

NEW MEXICO ENVIRONMENT DEPARTMENT

REQUEST FOR PROPOSALS (RFP)

PFAS Investigation at Cannon & Holloman Air Force Bases



RFP# 21 667 1210 0001

RFP Release Date: 10/30/2020

Proposal Due Date: 01/05/2021

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of a contractor to investigate/ characterize perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination at and in the vicinity of Cannon Air Force Base (Cannon), located near the city of Clovis in Curry County, and Holloman Air Force Base (Holloman), located near the city of Alamogordo in Otero County, (collectively the Bases). Contractor will make recommendations for remediation, however, the remediation itself will involve additional work beyond the scope of this RFP.

B. BACKGROUND INFORMATION

In late 2018, the New Mexico Environment Department (NMED) learned of groundwater contamination at Cannon and Holloman Air Force bases caused by decades of use of firefighting foam(s) containing PFAS. The New Mexico Department of Health has since independently confirmed PFAS contamination in private water wells through an inter-agency sampling effort. With a continued lack of action from the U.S. Department of Defense (DoD), New Mexico, through this RFP, is pursuing innovative environmental strategies to protect its citizens, which will also support continued actions to compel the DoD to cover all costs associated with study and remediation of its contamination.

C. SCOPE OF PROCUREMENT

The PFAS groundwater contamination plumes at Cannon and Holloman are likely miles in length, with maximum concentrations greatly exceeding advisory health limit recommendations established by EPA. The contractor shall conduct an efficient and technically defensible data-driven investigation that will make progress on high-priority objectives. Substantial data and information on groundwater levels and aquifer hydraulic parameters already exist at both sites. While the investigation will generate additional water-level and other hydraulic information that can supplement the existing body of knowledge, the main focus of the investigation shall be on water quality and PFAS contamination, including empirically derived rates of movements of contaminants. The contractor shall propose a detailed Work Plan to make progress on the following objectives:

1. Provide better definition of existing groundwater plume geometry and predictions of future plume migration and surface water contamination, including empirically derived rates of movements of contaminants.
2. Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.
3. Establish regular groundwater monitoring programs.
4. Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.

Activities that the contractor may perform to achieve project objectives include, but are not necessarily limited to, the following:

- Review relevant hydrogeologic reports and maps, and water-quality data available from the U.S. Geological Survey, N.M. Bureau of Geology, N.M. State Engineer, N.M. Environment Department, publicly available consultant reports, from public water supply system, and from municipal and county agencies.
- Sample existing public and private water supply wells.
- Drill monitoring wells, collect and analyze groundwater and subsurface soil samples to fill critical data gaps.
- Perform aquifer performance testing.
- Perform air-, surface water-, and groundwater-contaminant modeling including empirically derived rates of movements of contaminants.
- Observe and possibly collect samples of waterfowl and surface water.

The term of the resulting contract is anticipated to have a notice to proceed on or before 1 February 2021 and may have a term up to four (4) years from date of award.

The resulting contract will be a **single** award.

This procurement will result in a contractual agreement between two parties; the procurement may **ONLY** be used by those two parties exclusively.

D. PROCUREMENT MANAGER

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

Name: Terry McDill, OSI Procurement Manager
Telephone: 505-469-0732
Email: Teresa.McDill@state.nm.us

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the SPD.
2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

E. PROPOSAL DELIVERY

All deliveries of proposals via express carrier, courier or hand delivery, must be addressed and submitted as follows:

Name: Procurement Manager, Terry McDill or designee

Reference RFP Name: PFAS Investigation at Cannon & Holloman Air Force Bases

Reference RFP Number: 21 667 1210 0001

Address: 1190 St. Francis Drive Suite 4050

Attention: Teresa McDill

Santa Fe NM 87502

F. DEFINITION OF TERMINOLOGY

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

1. **“Agency”** means the State Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.
2. **“Authorized Purchaser”** means an individual authorized by a Participating Entity to place orders against this contract.
3. **“Award”** means the final execution of the contract document.
4. **“Business Hours”** means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.
5. **“Close of Business”** means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
6. **“Confidential”** means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
7. **“Contract”** means any agreement for the procurement of items of tangible personal property, services or construction.
8. **“Contractor”** means any business having a contract with a state agency or local public body.

9. **“Determination”** means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
10. **“Desirable”** – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
11. **“Electronic Version/Copy”** means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (CD) or USB flash drive. The electronic version/copy can NOT be emailed.
12. **“Evaluation Committee”** means a body appointed to perform the evaluation of Offerors’ proposals.
13. **“Evaluation Committee Report”** means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
14. **“Final Award”** means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
15. **“Finalist”** means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
16. **“Hourly Rate”** means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.
17. **“IT”** means Information Technology.
18. **“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 may result in the rejection of the Offeror’s proposal.
19. **“Minor Irregularities”** means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
20. **“Multiple Source Award”** means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.
21. **“Offeror”** is any person, corporation, or partnership who chooses to submit a proposal.

22. **“PFAS”** means perfluoroalkyl and polyfluoroalkyl substances, or per- and polyfluoroalkyl substances
23. **“Price Agreement”** means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.
24. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.
25. **“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.
26. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
27. **“Redacted”** means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
28. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
29. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.
30. **“Responsive Offer”** or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
31. **“Sealed”** means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By

submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

32. **“SPD”** means State Purchasing Division of the New Mexico State General Services Department.
33. **“Staff”** means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
34. **“State (the State)”** means the State of New Mexico.
35. **“State Agency”** means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.
36. **“State Purchasing Agent”** means the Director of the Purchasing Division of the General Services Department.
37. **“Statement of Concurrence”** means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
38. **“Unredacted”** means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
39. **“Written”** means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

G. PROCUREMENT LIBRARY

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of RFP, Questions & Answers, RFP Amendments, etc.

<https://www.generalservices.state.nm.us/statepurchasing/active-procurements.aspx>

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	SPD	30 October 2020
2. Acknowledgement of Receipt Form	Potential Offerors	10 November 2020
3. Pre-Proposal Conference	Agency	10 November 2020
4. Deadline to submit Questions	Potential Offerors	18 November 2020
5. Response to Written Questions	Procurement Manager	23 November 2020
6. Submission of Proposal	Potential Offerors	5 January 2021
7.* Proposal Evaluation	Evaluation Committee	6-15 January 2021
8.* Selection of Finalists	Evaluation Committee	15 January 2021
9.* Best and Final Offers	Finalist Offerors	20 January 2021
10 * Oral Presentation(s)	Finalist Offerors	22 January 2021
11.* Finalize Contractual Agreements	Agency/Finalist Offerors	22-26 January 2021
12.* Contract Awards	Agency/ Finalist Offerors	2 February 2021
13.* Protest Deadline	Agency	22 February 2021

*Dates indicated in Events 7 through 13 are estimates only and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown in Section II.A., above.

1. Issuance of RFP

This RFP is being issued on behalf of the New Mexico Environment on **October 30, 2020**.

2. Acknowledgement of Receipt

Potential Offerors may hand deliver, e-mail or send by registered or certified mail the Acknowledgement of Receipt Form (APPENDIX A), to the Procurement Manager, Teresa McDill, Teresa.McDill@state.nm.us, to have their organization placed on the procurement Distribution List. The form must be returned to the PROCUREMENT MANAGER by **3:00 pm MST/ MDT on November 10, 2020**.

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

3 Pre-Proposal Conference

A virtual pre-proposal conference will be held as indicated in Section II.A, Sequence of Events, beginning at 10:00 AM MST/MDT using the WebEx virtual platform. **Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Procurement Manager** (see Section I.D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attended the pre-proposal conference.

Attendance at the pre-proposal conference is highly recommended, but not a prerequisite for submission of a proposal.

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=me674ba97faed0f57c00efa50074c93bb>
Meeting number (access code): 133 266 2574
Join by phone: +1-415-655-0001 US Toll

4 Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 5:00 PM MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5 Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

An electronic version of the Questions and Answers will be posted to:
<https://www.env.nm.gov/requests-for-proposals/>

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/MDT ON: **JANUARY 05, 2021. PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. If an Offeror decides to use a third-party delivery entity to submit its proposal, it is still the responsibility of the Offeror to ensure that the delivery is made on time. An Offeror should take into account all factors regarding the delivery by the third party entity and ensure that the delivery is made prior to the stated deadline. Weather delays, traffic jams, deliveries to the incorrect address nor any other reason for a delay will be accepted for failure to make the stated deadline.

Proposals must be addressed and delivered to the Procurement Manager at the address identified in Section I.E. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the **PFAS Investigation at Cannon & Holloman Air Force Bases 21 667 1210 0001**. Proposals submitted by facsimile, email, nor the SPD electronic e-procurement system, **will not be accepted**.

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

7. Proposal Evaluation

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

8 Selection of Finalists

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. A schedule for Oral Presentation, if any, will be determined at this time. Finalists will be comprised of the three (3) Offerors receiving the highest cumulative scores in section V.A. Evaluation Point Summary.

