

REQUEST FOR INFORMATION AND PROPOSALS

Independent Risk Analysis for the Straits Pipelines

The Michigan Departments of Environmental Quality and Natural Resources, the Michigan Agency for Energy, and the Michigan Office of Attorney General (collectively the State) is seeking information and proposals from prospective contractors interested in performing, for the State, an Independent Risk Analysis for the Straits Pipelines as recommended in the Michigan Petroleum Pipeline Task Force Report (July 2015)¹ and more fully described in the Scope of Work contained in Part II below.

Issue Date: February 22, 2016

Response Due: April 11, 2016

PART I

GENERAL INFORMATION

I-A Background and Purpose

As discussed at pp 40-50 of the Petroleum Pipeline Task Force Report, the Straits Pipelines are a segment of Enbridge Energy Limited Partners' Line 5 pipeline system that transports oil and natural gas liquids. They consist of two 20-inch diameter pipelines submerged at the Straits of Mackinac. The Straits Pipelines were constructed in 1953 and operate under the terms of a 1953 Easement granted by the State to Enbridge's predecessor.

This Request for Information and Proposals and accompanying Scope of Work concern Recommendation No.2, which was summarized as follows at p 49 of the Report:

2. Require an Independent Risk Analysis and Adequate Financial Assurance for the Straits Pipelines.

¹ Available at http://www.michigan.gov/documents/deq/M_Petroleum_Pipeline_Report_2015-10_reducedsize_494297_7.pdf.

The State should:

- a. Require Enbridge to pay for (but not control) an expert analysis of the potential liability from a worst case scenario spill; and
- b. Require Enbridge to then maintain an adequate financial assurance mechanism to cover liability for all damages or losses to public and private property as provided under the 1953 Easement.

Rationale: The 1953 Straits Pipelines Easement makes Enbridge liable for all damages or losses to public or private property resulting from its operations at the Straits. It also requires Enbridge to maintain insurance or other financial assurance acceptable to the State covering its liability. An independent analysis by qualified experts of the consequences of a worst-case scenario spill is needed to establish the amount of the required financial assurance and to help guide decisions about the future of the Pipeline[s].

This Request for Information and Proposals focuses specifically on Recommendation 2.a.—the analysis of the pipeline operator’s potential liability from a worst-case spill or release scenario. To the extent that independent research and analysis is needed to implement Recommendation 2.b. (e.g., the forms and amounts of insurance or other financial assurance mechanisms available to satisfy the requirements of the Easement), that work will be addressed in separate request for information and proposals and scope of work.

I-B Contractor Qualifications, Selection, Supervision, and Compensation

Any person or entity interested in providing the services and materials needed to implement the Scope of Work must provide the State with information specified in Part III, including, but not limited to information:

- Demonstrating that it has directly, or through proposed sub-contractors, sufficient qualified personnel with the expertise required to efficiently and capably perform all the relevant tasks specified in the Scope of Work.
- Disclosing any prior, current, or anticipated future relationships it or its proposed sub-contractors have with Enbridge Energy Partners, any of its affiliates, or any other entity that could give rise to an actual or apparent conflict of interest.

The response to the State’s Request for Information and Proposals should also include, as specified in Part III:

- The resumes or curriculum vitae for the individuals who would perform the work and information relating the experience and qualifications those individuals to particular tasks identified in the Scope of Work they would be expected to perform.
- Project examples which demonstrate the contractor and/or proposed subcontractor(s) past experience and qualifications to complete the tasks identified in the Scope of work.
- A proposed schedule for completing the tasks identified in the Scope of Work.
- A proposed budget for completing the tasks identified in the Scope of Work.

The State will select the contractor(s) based upon their demonstrated qualifications, experience, and ability to perform the work in a timely and cost-effective way, after reviewing actual or apparent conflicts of interest. Any proposed sub-contractors must be approved by the State and must agree to comply with laws applicable to state contractors, including, but not limited to, non-discrimination laws.

The contractor will work on behalf of the State and under the State's exclusive supervision. It is anticipated that the contractor will be paid with funds provided by a third party and placed in an escrow account. The amount and timing of the contractor's compensation will be controlled exclusively by the State under the terms of the contract.

I-C Questions and Responses regarding the Request for Information and Proposals

Prospective contractors may submit any written questions regarding the Request for Information and Proposals, via email, to Pipeline-Risk@michigan.gov not later than March 7, 2017.

The written questions received will be posted, without identifying the source of each question, on the website of the Michigan Pipeline Safety Advisory Board: http://www.michigan.gov/energy/0,4580,7-230-73789_74071---,00.html . Responses to the questions will be posted on that website not later than March 18, 2016.

Questions should not be submitted by any other means.

