

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
PETROLEUM STORAGE TANK BUREAU

REQUEST FOR PROPOSALS

RFP No. 80-667-00-00002

**STATE LEAD SITE REMEDIATION SERVICES FOR THE MIKE'S AUTO
DETAIL AND DIAMOND SHAMROCK SITES, LOCATED ON SOUTH
MAIN STREET IN BELEN, NEW MEXICO**

JULY 28, 2008

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I. ADVERTISEMENT

REQUEST FOR PROPOSALS

RFP #: 80-667-00-00002

STATE LEAD SITE REMEDIATION SERVICES FOR THE MIKE'S AUTO DETAIL AND DIAMOND SHAMROCK SITES, LOCATED ON SOUTH MAIN STREET IN THE CITY OF BELEN, NEW MEXICO

The New Mexico Environment Department's Petroleum Storage Tank Bureau is requesting proposals from qualified firms for the purpose of procuring State Lead Site Remediation Services at the Mike's Auto Detail and Diamond Shamrock sites, located on South Main Street in Belen, New Mexico using a previously accepted Final Remediation Plan. All proposals submitted shall be valid for ninety days, subject to all action by the 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 along with the Proponents name and address clearly marked on the outside of the box or envelope. **All proposals shall be received by 3:00 p.m. Mountain Daylight Savings Time on September 30, 2008 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 will be available by contacting Thomas Leck, Procurement Manager, Environmental Protection Division, New Mexico Environment Department at (505) 222-9564 or by mail at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109. Request for Proposals may also be obtained through NMED'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: July 28, 2008

II. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico's Environment Department is requesting proposals from qualified firms for the purpose of procuring State Lead Site Remediation Services at the Mike's Auto Detail and Diamond Shamrock sites.

The purpose of this Request for Proposals (RFP) is to select a contractor who can implement, operate, and maintain a corrective action system to address petroleum hydrocarbon contamination in the soil and groundwater at the Mike's Auto Detail and Diamond Shamrock sites, located on South Main Street in Belen, New Mexico. Work shall be performed at the direction of the Petroleum Storage Tank Bureau. The contractor shall be compensated for approved deliverables. 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 (NMED) Petroleum Storage Tank Bureau, NMED requests that qualified firms submit a proposal for performance of Phases 4 and 5 corrective action activities consisting of the implementation, and operation and maintenance of, a corrective action system to address petroleum hydrocarbon contamination at the Mike's Auto Detail and Diamond Shamrock sites located on South Main Street in Belen, New Mexico.

The selected offeror will review the existing NMED accepted Final Remediation Plan (FRP) dated November 22, 2005 and prepared by TetraTech EM Inc., including the engineering plans, specifications, and associated calculations, and will provide to NMED a list of recommended modifications to the FRP. NMED will require that the selected offeror accept full legal responsibility for the Final Remediation Plan as modified. NMED will require that the selected offeror execute a letter signed and sealed by the selected offeror's New Mexico Professional Engineer indicating acknowledgement and acceptance of legal responsibility for the design and performance of the existing NMED accepted FRP subject to the listed modifications. Details regarding the required acknowledgment and acceptance language are contained in section V.E of this RFP document.

The selected offeror will complete installation of a remediation system in conformance with an existing NMED accepted design as modified, conduct four calendar quarters of remediation system operation and maintenance, and conduct four quarters of appropriate ground water monitoring for relevant contaminants of concern.

Additional Minimum Site Assessment, phase 1, phase 2, phase 3, and additional phase 4 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.

All work must be performed in accordance with the requirements of the New Mexico Petroleum Storage Tank Regulations, 20.5 NMAC.

C. SCOPE OF PROCUREMENT

The goal of this RFP is to put into place a contract 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 site work, as it deems necessary based on particular site conditions. It is anticipated that the contract will begin in January 2009 or as soon as possible for an initial term of one (1) year. NMED reserves the option of renewing the initial one year contract on an annual basis for up to three additional years, or any portion thereof. 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 World Wide Web through NMED's Home 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:

"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.