9. Best and Final Offers

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

10. Oral Presentations

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation using the WebEx or MS Teams platform as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee.

11. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

12. Contract Awards

Upon receipt of the signed contractual agreement, the Agency Procurement office will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and State approval.

13. Protest Deadline

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172, NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Protest Manager: Joseph Lovato
1190 St. Francis Dr., PO Box 5469
Santa Fe, NM 87502 505-476-
3718
JosephM.Lovato@state.nm.us

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX B.

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

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

6 Offeror's Rights to Withdraw Proposal

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

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations, 1.4.1.5 & 1.4.1.36 NMAC.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one-hundred twenty (180) days after the due date for receipt of proposals or ninety (120) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8 Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a ***Proprietary and Confidential information is restricted to :***
 1. confidential financial information concerning the Offeror's organization; and
 2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7, NMSA 1978.
- b An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.B.1.a.i and III.B.2.a.i, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: 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 proprietary or confidential materials, the Agency shall examine the 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 proprietary or confidential information.

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

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

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

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

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

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency. See Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.F.20. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the State of New Mexico. If the RFP is cancelled, all responses received shall be destroyed by the Agency or SPD unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

25. Confidentiality

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

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

26. Electronic mail address required

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

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern. Please refer to: <https://www.env.nm.gov/requests-for-proposals/>

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <https://bewellnm.com>.
- 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); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

29. Campaign Contribution Disclosure Form

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

30. Letter of Transmittal

Offeror's proposal must be accompanied by an **unaltered** Letter of Transmittal Form (APPENDIX B), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **DO NOT LEAVE ANY OF THE ITEMS ON THE FORM BLANK** (N/A, None, Does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B and/or C is only required if the responses differs from the individual identified in A*);
3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. Describe any relationship with any other entity (such as State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
5. Be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.

31. Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

32 Conflict of Interest with DOD or USAF

In accordance with the purpose of the underlying appropriation, Section 98 of the General Appropriation Act of 2020, Chapter 83, Section 98 of New Mexico Laws 2020, this work is undertaken for litigation and protection planning related to PFAS release in New Mexico.

Because of the association with ongoing litigation, the chosen contractor will be required to notify the New Mexico Environment Department of any actual, apparent, or potential conflict of interest regarding any individual working on a contract assignment or having access to information regarding the contract, SPECIFICALLY THE DEPARTMENT OF DEFENSE (DoD) and the UNITED STATES AIR FORCE (USAF).

All Offerors are required to disclose all information (in APPENDIX D) pertaining to any financial and/or business relationships with identified potentially responsible party(ies) where investigative drilling work is planned or undertaken and will be required to notify NMED of any conflicts of interest. This notification shall include both organizational and personal conflicts of interest and shall be included with the submission of an offeror's proposal.

33. New Mexico Preferences

To ensure adequate consideration and application of §13-1-21, NMSA 1978 (as amended), Offerors **must** include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

A. New Mexico Business Preference

A copy of the certification must accompany Offeror's proposal.

B. New Mexico Resident Veterans Business Preference

A copy of the certification must accompany Offeror's proposal.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

Hard Copy Responses

Offeror's proposals must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted in the manner outlined below and sealed according to the definition provided in Section I.F.31. Each ORIGINAL binder (Technical and Cost) shall be clearly marked as "ORIGINAL" on the front of the binder. The additional HARD COPIES (if any) must each be submitted in separate binders and must be clearly identified as "COPY" on the front cover.

Technical and Cost portions of Offerors proposal **must** be submitted in separate binders as indicated below in this section, and **must** be prominently identified as "Technical Binder," or "Cost Binder," on each front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package or box according to the information provided in Section I.E. It is not necessary to segregate Technical Binders from Cost Binders, if they are submitted within the same sealed envelope, package or box, as long as the Technical Binders and Cost Binders are each submitted in separate binders.

Offerors **must** deliver:

- a) **Technical Proposals** – One (1) ORIGINAL, four (4) HARD COPIES, and one (1) ELECTRONIC copy of the proposal containing **ONLY** the Technical Proposal; ORIGINAL and all HARD COPIES of the Technical Proposal shall be in separate labeled binders. **The electronic copy MUST be submitted as a USB/CD and CANNOT be emailed.** The Technical Proposals **SHALL NOT** contain any cost information.
 - i. **Confidential Information**: If Offeror’s proposal contains confidential information, as defined in Section I.F.6 and detailed in Section II.C.8, Offeror **must** submit:
 - all of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section 1.F.38) versions for evaluation purposes; **AND**
 - ONE (1) additional **redacted** (def. Section 1.F.27) HARD COPY version and ONE (1) additional **redacted** electronic version for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror’s proposal. Redacted versions **must** be clearly marked as “REDACTED” or “CONFIDENTIAL” on the front cover of the hard-copy binder and on the first page of the electronic file.;
- b) **Cost Proposals** – One (1) ORIGINAL, one (1) HARD COPY, and one (1) ELECTRONIC copy of the proposal containing **ONLY** the Cost Proposal; ORIGINAL and all HARD COPIES of the Cost Proposal shall be in separate labeled binders from the Technical Proposals. **The electronic copy MUST be submitted as a USB/CD and CANNOT be emailed.**

The electronic version/copy of the proposal **must** mirror the physical binders submitted (i.e. One (1) **unredacted** CD/USB, one (1) **redacted** CD/USB). **The electronic version can NOT be emailed.**

The ORIGINAL, HARD COPIES and ELECTRONIC copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the ORIGINAL shall govern.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Proposal Content and Organization**, may be deemed non-responsive and rejected on that basis.

The ORIGINAL HARD COPIES of proposals must be received no later than the time and date indicated in Section II.B.6, Sequence of Events, Submission of Proposals.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

Organization of folders/envelopes for hard copy proposals and electronic copy proposals:

1. Proposal Content and Organization

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

Technical Proposal (Binder 1) – DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.

- A. Signed Letter of Transmittal (APPENDIX B)
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal/Binder 2**)
 - 1. Organizational Experience
 - 2. Organizational References
 - 3. Oral Presentation (if required)
 - 4. Mandatory Specification
 - 5. Desirable Specification
 - 6. Testing Methodology Compliance Acknowledgement (APPENDIX C)
 - 7. Conflict of Interest Acknowledgement (APPENDIX D)
 - 8. Other Supporting Material (if applicable)
- E. Business Specifications
 - 1. Signed Campaign Contribution Form (APPENDIX E)
 - 2. Financial Stability –(Financial information considered confidential, as defined in Section I.E. and detailed in Section II.C.8, should be placed in the **Confidential Information** binder, per Section II.B.1.a.i or Section II.B.2.a.i, as applicable)
 - 3. Performance Surety Bond
 - 4. Response to Contract Terms and Conditions (from Section II.C.15)
 - 5. Offeror's Additional Terms and Conditions (from Section II.C.16)
 - 6. New Mexico Preferences (if applicable)
 - 7. Veterans Preference (if applicable)
- F. Other Supporting Material (if applicable)

Cost Proposal (Binder 2):

- 1. Completed Cost Response Form (APPENDIX F)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in Binder 2.**

A Proposal Summary may be included in Offeror's Technical Proposal (Binder 1), to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

PFAS INVESTIGATION AT CANNON AND HOLLOMAN AIR FORCE BASES

Consistent with the appropriation of funding within Section 98 of the General Appropriation Act of 2020, Chapter 83, Section 98 of New Mexico Laws 2020, the State of New Mexico through the New Mexico Environment Department (NMED) issues this Request for Proposal to investigate perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination at Cannon Air Force Base (Cannon), located near the city of Clovis in Curry County, and Holloman Air Force Base (Holloman), located near the city of Alamogordo in Otero County, (collectively the Bases).

The PFAS groundwater contamination plumes at Cannon and Holloman are likely miles in length, with maximum concentrations greatly exceeding advisory health limit recommendations established by EPA (Figures 1, 2a, and 2b). Given the potential magnitude of these groundwater plumes, the contractor shall conduct an efficient and technically defensible data-driven investigation that will make progress on high-priority objectives. Substantial data and information on groundwater levels and aquifer hydraulic parameters already exist at both sites. While the investigation will generate additional water-level and other hydraulic information that can supplement the existing body of knowledge, the main focus of the investigation shall be on water quality and PFAS contamination, including empirically derived rates of movements of contaminants. The contractor shall propose a detailed Work Plan to make progress on the following objectives:

1. Provide better definition of existing groundwater plume geometry and predictions of future plume migration and surface water contamination and conveyance, including empirically derived rates of movements of contaminants.
2. Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.
3. Establish regular groundwater monitoring programs.
4. Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.

