

From: Steinberg, Brett (Federal) <bsteinberg@eda.gov>
Sent: Friday, January 13, 2023 9:37 AM
To: Jody Zakrevsky <JZakrevsky@otsegonow.com>
Cc: Christian, Christopher (Federal) <CChristian1@eda.gov>
Subject: RE: Otsego Now - 23_0105 Updated Design Documents

We have reviewed the revised materials submitted for Plans and Specs review and offer the following in **BLUE**: (Note: this does not show the Engineer's Response. If there is a comment in **BLUE** then the original comment is still outstanding)

Checklist for Bid Document Review (Previous comments)

1. Tentative dates should be updated as needed once EDA approval is provided.
 - **Bid advertisement is noted as starting February 1st. No comment at this time. ✓**
2. The response comment is accepted, however, EDA always encourages advertisement in other mediums to promote more competition for bidders. If you routinely receive an adequate number of bids using only this source of advertisement, then no further action is needed. Note: You will need to be able to certify and demonstrate that this advertisement remained available for the 30-day period for the advertisement to be considered acceptable. **No Further Comments at this time. ✓**
3. The bid opening date will need to be updated if it is revised at the conclusion of the plans and specs review period with EDA. **Bid opening is noted as 44 days from February 1st. Since a 30-day minimum is used, we have no further comments on the bid opening date. ✓**
4. The checklist table is incorrectly filled out. The A/E value notes a 2.4MIL project but this is noted in the opinion of probable cost as the total project cost which also factors admin/legal and contingencies. The plans and specs checklist dollar value should only be the expected construction cost estimate that you would expect bidders to bid which is noted as \$1,909,988.93. Revise as needed to be a construction cost estimate within the table. **The table is now filled out correctly based on the current EE. However, refer to comment 15 below. Equipment will need to be addressed in order to determine how this table should appear in its final version. Additionally, it is wholly unclear how an estimate that was prepared recently (within the past few weeks) can match an estimate that was prepared almost 2.5 to 3 years ago. The estimate that was provided to EDA for review indicates that it was updated on 12/12/2022 but the estimate numbers match identically to the estimate that was provided to EDA during grant application. Given the current inflation rate that the construction market has seen over the past 2+ years I have zero confidence in this estimate. With that said, EDA would like to see a realistic EE based on today's numbers not yesterday's numbers. Moreover, based on what those numbers show, you will be required to demonstrate that you have sufficient match to cover this project after bids are received if the project comes in over the established EDA budget. Any match must be from an eligible source and must be unencumbered and immediately available for use on the project. Failure to provide sufficient match to cover any overrun will result in delays to award and execution of the contract.**
 - a. **The engineer's estimate has been updated. Please see attached revised document dated 1/26/2023.**

Contract Docs

5. Comment Previously Satisfied.
6. Tentative dates will need to be finalized at the conclusion of plans and specs review by EDA once the package is finalized.
 - **No Further Comment ✓**
7. Comment Previously Satisfied.
8. Tentative dates will need to be finalized at the conclusion of plans and specs review by EDA once the package is finalized.
 - **No Further Comment ✓**
9. Comment Previously Satisfied.
10. Comment Previously Satisfied.

11. As noted in the previous review comment, 10-days prior to bid opening the decision document must be confirmed as current and if not will need to be updated via addendum and issued to all plan holders through the addendum process. Additionally, prior to finalization of the spec book, confirm that the document is current and if not, update accordingly.
 - **New wage rates have been published for Otsego County for the Heavy, Highway construction type as of January 6, 2023. Update the spec book accordingly.**
 - a. **Section 00 73 43, DB wage rates have been updated, NY20230037 01/13/2023. PDF starting page 183 of the contract book. 10-days prior to bid opening wage rates will be confirmed as current or be updated via addendum.**
12. Comment Previously Satisfied.
13. OK...will verify signature/stamp upon finalization.
 - **The spec book was provided unsigned or stamped. When the final document is prepared, provide EDA a copy of the signed/seal book.**
 - a. **Spec book has been stamped and signed.**

Project Drawings

14. Will verify signature/stamp upon finalization.
 - **The plan set was provided unsigned or stamped. When the final plan set is prepared, provide EDA a copy.**
 - a. **Plan set has been stamped and signed.**

Engineer's Estimate (Opinion of Probable Cost)

15. According to the probable cost estimate a portable generator is expected to be purchased under the EDA Grant Award. Please note that this would be considered Equipment and per EDA requirements, any equipment valued at over \$5,000 requires a UCC-1 Filing and must be approved by EDA prior to EDA paying for this piece of equipment. Additionally, if EDA funding is used for this piece of equipment it must meet a useful life of 20 years and will need to be appropriately tracked for the entire 20-year useful life. Depending on how much the construction bids come in, it may be prudent to consider funding this piece of equipment as a non-EDA eligible item to the project to avoid having to track and address a UCC filing. We can make this determination at or around bid award.
 - **It is unclear how this comment has been satisfied. It was indicated that the estimate was updated by the engineer but the EE still shows a portable generator in the project and further still shows it as EDA eligible with no discuss noted as addressed in my original comment. Please provide some insight to this piece of equipment. Do you want it to be EDA eligible or will you fund this piece of equipment on your own. EDA recommendation is that you supply this piece of equipment yourself as a Recipient or fund this yourself under the contract. If you choose to have EDA pay for this piece of equipment it will need to have a UCC filing completed prior to EDA reimbursement and you MUST be able to demonstrate this piece of equipment has a useful life of at least the project useful life which is 20-years. If you cannot demonstrate this, the piece of equipment is INELIGIBLE for participation.**
 - a. **The engineer's estimate has been updated. Please see attached revised document dated 1/26/2023.**