"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.

"Final Remediation Plan" is a document, the form and content of which are defined in 20.5.12.1227 NMAC.

"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 20.5.12.1204 NMAC or 20.5.13.1303 NMAC (initial abatement), or 20.5.12.1205 NMAC or 20.5.13.1304 NMAC (report on initial abatement), 20.5.12.1209 NMAC or 20.5.13.1308 NMAC (preliminary investigation), and 20.5.12.1210 NMAC or 20.5.13.1309 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.(8).(a) 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.(8).(b) NMAC, removal of non-aqueous phase liquid and contaminated soil.

“Phase 3 of Corrective Action” means, as defined in 20.5.17.7.B.(8).(c) NMAC, the development of the conceptual and final remediation plan.

“Phase 4 of Corrective Action” means, as defined in 20.5.17.7.B.(8).(d) NMAC, the implementation of the remediation plan.

“Phase 5 of Corrective Action” means, as defined in 20.5.17.7.B.(8).(e) NMAC, the operation, monitoring, maintenance and reporting of an implemented remediation plan.

"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.(10).(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.

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
(FRP) Final Remediation Plan
(GSD) New Mexico General Services Department
(LNAPL) Light Non-Aqueous Phase Liquid
(MDT) Mountain Daylight Savings Time
(MST) Mountain Standard Time
(NMAC) New Mexico Administrative Code
(NMED) New Mexico Environment Department
(OFB) Office of Finance & Budget
(PE) Professional Engineer
(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

In meeting the goals of our Mission, we are committed to:

- Providing clear articulation of our goals, standards, and expectations in a professional manner so that employees and the public can make informed decisions and be actively involved in setting priorities;
- Promoting environmental awareness through the practice of open and direct communication and sound decision-making by carrying out the mandates and initiatives of the department in a fair and consistent manner.

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 Petroleum Storage Tank Bureau Guidelines for Corrective Action
- 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	July 28, 2008
2.	Pre-Proposal Conference	NMED, Potential Offerors	August 18, 2008
3.	Distribution List Response No later than 5:00 PM, MDT	Potential Offerors	August 18, 2008
4.	Deadline to Submit Additional Written Questions No later than 5:00 PM, MDT	Potential Offerors	August 25, 2008
5.	Response to Written Questions/RFP Amendments	Department	September 2, 2008
6.	Submission of Proposal No later than 3:00 PM, MDT	Offeror	September 30, 2008
7.	Proposal Evaluation	Evaluation Committee	October 28, 2008
8.	Selection of Finalists	NMED/Evaluation Committee	October 28, 2008
9.	Best & Final Offer	Finalists	November 18, 2008
10.	Oral Presentation (if required)	Finalists	November 19, 2008
11.	Selection of Contractors	Evaluation Committee	November 26, 2008
12.	Finalize Contract	NMED, Contractor	~ December 31, 2008
13.	Contract Award	NMED	~ January 7, 2009
14.	Protest Deadline No later than 5:00 PM MST	Offerors	~ January 22, 2009

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 July 28, 2008. Additional copies of the RFP can be obtained from the New Mexico Environment Department PST Bureau web page at <http://www.nmenv.state.nm.us/ust/rfp.html> or through the Procurement Manager.

2. Pre-Proposal Conference

A pre-proposal conference will be held on August 18, 2008 at 10:00 am, MDT in the Sandia Conference Room at the NMED District I Office, 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). 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 A) 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 MDT on August 18, 2008. The 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., MDT on August 25, 2008. All written questions must be addressed to the Procurement Manager, (Section II.D of this RFP). 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 September 2, 2008 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 MDT ON SEPTEMBER 30, 2008. 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 Proposer's 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 cost schedule, present in Appendix C of this RFP, shall be submitted with the proposal in a separate sealed envelope. This separate envelope shall be labeled to clearly indicate that it contains the completed cost table for this RFP with your firm's name clearly printed.