Activities that the contractor may perform to achieve project objectives include, but are not necessarily limited to, the following:

- Review relevant hydrogeologic reports and maps, and water-quality data available from the U.S. Geological Survey, N.M. Bureau of Geology, N.M. State Engineer, N.M. Environment Department, publicly available consultant reports, from public water supply system, and from municipal and county agencies.
- Sample existing public and private water supply wells.
- Drill monitoring wells, collect and analyze groundwater and subsurface soil samples to fill critical data gaps.
- Perform aquifer performance testing.
- Perform groundwater-contaminant modeling including empirically derived rates of movements of contaminants.
- Observe and possibly collect samples of waterfowl and surface water.

Objective 1 – Provide better definition of existing plume geometry and predictions of future plume migration.

The contractor's work plan shall include a combination of sampling existing wells, drilling monitoring wells, and performing numerical modeling, all designed to provide better plume definition, including PFAS vertical distributions, and prediction of future plume migration direction and rate.

Sampling existing water-supply wells serves the dual purposes of providing information on the areal extent of contamination, as well as identifying wells that are contaminated (Objective 2 below). Utilizing water quality data from existing supply wells to define groundwater contamination plumes is not ideal, but is done when plumes cover square miles of area. In the case of the 3-mile long off-site Cannon plume, it will be necessary to use water-quality data from supply wells to help define the plume. Decades of water-level decline due to groundwater depletion has significantly decreased the saturated thickness of the Ogallala aquifer. This decrease, thus decreasing the level of certainty of where samples from existing wells are drawn from. PFAS concentrations in a monitoring well sampled in the Cannon fire training area are very similar to PFAS concentrations in a nearby irrigation well that is outside the base boundary.

The contractor shall propose to drill monitoring wells to fill critical off-site data gaps in both the Cannon and Holloman plumes with priority given to defining distal plume conditions. Anticipated high-priority locations for monitoring wells include the areas with question marks shown in Figure 1 and Figure 2b. Well drilling and subsurface soil sampling shall proceed with a carefully planned, phased, and data-driven process. Each phase of drilling informs subsequent phases of the investigations conducted on the Bases and surrounding areas. The contractor shall submit for NMED approval a Phase 1 well drilling work plan that includes well locations, drilling, construction, and completion plans, sediment and groundwater sampling, and water-level measurement methods. NMED shall be responsible for negotiating well-drilling access agreements with third party landowners. As directed by NMED, the contractor shall submit drilling work plans for subsequent phases.

The contractor may propose, subject to NMED approval, to conduct one or more aquifer performance tests as necessary to define hydraulic properties, capture zones, and other parameters used as input to modeling simulations quantifying groundwater flow and contaminant transport.

To the extent authorized by NMED, the contractor shall utilize available modeling efforts. The contractor shall construct groundwater models that predict the migration and fate of PFAS contamination at each Base, including estimation of capture zones and particle tracking for public and private water supply wells under typical pumping conditions.

Objective 2 – Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.

The contractor shall resample all existing water-supply wells that have previously shown PFAS detections, including the EPCOR wells located east of Cannon, and private water supply wells located north, northeast, east and southeast of Holloman. Using available hydrogeologic information, the contractor shall identify, subject to NMED approval, and sample additional water-supply wells that may be at risk of contamination. NMED will be responsible for securing access permission and providing well owners with copies of analytical test results.

Objective 3 – Establish regular groundwater monitoring programs.

The contractor shall propose, subject to NMED approval, a network of wells to be used for regular groundwater monitoring at each site. The networks may consist of a combination of water supply and monitoring wells that will provide useful information on plume migration and fluctuation of contaminant levels. The contractor also shall propose, subject to NMED approval, a means of tracking water level monitoring conducted by other agencies as this information is relevant to monitoring PFAS contamination. Upon NMED approval, the contractor shall implement the groundwater monitoring programs as resources allow. Field parameters, consisting of temperature, pH, specific conductance, turbidity, and dissolved oxygen, shall be measured at all surface water and groundwater stations during sampling using flow-through cells whenever possible.

Objective 4 – Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.

Public concerns have been raised regarding the safety of hunting and eating waterfowl that are exposed to the extraordinarily high PFAS concentrations in the Lake Holloman Wetlands Complex. Additionally, there are reports that PFAS may remove the oil that birds secrete, that waterproofs their feathers, thereby making them vulnerable to getting wet and suffering from hypothermia during cold weather. The contractor shall propose and undertake activities to investigate these waterfowl issues.

Laboratory Analyses

NOTE: See APPENDIX C: Acknowledgement of Testing Method Compliance

Analysis of PFAS in aqueous and solid samples requires a precise and accurate analytical method and strict Quality Assurance/ Quality Control (QA/QC) to provide technically defensible data and information for conducting robust scientific and regulatory investigations. The Department of Defense (DoD) Environmental Data Quality Workgroup (EDQW) and the Department of Energy (DOE) Consolidated Audit Program (DOECAP) Data Quality Workgroup (DOE-DQW) participants developed the DoD/DOE Quality Systems Manual (QSM), version 5.3, for Environmental Laboratories. The DoD/DOE QSM provides baseline requirements for establishing and managing of quality systems for laboratories performing analytical testing services, including PFAS, cations, anions, metals, radionuclides, and organic chemicals for the DoD and the DOE. **Analytical laboratories used as part of this RFP must be DoD/DOE certified to perform PFAS analysis of environmental samples (aqueous and solids).**

PFAS Analyses – Unless otherwise directed by NMED, PFAS samples shall be analyzed using EPA test methods 537, 537.1, and 533 using isotope dilution, strictly adhering to DOE/DoD Quality System Manual (QSM), Version 5.3 (2019) including Table B-15.

Isotope dilution is a quantitation technique that considers sample matrix effects on each individual PFAS quantitation in the most precise manner possible. This technique quantifies analytes of interest against the isotopically labeled analogs of the analytes, which are added to the sample prior to and after sample preparation. Addition prior to preparation helps account for loss of analyte during the preparation process, while addition after preparation to an aliquot of the sample extract accounts for the bias associated with the instrumentation. Methods using isotope dilution should include isotope recovery for each sample and analyte in data reports. Isotope analog recoveries should be reported, and minimum/maximum isotope recoveries may be required by specific analytical procedures. Low isotope recovery may indicate that quantitation was inadequate; the data are then reported as estimated values.

Level four quality assurance/quality control shall be adhered to with all aspects of PFAS sampling on environmental media. Quality assurance/quality control samples for liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) analysis for PFAS include field reagent blanks, equipment blanks, matrix spike samples, matrix spike duplicate samples, laboratory control samples, laboratory control sample duplicates, and method blanks. The DoD/DOE-certified analytical laboratory qualified to perform PFAS analysis on aqueous and solid samples shall be capable of performing total oxidizable precursor (TOP) assay on select samples upon NMED's request.

The contractor shall submit all PFAS water, sediment, and biological samples directly to NMED's PFAS contract laboratory, and upon billing NMED shall remit payment for all such samples directly to the laboratory. In the event that NMED does not have a PFAS laboratory contract in effect at the time of any sampling event, the contractor shall subcontract for PFAS analyses.

General Chemistry Analyses – The first regularly scheduled sample from each designated PFAS monitoring station also shall be analyzed for dissolved major anions and cations, dissolved metals,

total organic carbon, Total Kjeldahl nitrogen, and dissolved nitrate-nitrite. The contractor shall submit inorganic samples directly to the N.M. Department of Health, Scientific Laboratory Division (SLD) using laboratory forms and user codes provided by NMED. Samples shall be submitted to SLD with non-billable NMED user codes, and there will be no invoicing or payment required.

Figure 1. PFAS Detections in Groundwater on and in the Vicinity of Cannon Air Force Base.

