New Mexico Environment Department
Petroleum Storage Tank Bureau

REQUEST FOR PROPOSALS (RFP)

Remedial Action for S&L Service Station State Lead Site

RFP# 14-667-00-0009

Release Date
March 17, 2014

Response Due Date
April 17, 2014

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico's Environment Department (NMED) Petroleum Storage Tank Bureau requests proposals from qualified firms to provide professional environmental consulting services and engineering services to conduct remediation operation and maintenance, other remedial activities as warranted, well sampling, and other technical support activities at the S&L Service Station Site Release ID (RID) # 1194, in accordance with 20.5 NMAC. The S&L Service Station site is a State-lead site and is affected by the release from a leaking petroleum storage tank.

Work shall be performed at the direction of the NMED Petroleum Storage Tank Bureau. The contractor shall be compensated for professional services provided and for approved deliverables. NMED reserves the right to cancel the procurement and award no contracts if it is deemed in the best interests of the State.

All work must be performed in accordance with the requirements of the New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC. A proposal will be deemed non-responsive and will be dropped from further evaluation if it does not include a copy of the Offeror's appropriate New Mexico Construction Industries Division license, documentation that the Offeror is in compliance with regulations governing professional engineering practice in New Mexico (16.39 NMAC), a Statement of Qualifications for your firm's authorized representative and engineer, and the notarized anti-collusion affidavit. Please see Sections IV.3 of this RFP for additional information.

If the involvement of a professional engineer is required for the corrective action being conducted, the firm's qualification requirements shall include proof of licensure by the New Mexico State Board of Licensure for Professional Engineers and Surveyors in the discipline of engineering appropriate to the corrective action. This requirement may be met by demonstrating that the firm has on staff or available by contract a professional engineer licensed in the appropriate discipline.

Approval of additional scopes of work shall be contingent upon the recommended work being reasonable, necessary, and the costs being reasonable and customary.

NMED will not accept proposals from a contractor team or partnership.

B. BACKGROUND INFORMATION

NMED's mission is to provide the highest quality of life throughout the state by promoting a safe, clean, and productive environment.

NMED was established under the provisions set forth in the Department of the Environment Act by the 40th Legislature, enacted July 1, 1991, (Laws of 1991, Chapter 25) NMSA 1978, Sections 9-7A-1 thru 14.

C. SCOPE OF PROCUREMENT

The Contractor, a qualified firm, shall provide professional services required to conduct remediation activities and related corrective action at the S&L Service Station Site (RID: 1194), 100 Rio Communities Boulevard, Belen, New Mexico, a leaking petroleum storage tank site, where threats to the public health or the environment exist and/or where public or private water supplies are threatened by petroleum hydrocarbon releases from leaking petroleum storage tank systems. Site specific information including recent monitoring reports are available for review at https://cloud.env.state.nm.us/waste?c=275&k=ecdd141219.

Specifically, the contractor will be required to restart, operate and maintain the existing ISAS and SVE remediation system. A system operating manual will be provided. Additional system activities may include NAPL removal (if necessary). Reports of remediation system efficacy will be submitted to the Department. The reports shall include, but not be limited to the following:

- ☐ Description of all startup and subsequently scheduled tasks conducted
- ☐ Tabulated laboratory and field analytical results for individual wells and cumulative samples
- ☐ Tabulated cumulative and per well air flow
- ☐ System and individual well hydrocarbon recovery calculations and graphs
- ☐ Tabulated results of vacuum, air flow, and effluent concentrations measured during start-up and during subsequent system operation
- ☐ Vacuum radius of influence map
- ☐ Field notes
- ☐ Laboratory analytical data
- Site maps, Potentiometric Surface maps, Groundwater Contamination maps, and other pertinent maps

In addition, the contractor may conduct additional investigation and/or remediation system modification to increase remediation system efficacy and accommodate corrective action at the site.

PLEASE NOTE:

1) If this is a procurement that will result in a statewide price agreement, that agreement is available to all executive agencies and other political subdivisions of the State of New Mexico.
2) If this is a procurement that will result in a contractual agreement between two parties, the procurement may ONLY be used by those two parties exclusively.

D. PROCUREMENT MANAGER

1. NMED has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Ms. Delia Flores, Procurement Manager
Address: New Mexico Environment Department
Resource Protection Division
Petroleum Storage Tank Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505

Telephone: (505) 476-5555
Fax: (505) 476-4374
Email: Delia.flores@state.nm.us

2. All deliveries of responses via express carrier must be addressed as follows:

Name: Ms. Delia Flores, Procurement Manager
RFP Name: Remedial Action for S&L Service Station State Lead Site #14-667-00-0009
Address: New Mexico Environment Department
Resource Protection Division
Petroleum Storage Tank Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505

3. Any inquiries or requests regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact ONLY the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the State Purchasing Director.

E. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations.

"Addendum" a written or graphic instrument issued prior to the opening of Proposals, which clarifies, corrects, or changes the Request for Proposals. Plural: addenda.

"Agency" means the State of New Mexico Environment Department.

"Authorized Purchaser" means an individual authorized by a Participating Entity to place orders against this contract.

"Award" means the final execution of the contract document.

“Business Hours” means 8:00 AM thru 5:00 PM Mountain Daylight Time,

“Close of Business” means 5:00 PM Mountain Daylight Time,

"Contract" means any agreement for the procurement of items of tangible personal property, services or construction. It also means a business (contractor, subcontractor or supplier) that has not either been debarred or suspended pursuant to the requirements of § 13-1-177 through § 13-1-180, and § 13-3-11 through § 13-4-17 NMSA 1978 as amended. Any contractor that has either been debarred or suspended pursuant to § 13-1-177 through § 13-1-180, and § 13-3-11 through § 13-4-17 NMSA 1978 as amended will not be permitted to do business with the NMED and shall not be considered for award of the contract during the period for which it is debarred or suspended with the NMED.