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 September 30, 2008 and October 28, 2008. 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 Evaluation Committee will select, and 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). Only finalist Offerors will be invited to participate in the subsequent steps of the procurement.

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 5:00pm on November 18, 2008. Best and final offers shall be submitted to the Procurement Manager at the address provided in Section II.D of this RFP document and shall be completed using the cost schedule that is contained in this RFP document as Appendix C.

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 Sandia Conference Room in the NMED District I Office in Albuquerque, New Mexico on November 19, 2008. Each presentation will be limited to a maximum of 30 minutes duration with a question and answer session to follow. NMED shall not be responsible for any costs or expenses incurred by an offeror to make an oral presentation.

11. Selection of Contractor

The Evaluation Committee will select the winning contractor on November 26, 2008.

12. Finalize Contract

It is anticipated that the professional services contract will be finalized with the most advantageous offeror between November 26, 2008 and December 31, 2008. 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 if NMED may deem it to be in the best interests of the state.

13. Contract Award

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 a contract on approximately January 7, 2009. This date is subject to change at the discretion of NMED.

The contract shall be awarded to the offeror whose proposal is most advantageous to the state, taking into consideration the evaluation factors set forth in the RFP. The proposal selected may or may not be the proposal with the lowest cost. The award is subject to appropriate State approvals.

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 MDT 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.

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 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 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 Section 13-1-118, NMSA 1978 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 in the appropriate place on the Acknowledgement of Receipt Form (Appendix A).

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, Sections 41-4-1, et Seq. NMSA 1978, and any amendments thereto.

IV. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

Offerors shall deliver one (1) original and five (5) 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. Please label which of your submitted proposals is the original copy.

C. NUMBER OF PAGES IN THE PROPOSAL

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

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 10, 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.

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

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

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 below.

A. PROJECT APPROACH

Offerors must include in the response a description of how the firm will complete the scope of work, as detailed in Section II.B, addressing the requirements of 20.5 NMAC and this Request for Proposals. Responsive proposals shall contain a detailed description of the approach that your firm will use to reach the cleanup goals contained in the NMED-accepted remediation strategy, including recommended modifications, within the potential four year term of the contract.

Offerors will need to review the NMED accepted FRP including the engineering plans, specifications, and associated calculations in order to prepare a response to this RFP. The selected offeror’s proposal shall contain a statement that the offeror has read and understands the requirement that the selected offeror accept full legal responsibility for the existing NMED accepted FRP, including recommended modifications. A contract award will be contingent upon the selected offeror’s submittal of a written acknowledgement and acceptance of legal responsibility. Example acknowledgement and acceptance language is provided in Section V.E of this RFP document.

The implementation of the NMED-accepted proposed remediation strategy may require the purchase of major remediation equipment, as defined in 20.5.17.7.B.(6) NMAC. Your proposal must contain details of the types of equipment that will need to be purchased as a part of your approach to the implementation of the NMED-accepted remediation strategy.

Responsive proposals shall contain a detailed description of their firm's theoretical and practical understanding of the remediation strategy which will be used to reach a monitored natural attenuation status within the potential four year term of the contract. The operation, maintenance, and monitoring analyses and schedules for the remediation system must be addressed in your proposal. A timetable or graph, which will not count toward your ten page limit, outlining your approach should be presented with your proposal. Proposed performance guarantees to remediate the site to monitored natural attenuation status within four years shall be discussed.

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. 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.

C. STAFF EXPERIENCE

Documentation demonstrating the firm's availability and details regarding the firm's available equipment, facilities and services necessary to complete the scope of work Section II.B must be submitted.

Offerors must also include, in the proposal, credentials of the key personnel responsible for the completion of the specific scope of work. These credentials must include but are not limited to the following: academic degrees and other pertinent training information. The resumes or experience narratives attached thereto should describe the specific experience of each proposed staff member as it relates to knowledge and experience in petroleum storage tank site investigations and remediation and other relevant experience.