I-D Response to Request for Information and Proposals

To be considered, prospective contractors must submit a complete response to this Request for Information and Proposals, covering the Statement of Work provided in Part II, and containing the information specified in Part III. An original signature copy plus four (4) additional hard copies and one electronic copy of each Response

must be submitted to the State as specified in Part I- E. A PDF document of the signed response must be submitted to Straits Pipelines Independent Risk Analysis, Attention: Holly Simons, P.O. Box 30458, Lansing, Michigan 48909-7958 [mailing address] or Constitution Hall – 3 North, 525 West Allegan Street, Lansing, MI 48933 [physical address for hand delivery]. An electronic copy may be emailed to Pipeline-Risk@michigan.gov or may be submitted as a PDF document saved to a USB drive. An official who is authorized to bind the prospective contractor must sign the response. The proposal contained in the response must remain valid for at least sixty (60) calendar days.

I-E Deadline for Submitting Response

Responses must be received at the State at the specified location by 4:00 PM on April 11, 2016. Responses must be submitted as complete documents.

I-F Oral Presentation

Prospective contractors who submit responses may be requested to make an oral presentation of their proposal to the State. The State will schedule any presentations as necessary.

I-G Proposal Clarifications

During the proposal review process, prospective contractors who submit responses may be contacted by the State for clarification of proposals.

I-H Rejection of Proposals

The State reserves the right to reject any and all proposals received as a result of this Request for Information and Proposals and to take any other action it determines necessary to serve the best interest of the State with respect to the subject of this Request for Information and Proposals.

I-I Incurring Costs

All costs incurred by prospective contractors in responding to this Request for Information and Proposals shall be the responsibility of the prospective contractor. The State shall not be liable for any costs incurred before a contract, if any, is entered with the State.

I-J Disclosure of Proposal Contents

Information submitted by prospective contractors in response to this Request for Information and Proposals is subject to the provisions of the Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231, *et seq.*

I-K Compliance with Applicable Laws

Any contract ultimately entered with the State will require the contractor and any subcontractors to comply with all applicable state laws, including, without limitation, non-discrimination laws.

PART II

SCOPE OF WORK

The Scope of Work includes providing all necessary personnel, labor, materials, equipment, supplies, engineering, and supervision required to complete the independent risk analysis for the Straits Pipelines as described in the Task Force Report and Recommendation 2.a., including the following items of detail listed in Parts II-A through II-J below.

The State intends to provide public notice of and opportunity to comment on the content of the analysis before it is completed. As outlined in Part II-J, the Scope of Work includes preparation of one or more draft reports, development of one or more public presentations, and review of and response to public comments received.

II-A Identifying and analyzing the duration and magnitude of a “worst-case” spill or release of oil or other products from the Straits Pipelines into the environment.

This would include identifying the “worst case discharge” consistent, at a minimum, with the definition of that term in 40 CFR 194.5 as “the largest foreseeable discharge of oil, including a discharge from fire or explosion, in adverse weather conditions.” The identification of the “worst case” should also consider, consistent with best practices in high-hazard industries, the maximum potential release, before applying engineering and procedural controls intended to minimize releases. The identification of the “worst case” should also consider the most adverse foreseeable weather conditions including, but not limited to, storms and/or ice cover. The analysis would include, but not be limited to, consideration of the following:

1. the design and placement of the existing pipelines, control systems, leak detection methods, and shut-off valves to determine the various types of physical or operational failures or other potential hazards that could result in releases of oil or other products, including both sudden releases and longer-term releases that could be undetected using the existing systems ;
2. the types of products being transported and the maximum design flow rate;

3. the potential failure of release detection methods, control systems, or shut-off valves to operate as intended;
4. the quantity of the oil or other products that could be released at the maximum design flow rate before the flow was cut off; and
5. the quantity and fate of oil or other products remaining in the affected pipeline(s) at the maximum design flow rate after the flow is cut off.

II-B Analyzing the likely environmental fate and transport of oil or other products released from the Straits Pipelines in a worst-case scenario.

This would include, but not be limited to:

1. Considering the physical and chemical characteristics of oil and other products, including synthetic crude oil, carried through the pipelines;
2. Modeling the movement of the oil or other products both horizontally and vertically in the water and onto the shore under varying current and wind conditions; and
3. Considering the movement of the oil or other products and their environmental fate under varying seasonal conditions, including winter ice cover.

II-C Analyzing how long it would take to contain and clean up the worst-case release.

This would include, but not be limited to, analyzing:

1. the capabilities and limitations of existing spill response measures;
2. the capabilities and limitations of the available resources and personnel; and
3. the limitations of spill response measures and available resources and personnel under adverse weather and seasonal conditions, including winter ice cover

II-D- Analyzing the short and long term public health and safety impacts.

This would include, but not be limited to, identifying and estimating the scope and magnitude of any potential impacts on public health and safety, including:

1. exposure to vapors or other airborne pollutants;
2. exposure to water-borne pollutants;
3. exposure to pollutants through skin contact;
4. fire or explosion hazards; and
5. disruption of public health and safety systems.

II-E Analyzing the short and long term ecological impacts.