“Department” for purposes of administering the RFP and associated proposals, “Department” means the New Mexico Environment Department or NMED.

"Determination" means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

"Desirable" – the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.

"DFA" means the Department of Finance and Administration for the State of New Mexico.

"Director" means the Director of the Resource Protection Division of the New Mexico Environment Department.

“Emergency Response Activities” include identifying the emerging situation, source, extent and magnitude of contaminants in soil, ground and surface water, and surface or subsurface structures and taking the necessary steps to mitigate these threats. Emergency response activities must meet the requirements as set forth in the New Mexico Hazardous Waste Act, 74-4-7 NMSA 1978.

"Evaluation Committee" means a body appointed to perform the evaluation of Offerors’ proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

“Finalist” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

“IT” means Information Technology.

"Mandatory" – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“Minor Technical Irregularities” anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

"Multiple Source Award" means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

"Offeror" is any person, corporation, or partnership who chooses to submit a proposal.

"Operator" means any person in control of, or having responsibility for, the daily operation of a storage tank system.

"Owner" means, in the case of a storage tank in use on November 8, 1984, or brought into use after that date, any person who owns a storage tank used for storage, use, or dispensing of regulated substances; and in the case of a storage tank in use before November 8, 1984 but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

"Person" means any individual, trust, firm, joint stock company, federal agency, corporation including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body. “Person” includes a consortium, a joint venture, a commercial entity, and the United States Government.

“Petroleum” means crude oil, crude oil fractions, and refined petroleum fractions, including gasoline, kerosene, heating oils and diesel fuels.

"Petroleum tank system", "petroleum storage tank" or "petroleum UST" or “petroleum AST” means a storage tank system that contains an accumulation of petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, lubricants, petroleum solvents, and used oils, as defined in 20.5 NMAC.

"Procurement Officer means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

"Procuring Agency" means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

“Project” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

"Project Manager" means the individual or designee authorized by the Agency that will oversee all services and tasks specified in the detailed scope of work of the contract(s) resulting from this solicitation.

“Qualified firm” means a company, firm, or person qualified by NMED under 20.5.16 NMAC to undertake corrective action.

"Regulated substance" means (1) any substance defined in Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. Section 9601 (14), but not including any substance regulated as a hazardous waste under subtitle C of the federal Resource Conservation and Recovery Act, as amended; and (2) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure of 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

“Release” means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance from a storage tank system into groundwater, surface water, or soil.

“Remediation” is the process of reducing the concentration of contaminants in air, soil and/or groundwater / surface water to a level that poses an acceptable risk to public health, safety, and welfare and the environment.

"Request for Proposals" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

Responsive Offeror" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

"Responsive Offer" means an offer which conforms in all material respects (price, quality, quantity or delivery requirements).

“Site” means a place where there is or was at a previous time one or more storage tanks and may include areas contiguous to the actual location or previous location of the tanks.

"Spill" means (1) any spill or overfill of a regulated substance that exceeds the reportable quantity under CERCLA (40 CFR 302); or (2) any spill or overfill of petroleum that exceeds 25 gallons or causes a sheen on surface water or reaches ground water; or (3) any spill or overfill of petroleum of 25 gallons or less, the cleanup of which cannot be accomplished within 24 hours.

"Staff" means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors' company.

"State (the State)" means the State of New Mexico.

"State Agency means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. "State agency" includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.

"State Purchasing Agent" means the director of the purchasing division of the general services department.

"SPD" means State Purchasing Division of the New Mexico State General Services Department.

"WSCA" means Westerns States Contracting Alliance.

Abbreviations include the following:

Abbreviations include the following:
(ASD) New Mexico Environment Department Administrative Services Division
(CERCLA) Comprehensive Environmental Response, Compensation and Liability Act
(CID) New Mexico Construction Industries Division
(DFA) New Mexico Department of Finance and Administration
(GSD) New Mexico General Services Department
(MDT) Mountain Daylight Savings Time
(MNA) Monitored Natural Attenuation
(MSA) Minimum Site Assessment
(MST) Mountain Standard Time
(NMAC) New Mexico Administrative Code
(NMED) New Mexico Environment Department
(PE) Professional Engineer
(RFP) Request for Proposal
(PSTB) Petroleum Storage Tank Bureau
(PSTR) New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC

F. PROCUREMENT LIBRARY

An online procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection or by contacting the Procurement Manager and scheduling an appointment. The library contains the information listed below:

Procurement Regulations and Request for Proposal – RFP instructions: http://www.generalservices.state.nm.us/statepurchasing/.

- Procurement Regulations, NMAC 1.4.1. A copy may be obtained from the following web site address: http://www.generalservices.state.nm.us/spd
- New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC
- New Mexico Water Quality Control Commission Regulations

Below is a link to the access the reports pertaining to S&L Service Station

https://cloud.env.state.nm.us/waste?c=275&k=ecdd141219

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

Action	**Responsible Party**	**Due Dates**
1. Issue RFP	NMED	3/17/2014
2. Distribution List	NMED	3/21/2014
3. Pre-Proposal Conference	NMED/Potential Offerors	3/21/2014
4. Deadline to submit Questions	Potential Offerors	3/24/2014
5. Response to Written Questions	NMED	3/26/2014
5. Submission of Proposal	***Potential Offerors***	***4/17/2014***
6. Proposal Evaluation	Evaluation Committee	4/23/2014
7. Selection of Finalists	Evaluation Committee	4/24/2014
8. Best and Final Offers	Finalist Offerors	Approx. 4/28/2014
9. Oral Presentation(s)	Finalist Offerors	Approx. 4/29/2014
10. Finalize Contact	NMED/Finalist Offerors	Approx 5/08/2014
11. Contract Awards	NMED/ Finalist Offerors	Approx. 5/30/14
12. Protest Deadline	Offeror	Approx 6/15/2014

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A, above.