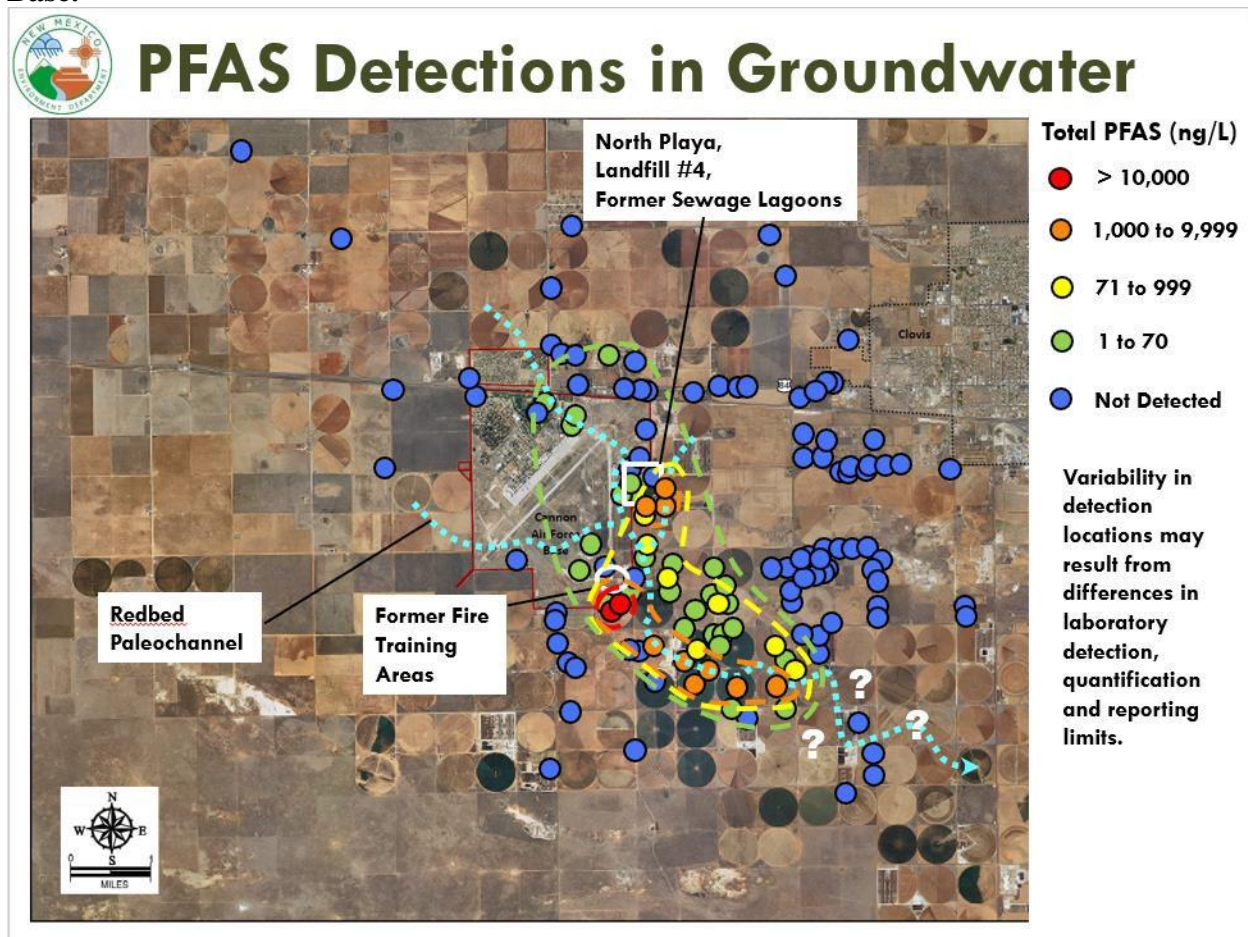


Figure 2a. PFAS Detections in Groundwater and Surface Water on Holloman Air Force Base.

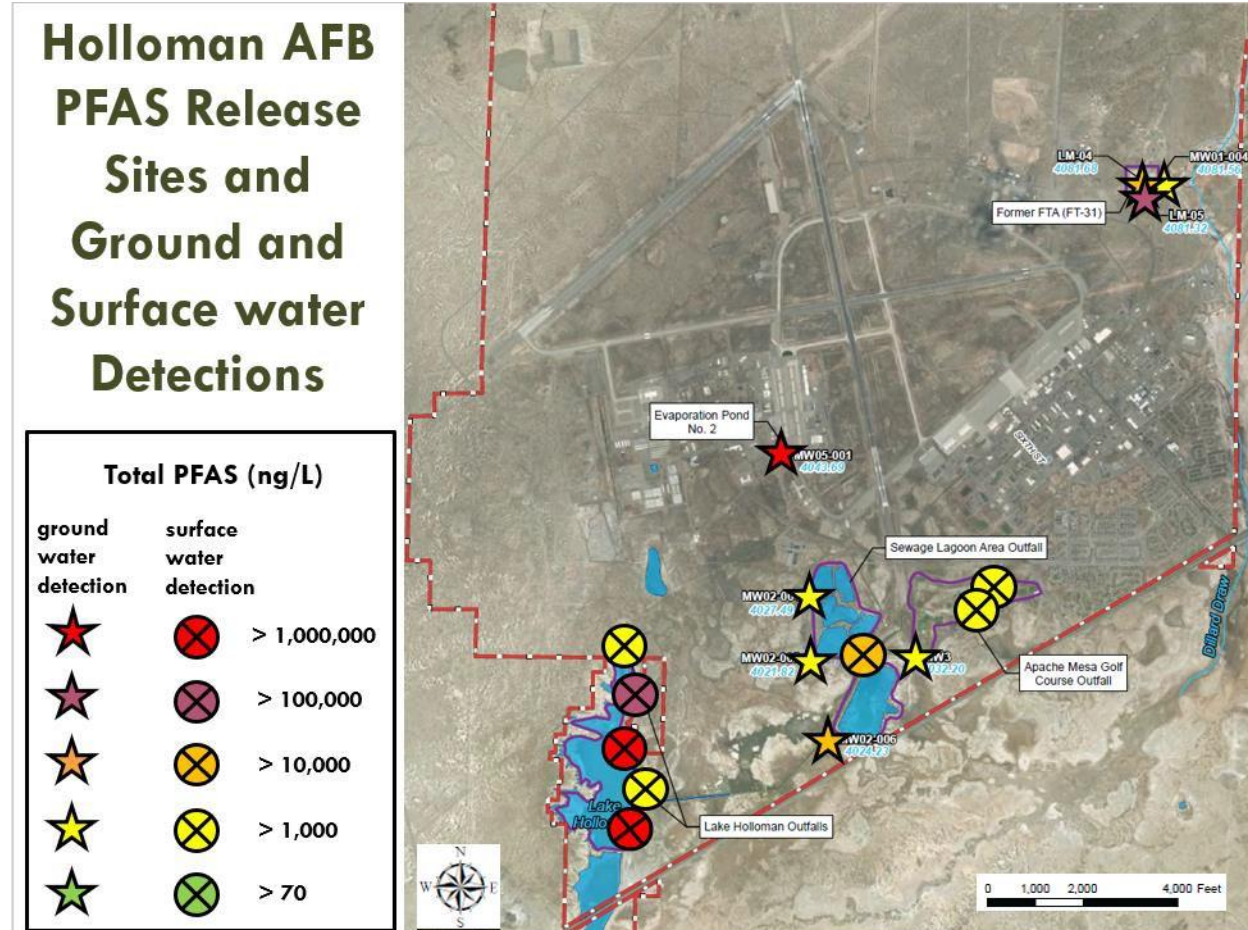
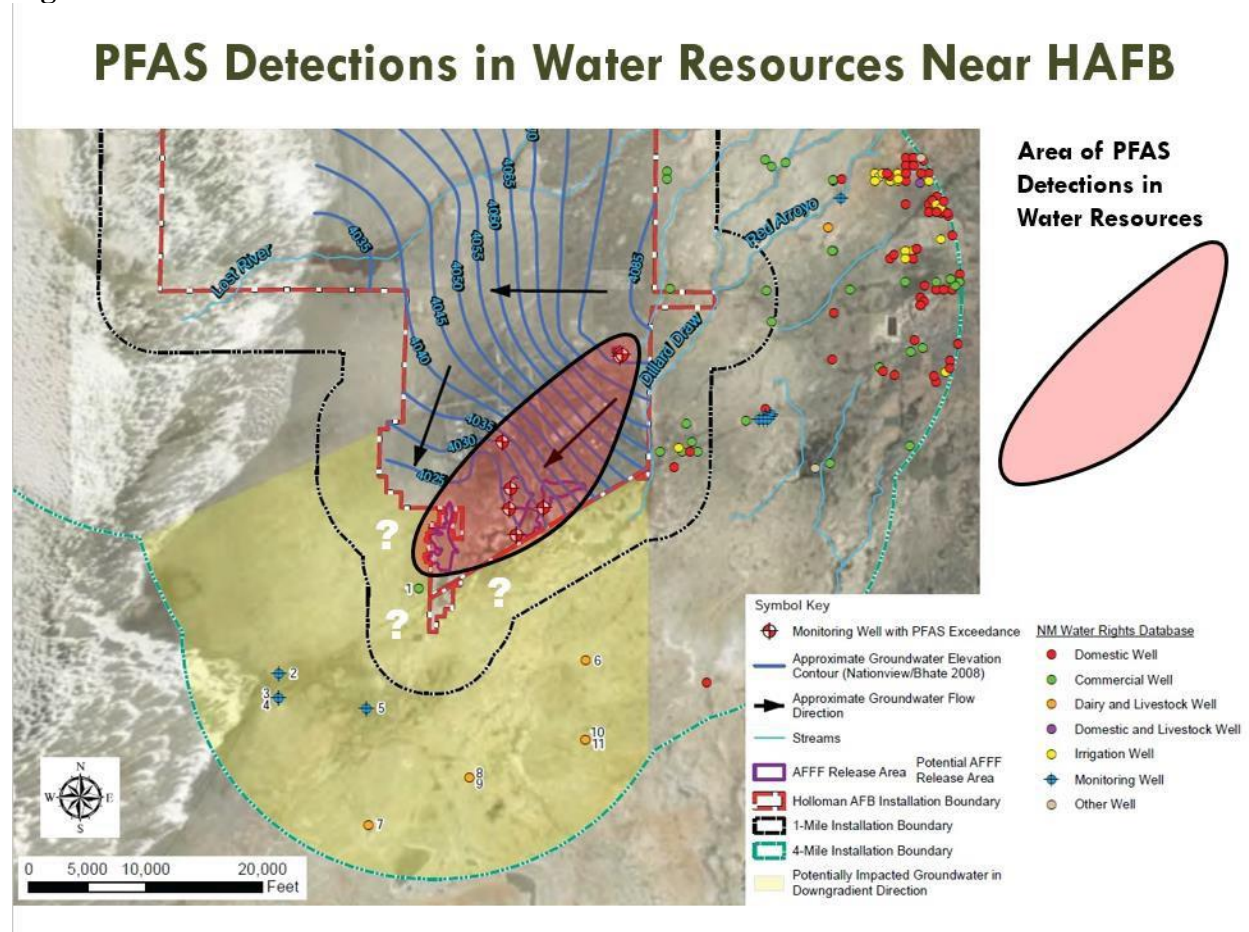