Checklist for Bid Document Review (NEW comments from 11/8/22 review)

16. As noted in the checklist, a 406-calendar day construction period is expected. The project is currently behind schedule based on the established EDA timelines noted in the Grant Award materials. Per the SAC#7 timeline, construction was expected to start by 5/28/2021 and construction completed/grant award ended by 2/28/2023. Once the project is advertised, please provide a time extension request to EDA requesting an amendment to both dates. The amendment should address the 4 noted bullet points below which are as follows: The reason(s) for delay, The amount of time needed to bring the project back into compliance. As noted on the award materials you had 9 months to start construction and 30 months to complete it. Provide the estimated date/corresponding number of months needed for both start and

end. (Note: when requesting the date keep the day the same as what was established in the grant. For example, If you expect to start by March 20, round it up to March 28th. Another example, if you expect to start on March 30, round it up to April 28th to give you extra time to start just in case weather isn't cooperating.) A statement and explanation that the bona-fide need for the project still exists. The bona-fide need is what brought the project to EDA. This would have been discussed in the application materials. If the bona-fide need can no longer be demonstrated, it would be difficult to justify continuing the project. A statement that no further delays are expected and that the project will be started and completed based on the timeline requested.

- **EDA Recently approved a time extension that amended start of construction and end of construction to August 28, 2023, and August 28, 2024, respectively. If the project does not commence construction nor complete construction by those two noted dates, another time extension request will be needed. Otherwise, we have no further comment on project timeline.** ✓
17. Generally, EDA requires that all noted SACs be complete prior to advertisement of the project. The checklist Item #2 will need to be marked as a YES. Currently it is left blank. It is acknowledged that it is currently unmarked likely because certain SAC submissions are outstanding, but EDA would expect to have these approved within a few weeks assuming that all comments by EDA Reviewers can be addressed timely.
- **The checklist item was corrected as noted. No further comment at this time.** ✓
18. The checklist notes that materials and/or equipment are limited to a particular manufacturer or brand name. For this to be allowable within the package, a submission must be sent to EDA requesting approval of the noted items. Within the request letter, you must note the reason for why this exact pump is needed on the project and why you will not accept an alternative pump product. You must also provide a copy of the shop drawing/cut sheet for our file within the request. If you are willing to accept an alternative product you must note this within the spec section what alternative products are acceptable with an "or approved equal" language noted. The remainder of the specs and plans must also be confirmed by the Engineer that "or equals" are accepted. Failure to ensure the spec book and plans remain spec neutral and/or receive EDA approval for any items that must be specific with no approved equal could result in an items ineligibility to the project and could jeopardize funding on the project. If EDA approves the noted item in the checklist, Item 7A should be noted as YES. Generally, EDA will only approve material specific items for 2 reasons. Reason #1 is that no other suitable alternative exists and reason #2 is for synchronization with the existing facilities. For reason #2 this is usually documentable since you would be able to prove that a product is used throughout the town, city, county. Items such as a fire hydrant is a good example. We generally allow an item specific hydrant if it can be demonstrated that that particular hydrant is found everywhere in the town and placing a different version would make repair or operation more cumbersome since it is a different product and you may not have familiarity with it.
- **The checklist notes that submersible sewage pumps have been specified as a particular manufacturer for this project and the response indicates the same. Please provide to EDA under separate cover, a request for use of this sewage pump cited for the reason noted in the response which was for synchronization of existing facilities (i.e. this pump is used throughout the county, town, etc or whatever other supporting reasoning you have). When submitting the letter to EDA, it must be accompanied by a shop drawing or cut sheet or product literature to support the request for our files.**
 - a. **Specification for the submersible sewage pump now includes language for approved equal products. Refer to PDF page 388, (Section 33 32 17, pg. 4).**
 - b. **Refer to checklist; note has been removed.**

Contract Docs (spec book) & Project Drawings

19. We have no further comments on the contract spec book document or project drawings other than what has already been noted above.
- **No further comment needed on this item.** ✓

Engineer's Estimate

20. As noted in comment 15 above, if Otsego makes the decision to fund the portable generator with their own funding, the bid form as well as the engineer's estimate will need to be modified to show the item will be non-EDA eligible funded.

- **No determination has been made on this item. How will this generator be funded. This must be answered to determine the proper course of action.**
 - a. **The engineer's estimate has been updated. Please see attached revised document dated 1/26/2023.**

Please provide the requested information for continued review. If you have any questions or would like to go over these comments, feel free to contact me at your convenience. Upon resubmission of the revised package, provide a point-by-point response to this email.

Thanks,

Brett Steinberg

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