

Award Justification Statement
Solicitation # SK22-24
Contract Name: Legal Services for Challenges
to Bears Ears Monument
Awarded: December 3, 2021

I. Summary

The evaluation committee determined that the proposal submitted by Consovoy McCarthy PLLC provides the best value to the State and is therefore the awarded vendor under solicitation # SK22-24.

II. Evaluation Process

Proposals were evaluated in accordance with Part 7 of the Utah Procurement Code by an Evaluation Committee comprised of representatives from the Utah Attorney General's Office, Department of Natural Resources, and Public Lands Policy Coordinating Office. A representative from State Purchasing attended the evaluation committee meetings to ensure that the process outlined in the Procurement Code was followed, but was not a voting member of the evaluation committee.

A request for proposals (RFP) was issued by the State to enter into an agency contract for legal services to assist the Utah Attorney General's Office with legal challenges to President Biden's Bears Ears National Monument Proclamation and Grand Staircase-Escalante National Monument Proclamation.

The RFP process was used because criteria other than costs were considered important in determining which proposal provides the best value to the State. These factors (other than cost) were highly significant in determining which vendor's proposal provided the best value to the State. The following paragraphs describe the evaluation process, each scoring category, and explain and compare the scores assigned to each responsive and responsible proposal. Four proposals were received.

Stage 1 – Mandatory Minimum Requirements

The following mandatory minimum requirements (pass/fail criteria) were outlined in the published RFP:

1. Litigation Team
2. No Unresolved Apparent Conflicts of Interest
3. Malpractice Insurance
4. Background Checks

Vendors were responsible for demonstrating compliance with each mandatory minimum requirement in order to qualify for the Stage 2 – Technical Evaluation. Following this evaluation, the four proposals proceeded forward onto the technical evaluation stage.

Stage 2 – Technical Evaluation

Proposals in this stage of the evaluation process were evaluated and scored against the following categories:

1. *Overall quality and professional qualifications of Lead Counsel*
2. *Overall quality and capabilities of the Junior Attorneys*
3. *Offeror's vision as to how to pursue the Monuments Litigation, as demonstrated by the Technical Proposal and presentation interviews*
4. *Offeror's experience in handling matters similar in nature to the Monuments Litigation including challenges to executive action*
5. *Offeror's experience with complex litigation, including the quality of results obtained by the Offeror in other cases*
6. *Offeror's specific knowledge of issues relevant to this RFP, such as facts and legal issues relating to the Antiquities Act, or the Bear's Ears and Grand Staircase-Escalante Monuments*

During this stage, the evaluation committee looked at all criteria for each category and the scoring methodology to determine if the proposal met the following:

- Minimum thresholds provided in the scorecard;
- Sufficient information with detailed answers, along with examples, for each question;
- Met or exceeded the expectations of the evaluation committee; and

- Enough information to demonstrate a solution/deliverable that met the business needs with minor modifications.

Scores were based upon how well the written Technical Proposal met the overall RFP requirements, using the following five-point scale:

- Five Points (Excellent): The proposal addresses and exceeds all of the requirements or criteria described in the RFP.
- Four points (Good): The proposal addresses all of the requirements or criteria described in the RFP and, in some respects, exceeds them.
- Three points (Satisfactory): The proposal addresses all of the requirements or criteria described in the RFP in a satisfactory manner.
- Two points (Unsatisfactory): The proposal addresses the requirements or criteria described in the RFP in an unsatisfactory manner.
- One point (Fail): The proposal fails to:
 - (i) address some or all of the requirements or criteria described in the RFP;
 - (ii) accurately address some or all of the requirements or criteria described in the RFP; or
 - (iii) demonstrate that the vendor can perform the scope of work or supply the procurement items.

As provided in the RFP, Committee scores were added together and divided by the number of committee members, to achieve an average score. All Offerors who submit Proposals that achieve an average score of 3.5 or better received an opportunity to give a 60-minute interview.

The Stage 2 scores provided below reflects the averages received by the four proposals:

Vendor	Average Score
Consovoy McCarthy	4.6
Vendor 2	3.9
Vendor 3	4.0
Vendor 4	4.0

As each of the four proposals meet this threshold, all four proposals proceeded onto the interview phase.

