



Oregon

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To: Energy Facility Siting Council

From: Wally Adams, Operations and Policy Analyst

Date: June 11, 2021

Subject: Agenda Item E (Information Item): EFSC Program Evaluation for the June 25, 2021 EFSC Meeting

PROJECT DESCRIPTION

Introduction

The Oregon Department of Energy's (ODOE) Siting Division (the Department) serves as staff to the Energy Facility Siting Council (EFSC, or Council). It is the goal of the Department to carry out its duties in an efficient and cost-effective manner that is also inclusive of, and transparent to, all stakeholder groups impacted by the work of the Council. While the Department has an Annual Work Plan for process improvement activities and routinely makes efforts to improve its processes, it is desirable to periodically step back and do a larger, more thorough review to identify opportunities to improve. The last formal improvement project was conducted in 2012 with an external consulting firm, which resulted in many changes to the Department's procedures. ODOE believes that it is time to launch a similar effort utilizing an external consultant.

ODOE is soliciting competitive proposals for a qualified and experienced consultant to conduct a comprehensive evaluation of the EFSC Siting process. ODOE is targeting proposals that demonstrate an understanding of the EFSC Siting process and an ability to effectively collect and analyze information from staff and stakeholders, with limited availability, varied perspectives, roles and backgrounds; and develop effective, implementable recommendations for process improvements. The outcome should be a report with recommendations for making the process more efficient, timely, and responsive to stakeholder and public issues or concerns.

Project Overview

The Siting Division includes staff with dedicated responsibilities to identify and implement process improvements including an Operations and Policy Analyst, Senior Policy Advisor and Division Administrator. Improvements at an agency-level are also being implemented via a Strategic Plan, which prioritizes improving stakeholder engagement, building processes to achieve more inclusive and equitable outcomes, and modernizing agency programs and

activities; and plans and actions to reduce and regulate greenhouse gas emissions in response to Governor Kate Brown's March 2020 Executive Order 20-04. The outcome of this project, implementable recommendations, will provide ODOE's Siting Division with critical information that may align with its current process improvement efforts, but ideally identifies new, more effective methods to support its ongoing mission to protect the State of Oregon's resources and promote responsible energy development while implementing an efficient, effective, transparent and inclusive permitting program.

Purpose

The purpose of this comprehensive evaluation of the EFSC program is to obtain internal and external information and input from ODOE staff, EFSC Council members, developers, reviewing agencies (state agencies, local government and tribal governments), members of the public and other stakeholders, about the challenges and benefits of the EFSC siting process; and to then identify implementable, measurable programs and tools that the Siting Division may utilize for improvements. The consultant is to prepare a report with recommendations for making the process more efficient, transparent, inclusive, and responsive to stakeholder and public issues or concerns. The recommendations must also align with the imperatives from ODOE's Strategic Plan, which are:

- Expand and Improve Stakeholder Engagement
- Build Practices and Processes to Achieve More Inclusive and Equitable Outcomes
- Assess and Enhance Organizational Data Capabilities
- Assess and Modernize Agency Programs and Activities
- Optimize Organizational Efficiency and Impact

The energy facility siting process can be lengthy, expensive and complicated for a myriad of reasons including the scale of the energy facilities and the associated level of information and evaluation provided in an ASC or RFA; number and substance of environmental impacts requiring detailed and coordinated multi-agency review; limited capacity from state and local agencies relied upon by the Department for subject matter expertise; changes in technology and facility component layout during the review process; and, proposed facility location and level of public participation. EFSC rules and standards can also be complicated and confusing, creating challenges for effective participation by an applicant/certificate holder, local and state agencies and members of the public. Substantive rulemakings are often contentious, lengthy and expensive, creating challenges in implementing large-scale changes.

ODOE expects the result of this project to include some combination of recommendations including, but not limited to, opportunities for Siting Division administrative process improvements, EFSC rulemakings, and legislative statutory changes.

Scope of Work

The consultant will conduct a comprehensive assessment of ODOE's Siting Division and the EFSC program. The anticipated deliverables will include: a scope and schedule; internal and external EFSC process assessment; and interim, draft and final assessment reports. The exact approach is to be determined by the consultant and described in bidding consultant's response to the Request for Proposal (RFP).