Figure 2b. Area of PFAS Detections in Water Resources on Holloman Air Force Base.



ANTICIPATED ORDER OF EVENTS

- Anticipated Notice to Proceed
- NMED submits site-specific statements of work to contractor, holds meeting to discuss work
- Consultant submits detailed workplans, schedules, QAPPs, and HASPs to NMED
- NMED issues work order, with locations and access agreements of Phase 1 wells to be drilled, to consultant for immediate commencement of investigation
- Consultant completes literature and information review
- Consultant samples existing water supply wells known to be contaminated or at risk of contamination
- Phase 1 monitor well drilling, construction and development (regular sampling commences upon development of each well)
- Phase 1 progress report due from consultant to include results of literature review, water supply well testing, Phase 1 drilling, and proposed Phase 2 drilling workplan with suggested well locations to be approved by NMED
- NMED issues work order for Phase 2 drilling
- Negotiate Phase 2 access agreements, drill monitor wells, construction and development (regular sampling commences upon development of each well)
- Phase 2 progress report due from consultant to include results of Phase 2 drilling, and proposed Phase 3 drilling workplan with suggested well locations to be approved by NMED
- NMED issues work order for Phase 3 drilling
- Negotiate Phase 3 access agreements, drill monitor wells, construction and development (regular sampling commences upon development of each well)
- Phase 3 progress report due from consultant to include results of Phase 3 drilling, and proposed Phase 4 drilling workplan with suggested well locations to be approved by NMED, if needed
- Phase 4 drilling, if necessary
- Waterfowl investigation proposal from consultant, work order issued by NMED, field work, final report
- Groundwater modeling
- Consultant submits draft report to NMED
- Consultant submits final report to NMED

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offeror **must**:

a) Corporate Experience:

Provide a detailed description of relevant corporate experience with state government and private sector. Provide documentation and describe corporate experience in conducting investigations for litigation purposes including presentation of those investigations through testimony or preparation of exhibits ultimately used in litigation associated with that investigation. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge in the areas of hydrogeology, aquifer hydraulics, groundwater contamination, environmental aqueous geochemistry, drilling and installation of monitoring wells, groundwater modelling, and limnology. Define the types of services that set your team apart, that are outstanding, or that deserve special mention. Identify key contact personnel that will communicate directly with NMED regularly over the course of the contract. Responses should also address relevant experience as related to the four (4) objectives as listed in the Detailed Statement of Work, and points will be awarded based on demonstrated experience for each objective.

b) Specific PFAS Experience:

Provide documentation of corporate experience with investigation of sources of PFAS contamination and the transport and fate and remediation of PFAS in the environment. Responses should specify any experience with PFAS contamination of pertinent environmental media, i.e., groundwater, surface water, and/or biota. Points will be awarded based on quantity and quality of PFAS experience.

c) Safe & Healthy Workplace Experience:

Provide documentation of corporate experience in creating and maintaining safe and healthy working conditions for its employees and subcontractors, including HAZWOPER certified well drilling crews, who are engaged in field investigations of environmental contamination. Describe the Offeror's processes for maintaining site safety and general safe work consciousness among its employees and subcontractors. Offerors must identify the person with primary responsibility for safety programs (i.e., Health and Safety Officer) and provide an outline of health and safety policies and measures that are implemented to identify worksite hazards and prevent worksite injuries. Please **do not** submit an actual or sample Health and Safety Plan.

Quality Assurance is an integrated system that combines management and technical activities to support effective environmental activities. Projects that are performed under this contract, and that include the collection of environmental samples, will require the preparation of a project specific Quality Assurance Project Plan (QAPP). Each Offeror must demonstrate that it has a detailed Quality Management System in place to support QAPP development and implementation.

d) Recent PFAS Project Experience:

Indicate, during the past three to five (3-5) years:

- a. The quantity and quality of PFAS samples collected;
- b. How many groundwater monitoring well installations have been overseen;
- c. How many PFAS contamination investigations have been; and
- d. What percentage of business revenue is derived from groundwater investigations?

e) Overcoming Obstacles:

Describe at least two projects where significant obstacles occurred and the means by which the Offeror overcame them. Discuss each project's unique challenges with regard to installation(s) of Ground water contamination monitoring wells, site characterization, and contaminant including empirically derived rates of movements of contaminants (especially PFAS). Points will be awarded based on Offeror's candid and well-thought-out response, as well as indication of the Offeror's ability to learn from overcoming major obstacles and grow from its successes.

f) Key Personnel:

Provide a detailed resume of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel is identified as all individuals who are essential to carrying out the work of the project, including upper management, supervisors, scientists, technicians, and inspectors. Include a brief biography for any and all relevant subcontractors. Offeror must include education, work experience, relevant certifications/licenses.

2. Organizational References

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, state or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

- a) Client name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical project environment;
- e) Staff assigned to reference engagement that will be designated for work per this RFP; and
- f) Client project manager name, telephone number, fax number and e-mail address.

3. Mandatory Specification

Based on the detailed scope of work, the Offeror should briefly address their approach to each of the four (4) objectives of this project. Each section should include a narrative description of the tasks to be completed by which key personnel; the anticipated timeline for the tasks to be completed; and a description of how the budget for each objective will be spent.

DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.

- a) Offerors must include a statement acknowledging compliance with the testing methods and procedures outlined in the Detailed Scope of Work. Failure to do so will result in a failed proposal submission and the offeror will not be considered. This statement is required in the event that NMED does not have a PFAS laboratory contract in effect at the time of any sampling event, requiring the contractor to subcontract for PFAS analyses (APPENDIX C).
- b) Objective 1 – Provide better definition of existing plume geometry and predictions of future plume migration through a combination of sampling existing wells, drilling and sampling monitoring wells, and performing numeric modeling.
 - Description of Activities including Duties of Key Personnel
 - Anticipated timeline discussion
 - Budget Narrative—How will the money allocated to this objective be spent?
(Include Personnel involved, activities accomplished, and equipment/ supplies utilized.)
- c) Objective 2 – Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.
 - Description of Activities including Duties of Key Personnel
 - Anticipated timeline discussion
 - Budget Narrative—How will the money allocated to this objective be spent?
(Include Personnel involved, activities accomplished, and equipment/ supplies utilized.)
- d) Objective 3 – Establish regular groundwater monitoring programs.
 - Description of Activities including Duties of Key Personnel
 - Anticipated timeline discussion
 - Budget Narrative—How will the money allocated to this objective be spent?
(Include Personnel involved, activities accomplished, and equipment/ supplies utilized.)
- e) Objective 4 – Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.
 - Description of Activities including Duties of Key Personnel
 - Anticipated timeline discussion
 - Budget Narrative—How will the money allocated to this objective be spent?
(Include Personnel involved, activities accomplished, and equipment/ supplies utilized.)

4. Desirable Specification

Offeror should summarize prior experience with conducting environmental and hydrogeological/geochemical investigations in New Mexico and knowledge of various municipalities or localities. Please provide a list with a brief project descriptions and locations; and if relevant, local subcontractors, etc.

C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report).

2. Performance Surety Bond

Offeror(s) must have the ability to secure a Performance Surety Bond in favor of the Agency to insure the Contractor's performance upon any subsequent contract award. Each engagement will be different but the option to require a Performance Surety Bond must be available to the Agencies at time of contract award. **A Statement of Concurrence, as defined in Section I.F.37, must be submitted in the Offeror's proposal.**

3. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX B. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX B, and to return a signed, unaltered form will result in Offeror's disqualification.**

4. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX E). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

5. Oral Presentation

If selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Agency. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

6. Cost

Offerors must complete the Cost Response Form in APPENDIX F. Cost will be measured by evaluating the response to each of the four (4) objectives. All charges listed on APPENDIX F must be justified and evidence of need documented in the proposal.