1. Issuance of RFP

This RFP is being issued on behalf of the New Mexico State Environment Department on March 17, 2014. Additional copies of the RFP can be obtained through the New Mexico Environment Department's web site at http://www.nmenv.state.nm.us/ust/ustbtop.html or from the Procurement Manager.

2. Distribution List Response Due

Potential Offerors should hand deliver, return by facsimile or registered or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document in APPENDIX A to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 3:00 pm MDT on March 21, 2014.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror' s organization name shall not appear on the distribution list.

3. Pre-Proposal Conference

A pre-proposal conference will be held as indicated in the sequence of events beginning at 9:00 AM Mountain Daylight Time in the Petroleum Storage Tank Conference Room at 2905 Rodeo Park Drive East, Building 1, Santa Fe, NM 87505. Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All written questions will be addressed in writing on the date listed in the Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not a prerequisite for submission of a proposal. Per Section B.2 all respondents must submit the acknowledgment receipt form with appropriate contact information.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 5:00 PM Mountain Daylight Time as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D.

5. Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror's that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Additional copies will be posted to: NMED website.

6. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN DAYLIGHT TIME ON April 17, 2014. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the Remedial Action for S&L Service Station State Lead Site RFP# 14-667-00-0009. Proposals submitted by facsimile, or other electronic means, will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A Sequence of Events or as soon as possible. A schedule for the oral presentation and demonstration will be determined at this time.

9. Best and Final Offers

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II.A Sequence of Events or as soon as possible. Best and final offers may also be clarified and amended at finalist Offeror's oral presentation and demonstration.

10. Oral Presentations

Finalist Offerors may be required to conduct an oral presentation at a location to be determined as per schedule in Section II.A Sequence of Events or as soon as possible. Oral presentations will be held at the discretion of the Evaluation Committee and SPD.

11. Finalize Contractual Agreements

Any Contractual agreement resulting from this RFP will be finalized with the most advantageous Offeror as per the schedule in Section II.A Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the State Purchasing Division or relevant Agency Procurement office. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

12. Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreement, the Agency Procurement office will award as per the schedule in Section II.A Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the State Purchasing Division or relevant Agency Procurement office.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and Environment Department, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

13. Protest Deadline

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Daylight Time on the 15th day. Protests must be written and must include the name and

address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Mr. Jeffrey Kendall
Protest Manager
Legal Counsel, NMED
1190 St. Francis Drive
Santa Fe, New Mexico 87505

Mailing Address:
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502-5469

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any State Purchase Agreement or contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the SPA or contractual agreement with a state agency which may derive from this RFP. The state agency hiring a vendor from the SPA or entering into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the

agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Agency personnel will not merge, collate, or assemble proposal materials.

6. Offeror' s Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offeror' s duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

A. Proposals will be kept confidential until negotiations and award are completed by the Department. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
C. Confidential data is restricted to:
   1. confidential financial information concerning the Offeror' s organization;
   2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, Sections 57-3A-1 to 57-3A-7 NMSA 1978.
   3. PLEASE NOTE: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Agency shall examine the Offeror' s request and make a

written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This RFP in no manner obligates the State of New Mexico or any of its Agencies to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the agency determines such action to be in the best interest of the State of New Mexico.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected by sending written notice to the contractor. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly submitted in writing to the attention of the Procurement Manager.

13. Governing Law

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied, in writing, by the Agency through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in Sample Contract Appendix C . However, the contracting agency reserves the right to negotiate with any Offeror provisions in addition to those contained in this RFP (Sample Contract). The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The Agency discourages exceptions to contract terms and conditions in the RFP (Sample Contract). Exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions in RFP (Sample Contract) APPENDIX C, strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose specific alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The Agency reserves the right to require a change in contractor representatives if the assigned representative(s) is(are) not, in the opinion of the Agency, adequately meeting the needs of the Agency.

21. Notice of Penalties

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

22. Agency Rights

The Agency in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico.

25. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the Agency.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Agency's written permission.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to: http://www.generalservices.state.nm.us/statepurchasing/.

28. New Mexico Employees Health Coverage

1. For all contracts solicited and awarded on or after January 1, 2008, if the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information http://insurenewmexico.state.nm.us/.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. Failure to complete and return the signed unaltered form will result in disqualification.

30. Pay Equity Reporting Requirements

A. If the Offeror has ten (10) or more employees OR eight (8) or more employees in the same job classification, Offeror must complete and submit the required reporting form (PE10-249) if they are awarded a contract.

B. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Offeror must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

C. Should Offeror not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

D. Offeror must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Offeror must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement."

31. Disclosure Regarding Responsibility

A. Any prospective Bidder/Offeror (hereafter Offeror) and any of its Principals who seek to enter into a contract greater than twenty thousand dollars ($20,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agree to disclose whether they, or any principal of their company:
1. Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.
2. Have within a three-year period preceding this offer, been convicted of or had civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes

related to the submission of offers; or commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property.

3. Are presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with, commission of any of the offenses enumerated in paragraph B of this disclosure.

4. Have preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied.

   1. Taxes are considered delinquent if both of the following criteria apply:
      a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
      b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

5. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts. If during the performance of the contract, the contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local)

with commission of any offenses named in this document the contractor must provide immediate written notice to the Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32. Conflict of Interest; Governmental Conduct Act.

