

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
PETROLEUM STORAGE TANK BUREAU

REQUEST FOR PROPOSALS

RFP No. 10-667-00-0004

**STATE LEAD SITE INVESTIGATION AND MONITORING SERVICES
FOR VARIOUS LEAKING PETROLEUM STORAGE TANK SITES
ADMINISTERED BY THE NEW MEXICO ENVIRONMENT
DEPARTMENT, PETROLEUM STORAGE TANK BUREAU**

January 14, 2010

TABLE OF CONTENTS

	Page No.
I. ADVERTISEMENT	2
II. INTRODUCTION	3
A. PURPOSE OF THIS REQUEST FOR PROPOSALS	3
B. SUMMARY SCOPE OF WORK	3 thru 4
C. SCOPE OF PROCUREMENT	4
D. PROCUREMENT MANAGER	4
E. DEFINITION OF TERMINOLOGY	5 thru 8
F. BACKGROUND INFORMATION	9
G. PROCUREMENT LIBRARY	10
III. CONDITIONS GOVERNING THE PROCUREMENT	11
A. SEQUENCE OF EVENTS	11
B. EXPLANATION OF EVENTS	12 thru 15
C. GENERAL REQUIREMENTS	15 thru 20
IV. RESPONSE FORMAT AND ORGANIZATION	21
A. NUMBER OF RESPONSES	21
B. NUMBER OF COPIES	21
C. NUMBER OF PAGES IN THE PROPOSAL	21
D. PROPOSAL FORMAT	21
E. PROPOSAL ORGANIZATION	21 thru 22
F. LETTER OF TRANSMITTAL	22
G. MANDATORY SPECIFICATIONS	22
V. SPECIFICATIONS	23
A. PROJECT APPROACH	23 thru 25
B. EXPERIENCE	25 thru 26
C. HEALTH & SAFETY PLAN	26
D. COST EFFECTIVENESS	26
E. CAMPAIGN CONTRIBUTION AND ANTI-COLLUSION INFO	26
F. ENGINEERING AND OTHER LICENSURE	26 thru 27
VI. EVALUATION	28
A. EVALUATION POINT SUMMARY	28
B. EVALUATION FACTORS	29
C. EVALUATION PROCESS	30
VII. APPENDICES:	
A. List of Sites	31 thru 32
B. Acknowledgment of Receipt Form	33
C. Mandatory Requirements Checklist	34
D. Cost Proposal	35 thru 36
E. Campaign Contribution Disclosure Form	37 thru 38
F. Sample Professional Services Contract	39 thru 47

I. ADVERTISEMENT

REQUEST FOR PROPOSALS

10-667-00-0004

STATE LEAD REMEDIATION, SITE INVESTIGATION AND MONITORING SERVICES FOR LEAKING PETROLEUM STORAGE TANKS AT VARIOUS SITES ADMINISTERED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT, PETROLEUM STORAGE TANK BUREAU

The New Mexico Environment Department is requesting proposals for the purpose of procuring State Lead Site Investigation Services at various sites administered by the New Mexico Environment Department's Petroleum Storage Tank Bureau. All proposals submitted shall be valid for ninety (90) days subject to all action by the New Mexico Environment Department. Proposals shall only be accepted by qualified Firms submitting proposals in relation to the Scope of Work as identified within the RFP. The Environment Department reserves the right to reject any and all proposals in part or in whole. A completed proposal shall be submitted in a sealed box or envelope indicating the proposal title and RFP number 10-667-00-0004 along with the Proponent's name and address clearly marked on the outside of the box or envelope. **All proposals shall be received by 3:00 p.m. Mountain Standard Time on March 2, 2010 at the office of the Procurement Manager, Petroleum Storage Tank Bureau Office, 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109.** By submitting a proposal for the requested materials and/or services each Proponent is certifying that their proposal is in compliance with regulations and requirements stated within the Request for Proposals.

EQUAL OPPORTUNITY EMPLOYMENT: All qualified offerors will receive consideration of contract(s) without regard to race, color, religion, sex, sexual orientation or national origin.

Request for Proposals may be obtained through the Department's website at <http://www.nmenv.state.nm.us/ust/rfp.html>.

ANY PROPOSALS RECEIVED BY THE OFFICE OF THE PROCUREMENT MANAGER AFTER THE TIME AND DATE SPECIFIED SHALL NOT BE CONSIDERED.

Environmental Protection Division
New Mexico Environment Department
Published: January 14, 2010

II. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico's Environment Department is requesting proposals for site investigation work: Minimum Site Assessment, Phase 1, Phase 2 and Phase 5 monitoring at sites listed in Appendix A, as required in support of the New Mexico Environment Department's Petroleum Storage Tank Bureau.

The purpose of this Request For Proposals is to select contractors who can complete the described work below. Work will be performed at the direction of the Petroleum Storage Tank Bureau, New Mexico Environment Department. Contractors will be compensated for services provided and for approved deliverables at the sites they are awarded.

The Department will not accept proposals from contractor teams or partnerships. The Department reserves the right to award multiple contracts to separate firms. In addition, the Department reserves the right to cancel the procurement and award no contract if it is deemed in the best interests of the State.

B. SUMMARY SCOPE OF WORK

In order to manage the water resources of the State of New Mexico, to protect human health and the environment and to meet the strategic goals of the New Mexico Environment Department Petroleum Storage Tank Bureau, the Department requests that qualified firms submit a proposal with costs for performance of MSA's, Phases 1, 2, and 5 site investigation, monitoring, non-aqueous phase liquid removal, soil excavation and disposal, contaminated water removal, and site decommissioning activities. All work must be performed in accordance with the requirements of the New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC.

Additional Minimum Site Assessment, phase 1, phase 2, and phase 5 corrective action activities may be required at some point during the life of the contract. Details of those potential activities are not currently known and therefore cannot be outlined in this scope of work. Approval of additional scopes of work shall be contingent upon the work being reasonable and necessary and the costs being reasonable and customary.

Sites for work outlined above are listed in Appendix A of this RFP. For purposes of this request, NMED does not require the offeror to submit costs for specific sites, but for the generic scenarios described in Section V.A of this RFP. Therefore, no information about individual sites beyond that given in the list will be made available to submitters.

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 proposer's appropriate New Mexico Construction Industries Division license, documentation that the proposer is in compliance with regulations (16.39 NMAC) governing professional engineering practice in New Mexico, a Statement of Qualifications for your firm's authorized representative and engineer, and the notarized anti-collusion affidavit required in accordance with 20.5.17.15.C.(3) NMAC. Please see Sections V.E and V.F of this RFP for additional information.

Pursuant to the requirements of 20.5.16.11 NMAC, if the involvement of a professional engineer is required for the corrective action being conducted, the firm's qualification requirements shall include 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.

Pursuant to the requirements of 20.5.12.38.B.(1) NMAC, the installation, commission, operation, and adjustment of any non-aqueous phase liquid removal system shall be performed under the supervision of a professional engineer.