7. Conflict of Interest with DOD or USAF

Offerors must complete the Conflict of Interest Form in APPENDIX D. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

8. Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

EVALUATION FACTORS (correspond to section IV.B and IV. C)	POINTS AVAILABLE
B. Response to Technical Specifications	
B.1 Organizational Experience	350
B.2 Organizational References	Pass/ Fail
B.3 Mandatory Specification	300
B.4 Desirable Specification	100
C. Business Specifications	
C.1 Financial Stability	Pass/ Fail
C.2 Performance Surety Bond	Pass/ Fail
C.3 Letter of Transmittal (Appendix C)	Pass/Fail
C.4 Campaign Contribution Disclosure Form (Appendix E)	Pass/ Fail
C.5 Oral Presentation (if applicable)	50
C.6 Cost	200
C. 7 Conflict of Interest Acknowledgement Form (Appendix D)	Pass/Fail
TOTAL POINTS AVAILABLE	1,000

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. B.1 Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness and clarity of Offeror's response to the first five questions (a-e) in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge in the five technical areas: relevant corporate experience with state government and private sector; investigating PFAS; safe working conditions (HAZWOPER); recent projects; and overcoming obstacles. The last question, (f) Key Personnel Resumes, will be awarded either pass or fail. The offeror must provide sufficient detailed resumes of key personnel and brief bios of other relevant project personnel and subcontractors to demonstrate the ability to perform the scope of work for this project. This determination will be made at the discretion of the evaluation committee.

2. B.2 Organizational References (See Table 1)

This criterion is Pass/ Fail. Offerors will fail if they do not provide at least one (1) references, preferably three (3) with the following details:

- a) Client/ Company name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical project environment;
- e) Staff assigned to reference engagement that will be designated for work per this RFP; and
- f) Client project manager/ point of contact
 - Name
 - Telephone number
 - E-mail address.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the Agency reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

3. B.3 Mandatory Specifications

Points will be awarded based on the thoroughness and clarity of Offeror's response to each of the four (4) objectives (questions a-d) as outlined in the Detailed Scope of Work.

4. B.4 Desirable Specifications

Points will be awarded based on the thoroughness and clarity of Offeror's response demonstrating prior experience with conducting environmental and hydrogeological investigations in the state of New Mexico.

5. C.1 Financial Stability (See Table 1)

Pass/Fail only. No points assigned.

6. C.2 Performance Bond (See Table 1)

Pass/Fail only. No points assigned.

7. C.3 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

8. C.4 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

9. C.5 Oral Presentation (See Table 1)

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

10. C.6 Cost (See Table 1)

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

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times \text{Available Award Points}$$

11. C.7 Conflict of Interest Acknowledgment Form (See Table 1)

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A:
ACKNOWLEDGEMENT OF RECEIPT FORM

ACKNOWLEDGEMENT OF RECEIPT FORM REQUEST FOR PROPOSAL

**PFAS INVESTIGATION AT CANNON & HOLLOMAN AIR FORCE BASES
RFP# 21 667 1210 0001**

This Acknowledgement of Receipt Form should be signed and submitted no later than **3:00 pm MST/ MDT on November 10, 2020**. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX G.

ORGANIZATION _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS _____

CITY: _____ STATE: _____ ZIP CODE: _____

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

Submit Acknowledgement of Receipt Form to:

To: OSI Procurement Manager: Teresa McDill

E-mail: Teresa.McDill@state.nm.us

Subject Line: **PFAS Investigation at Cannon & Holloman Air Force Bases 21 667 1210 0001**

APPENDIX B:
LETTER OF TRANSMITTAL FORM

LETTER OF TRANSMITTAL FORM

REQUEST FOR PROPOSAL

PFAS INVESTIGATION AT CANNON & HOLLOMAN AIR FORCE BASES 21 667 1210 0001

**ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.30).
FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE
DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK!**
(N/A, None, Does not apply, etc. are acceptable responses.)

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

2. Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror:

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns.
If separate individuals perform the functions in Columns B and/or C, they must be identified.

3. Use of subcontractors (Select one):

_____ No subcontractors will be used in the performance of any resultant contract, OR
 _____ The following subcontractors will be used in the performance of any resultant contract:

 (Attach extra sheets, as needed)

4. Describe any relationship with any entity (such as a State Agency, reseller, etc. that is not a subcontractors listed in #3 above), if any, which will be used in the performance of any resultant contract. (N/A, None, Does not apply, etc. are acceptable responses to this item.)

 (Attach extra sheets, as needed)

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

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

_____, 20_____
 Authorized Signature and Date (Must be signed by the individual identified in item #2.A, above.)

APPENDIX C:
ACKNOWLEDGMENT OF TESTING METHOD COMPLIANCE

ACKNOWLEDGEMENT OF TESTING METHOD COMPLIANCE REQUEST FOR PROPOSAL PFAS INVESTIGATION AT CANNON & HOLLOMAN AIR FORCE BASES 21 667 1210 0001

Analysis of PFAS in aqueous and solid samples requires a precise and accurate analytical method and strict Quality Assurance/ Quality Control (QA/QC) to provide technically defensible data and information for conducting robust scientific and regulatory investigations. The Department of Defense (DoD) Environmental Data Quality Workgroup (EDQW) and the Department of Energy (DOE) Consolidated Audit Program (DOECAP) Data Quality Workgroup (DOE-DQW) participants developed the DoD/DOE Quality Systems Manual (QSM), version 5.3, for Environmental Laboratories. The DoD/DOE QSM provides baseline requirements for the establishment and management of quality systems for laboratories performing analytical testing services, including PFAS, cations, anions, metals, radionuclides, and organic chemicals for the DoD and the DOE. **Analytical laboratories used as part of the RFP must be DoD/DOE certified to perform PFAS analysis of environmental samples (aqueous and solids).**

USEPA Methods 533 and 537.1 are the two promulgated methods for the analysis of PFAS, which consists of liquid chromatography/tandem mass spectrometry (LC/MS/MS) method using a solid phase extraction (SPE) in drinking-water samples. USEPA method 8327 also consists of LC/MS/MS and is currently under review comments, however, DoD has determined that this method will not meet DoD's needs to support decision making for the DoD's PFAS efforts. USEPA 1600-series method was developed with DoD and EPA expects to achieve complete validation in Q1 2021. There are laboratories that follow USEPA Method 537 as written, especially for the six UCMR3 PFAS in drinking water. However, most laboratories have their own modified version of USEPA Method 537.1 based on their expertise and improvements in available equipment/calibration standards, to analyze for selected PFAS in additional matrices (groundwater, surface water, soil, sediment, tissue, etc.), and to achieve lower method detection and reporting limits than presented in the published method. In addition, there are linear and branched isomers of some PFAS, and Method 537.1 specifically addresses including the branched isomers when quantitating for PFOS and PFHxS. Analytes include the following PFAS: hexafluoropropylene oxide dimer acid (HFPO-DA), N-ethyl-perfluorooctanesulfonamidoacetic acid (NEtFOSAA), N-methyl perfluorooctanesulfonamidoacetic acid (NMeFOSAA), perfluorobutanesulfonic acid (PFBS), perfluorodecanoic acid (PFDA), perfluorododecanoic acid (PFDoA), perfluoroheptanoic acid (PFHpA), perfluorohexanesulfonic acid (PFHxS), perfluorohexanoic acid (PFHxA), perfluorononanoic acid (PFNA), perfluorooctanesulfonic acid (PFOS), perfluorooctanoic acid (PFOA), perfluorotetradecanoic acid (PFTA), perfluorotridecanoic acid (PFTrDA), perfluoroundecanoic acid (PFUnA), 11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11 C1-PF3OUdS), 9-chlorohexadecafluoro-3-oxanone-1-sulfonic acid (9-C1-PF3ONS), and 4,8-dioxo-3H-perfluorononanoic acid (ADONA). USEPA methods 537.1 and 533 provide 18 and 25 target PFAS compounds, respectively, and a total of 29 target PFAS can be analyzed between the two methods.

USEPA, 2018, Method 537.1. - Determination of Selected Perfluorinated Alkyl Acids in Drinking Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS), November 2018, Version 1.0, EPA Document # EPA/600/R-18/352.



EPA Analytical Methods for PFAS in Drinking Water

EPA's new validated Method 533 focuses on "short chain" per- and polyfluoroalkyl substances (PFAS) (i.e., those with carbon chain lengths of 4 to 12). [Method 533](#) complements EPA [Method 537.1](#) (published November 2018) and can be used to test for 11 additional PFAS. Using both methods, a total of 29 unique PFAS can be effectively measured in drinking water.