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

33. Anti- Collusion Statement

Each proposal submitted in response to this RFP must contain a notarized affidavit signed by the bidding firm, certifying under oath that the bidder has participated and will continue to participate in the competitive contractor selection process as described in 20.5.17 NMAC and NMSA 1978, Section 74-6B-7C without misrepresentation and without collusion with other contractors during the entire solicitation, evaluation and selection process.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to RFP. (To include the copies as stated in "B")

B. NUMBER OF COPIES

Offerors shall deliver:

- (Binder 1) one (1) original and six (6) identical hardcopies of their Technical Proposal; Original and all copies shall be in separate labeled binders; all confidential information in the proposal shall be clearly identified and easily segregated from the rest of the proposal.
- (Binder 2) one (1) original, six (6) copies of Cost proposal; Original and all copies shall be in separate labeled binders.
- (1) Electronic version/copy of the proposal containing the Technical Proposal.
- (1) Electronic version/copy of the Cost Proposal.
- All Confidential Information shall be clearly identified and segregated on the electronic version mirroring the hard copy submitted.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:
Typewritten with a font equal to or larger than 11, on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Proposal (Binder 1):

a) Signed Letter of Transmittal
b) Table of Contents
c) Technical Proposal Summary limited to 1 page
d) Response to Specifications **(except cost information which shall be included in Cost Proposal/Binder 2 only)**
e) Response to Contract Terms and Conditions
f) Offeror's Additional Terms and Conditions
g) Signed Campaign Contribution Form
h) Signed Employee Health Coverage Form
i) Signed Affidavit pursuant to Governmental Conduct Act (If applicable)
j) Resident Vendor or Resident Veteran Certificate (If applicable)
k) Resident Veterans Preference Certification (If applicable)
l) Anti- Collusion Notarized Affidavit
m) Subcontractor Information
n) Organization Health and Safety Plan
o) Professional Engineering Licensure
p) Construction Industries Division License

Cost Proposal (Binder 2):

Completed Cost Response Form

Within each section of the proposal, Offerors should address the items in the order in which they appear in this RFP. **All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. See Appendix J. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.**

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary shall be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

2. Letter of Transmittal

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX F which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
    a. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
    b. Acceptance of Section V of this RFP; and
    c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in paragraph 2 above.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

A. TECHNICAL SPECIFICATIONS

The proposal shall be limited to ten (10) pages in length, exclusive of any figures, diagrams, spreadsheets, charts asked for as enclosures in the RFP. Documentation regarding required attachments, the letter of transmittal, the table of contents, a proposal summary, maps, site-specific health and safety plan, and information regarding project staff and corporate experience, are exempt from this page limitation requirement. In addition, required documentation relating to Construction Industries Division licensure, professional engineer licensure, disclosure of campaign contributions form and anti-collusion statement are exempt from this page limitation.

The Offeror shall include a proposal summary with a one page maximum length to provide the Evaluation Committee with an overview of the technical and business features of the proposal. The proposal summary will not count toward the proposal page length limitations described above.

Offerors should respond in the form of a narrative to each specification. The narrative along with the required supporting material will be evaluated and awarded points according to the Evaluation Factors presented in Section V below.

1. Statement of Capabilities and Available Resources

Offerors must include a narrative describing their company's capability and resources available to provide each of the following services:

- Remediation activities at locations where threats to public health and the environment from leaking petroleum storage tank sites and/or where public or private water supplies are threatened by petroleum hydrocarbon releases from leaking petroleum storage tank systems.
- Options and approaches for groundwater monitoring, non-aqueous phase liquid containment and removal, remediation system operation and maintenance, system optimization and documentation of remediation system effectiveness.
- Credible expert testimony, facts and professional opinions regarding remediation activities and other situations where threats to public health and the environment due to petroleum hydrocarbon contamination have occurred.

2. Site Activities

Offerors must include in the response a description of how their firm will complete the scope of work as detailed in Section I.C, addressing the requirements of 20.5 NMAC and this Request for Proposals. Describe in detail what steps your firm would use to remediate petroleum hydrocarbon contamination at the site. Responsive proposals shall contain a detailed description of an approach that will reach the cleanup goals for this site within the potential four year term of the contract. A timetable outlining the project should be presented in the proposal. The proposal shall also identify additional

remediation equipment that may be required to implement any modified remediation strategy. As defined in 20.5.17.7B(2) NMAC, the proposal must contain details of the types of equipment that will need to be purchased. A schedule for operation, maintenance, optimization and monitoring analyses for the remediation system must also be addressed in the proposal. The proposal should address potential additional investigation, if warranted by the results of monitoring and remediation system operation.

3. Statement of Qualifications 20.5.16.9 NMAC

Offerors shall demonstrate their qualifications to conduct corrective action in accordance with 20.5.16 NMAC at sites contaminated by releases of regulated substances from storage tanks.

a) Provide a description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge designing implementing and operating engineered systems for the remediation of petroleum hydrocarbon contamination. Cleanup of petroleum hydrocarbon contamination including excavation of contaminated soils provided to the private sector will also be considered;

b) Offerors must include in the proposal credentials of the key personnel responsible for the completion of the specific scope of work as discussed in Section I. C**.** of this RFP. These credentials must include but are not limited to the following: academic degrees and other pertinent training information, experience in storage tank site investigations, and remediation or other relevant experience. The resumes or experience narratives included should describe the education and specific experience of each proposed staff member as it relates to knowledge of and experience in petroleum storage tank site investigations and remediation or other relevant experience. The Offeror must submit a statement of their current staff's relevant experience in the design, implementation, operation and maintenance of engineered systems for the remediation of petroleum storage tank related or equivalent sites. Additional information should be included regarding organization size and administrative support staff.

c) Subcontractor Information: The relevant experience of any subcontractors must be described.

d) Availability and Equipment: Documentation demonstrating the firm's availability and details regarding the firm's equipment facilities and services necessary to complete the scope of work must be submitted.

e) Health and Safety Plan: The Offeror must include an example copy of a relevant and site-specific health and safety plan (HASP). Please note: It is not necessary to write

a HASP specifically for this RFP. An example site-specific HASP from a relevant site is all that is required.

f) New Mexico Construction Industries Division License: A proposal will be deemed non-responsive and will be dropped from further evaluation if it does not include a current copy of the Offeror's New Mexico Construction Industries Division (CID) license. The CID license must be in an appropriate category for the scope of work being completed. It is recommended that Offerors check with CID to assure that they are in compliance with the law.

g) Professional Engineering Licensure: Pursuant to the requirements of 20.5.16.11 NMAC, because the involvement of a professional engineer is required for the corrective action being conducted, the firm's qualification requirements shall include documentation of licensure by the New Mexico State Board of Licensure for Professional Engineers and Surveyors in the discipline of engineering appropriate to the corrective action. This requirement may be met by demonstrating that the firm has on staff or available by contract a professional engineer licensed in the appropriate discipline. This discussion shall include the following:

i. The employment relationship between the Professional Engineer and the proposing firm, i.e. is the PE on staff or contract;

ii. A current copy of the Professional Engineer's license and/or Professional Engineer's license number and documentation that the license is in the appropriate discipline for the remediation work that is to be performed at this site;

iii. A statement that the Professional Engineer can contractually bind your firm.

iv. A statement that the Professional Engineer is in compliance with the Professional Engineer rules, Parts 8 and 9 of 16.39 NMAC.