The internal assessment will be a detailed analysis of how siting division staff perform the work of issuing new or amended site certificates. The review will include areas such as roles and responsibilities of staff members; project and task management training and tools; and resource allocation and workweek planning, tracking and delivery.

Regarding the Council, the review will also consider opportunities to leverage specific strengths and experience that individual Council members bring to EFSC, as well as member training needs and workload forecast and availability.

The consultant will also be tasked with evaluating OAR Chapter 345 Division 21-26 to identify areas for improvement and efficiencies. Areas to review include identification of common information gaps in the Application for Site Certificate (ASC) and Request for Amendment submissions, and an evaluation of actual versus regulatory timelines. In addition to recommendations for rule changes to improve the siting review process, the assessment should include recommendations for improving the rulemaking process itself. While the procedural requirements of the rulemaking process are governed by the Oregon Administrative Procedures Act, the Council has discretion over how it identifies rulemaking issues and engages with stakeholders in the development of proposed rule changes.

While the program for monitoring compliance to site certificate conditions is not included within the scope of this project, there are connections between compliance and the issuance of site certificates that are to be included. Specifically, the consultant will be asked to assess collaboration with the compliance officer to determine how to monitor site certificate conditions, and the standardization of site certificate conditions.

Expanding and improving stakeholder engagement is one of the imperatives in ODOE's Strategic Plan. The consultant is required to include outreach to internal and external stakeholders in the proposal. The primary goal of the outreach is to understand stakeholders' opinions of the EFSC process, along with its strengths, weaknesses, and potential ways that the process can be improved. This information will be used to build practices and processes to achieve more inclusive and equitable outcomes through the facility siting process.

Another goal of the outreach is to evaluate how ODOE can build improved stakeholder outreach and participation into its processes. Through the outreach, it is expected that the consultant will be able to capture ideas which can be used to modify and enhance the EFSC process to accomplish that goal.

Stakeholders will include developers of energy projects, members of the public, EFSC Council members, ODOE Siting Division staff members, ODOE senior management and staff outside of Siting, reviewing agencies, counties, and members of the State Legislature.

Finally, as recommendations for improvements are made, it is important that the impacts – positive or negative – on each stakeholder group are documented.

Deliverables

The following deliverables will be required from the consultant:

- a. Scope and Schedule – The consultant shall deliver a detailed plan that includes a timeline for the engagement, and how and when the various elements within the Scope of Work (SOW) will be addressed.
- b. Metrics – Templates for collecting, analyzing, and presenting data that will be used to measure Department performance.
- c. Interim Report - The consultant shall prepare an interim report on the results of the internal evaluation, and shall plan for one round of review, at a minimum.
- d. Final Report - The consultant shall prepare a draft report that summarizes all work conducted during the assessment and include any conclusions and recommended changes. The report should provide enough detail for the reader to understand the rationale for the recommended changes. Consultant shall plan for one round of review of the draft report, at a minimum.
- e. Implementation Plan - Included in the scope of the report will be an implementation plan that accounts for the differing time frames associated with various types of changes. For example, changes to internal agency processes can be implemented on much shorter time horizons than changes to administrative rules or state statutes. The implementation plan is to provide specific tasks, timelines and responsibilities. It also must include resource planning to address the labor hours that will be required to support implementation.
- f. Presentation Materials – The consultant shall deliver a Powerpoint presentation which summarizes the work for presentation to the Energy Facility Siting Council.

Schedule

The project schedule is as follows:

- July 2021: Department issuance of RFP in July with 60-day response timeframe; RFP bidders conference to be held during bid period
- September 2021: RFP closes; Department RFP response evaluation and selection
- October 2021: Finalize contract
- November 2021: Project Kick-Off
- August 2022: Contract completion

COUNCIL OPTIONS

The Council has the following options with respect to this proposal:

- Option 1 – The Council may agree with the approach and scope of the project as presented.
- Option 2 – The Council may provide comments with proposed changes to the approach and scope of the proposed project.