Analyte	Abbreviation	CASRN	Method 533	Method 537.1
11-Chloroeicosafluoro-3-oxaundecane-1-sulfonic acid	11Cl-PF3OUdS	763051-92-9	x	x
9-Chlorohexadecafluoro-3-oxanonane-1-sulfonic acid	9Cl-PF3ONS	756426-58-1	x	x
4,8-Dioxa-3H-perfluorononanoic acid	ADONA	919005-14-4	x	x
Hexafluoropropylene oxide dimer acid	HFPO-DA	13252-13-6	x	x
Perfluorobutanesulfonic acid	PFBS	375-73-5	x	x
Perfluorodecanoic acid	PFDA	335-76-2	x	x
Perfluorododecanoic acid	PFDoA	307-55-1	x	x
Perfluoroheptanoic acid	PFHpA	375-85-9	x	x
Perfluorohexanoic acid	PFHxA	307-24-4	x	x
Perfluorohexanesulfonic acid	PFHxS	355-46-4	x	x
Perfluorononanoic acid	PFNA	375-95-1	x	x
Perfluorooctanoic acid	PFOA	335-67-1	x	x
Perfluorooctanesulfonic acid	PFOS	1763-23-1	x	x
Perfluoroundecanoic acid	PFUnA	2058-94-8	x	x
1H,1H, 2H, 2H-Perfluorohexane sulfonic acid	4:2FTS	757124-72-4	x	
1H,1H, 2H, 2H-Perfluorooctane sulfonic acid	6:2FTS	27619-97-2	x	
1H,1H, 2H, 2H-Perfluorodecane sulfonic acid	8:2FTS	39108-34-4	x	
Nonafluoro-3,6-dioxaheptanoic acid	NFDHA	151772-58-6	x	
Perfluorobutanoic acid	PFBA	375-22-4	x	
Perfluoro(2-ethoxyethane)sulfonic acid	PFEESA	113507-82-7	x	
Perfluoroheptanesulfonic acid	PFHpS	375-92-8	x	
Perfluoro-4-methoxybutanoic acid	PFMBA	863090-89-5	x	
Perfluoro-3-methoxypropanoic acid	PFMPA	377-73-1	x	
Perfluoropentanoic acid	PFPeA	2706-90-3	x	
Perfluoropentanesulfonic acid	PFPeS	2706-91-4	x	
N-ethyl perfluorooctanesulfonamidoacetic acid	NEtFOSAA	2991-50-6		x
N-methyl perfluorooctanesulfonamidoacetic acid	NMeFOSAA	2355-31-9		x
Perfluorotetradecanoic acid	PFTA	376-06-7		x
Perfluorotridecanoic acid	PFTTrDA	72629-94-8		x

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Aqueous Sample Preparation	Each sample and associated batch QC samples.	<p>Solid Phase Extraction (SPE) must be used unless samples are known to contain high PFAS concentrations (e.g., Aqueous Film Forming Foam (AFFF) formulations). Inline SPE is acceptable.</p> <p>Entire sample plus bottle rinsate must be extracted using SPE.</p> <p>Known high PFAS concentration samples require serial dilution be performed in duplicate.</p> <p>Documented project approval is needed for samples prepared by serial dilution as opposed to SPE.</p>	NA.	NA.	<p>Samples with > 1% solids may require centrifugation prior to SPE extraction.</p> <p>Pre-screening of separate aliquots of aqueous samples is recommended.</p>
Solid Sample Preparation	Each sample and associated batch QC samples.	Entire sample received by the laboratory must be homogenized prior to subsampling.	NA.	NA.	NA.
Biota Sample Preparation	Each sample and associated batch QC samples.	Sample prepared as defined by the project (e.g., whole fish versus filleted fish).	NA.	NA.	NA.

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
AFFF and AFFF Mixture Samples Preparation	Each sample and associated batch QC samples.	Each field sample must be prepared in duplicate (equivalent to matrix duplicate). Serial dilutions must be performed to achieve the lowest LOQ possible for each analyte.	NA.	NA.	Adsorption onto bottle is negligible compared to sample concentration so subsampling is allowed. Multiple dilutions will most likely have to be reported in order to achieve the lowest LOQ possible for each analyte.
Sample Cleanup Procedure	Each sample and associated batch QC samples. Not applicable to AFFF and AFFF Mixture Samples.	ENVI-Carb [®] or equivalent must be used on each sample and batch QC sample.	NA.	Flagging is not appropriate.	Cleanup should reduce bias from matrix interferences.
Mass Calibration	Instrument must have a valid mass calibration prior to any sample analysis. Mass calibration is verified after each mass calibration, prior to initial calibration (ICAL).	Calibrate the mass scale of the MS with calibration compounds and procedures described by the manufacturer. Mass calibration range must bracket the ion masses of interest. The most recent mass calibration must be used for every acquisition in an analytical run. Mass calibration must be verified to be ± 0.5 amu of the true value, by acquiring a full scan continuum mass spectrum of a PFAS stock standard.	If the mass calibration fails, then recalibrate. If it fails again, consult manufacturer instructions on corrective maintenance.	Flagging is not appropriate.	Problem must be corrected. No samples may be analyzed under a failing mass calibration. The mass calibration is updated on an as-needed basis (e.g., QC failures, ion masses fall outside of the ± 0.5 amu of the true value, major instrument maintenance is performed, or the instrument is moved).

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Mass Spectral Acquisition Rate	Each analyte, Extracted Internal Standard (EIS) Analyte.	A minimum of 10 spectra scans are acquired across each chromatographic peak.	NA.	Flagging is not appropriate.	NA.
Calibration, Calibration Verification, and Spiking Standards	All analytes.	Standards containing both branched and linear isomers must be used when commercially available. PFAS method analytes may consist of both branched and linear isomers, but quantitative standards that contain the linear and branched isomers do not exist for all method analytes. For PFAS that do not have a quantitative branched and linear standard, identify the branched isomers by analyzing a qualitative standard that includes both linear and branched isomers and determine retention times, transitions and transition ion ratios. Quantitate samples by integrating the total response (i.e., accounting for peaks that are identified as linear and branched isomers) and relying on the initial calibration that uses the linear isomer quantitative standard.	NA.	Flagging is not appropriate.	Standards containing both branched and linear isomers are to be used during method validation and when reestablishing retention times, to ensure the total response is quantitated for that analyte. Technical grade standards cannot be used for quantitative analysis.

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Sample PFAS Identification	All analytes detected in a sample.	<p>The chemical derivation of the ion transitions must be documented. A minimum of two ion transitions (Precursor → quant ion and precursor → confirmation ion) and the ion transitions ratio per analyte are required for confirmation. Exception is made for analytes where two transitions do not exist (PFBA and PFPeA).</p> <p>Documentation of the primary and confirmation transitions and the ion ratio is required.</p> <p>In-house acceptance criteria for evaluation of ion ratios must be used and must not exceed 50-150%.</p> <p>Signal to Noise Ratio (S/N) must be ≥ 10 for all ions used for quantification and must be ≥ 3 for all ions used for confirmation.</p> <p>Quant ion and confirmation ion must be present and must maximize simultaneously (±2 seconds).</p>	NA.	<p>PFAS identified with ion ratios that fail acceptance criteria must be flagged.</p> <p>Any quantitation ion peak that does not meet the maximization criteria shall be included in the summed integration and the resulting data flagged as "estimated, biased high".</p>	<p>For example: Ion Ratio = (quant ion abundance/ confirm ion abundance)</p> <p>Calculate the average ratio (A) and standard deviation (SD) using the ICAL standards. An acceptance range of ratio could be within A ±3SD for confirmation of detection.</p>

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Ion Transitions (Precursor->Product)	Every field sample, standard, blank, and QC sample.	<p>In order to avoid biasing results high due to known interferences for some transitions, the following transitions must be used for the quantification of the following analytes:</p> <p>PFOA: 413 → 369 PFOS: 499 → 80 PFHxS: 399 → 80 PFBS: 299 → 80 4:2 FTS: 327 → 307 6:2 FTS: 427 → 407 8:2 FTS: 527 → 507 NEtFOSAA: 584 → 419 NMeFOSAA: 570 → 419</p> <p>If these transitions are not used, the reason must be technically justified and documented (e.g., alternate transition was used due to observed interferences).</p>	NA.	Flagging is not appropriate	NA.