The offeror must submit a statement of their current staff's relevant experience in the implementation, operation and maintenance of engineered systems for the remediation of PST-related or equivalent sites.

The relevant experience of any subcontractors must also be included with your proposal.

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

Pursuant to the requirements of 20.5.16.1610 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.

E. ACCEPTANCE LANGUAGE

Note: All responsive proposals shall contain a statement that the offeror has read and understood this section (Section V.E) of the RFP document.

The selected offeror will review the existing NMED accepted Final Remediation Plan (FRP) dated November 22, 2005 and prepared by TetraTech EM Inc., including the engineering plans, specifications, and associated calculations, and will provide a list to NMED of recommended modifications to the FRP. NMED will require that the selected offeror accept full legal responsibility for the Final Remediation Plan as modified.

Prior to the contract award to the selected offeror, NMED will require that the selected offeror execute a letter signed and sealed by the selected offeror's New Mexico Professional Engineer indicating acknowledgement and acceptance of legal responsibility for the design and performance of the existing NMED accepted FRP subject to the listed modifications. The written acknowledgement and acceptance shall contain the following statements:

- "In accordance with 16.39.3.12 NMAC with regards to Professional Engineer's seals, Mr./Ms. _____ has reviewed the Final Remediation Plan including the engineering plans, specifications and associated calculations that support the design as prepared by New Mexico Professional Engineer Mr. Stanley Wallace, License # _____ and I, Mr./Ms. _____ approve/accept them, subject to the listed modifications. I agree to be responsible for the Final Remediation Plan including the engineering plans, specifications and associated calculations, subject to the listed modifications."
- "Mr./Ms. _____ is in compliance with Parts 8 and 9 of 16.39 NMAC (Professional Engineers Code of Conduct) with respect to having a PE in the discipline necessary to review another licensed PE's work and will perform the engineering review of TetraTech's Final Remediation Plan for Mike's Auto Detail and Diamond Shamrock in Belen, New Mexico and any design modifications in accordance with the New Mexico Statutes 61-23-3, pertaining to the practice of engineering."

The written acknowledgement and acceptance shall be signed and sealed by the offeror's New Mexico Professional Engineer.

Note: Please DO NOT submit with your proposal a signed and sealed letter from your Professional Engineer containing the verbiage presented above. All that is required to be submitted in your proposal is a statement that you have read and understood the information contained in this section of the RFP document.

F. 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 D for more information).

Pursuant to the requirements of 20.5.17.301.C.2 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.

G. COST EFFECTIVENESS

The offeror must propose a firm, fixed cost for **all** of the following items in a separate, sealed envelope. Please see Appendix C of this RFP for additional information.

1. The total turnkey cost for implementation of the remediation strategy described in the Final Remediation Plan Mike’s Auto Detail Belen, New Mexico (FRP) dated November 22, 2005 which was prepared for NMED by TetraTech EM Inc. This cost item shall include installation of the remediation system in conformance with the engineering plans and specifications contained within the FRP, all required environmental and other permits, and related hydrogeological and engineering services. For the purpose of this request for proposal (RFP), assume that all remediation equipment will have to be purchased. Include the system startup costs. Include the cost of the as-built reports and all appropriate engineering diagrams.
2. The total cost for four calendar quarters of operation and maintenance of the system in conformance with the NMED accepted FRP. Include the cost for your operation and maintenance reporting. Do not include any costs for utilities.
3. The total cost for four calendar quarters of ground water monitoring and reporting for a total of 15 monitoring wells. For the purpose of this RFP, do not include the cost of any blank samples, duplicate samples, spiked samples, etc. Assume that all samples are to be analyzed with standard laboratory turn-around time by EPA method 8260B and 504.1 only. Assume that sampling for metals is not required and that no LNAPL is present in any of the wells.

