

Kenny, Ann

From: Kenny, Ann
Sent: Thursday, December 13, 2001 12:21 PM
To: Lowe, Laura (ECY)
Cc: Hellwig, Raymond
Subject: Draft justification for Shannon and Wilson contract

Here it is. Please make any editorial changes you deem important.

There are some XXXs in one section where I wanted to refer to the justification we did for Amendment 2 but I couldn't immediately locate it. Hopefully it is in the file—if not let me know and I'll dig deeper in my files.

Thanks for your help and please call me at 425-640-4310 if you have any questions.

Ann



SW-A3-just.doc (51
KB)

DATE: December 13, 2001

TO: John Toohey, Office of Financial Management

FROM: Jeannie Summerhays, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

THROUGH: Laura Lowe, Agency Contract Specialist
Financial Services

SUBJECT: Justification for Amendment No. 3 to Contract C0100121
Shannon and Wilson, Inc.

The Department of Ecology entered into a competitively awarded contract with Shannon and Wilson, Inc. on January 19, 2001 for work related to Ecology's review of the Port of Seattle's Natural Resource Mitigation Plan submitted as part of its Section 401 application for the proposed Third Runway project. An amendment to this agreement is needed to cover additional services generated by the considerable workload in reviewing the Port's Natural Resource Mitigation Plan, to allow Ecology to use Shannon and Wilson as an expert witness, and to allow Ecology to use Shannon and Wilson to provide field monitoring services.

Ecology issued a 401 Water Quality Certification on August 10, 2001 and reissued it on September 21, 2001. The certification was appealed by the Airport Communities Coalition. Ecology needs continuing technical support from Shannon and Wilson to review new and revised documents that were required by the Water Quality Certification. We also need support from Shannon and Wilson as expert witnesses who can testify to the adequacy of the NRMP. Finally, we will need support from Shannon and Wilson for on-site field monitoring when the Port begins to fill wetlands and construct the approved mitigation. Ecology cannot move forward with its efforts to support this permit decision without further review and input from the contractor. Ecology hired Shannon and Wilson, Inc. to do the review because we did not have the staff resources available to assign to this project. This continues to be the case.

The Natural Resource Mitigation Plan proposed by the Port of Seattle is one of the most complex mitigation packages ever proposed by an applicant for a 401 Water Quality Certification. The existing contractor has done an outstanding job in reviewing the project to date. The contractor, working closely with Ecology staff, is intimately aware of the facts associated with this project and which are necessary to complete the review and remaining tasks of the original contract, hence the use of an amendment as opposed to soliciting for additional services which would be cost and effort inefficient.

Therefore, we propose to add an additional \$57,412 to the original contract amount with the contractor to cover these services. The cost for these services was deemed fair and reasonable based on the work already done under the contract and in comparison to other hourly wages provided during this process.

DOE 1/4/02 056

AR 026624

December 13, 2001

Justification for Late Filing: The funds to pay for this contract are provided by a separate interagency agreement Ecology has with the Port of Seattle. The funds needed for the contract were not approved by the Port of Seattle Port Commission until December 11, 2001.

The following responds to WAC 15.30.50 for "Substantial Amendment Filings":

Specific Problem or Need (WAC 15.30.50.c(1):

Ecology is in need of further review services from Shannon and Wilson, Inc. Ecology issued its 401 Water Quality Certification on August 10, 2001 and reissued it on September 21, 2001. The permit we issued was conditioned to require the Port to submit additional materials related to the Port's Natural Resource Mitigation Plan. For example, Ecology required the Port to provide additional mitigation for wetland impacts and to submit a conceptual wetland mitigation plan for the new mitigation area. This plan has been received and needs to be reviewed. Because Shannon and Wilson, Inc. is already intimately familiar with the goals and objectives of the NRMP they are best situated to provide an efficient, timely review of the new mitigation plan. Additionally, we required numerous minor changes to the NRMP based on the recommendation of Shannon and Wilson, Inc. and required that the Port submit a revised NRMP to Ecology for review and approval. The revised mitigation plan has been received and needs to be reviewed. Because Shannon and Wilson, Inc. recommended these changes to the NRMP, they are best situated to quickly and efficiently review the revised NRMP to ensure that the required changes were actually made.

Ecology is charged with overseeing the implementation of the 401 Water Quality Certification conditions. One facet of this responsibility includes field monitoring of construction activities as wetlands are filled and as the approved wetland mitigation is constructed. Ecology does not have staff available to do this workload and given Shannon and Wilson's familiarity with the site they have the background and experience necessary to do this work.

Finally, we need support from Shannon and Wilson as Ecology prepares to defend the Certification before the Pollution Control Hearings Board. Shannon and Wilson staff have been identified as witnesses and will be deposed by the appellants regarding their role in Ecology's decision making process and will be providing expert witness testimony on behalf of Ecology. It is not possible for another consultant to step into this role.

Other Public Resources (WAC 15.30.50.c(2)

Ecology originally entered into this contract with Shannon and Wilson, Inc. when we determined that we didn't have sufficient staff resources to dedicate to the review of the Port's Natural Resource Mitigation Plan without compromising our ability to meet existing work load demands. This situation has not changed. Other public resources to review this project are not available.

Procurement Method: (WAC 15.30.50.c(3)

The Department of Ecology entered into a competitively awarded contract with Shannon and Wilson, Inc. on January 19, 2001 for work related to Ecology's review of the Port of Seattle's Natural Resource Mitigation Plan submitted as part of its Section 401 application for the

proposed Third Runway project. The contract was awarded to Shannon and Wilson after careful review of the bid documents submitted to Ecology. Documentation of this process is available from Ann Kenny, the contract manager. The contract was amended in XXX to add more funds to the project as described in a memo to XXX from XXX.

Changes Since Award (WAC 15.30.50.c(4))

Prior to issuing the 401 Shannon and Wilson spent unanticipated time at Ecology's direction working to resolve concerns with the proposed NRMP. And as stated above the 401 Water Quality Certification was appealed in August. This has led to time spent assisting Ecology in preparing its defense that was not originally budgeted. As we move closer to the hearing on the appeal in mid-March 2002 we anticipate that more of Shannon and Wilson's time will be required to assist us in preparing our case.

Why Amendment Preferred (WAC 15.30.50.c(5))

Given the complex nature of this project and the many intricate details of the NRMP and Shannon and Wilson's intimate familiarity with the project it would be ineffective, inefficient, and ultimately more costly to competitively bid and issue a new contract. Although some of the new tasks were not in the original scope of work, they flow logically out of the original scope. Shannon and Wilson's involvement in the NRMP review leaves them best suited to provide expert witness support and to provide on-site monitoring services when work in wetlands begins and when construction of the approved mitigation commences.

Contractor's Qualifications (WAC 15.30.50.c(6))

It was determined that Shannon and Wilson, Inc. best met the required qualifications to conduct this work through the competitive solicitation process.

Reasonableness of Costs (WAC 15.30.50.c(7))

Rates, and fees associated with this amendment are considered fair and reasonable. They are the same as the rates of the original contract and are consistent with other rates and hourly wages for comparable services. Additionally, Shannon and Wilson, Inc. has declined to charge Ecology extra for providing expert witness testimony, as is their usual procedure.

If you have any questions or need additional information, please contact Ann Kenny, the project manager for this project, at 425-649-4310.

Attachments