This would include, but not be limited to, identifying and estimating the magnitude of impacts on all potentially affected natural resources, including:

1. water quality;
2. air quality;
3. fish and other aquatic life;
4. wildlife; and
5. habitat.

II-F Analyzing potential measures to restore the affected natural resources and mitigate the ecological impacts.

This would include, but not be limited to, analyzing:

1. the availability and effectiveness of potential restoration and mitigation measures for each of the affected resources; and
2. the costs of the potential restoration and mitigation measures

II-G Estimating the amount of natural resource damages that would result from a worst-case release.

This would include, but not be limited to, analyzing:

1. available information regarding the baseline ecological, natural resource and economic conditions in the areas potentially affected by a worst-case release;
2. the economic value of the natural resources destroyed or impaired;
3. the economic value of the public uses and ecological services provided by the affected resources that would be lost until a final cleanup and restoration is complete; and
4. the economic value of any residual damages to natural resources that could not be cleaned up or restored.

II-H Estimating the governmental costs that would be incurred as a result of a worst-case release.

This would include, but not be limited to, the costs that would likely be incurred by federal, state, tribal, and local government agencies for:

1. responding to the release;
2. monitoring;
3. oversight; and
4. damage assessment.

II-I Estimating all other economic damages, public and private, that would result from a worst-case release.

This would include, but not be limited to, identifying and estimating the scope and magnitude of damages not otherwise accounted for in Task II-G, above, to:

1. subsistence, sport, and commercial fishing and hunting;
2. commercial navigation;
3. recreational boating;

4. tourism and recreation-related businesses in the Great Lakes region;
5. property values in areas affected by the release; and
6. losses of tax revenues

II-J Deliverables.

The contactor(s) will according to a schedule agreed with the State:

1. Prepare one or more draft reports of the analysis.
2. Prepare and conduct one or more public information presentations on the draft analysis.
3. Consider and respond to comments on the draft report(s).
4. Prepare the final report(s).

PART III

CONTENTS OF RESPONSE

Any response to the Request for Information and Proposals must contain all the information specified below.

III-A Business Organization

Please identify:

1. The full name, address, and legal form of the organization submitting the Response, and if applicable, the office or element of the organization that will perform or assist in performing the work.
2. The full name, address, and legal form of each subcontractor, if any, that is proposed to perform or assist in performing the work, and the relevant tasks in the Scope of Work on which they would be involved.
3. The person within the organization, and if applicable, each proposed subcontractor, who would have primary supervisory responsibility for the work.

4. The designated point of contact within the organization, and if applicable, for each proposed sub-contractor, for communications with the State on the project.

III-B Qualifications and Relevant Experience

Please provide for the organization, and each proposed sub-contractor:

1. The names, qualifications and relevant experience (including resumes or curriculum vitae) of the individuals who would perform the work and information relating the experience and qualifications of those individuals to the particular tasks in the Scope of Work that they would be expected to perform.
2. Recent, representative examples of current or prior projects performed by the individuals as well as the contractor and any subcontractor(s) who would perform the Scope of Work relevant to those assignments. Please identify, if applicable, publically available copies of the prior relevant reports or publications.
3. References, if available, to former clients for whom the individuals have performed work relevant to the kinds of tasks included in the Scope of Work.

III-C Information Relevant to Potential Actual or Apparent Conflicts of Interest

Please provide for the organization and each proposed sub-contractor:

1. Detailed information regarding any prior, current, or anticipated future relationship with Enbridge Energy Partners, any of its affiliates, or any other entity, that could give rise to potential actual or apparent conflict of interest.
2. With respect to any information provided in response to Part III-C 1., a detailed explanation of why an actual or apparent conflict of interest would not arise, or the measures that would be taken to avoid such a conflict.

III-D Proposed Methodology and Design for the Analysis in the Scope of Work

Please provide for the organization and each proposed sub-contractor:

1. A detailed description of the methods and resources that would be used to perform each element of the Scope of Work.

2. The steps that would be taken to identify and maximize the use of any available relevant information in order to complete the Scope of Work as efficiently as possible.
3. Any recommendations to the State about potential prioritization of, or changes to, the tasks identified in the Scope of Work that could more efficiently achieve the stated objectives of the Analysis.

III-E Proposed Schedule

Please provide for the organization and each proposed sub-contractor:

1. The proposed schedule for sequencing and completing the tasks identified in the Scope of Work.
2. The supporting rationale for the proposed schedule.
3. Any recommendations to the State about potential prioritization of, or changes to, the tasks identified in the Scope of Work that could expedite the completion of the work while still achieving the stated objectives of the Analysis.

III-F Proposed Budget

Please provide for the organization and each proposed sub-contractor:

1. The proposed budget for all time and materials for completing the tasks identified in the Scope of Work.
2. The supporting rationale for the proposed budget including, without limitation, market rates for comparable professional services.
3. Any recommendations to the State about potential prioritization of, or changes to, the tasks identified in the Scope of Work that could reduce the cost of the work while still achieving the stated objectives of the Analysis.