4. Business References

Offerors shall provide a minimum of three (3) references from similar projects performed for private, state or large local government clients within the last three years. **<u>Offerors</u> are required to submit APPENDIX G, Reference Form, to the business references they list. The business references must submit the Reference Form directly to the designee described in Sec I Paragraph D.** It is the Offeror's responsibility to ensure the completed forms are received on or before the proposal submission deadline for inclusion in the evaluation process. Business References that are not received, or are not complete, may adversely affect the vendor's score in the evaluation process. The Evaluation Committee may contact any or all business references for validation of information

submitted. Additionally, the Agency reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Para C.18.

Offerors shall submit the following Business Reference information as part of Offer:

2.1 Client name;
2.2 Project description;
2.3 Project dates (starting and ending);
2.4 Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);
2.5 Staff assigned to reference engagement that will be designated for work per this RFP; and
2.6 Client project manager name, telephone number, fax number and e-mail address.

5. Oral Presentation

If selected as a finalist, Offerors must agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Agency. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications. **A statement of concurrence must be submitted in the Offeror's proposal.**

B. BUSINESS SPECIFICATIONS

1. Cost

Offerors must complete the Cost Response Form in APPENDIX D. The Offeror must propose a firm, fixed cost, not to exceed the contractor fee schedule contained in 20.5.17.604 NMAC. **Please note that your firm will be held to these costs during the workplan approval process. In addition, all approved workplans must contain professional service hours and equipment charges that are reasonable and customary for any contracted scope of work**.

2. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of 13-1-21 NMSA (as amended), Offerors must include a copy of their preference certificate in this section. In addition, for resident Veterans Preference, the attached certification Form (APPENDIX H) must

accompany any Offer and any business wishing to receive the preference must complete and sign the form.

3. Insurance

A. A successful Offeror who is awarded a contract shall furnish general comprehensive liability insurance for property damage in the amount of $2,000,000.00 for each occurrence (annual), as well as $1,000,000.00 for bodily injury, each person, to a maximum of $2,000,000.00 each occurrence (annual).

B. A successful Offeror who is awarded a contract shall furnish evidence that all equipment to be used pursuant to this Contract is covered by public liability and property damage insurance with a good and reputable insurance company, authorized to do business in New Mexico. The Contractor shall furnish evidence that each motor vehicle to be used by the Contractor pursuant to this Contract is covered in the minimum amount of $500,000.00 for bodily injury to, or death of, one person in any one accident, and subject to said limit for one person. In addition, a limit of $1,000,000.00 for bodily injury to, or destruction of property of others in any one accident must be provided.

C. The insurance company issuing the Contractor's general comprehensive liability insurance coverage shall furnish NMED with a certificate of such insurance with the provision that the policies are not subject to cancellation during the term of the Contract except upon thirty (30) days written notice to NMED. The above requirements shall become an integral part of this Contract.

D. The Contractor shall furnish evidence that operators, employed by the Contractor to operate equipment needed to meet the requirements of this Contract, are covered by Worker's Compensation Insurance as provided by the New Mexico Worker's Compensation Act.

E. If NMED does not ask to see or to receive the aforementioned policies, such failure to act shall not operate as a waiver of the Contract term.

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create in the public or any member thereof a third party beneficiary or to authorize any one a party to the Contract to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to persons, damages to property(ies) or any other claim whatsoever pursuant to the provisions of this Contract.

4. Anti- Collusion Statement

Each proposal submitted in response to this RFP must contain a notarized affidavit located in Appendix I signed by the bidding firm, certifying under oath that the bidder has participated and will continue to participate in the competitive contractor selection process as described in 20.5.17 NMAC and NMSA 1978, Section 74-6B-7C without misrepresentation and without collusion with other contractors during the entire solicitation, evaluation and selection process.

5. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX F. The form **must** be completed and must be signed by the person authorized to obligate the company.

6. Campaign Contribution Disclosure Form

The Offeror **must** complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B)

7. Employee Health Coverage Form

The Offeror **must** agree with the terms as indicated in APPENDIX E. The unaltered form **must** be completed, signed by the person authorized to obligate the Offeror's firm and submitted with Offeror's proposal.

8. Pay Equity Reporting

The Offeror **must** agree with the requirements of reporting as defined in Section II.C.30. Report is due at the time of contract award. **A statement of concurrence with this requirement must be included in Offeror's submitted proposal.**

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category. See Table 1 below:

Factor	Points Available

A Quality of Proposal	
1. Does the proposal discuss each of the required elements?	15
2. Are maps and other diagrams clear and accurate?	15
3. Are SOPs included for NAPL recovery, water gauging, sampling, PID measurements, extraction and injection well rehabilitation.	25
4. Is there a statement about Corporate Quality Assurance Plans	15
B Demonstrated technical understanding of site conditions and remediation system experience.	
1. Does the offerer demonstrate a clear understanding of site conditions and existing data?	75
2. Does the proposal adequately discuss additional data that needs to be collected?	50
3. Does the offerer have past experience with engineered remediation systems?	100
C Cleanup Strategy	
1. Are necessary permits, water leases and authorizations discussed (OSE, GWDP, etc.)?	20
2. Does this proposal include a reasonable timetable for implementing the remedy?	15
D O&M Strategy	
1. Does the proposal describe an appropriate monitoring and reporting strategy? Is there an SOP included?	100
2. Does the proposal describe an appropriate startup, optimization and maintenance strategy? Is there an SOP included?	220
E Oral Presentation	50
F Cost	300
G Insurance	Pass/Fail
H Anti- Collusion Statement	Pass/Fail
I Letter Of Transmittal	Pass/Fail
J Campaign Contribution Disclosure Form	Pass/Fail
K Employee Health Coverage Form	Pass/Fail
L Pay Equity Reporting	Pass/Fail
M Subcontractor Information	Pass/Fail
N Representative Example Health and Safety Plan	Pass/Fail
O Professional Engineering Licensure	Pass/Fail
P Construction Industries Division License	Pass/Fail
TOTAL	**1,000 points**
Preference Points per Section IV B. 2	

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. A Quality of Proposal (See Table 1)

2. B Demonstrated technical understanding of site conditions and remediation system experience. (See Table 1)

3. C Clean up Strategy (See Table 1)

4. D O&M Strategy (See Table 1)

5. E Oral Presentation (See Table1)

6. F Cost (See Table 1)

The evaluation of each Offeror's cost proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror's Bid}} \times \text{Available Award Points}$$

7. Resident Business or Resident Veterans Preference

Preference evaluation will be determined by:
A) Offerors' demonstration of qualification for preference (properly signed and submitted Preference form per Section IV, para B.2. above) and then (after qualification for preference has been established),
B) Application of preference will be based upon the statutory guidance at 13-1-21 of NM State Procurement Code. Once the RFP is scored, the appropriate percent of preference will be applied.

8. G Insurance (See Table 1)

Pass/Fail only. No points assigned.

9. H Anti- Collusion Statement (See Table 1)

Pass/Fail only. No points assigned.

10. I Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

11. J Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

12. K Employee Health Coverage Form (See Table 1)

Pass/Fail only. No points assigned.

13. L Pay Equity Reporting (See Table 1)

Pass/Fail only. No points assigned.

14. M Subcontractor Information (See Table1)

Pass/Fail only. No points assigned.

15. N Representative Example Health and Safety Plan (See Table 1)

Pass/Fail only. No points assigned.

16. O Professional Engineering Licensure (See Table 1)

Pass/ Fail only. No points assigned.

17. P Construction Industries Division License (See Table1)

Pass/ Fail only. No points assigned.

C. EVALUATION PROCESS

1. Each Offeror's proposal will be reviewed for compliance with the mandatory requirements as stipulated within the RFP. Please refer to Appendix J for a list of mandatory items that must be contained in your proposal. A proposal will be deemed non-responsive if it does not contain all of the items listed in Appendix J. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Evaluation Committee may use other sources of information to perform their evaluation, as specified in Section II, Paragraph C.18.

3. Responsive proposals will be evaluated on the factors in Section V. A. that have been assigned a point value. The responsive Offerors with the highest scores will be selected as finalists.

4. Finalist Offerors may be required to present their proposals to the Evaluation Committee. The factors by which the oral presentation will be evaluated are: quality and clarity of the presentation, knowledge and experience of key staff, ability to answer technical questions, and demonstrated understanding of the elements of the scope of procurement detailed in Section I.C. Within the scoring criteria framework, as detailed in Section V.A, the evaluation team reserves the right to adjust any and/or all technical merit scores based on information provided during the oral presentations and clarifications and updates to and refinements of the written proposals as originally submitted.

5 The responsive offeror whose proposal is most advantageous to NMED, taking into consideration the evaluation factors in Section V will be recommended for a contract award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

6 Adherence to the requirements of the RFP documents and the NMED Petroleum Storage Tank Regulations (20.5 NMAC) will be a consideration in determining the points allocated for all categories.

D POINT ALLOCATION

The allocation of points will be based on the following:

1. PROJECT APPROACH - Up to 650 points will be awarded based upon the offerer's response to the Scope of Procurement presented in Section IC of this RFP. Proposals will be awarded points based on the thoroughness, understanding and applicability of your firm's approach to the scenario as measured against the elements of the scope of procurement detailed in Section I.C of the RFP. In addition, the evaluation of the scenario will consider your response to the situation and the adequacy of your firm's actions. Consideration and points will also be allocated based on the efficacious use of the resources and staff in handling the scenario.

2. EXPERIENCE, AND ENGINEERING AND LICENSURE – Pass/Fail will be awarded based upon the Offeror's corporate and proposed staff experience, and

experience on similar projects. Points will be awarded for the inclusion of documentation with regard to the proper licensure and engineering information.

3. ORAL PRESENTATION – up to 50 points will be awarded. The factors by which the oral presentation will be evaluated are: quality and clarity of the presentation, knowledge and experience of key staff, ability to answer technical questions, and demonstrated understanding of the elements of the scope of procurement detailed in Section I.C including Site Scenario.

4. COST - The evaluation of each Offeror's cost proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror's Bid}} \times 300 = \text{Points Awarded}$$

The evaluation of each Offeror's cost proposal will be based on the total proposed cost listed on the cost table shown on Appendix D.

The Department reserves the right to eliminate proposals with unrealistically low costs.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

APPENDIX A

REQUEST FOR PROPOSAL

Remedial Action for S&L Service Station State Lead Site
RFP# 14-667-00-0009

ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX H.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than 3:00 pm MDT on March 21, 2014. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Ms. Delia Flores, Procurement Manager
Remedial Action for S&L Service Station State Lead RFP# 14-667-00-0009
New Mexico Environment Department
Petroleum Storage Tank Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505
Fax: 505-476-4374
E-mail: Delia.flores@state.nm.us

APPENDIX B

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars ($250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of

their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____
_____

Amount(s) of Contribution(s) _____
_____

Nature of Contribution(s) _____
_____

Purpose of Contribution(s) _____
_____

(Attach extra pages if necessary)

_____ _____

Signature Date

_____
Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS ($250) WERE MADE to an applicable public official by me, a family member or representative.

