

# Louisiana Public Service Commission



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Executive Counsel

May 7, 2021

JOHNNY E. SNELGROVE, JR  
Deputy Undersecretary

## VIA EMAIL

***RFP 21-13 – Docket No. TBD, Louisiana Public Service Commission, ex parte. In re: Investigatory Audit of Total Environmental Solutions, Inc.'s compliance and management of all drinking water and wastewater systems, including compliance with a Modified Consent Decree.***

To all LPSC qualified consultants:

Enclosed please find a Request for Proposals ("RFP") for **outside counsel** issued by the Louisiana Public Service Commission for the above referenced docket. If your firm is interested in submitting a proposal, please review the RFP carefully to determine whether your firm meets the specific requirements to qualify for this representation. All Proposals must include a showing that your firm possesses the requisite qualifications and experience to represent the Commission in this matter. Also, please note that all Proposals, including the **original, plus (2) two copies, and an electronic copy must be received on or before Wednesday, June 2, 2021 at 4:30 p.m.** Selection of consultants is anticipated to take place at the Commission's June 2021 Business and Executive Session.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to be "KB", representing Kathryn H. Bowman.

Kathryn H. Bowman  
Executive Counsel

Enclosure

cc: Brandon M. Frey, Executive Secretary  
Lauren T. Evans, Associate Counsel

**RFP 21-13**  
**LOUISIANA PUBLIC SERVICE COMMISSION**  
**REQUEST FOR PROPOSALS (“RFP”)**  
**May 7, 2021**

***DOCKET NO. TBD, Louisiana Public Service Commission, ex parte, In re: Investigatory Audit of Total Environmental Solutions, Inc.’s compliance and management of all drinking water and wastewater systems, including compliance with a Modified Consent Decree.***

The Louisiana Public Service Commission (“Commission” or “LPSC”), in accordance with the requirements of the LPSC General Order dated November 10, 2014 regarding the selection of contract employees (the “Contract Order”), issues this Request for Proposals (“RFP”) seeking an **outside counsel** who will assist Commission Staff in an investigatory audit of Total Environmental Solutions, Inc. (“TESI” or the “Company”) as more fully described below.

**Deviations from the requirements contained herein, or conditional bid amounts may result in rejection of the bid as non-conforming. Consideration of qualifying bids received in response to RFP 21-13 are anticipated to be on the Commission’s June 2021 Business and Executive Session (“B&E”).**

**I. Overview**

At the Commission’s April 14, 2021 Business and Executive Session (“B&E”), Vice Chairman Skrmetta made the following directive, with no opposition:

It has recently come to my attention that TESI has not met, or may not be able to meet, the compliance deadlines as set forth in the Modified Consent Decree (“MCD”). That, coupled with recent notifications from LDH and LDEQ regarding water quality and wastewater complaints, has caused serious concern as to whether TESI’s ratepayers are receiving reliable and safe service. With the main goal being to get the system fixed and to get TESI out of the MCD, I direct Staff to:

- 1) To open an audit to investigate TESI’s compliance with all relevant drinking water and wastewater regulatory compliance matters, as well as compliance with a goal to be released from management of the federal MCD. This inquiry should address, but not be limited to, the following:
  - a. That TESI is in full compliance with all drinking water and wastewater regulatory requirements.
  - b. The likelihood that TESI will be able to comply with the MCD within its anticipated 2-year timeframe.
  - c. Whether TESI has adequately anticipated how much it will cost to comply with the MCD.
  - d. Whether TESI should consider selling the system and/or whether TESI should be placed in a joint receivership with LDH and LDEQ.

- 2) To investigate TESI's related party transactions with South Louisiana Electric Cooperative Association ("SLECA"), and other related parties, including examination of all information regarding a loan between SLECA and TESI to see when the loan was approved by the Commission, as well as what impacts the loan had on SLECA's ratepayers. Further, include examination of other related party transactions that may impact TESI or SLECA ratepayers.
- 3) To issue RFPs to hire outside counsel and outside consultants or engineers, to the extent necessary, to assist Staff with this docket.
- 4) And to interact with all appropriate state and federal agencies, as necessary.

Pursuant to this directive, Staff anticipates issuing a Notice of Proceeding of an X-Docket in the Commission's Official Bulletin set to be published on May 14, 2021 for informational purposes only. Once Staff has completed its review and filed a Recommendation, the Docket will be republished to provide notice of the same and to allow for intervention.

## **II. Scope of Representation**

Applicants will be assisting Commission in-house Staff (Legal, Utilities, and Auditing Divisions) and outside consultants (hereinafter collectively "Staff") in an investigatory audit of TESI as outlined above. Such assistance will include, but not necessarily be limited to: assist in the review and analyze the Company's actions to date to ensure compliance with the MCD (including Docket No. U-34482, which discussed the MCD and a necessary rate increase in order to comply with the MCD); assist in the review and analyze the remaining compliance actions under the MCD to determine if the Company is capable of achieving said conditions within the allotted timeframe; conduct site visits and meetings, as necessary, with representatives of TESI, SLECA, LDEQ, and/or LDH; assist in interviews and/or meetings with Board Members of TESI and/or SLECA; assist in drafting discovery; review and analyze information received from the Company, as well as any testimony or information filed by any Intervenors (after Staff's Report is filed); assist in drafting a Staff Recommendation, including Direct Testimony; be prepared to defend Staff's Recommendation, including assist in the drafting of Cross-Answering Testimony; participate in status conferences(s), hearings, and formal and informal meetings with the Company, Staff, the Commissioners, LDEQ and/or LDH; and participate at a Business and Executive Session where this docket may be discussed. In addition, Applicants may need to conduct interviews with select personnel of TESI familiar with the Company's MCD, including contractors.