4. The cost of all major remediation equipment (as defined in 20.5.17 NMAC) shall be included as a separate line item on the cost table, but will not be considered in the evaluation of cost effectiveness.
5. 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 total.

VI. EVALUATION

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:

	<u>Points</u>
1. PROJECT APPROACH	
Firm’s demonstration of a strong theoretical and practical understanding of the NMED-accepted remediation strategy and site specific conditions.	150
Firm’s demonstration of the capability to implement and adhere to the requirements of the NMED- accepted Final Remediation Plan and the associated Engineering Plans and Specifications.	200
Appropriateness of the remediation system operation and maintenance scope of work and scheduling for this site.	100
Appropriateness of the proposed ground water monitoring protocol for this site.	25
Firm’s applicability and thoroughness of the submitted example Health and Safety Plan.	25
2. QUALIFICATIONS AND EXPERIENCE	
Proposed project staff members relevant qualifications and experience	100
3. COST EFFECTIVENESS OF SERVICES PROVIDED.	
Total Cost	400
Total	===== 1,000

B. EVALUATION FACTORS AND PROCESS

1. Each offeror's proposal will be reviewed for compliance with the mandatory requirements as stipulated within the RFP. Please refer to Appendix B 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 B. 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 I.B. 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 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, the PSTB Guidelines for Corrective Action and the NMED Petroleum Storage Tank Regulations (20.5 NMAC) will be a consideration in determining the points allocated for all categories.

C. POINT ALLOCATION

The allocation of points will be based on the following:

1. **PROJECT APPROACH** - Up to 500 points will be awarded based upon the submitting firm's theoretical and practical understanding of the remediation strategy outlined in the NMED-accepted Final Remediation Plan, the appropriateness of the installation, operation, maintenance and monitoring strategy and the applicability and thoroughness of the example health and safety plan. Proposals will be awarded points based on the thoroughness, understanding and applicability of your firm's approach to the implementation of the Final Remediation Plan as measured against the elements of the scope of work detailed in Section

II.B of the RFP, as well as the capability to implement and adhere to the requirements of the NMED-accepted Final Remediation Plan and the associated Engineering Plans and Specifications.

2. QUALIFICATIONS AND EXPERIENCE – Up to 100 points will be awarded based upon the offeror's staff experience on similar projects.

3. COST EFFECTIVENESS

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

$$\frac{\text{Lowest Responsive Grand Total Cost}}{\text{Firm's Grand Total Cost}} \times 400 = \text{Points Awarded}$$

Pursuant to the PSTR 20.5.17.301.E NMAC, providing for an in-state preference, 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.

The evaluation of each offeror's cost proposal will be based on the total proposed cost listed on the cost table for the tasks in Section V.G and shown on Appendix C. The Department reserves the right to eliminate proposals with unrealistically low costs.

APPENDIX A

Acknowledgment of Receipt Form

REQUEST FOR PROPOSALS

RFP #: 80-667-00-00002

STATE LEAD SITE REMEDIATION SERVICES FOR THE MIKE'S AUTO DETAIL AND DIAMOND SHAMROCK SITES, LOCATED ON SOUTH MAIN STREET IN THE CITY OF BELEN, NEW MEXICO

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 Daylight Savings Time on August 18, 2008** 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
Santa Fe, New Mexico 87109

Phone: (505) 222-9564

Fax: (505) 222-9508

APPENDIX B

Mandatory Requirements Checklist

- _____ Names of major subcontractors (Section III.C.4)
- _____ Copies – one original and five 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.B)
- _____ Construction Industries Division license copy (Section V.D)
- _____ Documentation of licensure by the New Mexico State Board of Licensure for Professional Engineers and Surveyors in the appropriate discipline (Section V.D)
- _____ Statement of Qualifications for your firm’s authorized representative and engineer (See bullet points in Section V.D)
- _____ Statement that the proposer has read and understands Section V.E of the RFP document
- _____ Anti-collusion notarized affidavit (Section V.F)
- _____ Disclosure of Campaign Contributions Form (Section V.F and Appendix D)
- _____ Cost for Items in Section V.G (completed by using the chart in Appendix C and placed in a separate, sealed envelope)
- _____ Staff Experience Information (Section VI.A and Section VI.C)

Appendix C

Cost Calculation Table

Appendix C must be submitted with your proposal in a separate, sealed envelope. The details of what is involved in each of the cost criteria below are contained in Section V.G of the RFP document.