Pursuant to the requirements of 20.5.12.38.D NMAC, following the installation and start-up of any non-aqueous phase liquid removal system with electrical or mechanical components, as-built drawings must be submitted with all drawings signed and sealed by the professional engineer. In addition, the as-built drawings must include a tabulation of pertinent data. The as-built drawings must contain an inventory of all purchased major remediation equipment, including serial numbers and purchase price.

C. SCOPE OF PROCUREMENT

The goal of this RFP is to put into place a contract(s) for the services as described in the Scope of Work, Section II.B. In addition, the Department may engage the contractor(s) to perform additional MSA, Phase 1, Phase 2, and Phase 5 site work, as it deems necessary under 20.5 NMAC and based on particular site conditions. It is anticipated that the contract will begin on May 3, 2010, or as soon as possible thereafter for a term of four (4) years. In no case will the contract, including renewals thereof, exceed a total of four (4) years in duration.

D. PROCUREMENT MANAGER

NMED has designated a Procurement Manager who is responsible for the conduct of this procurement. The name, address and telephone number of the Procurement Manager are listed below.

Mr. Thomas Leck, Procurement Manager
New Mexico Environment Department
Environmental Protection Division
District I Office
5500 San Antonio Drive NE
Albuquerque, New Mexico 87109
Telephone (505) 222-9564
FAX (505) 222-9508
e-mail: tom.leck@state.nm.us

Any inquiries or requests regarding this procurement must be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding this procurement. Other state employees do not have the authority to respond to inquiries and requests regarding this procurement. All responses to inquiries will be available for review on the Internet through NMED's web page at <http://www.nmenv.state.nm.us/ust/rfp.html> or by requesting a copy from the Procurement Manager.

E. DEFINITION OF TERMINOLOGY

The following terms used throughout this RFP, including appropriate abbreviations, shall have the following meanings:

"AST system" means an above ground storage tank and its associated ancillary equipment and containment system, if any.

"Ancillary equipment" means any device including, but not limited to such devices as piping, fittings, flanges, valves, and pumps associated with a storage tank.

"Contract" means a written agreement for the procurement of items of tangible personal property, services, or professional services.

"Department" means the New Mexico Environment Department or NMED.

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

"Determination" means the written documentation of a decision of the Procurement Manager including findings of fact required to support a decision. A determination becomes part of the procurement file.

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

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

"Evaluation Committee" means a body appointed by NMED's management to perform the evaluation of offeror proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for submission to NMED for contract award that contains all written determinations resulting from the conduct of the procurement requiring the evaluation of competitive sealed proposals.

"Finalist" means an offeror who meets all the mandatory specifications of the Request for Proposal and whose score on evaluation factors is sufficiently high to qualify that offeror for further consideration by the Evaluation Committee.

"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.

"Minimum Site Assessment (MSA)" means the sum total of all of the following activities: Reporting, investigating and confirming a release pursuant to 20.5.7 NMAC; and determining the on-site extent, magnitude and impact of contamination by conducting investigations and reporting to the department pursuant to 20.5.12.11 NMAC or 20.5.13.10 NMAC (initial abatement), or 20.5.12.12 NMAC or 20.5.13.11 NMAC (72-hour and 14-day reports), 20.5.12.17 NMAC or 20.5.13.16 NMAC (preliminary investigation), and 20.5.12.18 NMAC or 20.5.13.17 NMAC (report on the preliminary investigation).

"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.

"Phase 1 of Corrective Action" means, as defined in 20.5.17.7.B.(5).(b) NMAC, the secondary investigation and report, tier two evaluation and report, and tier three evaluation and report.

"Phase 2 of Corrective Action" means, as defined in 20.5.17.7.B.(5).(c) NMAC, removal of non-aqueous phase liquid and contaminated soil.

"Phase 5 of Corrective Action" means, as defined in 20.5.17.7.B.(5).(f) NMAC, the operation, monitoring, maintenance and reporting of an implemented remediation plan. In addition, included in Phase 5 are site decommissioning activities, including remediation system abandonments and monitoring well abandonments.

"Procurement Code" means Chapter 13, Sections 13-1-28 to 13-1-199 NMSA 1978.

"Procurement Code Regulations" means General Services Department (GSD) Rule 1.4.1 NMAC.

"Purchase Order" means the document which directs a contractor to deliver services pursuant to an existing contract.

"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 to a level that poses an acceptable risk to public health, safety, and welfare and the environment.

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

"Resident Business" means, as defined in 20.5.17.7.B.(7).(a) and (b) NMAC, a business enterprise which is authorized to do and is doing business under the laws of New Mexico and which maintains its principal place of business in New Mexico; or has staffed an office and has paid applicable New Mexico taxes for two years prior to the awarding of the proposal and has five or more employees who are residents of New Mexico, or is an affiliate of a business which meets either of these requirements. As used in this paragraph, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the qualifying business through ownership of voting securities representing a majority of the total voting power of the entity; or a business enterprise, including a sole proprietorship, partnership or corporation, that: offers for sale or lease or other form of exchange, goods, commodities or services that are substantially manufactured, produced or assembled in New York state; or, in the case of construction services, has its principal place of business in New York state.

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

"Responsive Offer" or "Responsive Proposal" means an offer or proposal which conforms in all material respects to the requirements set forth in this Request for Proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

"Secretary" means the Secretary of the New Mexico Environment Department also known as the Secretary of the Environment.

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

"State Purchasing Agent" or "SPA" means the purchasing agent for the State of New Mexico at GSD or a designated representative thereof.

"Underground Release" means any below ground release.

"Underground Storage Tank" or "UST" means a single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground. The term does not include any: (1) farm, ranch or residential tank of 1,100 gallons or less capacity used for storing motor fuel or heating oil for noncommercial purposes; (2) septic tank; (3) pipeline facility, including gathering lines which are regulated under the federal Natural Gas Pipeline Safety Act of 196, 49 U.S.C. App. 1671, et seq., or the federal Hazardous Liquid Pipeline Safety Act of 1978, 49 U.S.C. App. 2001, et seq., or which is an intrastate pipeline facility regulated under state laws comparable to either act; (4) surface impoundment, pit, pond or lagoon; (5) storm water or wastewater collection system; (6) flow-through process tank; (7) liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; (8) storage tank situated in an underground area, such as a basement, cellar, mine working drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor; or (9) pipes connected to any tank which is described in paragraphs (1) through (8) of this subsection.

"UST system" or "tank system" means an underground storage tank and its associated ancillary equipment and dispensing and containment system, if any.

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
(NAPL) Non-Aqueous Phase Liquid
(NMAC) New Mexico Administrative Code
(NMED) New Mexico Environment Department
(OFB) Office of Finance & Budget
(PE) Professional Engineer
(PVC) polyvinyl chloride
(RFP) Request for Proposal
(PSTB) Petroleum Storage Tank Bureau
(PSTR) New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC

F. BACKGROUND INFORMATION

1. THE NEW MEXICO ENVIRONMENT DEPARTMENT'S MISSION

The New Mexico Environment Department's mission is to provide the highest quality of life throughout the state by promoting a safe, clean, and productive environment.