All proposals shall include an outline of a plan of action for this scope of representation. However, the Commission and its Staff shall have the right to determine how the tasks will be carried out. In addition, all proposals shall be accompanied by a professional firm resume indicating the qualifications and experience necessary to meet the requirements of this RFP. Deviations from the requirements contained herein, or conditional bid amounts may result in rejection of the bid as non-conforming.

### **III. Period of Representation**

The time period estimated to complete the Scope of Representation is approximately 12 months. This is merely an estimate and the Commission makes no representations as to the accuracy of the Period of Representation.

### **IV. Minimum Requirements**

To qualify, all Applicants must have requisite knowledge of the topics listed below, in addition to those provided in Commission General Order dated November 10, 2014. Consideration is given to indicia of competence such as previous experience in complex cases, publications, educational achievement and other previous employment suggesting competence in regulatory matters involving the above areas; significant personal experiences before regulatory agencies such as the SEC, FERC, FCC, or other similar entities may be a favorable factor.

Applicants shall also, at a minimum, be experienced in participating in cases involving public utility regulation, or other regulatory issues on administrative and judicial levels, including the presentation of direct testimony or report and recommendations, assistance in developing cross examination of adverse witnesses, and the analysis of comments and exceptions to proposed recommendations. In addition, all proposals shall demonstrate that the Applicant has the qualifications and experience necessary to meet the requirements of this request for proposals with respect to all of the issues addressed in this RFP and which are likely to arise in the proceeding, including but not limited to:

- A. Appropriate accounting standards and practices for public utilities (including contributions in aid of construction and similar accounts), public utility accounting, and generally accepted auditing standards;
- B. The determination and calculation of the appropriate rate base of utility plant investment dedicated to providing service;
- C. Public Utility financing and debt service coverage ratio ratemaking principles, including depreciation and taxation of system assets;
- D. A detailed understanding of water and wastewater operations, management, financing and regulation;
- E. Commission Orders pertaining to TESI, including but not limited to Order Nos. U-34482 and U-33408;
- F. Rules, regulations and laws applicable to operation and management of water and wastewater systems in Louisiana, including but not necessarily limited to Louisiana Department of Health and Louisiana Department of Environmental Quality regulations;

- G. The appropriate ratemaking adjustments to be made to an electric cooperative's accounting records for affiliate transactions;<sup>1</sup> and
- H. Cost allocation methodologies for investments and expenses among affiliates, including the relationship among affiliates, the transfer of investment or costs between operating companies, and the provision of services among affiliates.

**V. Estimate of Costs**

All proposals shall include fees and direct costs associated with Applicant's services described above. Applicants responding to this RFP shall quote their rates on an hourly basis, and shall submit a total budget, separating professional fees from direct costs. Along with providing the above, Applicants should provide an overview of the estimated costs in the summary of the bid proposal.

Applicants shall only be allowed to charge for actual hours of work performed and costs incurred. Once selected, an Applicant's hourly rates and budget shall not be altered except by formal approval of the Commission.

**VI. Conflict of Interest**

Applicants shall prominently and separately disclose current, as well as past, employment which could possibly result in a conflict of interest. In addition, Applicants shall disclose matters in which they currently represent clients before the Commission.

**VII. Billing Guidelines**

As required by the November 10, 2014 General Order, all bills shall be rendered monthly and shall specifically identify and describe all work performed, the person performing such work, the time and charge for such work, and shall additionally show the total amount billed to date and the authorized original estimate. Bills will be rendered in strict accordance with the Commission's guidelines. Expenses shall also be separately disclosed with proof of such expenses attached.

Expenses, where applicable, shall be reimbursed at state authorized rates as specified in the Travel Policies and Procedures Memorandum issued by the State of Louisiana, Division of Administration in effect at the time such expenses are incurred ("Allowable Expenses"). Any expenses that exceed the Allowable Expenses shall be borne by the contract employee and shall not be reimbursed by either the Commission, or the correspondent utility, unless otherwise specified by the Commission.

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<sup>1</sup> This minimum requirement is to address enumerated Section 2 in the directive above.

### **VIII. Reservation of Rights**

The LPSC reserves the right to reject any and all proposals, to amend and/or supplement this RFP at any time, and to consider proposals or modifications thereof received at any time prior to LPSC vote at Open Session, if such action is found by the LPSC to be in the public interest. Pursuant to the General Order regarding the selection of contract employees, the LPSC has the right to accept any offer and does not have to accept the lowest bid amount. In addition, there is also no assurance, express or implied, that an award will necessarily be made pursuant to this RFP.

### **IX. Submission of Proposals**

Interested parties should submit the **original (hard copy), 2 copies, and e-mail an electronic copy** of the proposal to:

Kathryn H. Bowman  
Executive Counsel  
Louisiana Public Service Commission  
602 North Fifth Street (Galvez Building) (70802)  
P.O. Box 91154  
Baton Rouge, Louisiana 70821-9154  
Phone: (225) 342-9888  
Fax: (225) 342-5610  
Email: [kathryn.bowman@la.gov](mailto:kathryn.bowman@la.gov)

To be considered, an original, two copies, and the electronic copy of the proposal must be received on or before **June 2, 2021 at 4:30 p.m.** **Selection of consultants is anticipated to take place at the Commission's June 2021 Business and Executive Session, which is currently scheduled for June 16, 2021.** Information concerning billing procedures and the Commission's RFP policy may be obtained from the address listed above, or by calling (225) 342-9888.