<u>Criteria</u>	<u>Cost</u>
Total turnkey cost for remediation strategy implementation, excluding the cost of major remediation equipment.	
Four quarters of operation and maintenance.	
Four quarters of groundwater monitoring.	
<u>Grand Total Cost of All Three of the Above Criteria</u>	
Cost of major remediation equipment	

Appendix D

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 E

Sample 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, **NAME OF AGENCY**, hereinafter referred to as (the "Agency") and **NAME OF CONTRACTOR**, hereinafter referred to as (the "Contractor"), and is effective as of the date set forth below upon which it is executed by the Department of Finance and Administration ("DFA")

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. The Contractor shall perform the following work: Contractor's proposal in response to RFP # _____, is incorporated into this Agreement.

B. Services will be performed (AT)(WITHIN)(LOCATION)

C. Performance Measures.

Contractor shall substantially perform the following Performance Measures:

1.

2.

(or reference an Attachment 1, see below)

2. Compensation.

A. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to 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 at the rate of _____ dollars (\$_____) per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT) (as set forth in Paragraph A) excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the Agency to the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

CHOICE – MULTI-YEAR – The Agency shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____ dollars (\$_____) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FY1, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in

FYXX totaling (AMOUNT) shall be paid by the Agency to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

(REPEAT LANGUAGE FOR EACH FISCAL YEAR COVERED BY THE AGREEMENT -- USE FISCAL YEAR NUMBER TO DESCRIBE EACH YEAR; DO NOT USE FY1, FY2, ETC.).

Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices **MUST BE** received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID.**

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall terminate on **DATE** 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. 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.

22. 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.

23. 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: [insert name, address and email].

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

24. 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: 00-000000-00-0

By: _____ Date: _____
Taxation and Revenue Department

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

By: _____ Date: _____
DFA Contracts Review Bureau

ATTACHMENT 1

I. Scope of Work

Performance Measures

(Performance Measures should be based on the Scope of Work and must be tied to the Agency's Strategic Plan. The Plan should be referenced in the Measures and the applicable part of the Strategic Plan copied below or in an attachment. To the extent possible based on the nature of the work to be performed, the Measures should be "Output" oriented and specify an "Outcome.")

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:

Example: Goal: Reduce or Increase or Other Service [insert blank].¹

Objective: To reduce or increase or Other Service [insert blank] by [blank] percent or by a certain time.²

Activities: [Insert what services the Contractor is expected to perform to accomplish goals and objectives including an evaluation of the process and the outcome as well as provides efficiency measures that relate efforts to outputs of services].

OR: 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 (*insert additional language if necessary to describe how Contractor's work will assist the Agency to fulfill its duties*).

¹ A goal is an "output" measure. It measures the quantity of a service provided. For example, the number of students graduated or promoted; the number of two-lane highways repaired; or the number of crimes investigated. It also can measure the quantity of a service provided that meets a certain quality requirement. For example, the number of students graduated or promoted who meet a minimum preset level of achievement; the number of miles of roads repaired to a minimum safety standard; or the number of criminal investigations performed that result in identification of a prime suspect.

² An accomplishment is an "outcome" measure. These indicators measure accomplishments or results that occur (at least partially) because the services were provided. For example, the percentage of students achieving a specified skill level in reading, the percentage of miles of roads in excellent, good or fair condition; or the percent reduction in serious crimes or the percent of residents who perceive their neighborhoods as safe.