2. THE NEW MEXICO ENVIRONMENT DEPARTMENT'S GOALS AND OBJECTIVES

We, as custodians of our environment will:

- a. Take a holistic approach to the protection of human health and the environment;
- b. Protect the environmental resources of New Mexico and the health and safety of its citizens and visitors;
- c. Establish environmental baselines for communities across the state and focus on pollution prevention;
- d. Revamp and restructure the pollution prevention program in a way that truly prevents and reduces pollution throughout New Mexico;
- e. Value diversity to improve our ability as a Department to communicate across racial, linguistic and socio-economic lines, public participation and the quality of our decisions will improve;
- f. Seek out that diversity in every corner of the state and we will listen to it;
- g. Focus to looking outside of Santa Fe and Albuquerque, and into our communities;
- h. Harness the energy of our best employees in order to achieve results that matter to the mission of the Department and to the health and environment of New Mexico;
- i. Reward high performance and conversely provide sanctions for workers that aren't accomplishing what is required.

The New Mexico Environment Department 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.

The New Mexico Environment Department Secretary's Office is located in the Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, NM.

G. PROCUREMENT LIBRARY

The Procurement Manager has established a Procurement Library. Offerors are encouraged to review the material contained in the Procurement Library by contacting the Procurement Manager and scheduling an appointment. The Procurement Library will be located in the Petroleum Storage Tank Bureau office at the address given in Section II.D of this proposal. Offerors are welcome to take notes in the Procurement Library or to bring a portable copy machine to the library. Other than offeror-reproduced copies, materials cannot be removed from the library. Copies requested by the offerors may be made by NMED for a fee of \$.25 per copy.

The library contains information listed below:

- State of New Mexico Procurement Regulations, 1.4.1 NMAC
- New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC
- New Mexico Water Quality Control Commission Regulations
- Map of Albuquerque with highlighted key locations
- Map of Santa Fe with highlighted key locations.

III. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of procurement, describes the major procurement events and the conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule. Offerors will be notified of any extension.

Action	Responsibility	Calendar Date
1. Issue RFP	NMED/SPD	January 14, 2010
2. Pre-Proposal Conference	NMED, Potential Offerors	January 25, 2010
3. Distribution List Response No later than 5:00 PM, MST	Potential Offerors	January 25, 2010
4. Deadline to Submit Additional Written Questions No later than 5:00 PM, MST	Potential Offerors	February 1, 2010
5. Response to Written Questions/RFP Amendments	Department	February 5, 2010
6. Submission of Proposal No later than 3:00 PM, MST	Offeror	March 2, 2010
7. Proposal Evaluation	Evaluation Committee	March 16, 2010
8. Selection of Finalists	NMED/Evaluation Committee	March 16, 2010
9. Best & Final Offer	Finalists	March 22, 2010
10. Oral Presentation	Finalists	March 23-24, 2010
11. Selection of Contractors	Evaluation Committee	March 24, 2010
12. Finalize Contract	NMED, Contractor	~April, 26, 2010
13. Contract Award	NMED	~May 3, 2010
14. Protest Deadline No later than 5:00 PM MDT	Offerors	~May 18, 2010

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued by NMED on January 14, 2010. 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/rfp.html> or from the Procurement Manager.

2. Pre-Proposal Conference

A pre-proposal conference will be held on January 25, 2010 at 10:00 am, MST in the New Mexico Environment Department's District I Office Sandia Conference Room, 5500 San Antonio Drive NE in Albuquerque, New Mexico. Potential offerors are encouraged to submit written questions in advance of the conference to the Procurement Manager (See Section II.D of this document). 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 at the conference. A public log will be kept of the names of potential offerors that attended the pre-proposal conference. Attendance at the pre-proposal conference is not a prerequisite for submission of a proposal.

3. Distribution List Response

Potential offerors must hand deliver or return by facsimile or by registered or certified mail the "Acknowledgment of Receipt For Proposals Forms" that accompanies this document (See Appendix B of this document) to have their organization placed on the procurement distribution list. The form must be signed by an authorized representative of the organization, dated and returned by 5:00 PM MST on January 25, 2010. The procurement list will be used for the distribution of any RFP amendments and answers to questions. Failure to return this 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.

4. Deadline to Submit Additional Written Questions

Potential offerors may submit written questions as to the intent or clarity of this RFP until 5:00 P.M., MST on the day of February 1, 2010. All written questions must be addressed to the Procurement Manager, (Section II.D). Questions received after this date will not be addressed.

5. Response to Written Questions/RFP Amendments

Written responses to written questions and any RFP amendments will be distributed on February 5, 2010 to all potential offerors whose organization name appears on the procurement distribution list. This information will also be posted on the NMED website. The Procurement Manager must receive additional written requests for

clarification of distributed answers, and/or amendments, no later than five (5) days after the answers and/or amendments were issued.

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 MST March 2, 2010. **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 II.D. Proposals must be submitted in a sealed box or envelope indicating the proposal title and number along with the Proponents name and address clearly marked on the outside of the box or envelope. **Proposals submitted by facsimile will not be accepted.** A public log will be kept of the names of all offeror organizations, which submitted proposals. Pursuant to Section 13-1-116, NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors prior to contract award. A completed Appendix D shall be submitted with the proposal in a separate sealed envelope. This separate envelope shall be sealed and labeled to clearly indicate that it contains the completed Appendix D for this RFP with your firm's name clearly printed. Please see Appendix D and Section V.D of this RFP for additional information.

7. Proposal Evaluation

Proposals received within the date and time specified above, will be evaluated by an evaluation committee designated by NMED. This process will take place between March 2, 2010 and March 16, 2010. During this time, the Procurement Manager may at his discretion initiate discussions with offerors who have submitted responsive, or potentially responsive proposals, for the purpose of clarifying aspects of the proposals. Proposals may be accepted and evaluated without such discussion. Discussions shall not be initiated by the offerors.

8. Selection of Finalists

The Procurement Manager will notify the finalists and the non-finalists after all proposals have been evaluated, based upon the evaluation factors as set forth in this RFP, (Section VI.B).

9. Best and Final Offers from Finalists

Finalists may submit revisions to their proposals for the purpose of obtaining best and final offers no later than March 22, 2010. Best and final offers may be clarified and amended at the Finalist's oral presentation.

10. Oral Presentation/Demonstration by Finalists

The evaluation committee may require the Finalists to present their proposals to the evaluation committee. The Procurement Manager will schedule the time for each Finalist presentation. All Finalist presentations will be held in the Petroleum Storage Tank Bureau's Conference Room located at 1301 Siler Road in Santa Fe, New Mexico on March 23, 2010 and if necessary March 24, 2010. Each presentation will be limited to a maximum of 20 minutes duration with a question and answer session to follow. Best and

final offers may be discussed at the Finalist's presentation. NMED shall not be responsible for any costs or expenses incurred by an offeror to make an oral presentation.

11. Selection of Contractors

The Evaluation Committee will select the winning contractors on March 24, 2010.

