



Request for Proposals—January 19, 2012

Third-Party Inspections and Certification

The Administrative Conference is seeking a consultant to undertake a research project that will consider ways that agencies have used privately funded third parties to conduct inspections, verify compliance with regulatory requirements, or meet other standards. Proposals due by COB February 6, 2012.

Background

As a way of leveraging government resources while still carrying out regulatory objectives, Congress appears interested in third-party verification, having mandated or authorized its use in recent legislation, especially relating to food safety. See for example, Title III of the Food Safety Modernization Act of 2011 (Pub. L. No. 111-353). Some agencies have used private inspectors to control quality, verify procurement preferences, and—to a limited degree—enforce safety or economic regulations. See e.g., the USDA’s regulations calling for the use of Hazard Analysis and Critical Control Point (HACCP) Systems under the Federal Meat Inspection Act and the Poultry Products Inspection Act, 9 C.F.R. Part 417.

Project

Third-Party Inspections and Certification

The Conference wishes to study federal agency use of third-party inspections and certification (sometimes known as “third-party verification”). The research should identify and survey existing federal programs that use third-party inspections and certification funded by non-federal sources, and to identify possible recommendations for best practices. A more detailed scope-of-work follows.

Scope of Work

1. Survey and compile a list of existing federal programs that use third-party inspections and certification funded by non-federal sources.
 - a. What types of third-party entities are used (e.g., private for-profit, nonprofit, foreign governments, international organizations, etc.)?
 - b. Are the programs voluntary or mandatory?
 - c. Do federal entities directly accredit the third-parties, or do they recognize accreditation bodies that do this?



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- d. What is the role of voluntary consensus standards and standards-setting organizations in accreditation?
 - e. How are they funded (e.g., by user fees, appropriated funds)?
 - f. What frameworks govern these arrangements (e.g., statute, regulation, MOU, agreement, contract)?
 - g. What measures are in place to prevent conflicts of interest and to address financial affiliations and fee-for-service issues?
2. Evaluate a representative sample of these programs, including those involved with food safety.
 - a. What types of metrics can be utilized to assess successes and failures?
 - b. What factors are associated with success?
 - c. What factors are associated with failure?
 3. Identify the types of incentives and/or disincentives that have proven effective to maximize industry participation in voluntary third-party inspection and certification programs.
 4. Formulate recommendations for best practices (e.g., how can benefits be maximized, risks and costs minimized, and efficiencies achieved?).

How to Submit a Proposal

Proposals are invited from qualified persons who would like to serve as a consultant on this project. All responses will be considered by the Conference staff and the Chairman.

The product of a consultant's study is a report that is delivered first for review by the Conference staff and Chairman and then forwarded to a committee of the Conference membership. The report should provide proposed recommendations. The consultant interacts with Conference staff and works with the committee as the committee debates and further shapes recommendations. The committee's proposal is then forwarded to the Council of the Conference and ultimately to the full Conference membership meeting in plenary session. If approved at the plenary session, the recommendation becomes an official recommendation of the Administrative Conference. (For a general understanding of how the Conference is organized and operates, see 5 U.S.C. §§ 591-596, and www.acus.gov.)

The Conference typically provides a consulting fee for a study, plus a budget for expenses. The Conference also typically encourages its consultants to write up the results of their studies for publication. Thus, working as a Conference consultant provides some compensation, a publication opportunity, and the opportunity to work with Conference members from federal agencies, academia, the private sector, and public interest organizations to help shape and improve administrative law, procedure and practice.



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To submit a proposal to serve as the ACUS consultant on this project, you must:

- Send an e-mail to Jeffrey S. Lubbers, ACUS Acting Research Director at jlubbers@acus.gov. *Proposals must be submitted by e-mail.*
- Include the phrase “ACUS Project Proposal” in the subject line of your e-mail.

In the body of your e-mail or in an attachment, please:

- State the name of the project for which you are submitting a proposal (Third Party Inspections and Certification project).
- Explain why you would be a well qualified to work on the project.
- Explain how you would conduct the proposed project—what research you would do, how you would do the research, and how you would develop recommendations based on the research. There is no required format and 2-3 pages should probably be sufficient for this section.
- Include your CV, or other summary of relevant experience.
- State how much funding you would need for expenses. A typical ACUS research contract includes a consulting fee of up to \$12,000 plus travel expenses of \$1,000, and research assistance expenses of \$1,000. There is some flexibility in the expense budget based on factors relating to the proposal (e.g., the consultant’s location relative to Washington, DC, and the need for research assistance and empirical or interviewing work). The amount of the expenses is not a critical factor in the award of the contract; the quality of the proposal and of the consultant’s ability to carry out the study will be the most important factors.
- Propose a schedule for the project. ACUS research projects typically call for submission of an outline, a draft report, and a final report. The most important deadline is submission of the draft report, which should be substantially complete and ready for consideration by an ACUS committee. Proposals for this project should target the submission of the draft report for either August 31, 2012 or January 16, 2013 (so that the recommendation can be targeted for completion at a plenary session of the Conference held in December 2012 or June 2013). The earlier submission date is preferable if the consultant can be ready by that date, but high quality research leading to a well-written report will be the prime consideration.
- Submit your proposal by 6:00 pm Eastern time on February 6, 2012. Proposals may also be submitted or amended at any time until the award of the contract, and the Conference may consider any proposals or amended proposals received at any time before the award of the contract, but only proposals submitted by the stated deadline are guaranteed to receive consideration.



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Proposals will be evaluated based on:

- The qualifications of the researcher(s)
- The quality of the proposal
- The timeline of the proposal
- The likelihood that the research will lead to an Administrative Conference recommendation that will improve government
- The cost of the proposal (although the other factors are more important)

Failure to follow the above instructions may result in your proposal not being considered. Including the phrase “ACUS Project Proposal” in the subject line of your e-mail is important so that your proposal can be easily identified.

Persons submitting proposals should understand that, in addition to the work involved in researching and writing the consultant’s report, the consultant will need to work with ACUS staff and ACUS committees as the Conference considers a recommendation based on the report. The consulting fee is not designed to match a consultant’s normal consulting rates. It is a significant public service to serve as an ACUS consultant.