Stage 3 – Interviews & Stage 4 – Final Technical proposal Evaluation

Proposals in this stage of the evaluation process were evaluated and scored against the following categories:

Evaluation Criteria (scored on a 1 – 5 scale)	Possible Points
A: Overall quality and professional qualifications of Lead Counsel and the designated Senior Attorneys, including intellectual and interpersonal skills as demonstrated during the presentation interviews.	250
B: Overall quality and capabilities of the Junior Attorneys.	125
C: The Offeror’s vision as to how to pursue the Monuments Litigation, as demonstrated by the Technical Proposal and presentation interviews.	125
D: The Offeror’s experience in handling matters similar in nature to the Monuments Litigation including challenges to executive action.	125
E: The Offeror’s experience with complex litigation, including the quality of results obtained by the Offeror in other cases.	125
F: Offeror’s specific knowledge of issues relevant to this RFP, such as facts and legal issues relating to the Antiquities Act, or the Bear’s Ears and Grand Staircase-Escalante Monuments.	125
TOTAL POSSIBLE TECHNICAL SCORE	875

Following vendor interviews, the committee again looked at all criteria for each category and the scoring methodology to determine if the proposal met the following:

- Minimum thresholds provided in the scorecard;
- Sufficient information with detailed answers, along with examples, for each question;
- Met or exceeded the expectations of the evaluation committee; and
- Enough information to demonstrate a solution/deliverable that met the business needs with minor modifications.

The Stage 4 scores provided below reflects the total scores the vendors received:

Vendor	Total Stage 4 Points Earned
Consovoy McCarthy	830.0

Vendor 2	790.0
Vendor 3	745.0
Vendor 4	715.0

As specified in the RFP,

Offerors that achieve an average Technical Score of 500 technical points or more will proceed to Stage 5: Cost Proposal Evaluation.

The four vendor proposals met this requisite threshold.

Stage 5 – Cost Proposal Evaluation

The cost evaluation made up 22.0% of the total evaluation criteria. Costs were scored on the proposed blended hourly rate from the vendors’ Cost Proposal. The Blended Hourly Rate was calculated for each Cost Proposal as follows:

- 15% of the hourly rate listed in the Cost Proposal Form for the Lead Counsel;
- 15% of the average of the hourly rates listed in the Cost Proposal Form for the Senior Attorneys (or an additional 15% of the hourly rate of the Lead Counsel if no Senior Attorneys are included in the Proposal);
- 50% of the average of the hourly rates listed in the Cost Proposal Form for the Junior Attorneys; and
- 20% the average of the hourly rates listed in the Cost Proposal Form for the Paralegal.

250.0 total cost points were available in Stage 5.

The proposals scored as follows in the cost evaluation

Total Cost Points	Stag 5 - Cost Evaluation	Consovoy McCarthy	Vendor 2	Vendor 3	Vendor 4
	Cost - Blended Hourly Rate	\$498.00	\$952.50	\$504.17	\$555.00
250.0	Cost Points	250.0	130.7	246.9	224.3

The following total scores resulted from the complete evaluation process:

Score Summary	Consovoy McCarthy	Vendor 2	Vendor 3	Vendor 4
Total Technical Points (Total Possible = 875.0)	830.0	790.0	745.0	715.0
Total Cost Points (Total Possible = 250.0)	250.0	130.7	246.9	224.3
Grand Total Points (Total Possible = 1,125.0)	1,080.0	920.7	991.9	939.3

As provided in the RFP, the Proposal with the highest Total Score shall be evaluated to determine if it constitutes the best value to the State, as set forth in Section 5.2 from the RFP.

The Consovoy McCarthy proposal is the highest scoring proposal at 1,080.0 total points. When reviewing costs for this awarded proposal against the criterion outlined in the RFP, the required scope of work, and the total evaluated costs these proposals are determined to be fair, reasonable, and provide the best value to the State.

V. Conclusion

The evaluation committee determined that the proposal submitted by Consovoy McCarthy PLLC provides the best value to the State and is therefore the awarded vendor under solicitation # SK22-24.