12. Finalize Contracts

It is anticipated that the professional services contracts will be finalized with the most advantageous offerors between March 24, 2010 and April 26, 2010. In the event that mutually agreeable terms cannot be reached within the time specified, NMED reserves the right to finalize a contract with the next most advantageous offeror without undertaking a new procurement process or to cancel the procurement should NMED deem it to be in the best interest of the state.

13. Contract Awards

After receipt and review of the Evaluation Committee report, the recommendation of NMED management and the signed contract, it is intended that the NMED will award contracts on approximately May 3, 2010. This date is subject to change at the discretion of the NMED.

Contracts shall be awarded to the offerors whose proposals are most advantageous to the state, taking into consideration the evaluation factors set forth in the RFP. The proposals selected may or may not be the proposals with the lowest cost. Awards are subject to appropriate State approvals. The number, complexity, and location of the sites assigned may vary among the contractors as determined by NMED in order to ensure the best interests of the state.

14. Protest Deadline

Any protest by an offeror must be timely and conform to NMSA 1978, Section 13-1-172 and other applicable procurement regulations. Pursuant to NMSA 1978, Section 13-1-172, the protest period for responsive offerors shall begin on the day following the date upon which the contract is fully executed (awarded) and will end at 5:00 pm MST fifteen calendar days from this date. All offerors will be notified of this date. Protests must be written and must include the name and address of the protester and the RFP number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the State Purchasing Agent. The protest must be delivered to the Protest Manager at the address below:

Mr. Randy Herrera
Protest Manager
Purchasing Bureau, NMED
1190 St. Francis Drive
Santa Fe, New Mexico 87505

Mailing Address:
New Mexico Environment Department
P.O. Drawer 26110
Santa Fe, New Mexico 87502-0110

PROTESTS RECEIVED AFTER THE PROTEST DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the State Purchasing Agent's procurement code regulations, 1.4.1 NMAC.

This procurement will be conducted in accordance with the State Purchasing Agent's procurement code regulations, 1.4.1 NMAC.

1. Acceptance of Conditions Governing the Procurement

Submission of a proposal constitutes acceptance of the Conditions Governing the Procurement and the Evaluation Factors contained in Section VI of this RFP.

2. Incurring Cost

Any cost incurred by the 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 sub-contract that may result from this RFP shall specify that the contractor is solely responsible for fulfillment of the contract with NMED. NMED will make contract payments to only the prime contractor. It is the responsibility of the prime contractor to assure that all drilling subcontractors are properly licensed, pursuant to the requirements

of 19.27.4 NMAC.

4. Subcontractors

With the prior written approval of NMED, the subcontracting of services is permissible. Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

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. NMED will not merge, collate, or assemble proposal materials.

6. Offerors' 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, signed by the offeror's duly authorized representative, addressed to the Procurement Manager. 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, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded by the New Mexico Environment Department and the New Mexico Department of Finance and Administration. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that the offeror has clearly identified as proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

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. Confidential data is normally restricted to confidential financial information concerning the offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978, Sections 57-3A-1 to 57-3A-7. 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 State Purchasing Agent and the New Mexico Environment Department legal council 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 procurement in no manner obligates the State of New Mexico or any of its agencies to the eventual rental, lease, purchase, hire etc., of any equipment, land, buildings, software, services or professional services offered unless and until a valid written contract is approved by the New Mexico Environment Department and the New Mexico Department of Finance and Administration.

10. Cancellation

This RFP may be canceled at any time and any or all proposals may be rejected in whole or in part if NMED 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 may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be affected by sending written notice to the contractor. The contractor will accept as final NMED's decision as to whether sufficient appropriations and authorizations are available.

12. Legal Review

NMED requires that all offerors agree to be bound by the General Requirements contained in this RFP and the contract attached as Appendix E. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any contract with offerors shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

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

15. Liability 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.
- F. 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.

16. Contract Terms and Conditions

The contract between NMED and a contractor will follow the format specified by NMED in Appendix E. NMED reserves the right to negotiate with a successful offeror provisions in addition to those contained in Appendix E of this RFP. The contents of this RFP, as revised and/or supplemented, and the successful offeror's proposal will be incorporated into the contract.

Should an offeror object to any of NMED's terms and conditions, that offeror must propose specific alternative language within their proposal. NMED reserves the right to reject any or all of an offeror's proposed alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to NMED and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and effect of each proposed change followed by the specific proposed alternate wording.

All contracts for professional services are subject to the review and approval of DFA pursuant to NMSA 1978, Section 13-1-118 and 2.40.2, 1.4.1 NMAC.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between NMED and the selected offeror and shall not be deemed an

opportunity to amend the offeror's proposal. Any additional terms and conditions that NMED may, at NMED's sole discretion, accept will be incorporated into any final contract.

18. Offeror Qualifications

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

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

NMED reserves the right to require the contractor to change its representatives if the assigned representatives are not, in the opinion of NMED, meeting its needs adequately.

21. Notice

The Procurement Code, NMSA 1978, Sections 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 bribes, gratuities and kick-backs.

22. Department Rights

NMED reserves the right to accept all or a portion of an offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential offerors, offerors and contractors must secure from NMED written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the offeror's proposal or termination of the contract.

24. Ownership of Proposals

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

25. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the

offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the offeror's possession and the version maintained by the NMED, the version maintained by the NMED shall govern.

26. Electronic Mail Address Required

A large part of the communication regarding this RFP process will be conducted by electronic mail. In order to receive this correspondence, the offeror must have a valid e-mail address. An e-mail address should be provided within your proposal.

27. Access

It is the Contractor's sole responsibility to determine whether or not legal access is available to the site before beginning work on the site. If no legal access is available to the site, the Contractor will not begin any work on the site until legal access has been acquired.

28. General Liability

As between NMED and the Contractor, each party shall be responsible for liability arising from personal injury or damage to persons or property occasioned by its own agents or employees in the performance of this Contract, subject in all instances to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, et seq. and any amendments thereto.

IV. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Only one proposal shall be submitted by each offeror for consideration.

B. NUMBER OF COPIES

Offerors shall deliver one (1) original and six (6) identical copies of each proposal to the person and location specified in Section II.D on or before the closing date and time for receipt of proposals.

C. NUMBER OF PAGES IN THE PROPOSAL

The proposal for this site shall be limited to fifteen (15) pages in length, exclusive of any figures, diagrams, spreadsheets, charts asked for as enclosures in the RFP. Documentation regarding required attachments, a proposal summary, maps, your corporate health and safety plan, project staff and corporate experience, are also exempt from this page limitation requirement.

D. PROPOSAL FORMAT

Responses consisting solely of marketing material, or electronic versions of proposals, will be deemed non-responsive and will be rejected on that basis. All proposals must be typewritten with a font equal to or larger than 11, on standard 8 ½" x 11" paper. Larger paper is permissible for charts, maps, spreadsheets, etc., but in no instance shall the paper size exceed 11" x 17". All materials must be placed within a binder with tabs delineating each section. The appropriate supporting forms provided to the offeror in the Appendices to this RFP must be completed. Completeness, clarity and brevity should be emphasized.