_____ _____
Signature Date

_____
Title (Position)

APPENDIX C

PROFESSIONAL SERVICE CONTRACT

STATE OF NEW MEXICO

New Mexico Environment Department
PROFESSIONAL SERVICES CONTRACT **#_____**

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Environment Department, hereinafter referred to as the "Agency," and **SELECTED CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Department of Finance and Administration (DFA).

IT IS AGREED BETWEEN THE PARTIES:

1. <u>Scope of Work.</u>

The Contractor shall perform the following work:

The Contractor, a qualified firm, shall provide professional services required to conduct remediation activities and related corrective action at the S&L Service Station Site (RID: 1194), 100 Rio Communities Boulevard, Belen, New Mexico, a leaking petroleum storage tank site. Specifically, the contractor will be required restart, operate and routinely optimize the existing remediation system. Additional activities may include but are not limited to additional investigation, air and ground water monitoring to evaluate the progress of the remedial system, remediation system modification and prepare related reports.

The Contractor, a qualified firm, shall submit workplans for work under this Agreement at the request of the Agency, which must be approved in writing by the Agency representatives possessing Signatory Authority as designated by Department policy prior to the start date of the workplan. The workplan shall be prepared and approved, and the work completed, pursuant to the New Mexico Petroleum Storage Tank Regulations and Corrective Action Fund Payment and Reimbursement Regulations. If there are any inconsistencies between a workplan and this Agreement, this Agreement shall govern.

Any workplan amendments must also be approved in writing by the Agency representatives possessing Signatory Authority as designated by the Agency policy in effect on the date of the amendment. No person other than the person possessing Signatory Authority has actual or apparent authority to amend, modify or change the workplan in any manner. Any written amendment to the workplan signed by a person not possessing Signatory Authority is void and unenforceable.

2. <u>Compensation.</u>

A. The Agency shall pay to the Contractor in full payment for services satisfactorily performed, based on deliverables and costs approved through negotiated workplans, such compensation not to exceed **Amount**, excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling **Amount** shall be paid by the Agency to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed **Amount**. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

B. The Contractor must submit a detailed report of deliverable(s) accomplished as set forth in the workplan approval letter(s). The Agency will assess the quality of the deliverable(s) and determine, at a minimum, that the deliverable(s) complies with the deliverable requirements as defined in the scope of work and the terms and conditions of the Agreement and meets the performance measures for the deliverable(s). If the Agency finds that the completed work is acceptable, it shall issue a written or electronic certification of acceptance of the work. If the Agency finds that the services are deficient or not acceptable, it shall within 30 days after the date of receipt of written notice from the Contractor that work has been completed, provide the Contractor a written or electronic notice of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to remedy the defect. Upon receipt of a claim and certification by the Agency that the work has been received and accepted, payment shall be tendered to the Contractor within sixty days of receipt of claim submittal and in accordance with the Ground Water Protection Act *(NMSA 1978, §74-6B-13 (E))* and the New Mexico Petroleum Storage Tank Regulations *(20.5 NMAC)*. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

3. <u>Term.</u>

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall terminate four years from the date of approval by DFA unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

4. <u>Termination.</u>

A. <u>Grounds</u>. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. <u>Notice; Agency Opportunity to Cure.</u>

1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall

give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A)because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is

later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement,

Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://insurenewmexico.state.nm.us/.

22. Employee Pay Equity Reporting.

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

23. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Agency:

Reimbursement Section Manager
Delia Flores
New Mexico Environment Department
Petroleum Storage Tank Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505
Delia.flores@state.nm.us

To the Contractor:
[insert name, address and email].

26. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the DFA Contracts Review Bureau below.

By: _____ Date:_____
Ryan Flynn, Cabinet Secretary

Environment Department

By: _____ Date:_____
Jeffrey Kendall Legal Counsel – Certifying legal sufficiency

By: _____ Date:_____
Vince Lithgow Chief Financial Officer

By: _____ Date:_____
Contractor

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: **00-000000-00-0**

By: _____ Date:_____
Taxation and Revenue Department

This Agreement has been approved by the DFA Contracts Review Bureau:

By: _____ Date:_____
DFA Contracts Review Bureau

APPENDIX D

COST RESPONSE FORM

Appendix D

Cost Calculation Table

This Appendix must be submitted with your proposal in a SEPARATE, SEALED ENVELOPE. The details of what is involved in each of the cost criteria below are contained in Section I.C. of the RFP document.
The offeror must propose a firm, fixed cost for all cost for all items listed below, exclusive of professional engineering services. Do not include the cost of any professional engineering services with your proposal.

Criteria	Cost
The total cost for the implementation of the remediation strategy. This cost item shall include all required environmental and other permits, any additional recommended investigation, system modification or system optimization beyond routine maintenance. Do not include the cost of professional engineering services.	
The total cost of four calendar quarters of operation and maintenance of the system(s) except for professional engineering services. Include the cost for your operation and maintenance reporting .Do not include any cost for utilities.	
The total cost for four calendar quarters of groundwater monitoring and reporting for a total of seven (7) monitoring wells and seven (7)remediation wells. Fourteen (14) wells total. For the purpose of this RFP, do not include the cost of any blank samples, duplicate samples, spiked samples, etc. Assume that all samples are to be analyzed with standard laboratory turn-around time by EPA method 8260B only. Assume that sampling for metals is not required and that NAPL is not present in any of the wells.	
The cost of all additional major remediation equipment (as defined in 20.5.17 NMAC) shall be included here as a separate line item on the cost table, but will not be considered in the evaluation of the cost effectiveness.	
Grand Total Cost of All of the Above Criteria	

