added as separate questions on page 6. The two questions that should be added are:

22. Did the contractor seek out and respond effectively to stakeholder concerns, comments, and/or recommendations?
23. Did the contractor develop and maintain effective relations with federal and state regulators, tribal officials, the media (including reporters and editorial boards), and state and local political officials?

Location: Section L, Attachment E, 2. **Recommendation:** The INEEL CAB recommends that the following be added to the list after, item (15):

- (16) Describe the offeror's "as low as reasonably achievable" (ALARA) program history and proposed application to INEEL operations.
- (17) Provide the offeror's experience history with vehicle transportation safety especially with regard to radioactive material shipment.
- (18) Describe offeror's experience in integrating safety into construction and other subcontractors.

Location: Section M.4, A-1 (a), page M-3. **Recommendation:** The INEEL CAB recommends the addition of:

- (vii) proposed strategy for interfacing with tribal officials, stakeholders, regulators, and the media.