NMED does not and will not offer in-house support for work completed in response to this RFP or the resulting contract.

E. PROPOSAL ORGANIZATION

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

INDEX TAB	CONTENTS
a)	Letter of Transmittal
b)	Table of Contents
c)	Proposal Summary for Scope of Work
d)	Response to Mandatory Technical Specifications
e)	Response to Agency Terms and Conditions
f)	Offeror's Additional Terms and Conditions (If Any)
g)	Other Supporting Material
h)	Mandatory-Offeror's Cost Response to the RFP (Section V.C)

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

The offeror shall include a proposal summary (section "c" above) 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 in Section IV.C.

F. LETTER OF TRANSMITTAL

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- a) Identify the submitting organization;
- b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles and telephone numbers of persons to be contacted for clarification;
- e) Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section III.C.1;
- f) Be signed by the person authorized to contractually obligate the organization;
- g) Acknowledge receipt of any and all amendments to this RFP.

G. MANDATORY SPECIFICATIONS

Please see Section V of this RFP for the information to be included in this section of your proposal.

V. SPECIFICATIONS

This section contains technical specifications and other relevant information.

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 VI.

A. PROJECT APPROACH

Offerors must include in the response, a description of how his firm will complete the scope of work, as detailed below, addressing the requirements of 20.5 NMAC and this Request for Proposals.

Offerors should submit a narrative detailing their approach to performing the five tasks below at the generic site described. The proposal must include the completed cost spreadsheet provided in Appendix D in a separate envelope marked "Costs".

Description of Generic Situations and Tasks:

Task #1 Ground Water Monitoring: Describe your firm's approach to sample an unleaded gasoline contaminated site located exactly ten miles from your office quarterly for one year. Make the following assumptions:

- There are no access or utility problems at this site;
- There are five easily accessible two inch diameter groundwater monitoring wells located on this site. Groundwater is 50 feet below ground surface;
- Each well spans the air/water interface with ten feet of slotted screen, five feet of which are above the water table and five feet below the water table;
- You will measure the depth to water in each well;
- The wells will not bail dry, so proper well purging will not present problems;
- Non-aqueous phase liquids are not present in any of the wells;
- No rinsate, blank, or other QA/QC samples are necessary;
- Standard laboratory turn-around time for all samples; analysis by EPA Method 8260 only;
- The analytical laboratory is located next to your office, therefore, all samples will have to be transported exactly ten miles;
- All four quarterly reports should be completed in accordance with 20.5 NMAC.

Task #2 NAPL Removal: Using the scenario provided in Task #1, assume that the site's lithology is well-sorted, coarse-grained sand. Describe your efforts to remove the NAPL found and how you would document the removal and disposal of product in a report. Assume the following:

- Two of the monitoring wells each contain one foot of phase separated unleaded gasoline;
- You will be bailing these monitoring wells during only one of the sampling events discussed in Task #1;
- Both wells bail to a sheen in one hour.

Task #3 Minimum Site Assessment: Please describe your investigation of a new unleaded gasoline contaminated site exactly ten miles from your office. The report should be prepared according to the requirements of 20.5.12.18 NMAC. Include as separate attachments, (not to be counted as part of the proposal pages) sample copies of a site map, a potentiometric surface map, three appropriate iso-concentration maps, boring logs and a site cross-section. Assume the following:

- You will need to drill five borings, assuming groundwater is encountered at 50 feet below the ground surface;
- Three of those borings will be converted into two inch diameter groundwater monitoring wells with ten foot screens across the air/water interface and the remaining two borings will have to be properly plugged and abandoned;
- Hollow stem auger drilling will be adequate for all drilling at this site. No drilling problems will be encountered;
- Two soil samples will be taken from each boring, preserved with methanol and taken to the laboratory to be analyzed via EPA Methods 8260 and 8015B for Gasoline Range Organics via purge and trap;
- There will be no rinsate, blank, or other QA/QC samples. Standard laboratory turn-around time for all samples, analysis by EPA Method 8260 only;
- The three groundwater monitoring wells will need to be surveyed by a licensed surveyor to an accuracy of 0.1 foot horizontally and 0.01 foot vertically to a USGS datum point adjacent to the site.

Task #4 Soil Excavation: Describe how you would complete an interim soil removal of unleaded gasoline contaminated soils by excavation at a site exactly ten miles from your office. The details of this scenario are as follows:

- You will need to contact the proper utility location personnel, but assume that there are no problems with utility corridors or structures on this site;
- The site surface is covered by soil only;
- The site lithology is Type A soil and cave-ins are not a possibility; therefore sloping and shoring are not necessary;
- Assume that the site is secured from public access, there are no traffic problems, and that except for heavy equipment operators, no personnel will be within 25 feet of the excavation;
- Depth to water at this site is twelve feet below the ground surface;
- The site is covered by a five-foot thickness of clean overburden. Beneath the clean overburden is a horizontal slab of contaminated soil that is 60 feet long, 45 feet wide and 10 feet thick (exactly 1,000 in-situ cubic yards). Assume an expansion factor of 1.3 for this soil;
- Backfill will be compacted to 95% proctor. You will restore the site to the former grade;
- No replacement groundwater monitoring wells are required;
- No soil sampling need be done;
- You will submit design drawings, as-built drawings and final report.

Task #5 General Site Services: Describe in detail how you would complete a site decommissioning at a site exactly ten miles from your office. The details are as follows:

- The site contains an in-situ soil vapor extraction system consisting of five vapor extraction wells. The wells are constructed of four inch diameter PVC pipe to a depth of thirty feet below the ground surface. The wells are screened from ten feet below the ground surface to 25 feet below the ground surface.
- The in-situ remediation system contains 250 feet of horizontal sub-grade four inch diameter PVC piping below an asphalt parking lot surface that cannot be disturbed.
- The site contains a twenty-foot treated wood power pole, a meter box and one hundred feet of three phase electric line. All of these items will have to be disconnected.
- The site is currently hooked up to a municipal natural gas line.
- The site has three two inch diameter PVC groundwater monitoring wells that are set to a depth of fifty feet below the ground surface, each with five feet of screen below the water table and five feet of screen above the water table. The abandonment must meet the requirements of the New Mexico Office of the State Engineer.
- The site contains a 250 scfm trailer mounted thermal oxidizer package that will need to be moved to a storage area. For the purposes of this exercise assume that the storage area is exactly ten miles from the site.
- The blower is housed in a ten foot by ten foot “Tuff Shed” type building that is asbestos free. The building will need to be dismantled and disposed of at a landfill that is exactly five miles from the site.
- The “Tuff Shed” building is sitting on a twelve foot by twelve foot wire mesh reinforced concrete pad that is four inches thick with an integral perimeter footing that is twelve inches deep and six inches wide. The current property owner has requested that this concrete pad be removed from the site. Assume that this construction debris can be taken to the same landfill as the building. This area will have to be repaved with two inches of sub-grade material and two inches of hotmix asphalt.