****** All costs provided must be exclusive of the cost of any professional engineering services and New Mexico Gross Receipts Tax******

APPENDIX E

NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM

New Mexico Employees Health Coverage Form

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information http://insurenewmexico.state.nm.us/.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

Signature of Offeror: _____ Date_____

APPENDIX F

LETTER OF TRANSMITTAL FORM

APPENDIX F

Letter of Transmittal Form

RFP#:_____
Offeror Name: _____
Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:
_____
_____
_____

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:
Name _____
Title _____
E-Mail Address _____
Telephone Number _____

3. For the person authorized by the organization to negotiate on behalf of this Offer:
Name _____
Title _____
E-Mail Address _____
Telephone Number _____

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:
Name _____
Title _____
E-Mail Address _____
Telephone Number _____

5. Use of Sub-Contractors (Select one)
____ No sub-contractors will be used in the performance of any resultant contract OR
____ The following sub-contractors will be used in the performance of any resultant contract:
_____
(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.
_____
(Attach extra sheets, as needed)

7. ___ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II, Paragraph C.1.
___ I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
___ I acknowledge receipt of any and all amendments to this RFP.

_____ _____, 2012
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

APPENDIX G

REFERENCE QUESTIONNAIRE

The State of New Mexico, as a part of the RFP process, requires Offerors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document Offeror's experience relevant to the scope of work in an effort to establish Offeror's responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to: Delia Flores, NMED Petroleum Storage Tank Bureau, 2905 Rodeo Road Park Drive East, Building 1, Santa Fe, NM 87505 by the RFP submission deadline for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided therein.

RFP # 14-667-00-0009 REFERENCE QUESTIONNAIRE
FOR:

_____
(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of New Mexico, Environment Department via facsimile or e-mail at:

Name: Delia Flores, Procurement Manager
Address: New Mexico Environment Department
Petroleum Storage Tank Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, Nm 87505

Telephone: 505-476-5555
Fax: 505-476-4374
Email: Delia.flores@state.nm.us

no later than April 17, 2014**,** and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of New Mexico Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

CONFIDENTIAL INFORMATION WHEN COMPLETED

Company providing reference:	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?
   COMMENTS:

2. How would you rate this firm's knowledge and expertise?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

5. How would you rate the dynamics/interaction between the vendor and your staff?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

6. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____Rating:

Name: _____Rating:

Name: _____Rating:

Name: _____Rating:

COMMENTS:

7. How satisfied are you with the products developed by the vendor?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

8. With which aspect(s) of this vendor's services are you most satisfied?
COMMENTS:

9. With which aspect(s) of this vendor's services are you least satisfied?
COMMENTS:

10. Would you recommend this vendor's services to your organization again?
COMMENTS:

APPENDIX H

RESIDENT VETERANS CERTIFICATION

Resident Veterans Preference Certification

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only

□ I declare under penalty of perjury that my business prior year revenue starting January 1ending December 31 is less than $1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

□ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than $1M but less than $5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

□ I declare under penalty of perjury that my business prior year revenue starting January 1ending December 31 is more than $5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

_____ _____

(Signature of Business Representative)* (Date)

*Must be an authorized signatory for the Business.The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or termination of award of the procurement involved if the statements are proven to be incorrect.

APPENDIX I

Anti - Collusion Statement

Appendix I

ANTI-COLLUSION AFFIDAVIT

I hereby affirm, under penalty of perjury, that I have participated and will continue to participate in the competitive contractor selection process as described in this Request for Proposals, the Petroleum Storage Tank Regulations,20.5.17.15 NMAC, and Section 74-6B-7C NMSA 1978 without misrepresentation and without collusion with other contractors during the entire solicitation, evaluation and selection process.

_____ _____
Signature Date

State of _____
County of _____

This instrument was signed and affirmed before me on _____ by

_____. (date)
(name)

_____
__
SEAL Notary Public
My commission expires:

APPENDIX J

MANDATORY CHECKLIST

Appendix J

Mandatory Checklist

Letter of Transmittal, III.C.2:
___Identify the submitting organization;
___Identify the name, title and telephone number of the person authorized to negotiate workplans on behalf of the organization;
___Identify the name, title, e-mail address and telephone number of the person to be contacted for clarification;
___Explicitly indicate acceptance of the conditions governing the solicitation stated in Section VI.A;
___Be signed by the authorized representative of the firm;
___Acknowledgement of receipt of any and all amendments to this Proposal Solicitation.

Key Staff
___credentials of the key personnel responsible for the completion of the specific scope of work as discussed in Section IV of this Proposal Solicitation.
___ New Mexico Construction Industries Division License

Professional Engineering Licensure:
___The employment relationship between the Professional Engineer and the proposing firm, i.e. is the PE on staff or contract;
___ A current copy of the Professional Engineer's license and/or Professional Engineer's license number and documentation that the license is in the appropriate discipline for the remediation work that is to be performed at this site;
___A statement that the Professional Engineer can contractually bind your firm.
___A statement that the Professional Engineer is in compliance with the Professional Engineer rules, Part 8 of 16.39 NMAC.

Anti-collusion Affidavit, IV.B.4, Appendix I.
___notarized affidavit signed by the contractor certifying under oath that the contractor has participated and will continue to participate in the competitive contractor selection process as described in this section and Section 74-6B-7C NMSA 1978 without misrepresentation and without collusion with other contractors during the entire solicitation, evaluation and selection process.
____Disclosure of Campaign Contributions Form (Section IV.B.6 and Appendix B)
___Health and Safety Plan

TECHNICAL PROPOSAL:
___one (1) original
___SIX (6) identical copies
___one (1) copy of the proposal shall be submitted in electronic format on a CD
___technical proposal summary limited to 1 page
___technical proposal limited to 10 pages long exclusive of the table of contents and any figures, diagrams, spreadsheets, maps or charts asked for as enclosures
___Oral Presentation Concurrence