Responsive proposals shall contain a detailed description of the approach that your firm will use to address each of these sites. A timetable or graph, which will not count toward your fifteen page limit, outlining your approach should be presented with your proposal. A description of the role of the proposer’s professional engineer and the protocol for communication between the professional engineer and NMED personnel must also be included.

B. **EXPERIENCE**

Documentation demonstrating the firm’s availability and details regarding the firm’s equipment, facilities and services necessary to complete the scope of work in Section II.B and the scenarios in Section V.A must be submitted. Additional information should be included regarding organization size and administrative support staff. The relevant corporate experience of any subcontractors must also be included.

Offerors must also include, in the proposal, credentials of the key personnel responsible for the completion of the specific scope of work as discussed in Section II.B and the scenarios in Section V.A of this RFP. These credentials must include but are not limited to the following: academic degrees and other pertinent training information, and experience in storage tank site investigations and remediation or other relevant experience. The resumes or experience narratives attached thereto should describe the 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. Pages of credentials of key personnel are not counted toward the total offer page limit.

C. HEALTH AND SAFETY PLAN

The offeror must include an example copy of a relevant and site-specific health and safety plan. Please note: it is not necessary to write a health and safety plan specifically for this RFP. An example site-specific RFP from a relevant site is all that is required.

D. COST EFFECTIVENESS

Exclusive of professional engineering services, the offeror must propose a firm, fixed cost for **all** of the items in Appendix D of this RFP in a separate, sealed envelope. The offeror must propose a firm, fixed cost for **all** of the items in each task. The applicable New Mexico Gross Receipts Tax will be paid by the Contractor and reimbursed by the Department, however for this cost comparison **do not include New Mexico Gross Receipts Tax** as part of your cost. **Do not include the cost of any professional engineering services with your proposal.**

All discussion of proposed costs, rates or expenses must occur only on Appendix D. **A copy of Appendix D should be submitted in a separate envelope from the remainder of the proposal. Please mark "Cost Proposal" and the name of your firm on the envelope.** Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis. **Please note that should your firm be awarded a contract as a result of this RFP, the unit costs that your firm submits in response to this RFP will be required to be followed during the workplan approval process for the first year of the contract.**

E. CAMPAIGN CONTRIBUTION DISCLOSURE FORM AND ANTI-COLLUSION STATEMENT

A proposal will be deemed non-responsive and will be dropped from further evaluation if it does not include a completed "Disclosure of Campaign Contributions" form (please see Appendix E for more information).

Pursuant to the requirements of 20.5.17.15.C.(3) NMAC, 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.

Only one copy of the Campaign Contribution Disclosure Form and the Anti-Collusion Statement should be presented with your proposal. Please place these items in a separate sealed envelope with the name of your firm and the contents of the envelope clearly labeled.

F. ENGINEERING AND OTHER LICENSURE

A proposal will be deemed non-responsive and will be dropped from further evaluation if it does not include a copy of the proposer's New Mexico Construction Industries Division license. The

CID license must be in an appropriate category for the scope of work being completed. It is recommended that proposers check with CID to assure that they are in compliance with the law.

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.

In order to be considered responsive, proposals shall contain a Statement of Qualifications for your firm's authorized representative and engineer. This statement shall include all of the following:

- The employment relationship between the Professional Engineer and the proposing firm, i.e. is the PE on staff or contract;
- A 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, Parts 8 and 9 of 16.39 NMAC.

VI. EVALUATION

Note: Please thoroughly review the evaluation point summary (Section VI.A and VI.B of this RFP). In order for your proposal to be properly evaluated, documentation for all of the categories in Section VI.A and VI.B must be submitted.

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors and the point value assigned to each. These weighted factors will be used in the evaluation of the individual proposals. Points will be awarded on the basis of the following evaluation factors:

	Points
1. PROJECT APPROACH	
Are the monitoring, investigative, site decommissioning and NAPL removal protocols appropriate, and conform to the requirements of 20.5 NMAC?	400
2. QUALIFICATIONS AND EXPERIENCE	
Proposed project staff members relevant experience	50
Example Health and Safety Plan	50
3. COST EFFECTIVENESS OF SERVICES PROVIDED	
Cost	500
	<hr/> <hr/>
Total	1,000

B. EVALUATION FACTORS

1. PROJECT APPROACH - Up to 400 points, as outlined in Section VI.A.1, will be awarded based upon the technical merit to the project approach including the thoroughness, understanding and applicability of the approach as measured against the elements of the detailed scope of work.

Technical merit will be based on the following:

- Responsiveness to the RFP documents and the NMED Petroleum Storage Tank Regulations (20.5 NMAC).
 - Your firm's approach for successfully completing the Scope of Work outlined in Section II.B and the scenarios discussed in Section V.A.
2. EXPERIENCE AND HEALTH AND SAFETY PLAN – Up to 50 points will be awarded based upon the offeror's proposed staff experience, and experience on similar projects. Up to 50 points will be awarded based on the thoroughness and applicability of the offeror's health and safety plan.
 3. COST EFFECTIVENESS

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

$$\frac{\text{Lowest Responsive Offer Grand Total Cost}}{\text{This Offeror's Grand Total Cost}} \times 500 = \text{Points Award}$$

Pursuant to the 20.5.17.15.E NMAC, providing for an in-state preference, when proposals are received from nonresident businesses and resident businesses, for the purposes of assigning points for this criterion, the costs submitted by an offeror who is a resident business will be multiplied by a factor of 0.95 prior to beginning evaluation of this factor. Please see Section II.E of this RFP for additional information.

The evaluation of each offeror's cost proposal will be based on the total proposed cost listed on Appendix D for the tasks in Appendix D.

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 C 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 C. 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 III, Paragraph C.18.
3. Responsive proposals will be evaluated on the factors in Section VI.A that have been assigned a point value. The responsive offerors with the highest scores will be selected as finalist offerors based upon the proposals submitted.
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 work detailed in Section II.B and Section V.A. Within the scoring criteria framework, as detailed in Section VI, Paragraph 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(s) whose proposal is most advantageous to NMED, taking into consideration the evaluation factors in Section VI and the oral presentations, 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.

Appendix A

List of Possible Sites

	Release Name	Location	Rel ID	Fac ID	Possible Actions
1	Bern County Yd	Albuquerque, 87102	67	970	Monitoring
2	Brewer Gascard	Albuquerque, 87102	4/2523	1280	Monitoring
3	Herrera Bus	Albuquerque, 87105	370	28514	Monitoring
4	Barelas Bridge	Albuquerque, 87105	54	29854	Monitoring
5	Circle K 479	Albuquerque, 87105	614	28102	Minimum Site Assessment
6	Chevron Isleta	Albuquerque, 87105	314	30681	Monitoring
7	Old Horn Isleta	Albuquerque, 87105	851	28600	Monitoring
8	Bass Site	Albuquerque, 87105	79	26861	Monitoring
9	Atex 213	Albuquerque, 87105	28	31815	Monitoring
10	Rodgers Drilling	Albuquerque, 87105	407	30287	Monitoring
11	G&S Community	Albuquerque, 87105	53	28207	Monitoring
12	Atex 212 (Gasho	Albuquerque, 87105	1059	31816	Monitoring
13	Vickers 2494	Albuquerque, 87107	7	31486	Monitoring
14	Big Chief Fina	Albuquerque, 87114	5	27569	Monitoring
15	Sullivan Stable	Albuquerque, 87125	400	26828	Monitoring
16	Sullys Food Mrt	Alto, 88312	90	30805	Monitoring
17	Circle K 469	Aztec, 87410	2087	1095	Monitoring
18	Shell N. Main	Belen, 00000	433	30575	Monitoring
19	A Market Place	Belen, 87002	2869	26331	Monitoring
20	Conserv Dist	Belen, 87002	361	29505	Well Intallation; monitoring
21	S & L Svc Corp	Belen, 87002	1194	30370	Monitoring and well installation
22	Franks Conoco	Bernalillo, 87004	61	26900	Monitoring
23	Bar F 2 Bloomfield Eddies Shell/PDQ	Bloomfield, 87413	89 449/17	28315	Well Installation; monitoring
24	Photo Lab	Carlsbad, 88220	50	29889	Monitoring
25	Conoco Svc Sta Archies Auto/Old	Chama, 87520	2316	27498	Monitoring
26	Chevron	Cuba, 87013	2285	28325	Monitoring
27	Mr Gas #1314	Edgewood, 87015	2090	29495	Monitoring
28	Montoya Well	El Prado, 87529	355	29490	Monitoring
29	Exxon El Centro	Espanola, 87532	440	27868	Monitoring
30	Circle K #716	Espanola, 87532	447	28112	Monitoring
31	Big Rock	Espanola, 87532	393	26929	Monitoring
32	Henry'S Chevron	Espanola, 87532	456	28504	Well Installation; monitoring & possible NAPL remove
33	Greyhound/Mino'S	Espanola, 87537	74	29432	Monitoring
34	H&M Svc Station	Estancia, 87016	2042	28433	Well Installation; monitoring
35	Alliance Svc Yd	Farmington, 87401	936	26482	Well Installation; monitoring
36	Ed & Son'S Service	Gallup, 87301	2034	27849	Monitoring
37	Pit Stop Texaco	Gallup, 87301	308	31061	Monitoring
38	A1 Tire Company El Malpais East	Gallup, 87301	2137	820	Monitoring
39	Santa Fe	Grants, 87020	2501	53740	Minimum Site Assessment
40	Hillger Oil	Hatch, 87937	286	28484	Monitoring well P&A
41	Halsell'S Groc	Hatch, 87937	287	6053	Monitoring
42	Lovington Hiway GW	Hobbs, 88240	4464	53751	Monitoring
43	Morris Oil	Hobbs, 88240	385	1836	Monitoring

44	City Wells	Hobbs, 88240	58	28023	System decommissioning; monitoring for closure
45	Hondo School	Hondo, 88336	791	28592	Monitoring
46	Hatch Bros Motor Co	Las Cruces, 88001	2404	28481	Monitoring
47	Johnson Park	Las Cruces, 88004	2579	28783	Minimum Site Assessment
48	Valley Pic Quik	Las Cruces, 88007	3481	29963	Monitoring and possible NAPL removal
49	Ross Texaco	Las Vegas, 87701	719	1866	Monitoring
50	Atex 394(Allsup	Las Vegas, 87701	817	26519	Monitoring
51	Pino Fina	Las Vegas, 87701	879	29980	Monitoring
52	Ernie's Texaco	Las Vegas, 87701	2745	30299	Monitoring
53	Los Alamos Chevron	Los Alamos, 87544	3685	29144	Minimum Site Assessment
54	Bazen Site	Los Lunas, 00000	71	26870	Monitoring; well installation
55	Roadrunner Cafe	Pojoaque, 87501	362	9030	Well Installation; monitoring
56	Former Mobil Station	Raton, 87740	2616	53741	Minimum Site Assessment
57	Upholstery by Tony	Raton, 87740	2615	54570	Monitoring
58	Chevron Red Rvr	Red River, 87558	388	30177	Monitoring
59	Brewer Selfserv	Roswell, 88201	171	1750	Closure monitoring
60	Gascard	Roswell, 88201	394	1549	NAPL removal; monitoring
61	Mcclellan Oil	Roswell, 88201	292	29315	Monitoring
62	Shell/Reese	Ruidoso, 88345	279	1311	Monitoring
63	Exxon/Reese	Ruidoso, 88345	288	28292	Monitoring
64	Texaco/Reese	Ruidoso, 88345	387	28295	Monitoring; system decommissioning
65	Halls Well	San Jon, 00000	903	28453	Monitoring
66	City Market	San Miguel, 88004	339	27395	System decommissioning and monitoring
67	Cafe del Arroyo	Santa Fe, 87532	3564	47992	Minimum Site Assessment
68	Leonards Conoco	Santa Rosa, 88435	755	29084	Monitoring
69	Jennings Prop	Socorro, 87801	398	27825	Monitoring
70	Bar F 31 Socor	Socorro, 87801	408	27619	Monitoring; system decommissioning, well installatio
71	Robinson Texaco	Taos, 87571	421	30278	Monitoring
72	J & S Auto	Tatum, 88267	373	29926	Monitoring
73	Tafoyas Store	Truchas, 87578	3527	30931	Minimum Site Assessment
		Truth Or			
		Consequences,			
74	Bell Gas T Or C	87901	367	1830	Monitoring
		Truth Or			
		Consequences,			
75	T Or C	87901	3537	47988	Investigation
76	Tucumcari Muni	Tucumcari, 88401	1322	31241	Monitoring
77	Yocums Texaco	Tucumcari, 88401	2568	2034	Monitoring
78	Worley Mills	Tucumcari, 88401	414	31672	Monitoring
		Golden West Fuel			
79	Dpt	Vado, 88072	2797	28353	Monitoring well P&A
		Wagon Mound,			
80	Texaco Levis	87752	353	1995	Monitoring

APPENDIX B

Acknowledgment of Receipt Form

REQUEST FOR PROPOSALS

RFP #: 10-667-00-0004 - STATE LEAD INVESTIGATION AND MONITORING SERVICES FOR VARIOUS LEAKING PETROLEUM STORAGE TANK SITES ADMINISTERED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT, PETROLEUM STORAGE TANK BUREAU

In acknowledgment of receipt of this Request for Proposal, the undersigned agrees that they have received a complete copy of the RFP including Appendices.

The acknowledgment of receipt should be signed and returned to the Procurement Manager no later than **5:00 p.m. Mountain Standard Time on January 25, 2010** via facsimile, or U.S. mail. 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 Agency's written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

Phone No.: _____

TITLE: _____

Fax No.: _____

E-MAIL: _____

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 Proposals.

Mr. Thomas Leck, Procurement Manager
NMED/Environmental Protection Division
District I Office
5500 San Antonio Drive NE
Albuquerque, New Mexico 87109

Phone: (505) 222-9564

Fax: (505) 222-9508

APPENDIX C

Mandatory Requirements Checklist

- _____ Names of major subcontractors (Section III.C.4)
- _____ Copies – one original and six copies (Section IV.B)
- _____ Ten pages in length (Section IV.C)
- _____ Proposal Summary (one page maximum length) (Section IV.E)
- _____ Signed Letter of Transmittal (Section IV.F)
- _____ Project Approach Narrative (Section V.A)
- _____ Health and Safety Plan (a relevant site-specific HASP example) (Section V.C)
- _____ Construction Industries Division license copy (Section V.F)
- _____ Documentation of licensure by the New Mexico State Board of Licensure for Professional Engineers and Surveyors in the appropriate discipline (Section V.F)
- _____ Statement of Qualifications for your firm’s authorized representative and engineer (See bullet points in Section V.F)
- _____ Anti-collusion notarized affidavit (Section V.E)
- _____ Disclosure of Campaign Contributions Form (Section V.E and Appendix E)
- _____ Cost for Items in Section V.A (completed by using the chart in Appendix D and placed in a separate, sealed envelope)
- _____ Staff Experience Information (Section V.B)

Appendix D

***** All costs provided must be exclusive of the cost of any professional engineering services *****

<u>Item</u>	<u>Task #1</u>	<u>Cost</u>
Professional charges for site work for one monitoring event.....		\$
EPA 8260 lab analyses for the five wells for one monitoring event.....		\$
Preparation of one quarterly report.....		\$
	Task #1 Subtotal	\$

<u>Item</u>	<u>Task #2</u>	<u>Cost</u>
Professional charges for the completion of the task.....		\$
Product thickness measurements, depth to water/product, etc.....		\$
Reporting as a part of one ground water monitoring report.....		\$
	Task #2 Subtotal	\$

<u>Item</u>	<u>Task #3</u>	<u>Cost</u>
Professional charges for completion of this task.....		\$
Drilling and Equipment charges		\$
EPA 8260 and 8015B lab analyses for all samples in this task.....		\$
Report preparation.....		\$
	Task #3 Subtotal	\$

<u>Item</u>	<u>Task #4</u>	<u>Cost</u>
Turnkey cost for the completion of this task.....		\$
	Task #4 Subtotal	\$

<u>Item</u>	<u>Task #5</u>	<u>Cost</u>
Turnkey cost for the completion of the task.....		\$
	Task #5 Subtotal	\$

Appendix D (Continued)

Task #6 – Professional Fee Schedule

Principal Scientist - Hourly Rate.....	\$
Senior Scientist – Hourly Rate.....	\$
Project Scientist – Hourly Rate.....	\$
Staff Scientist – Hourly Rate.....	\$
Field Technician – Hourly Rate.....	\$
Draftsperson – Hourly Rate.....	\$
Administrator – Hourly Rate.....	\$
Secretary – Hourly Rate.....	\$
Clerk – Hourly Rate.....	\$
	Task #6 Subtotal \$

GRAND TOTAL – (all six tasks) \$

Appendix E

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor 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 may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code 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.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

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 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 of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

“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.

“Prospective contractor” means a person or business that 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 or business 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 BY PROSPECTIVE CONTRACTOR:

Name(s) of Applicable Public Official(s) if any: _____

Contribution Made By: _____

Relation to Prospective Contractor: _____

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 F

Professional Services Contract

STATE OF NEW MEXICO NAME OF AGENCY

PROFESSIONAL SERVICES CONTRACT # _____

THIS AGREEMENT is made and entered into by and between the State of New Mexico, New Mexico Environment Department, hereinafter referred to as (the "Agency") and _____, 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. Scope of Work

A. The Contractor shall perform state lead site monitoring and investigation services at the sites listed below. Additional corrective action activities at this site may be required by the Department during the life of the contract. Contractor shall submit workplan(s), which must be approved in writing by Department representatives possessing Signatory Authority as designated by Department policy in effect on the 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 the Contract, this Contract shall govern. No work at new or additional sites may be assigned to the Contractor under this Contract. Upon this Contract becoming effective, existing contracts and workplans regarding the site are terminated and are superseded by this Contract.

Any workplan amendments must be approved in writing by Department representatives possessing Signatory Authority as designated by the Department 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.

B. Services will be performed in the State of New Mexico.

C. Performance Measures.

Performance Measures (Attachment 1, Strategic Plan)

Contractor shall substantially perform the following Performance Measures:

1. Protect groundwater quality from petroleum contamination.

2. Clean up hydrocarbon contamination in the soil and groundwater.

The deliverables and timetables outlined on each workplan approval letter issued by the PST Bureau as a result of this contract are the Performance Measures necessary to judge the successful completion of the work required to meet the above-referenced Performance Measures.

2. **Compensation.**

A. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$ *Amount to be determined*. This amount is a maximum and not a guarantee that the work assigned to Contractor under this Agreement to be performed shall equal the amount stated herein.

B. 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 to be determined* (as set forth in Paragraph A) including gross receipts tax. Payment is subject to availability of funds pursuant to the Appropriations Paragraph of this Contract and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and by approval from DFA.

C. 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. **Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall terminate on *Date to be determined* unless terminated pursuant to paragraph 4, infra, or paragraph 5. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. **Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the

Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; 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. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT."

B 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.

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.**

The Contractor 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 Contractor certifies that the 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.

13. **Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

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, Sections 13-1-28 through 13-1-199, NMSA 1978, 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 Section 38-3-1 (G) NMSA 1978. 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:

(1) 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, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(2) 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, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

(3) 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.

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://insurenemexico.state.nm.us/>.

D. 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); Contractor agrees 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, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

22. 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.

23. 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.

24. 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: New Mexico Environment Department
 Petroleum Storage Tank Bureau
 1301 Siler Road, Building B
 Santa Fe, New Mexico 87507

To the Contractor:

25. 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: _____
Agency

By: _____ Date: _____
Agency's Legal Counsel –Certifying legal sufficiency

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: _____

By: _____ Date: _____
Taxation and Revenue Department

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

By: _____ Date: _____
DFA Contracts Review Bureau

Attachment 1

I. Scope of Work

Performance Measures

Performance Measures in Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Agency's Strategic Plan:

Through satisfactory completion of the Scope of Work set forth above and submission of acceptable Deliverables, the Contractor will assist the Agency to meet the portions of its Strategic Plan set forth below:

Goal: Protect New Mexico's air quality, prevent releases of petroleum products into the environment and ensure solid waste is handled and disposed of without harming natural resources.	
Objectives	Strategies
1. Protect groundwater quality from petroleum contamination.	<ul style="list-style-type: none">• Clean up contamination in the soil and groundwater resulting from leaking storage tank systems• Approve and oversee corrective action at leaking storage tank sites.• Bundle work at several sites under a single contract to improve efficiencies and reduce costs.• Take enforcement actions against recalcitrant owners and operators of leaking storage tank facilities.• Inspect facilities at least once every 2 years to ensure that owners are in compliance with all petroleum storage tank regulations to minimize the probability of releases to the environment.