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Initial Calibration (ICAL)	At instrument set-up and after ICV or CCV failure, prior to sample analysis.	<p>The isotopically labeled analog of an analyte (Extracted Internal Standard Analyte) must be used for quantitation if commercially available (Isotope Dilution Quantitation).</p> <p>Commercial PFAS standards available as salts are acceptable providing the measured mass is corrected to the neutral acid concentration. Results shall be reported as the neutral acid with appropriate CAS number.</p> <p>If a labeled analog is not commercially available, the Extracted Internal Standard Analyte with the closest retention time or chemical similarity to the analyte must be used for quantitation. (Internal Standard Quantitation)</p> <p>Analytes must be within 70-130% of their true value for each calibration standard.</p> <p><i>(continued next page)</i></p>	Correct problem, then repeat ICAL.	Flagging is not appropriate.	<p>No samples shall be analyzed until ICAL has passed.</p> <p>External Calibration is not allowed for any analyte.</p> <p>Calibration can be linear (minimum of 5 standards) or quadratic (minimum of 6 standards); weighting is allowed.</p>

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Initial Calibration (ICAL) (Continued)		ICAL must meet one of the two options below: Option 1: The RSD of the RFs for all analytes must be $\leq 20\%$. Option 2: Linear or non-linear calibrations must have $r^2 \geq 0.99$ for each analyte.			
Retention Time window position establishment	Once per ICAL and at the beginning of the analytical sequence.	Position shall be set using the midpoint standard of the ICAL curve when ICAL is performed. On days when ICAL is not performed, the initial CCV is used.	NA.	NA.	Calculated for each analyte and EIS.
Retention Time (RT) window width	Every field sample, standard, blank, and QC sample.	RT of each analyte and EIS analyte must fall within 0.4 minutes of the predicted retention times from the daily calibration verification or, on days when ICAL is performed, from the midpoint standard of the ICAL. Analytes must elute within 0.1 minutes of the associated EIS. This criterion applies only to analyte and labeled analog pairs.	Correct problem and reanalyze samples.	NA.	Calculated for each analyte and EIS.

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Instrument Sensitivity Check (ISC)	Prior to analysis and at least once every 12 hours.	Analyte concentrations must be at LOQ; concentrations must be within $\pm 30\%$ of their true values.	Correct problem, rerun ISC. If problem persists, repeat ICAL.	Flagging is not appropriate.	No samples shall be analyzed until ISC has met acceptance criteria. ISC can serve as the initial daily CCV.
Initial Calibration Verification (ICV)	Once after each ICAL, analysis of a second source standard prior to sample analysis.	Analyte concentrations must be within $\pm 30\%$ of their true value.	Correct problem, rerun ICV. If problem persists, repeat ICAL.	Flagging is not appropriate.	No samples shall be analyzed until calibration has been verified.
Continuing Calibration Verification (CCV)	Prior to sample analysis, after every 10 field samples, and at the end of the analytical sequence.	Concentration of analytes must range from the LOQ to the mid-level calibration concentration. Analyte concentrations must be within $\pm 30\%$ of their true value.	Immediately analyze two additional consecutive CCVs. If both pass, samples may be reported without reanalysis. If either fails, or if two consecutive CCVs cannot be run, perform corrective action(s) and repeat CCV and all associated samples since last successful CCV. Alternately, recalibrate if necessary; then reanalyze all associated samples since the last acceptable CCV.	If reanalysis cannot be performed, data must be qualified and explained in the Case Narrative. Apply Q-flag to all results for the specific analyte(s) in all samples since the last acceptable calibration verification.	Results may not be reported without valid CCVs. Instrument Sensitivity Check (ISC) can serve as a bracketing CCV.

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Instrument Blanks	Immediately following the highest standard analyzed and daily prior to sample analysis.	<p>Concentration of each analyte must be $\leq \frac{1}{2}$ the LOQ.</p> <p>Instrument Blank must contain EIS to enable quantitation of contamination.</p>	<p>If acceptance criteria are not met after the highest calibration standard, calibration must be performed using a lower concentration for the highest standard until acceptance criteria is met.</p> <p>If sample concentrations exceed the highest allowed standard and the sample(s) following exceed this acceptance criteria ($>1/2$ LOQ), they must be reanalyzed.</p>	Flagging is only appropriate in cases when the sample cannot be reanalyzed and when there is no more sample left.	<p>No samples shall be analyzed until instrument blank has met acceptance criteria.</p> <p>Note: Successful analysis following the highest standard analyzed determines the highest concentration that carryover does not occur.</p> <p>When the highest standard analyzed is not part of the calibration curve, it cannot be used to extend out the calibration range, it is used only to document a higher concentration at which carryover still does not occur.</p>

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Extracted Internal Standard (EIS) Analytes	Every field sample, standard, blank, and QC sample.	<p>Added to solid sample prior to extraction. Added to aqueous samples, into the original container, prior to extraction.</p> <p>For aqueous samples prepared by serial dilution instead of SPE, added to final dilution of samples prior to analysis.</p> <p>Extracted Internal Standard Analyte recoveries must be within 50% to 150% of ICAL midpoint standard area or area measured in the initial CCV on days when an ICAL is not performed.</p>	<p>Correct problem. If required, re-extract and reanalyze associated field and QC samples.</p> <p>If recoveries are acceptable for QC samples, but not field samples, the field samples must be re-extracted and analyzed (greater dilution may be needed).</p> <p>Samples may be re-extracted and analyzed outside of hold times, as necessary for corrective action associated with QC failure.</p>	Apply Q-flag and discuss in the Case Narrative only if reanalysis confirms failures in exactly the same manner.	<p>Failing analytes shall be thoroughly documented in the Case Narrative.</p> <p>EIS should be 96% (or greater) purity. When the impurity consists of the unlabeled analyte, the EIS can result in a background artifact in every sample, standard and blank, if the EIS is fortified at excessive concentrations.</p>
Method Blank (MB)	One per preparatory batch.	No analytes detected $> \frac{1}{2}$ LOQ or $> 1/10^{th}$ the amount measured in any sample or $1/10^{th}$ the regulatory limit, whichever is greater.	<p>Correct problem. If required, re-extract and reanalyze MB and all QC samples and field samples processed with the contaminated blank.</p> <p>Samples may be re-extracted and analyzed outside of hold times, as necessary for corrective action associated with QC failure.</p> <p>Examine the project-specific requirements. Contact the client as to additional measures to be taken.</p>	<p>If reanalysis cannot be performed, data must be qualified and explained in the Case Narrative.</p> <p>Apply B-flag to all results for the specific analyte(s) in all samples in the associated preparatory batch.</p>	<p>Results may not be reported without a valid MB.</p> <p>Flagging is only appropriate in cases where the samples cannot be reanalyzed.</p>

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Laboratory Control Sample (LCS)	One per preparatory batch.	Blank spiked with all analytes at a concentration \geq LOQ and \leq the mid-level calibration concentration. A laboratory must use the DoD/DOE QSM Appendix C Limits for batch control if project limits are not specified. If the analyte(s) are not listed, use in-house LCS limits if project limits are not specified.	Correct problem, then re-extract and reanalyze the LCS and all samples in the associated preparatory batch for failed analytes if sufficient sample material is available. Samples may be re-extracted and analyzed outside of hold times, as necessary for corrective action associated with QC failure. Examine the project-specific requirements. Contact the client as to additional measures to be taken.	If reanalysis cannot be performed, data must be qualified and explained in the Case Narrative. Apply Q-flag to specific analyte(s) in all samples in the associated preparatory batch.	Results may not be reported without a valid LCS. Flagging is only appropriate in cases where the samples cannot be reanalyzed.
Matrix Spike (MS)	One per preparatory batch. Not required for aqueous samples prepared by serial dilution instead of SPE.	Sample spiked with all analytes at a concentration \geq LOQ and \leq the mid-level calibration concentration. A laboratory must use the DoD/DOE QSM Appendix C Limits for batch control if project limits are not specified. If the analyte(s) are not listed, use in-house LCS limits if project limits are not specified.	Examine the project-specific requirements. Contact the client as to additional measures to be taken.	For the specific analyte(s) in the parent sample, apply J-flag if acceptance criteria are not met and explain in the Case Narrative.	For matrix evaluation only. If MS results are outside the limits, the data shall be evaluated to determine the source(s) of difference (i.e., matrix effect or analytical error).

Table B-15. Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water					
QC Check	Minimum Frequency	Acceptance Criteria	Corrective Action	Flagging Criteria	Comments
Matrix Spike Duplicate (MSD) or Matrix Duplicate (MD)	For MSD: One per preparatory batch. For MD: Each aqueous sample prepared by serial dilution instead of SPE.	For MSD: Sample spiked with all analytes at a concentration \geq LOQ and \leq the mid-level calibration concentration. A laboratory must use the DoD/DOE QSM Appendix C Limits for batch control if project limits are not specified. If the analyte(s) are not listed, use in-house LCS limits if project limits are not specified. RPD \leq 30% (between MS and MSD or sample and MD).	Examine the project-specific requirements. Contact the client as to additional measures to be taken.	For the specific analyte(s) in the parent sample, apply J-flag if acceptance criteria are not met and explain in the Case Narrative.	The data shall be evaluated to determine the source of difference. For Sample/MD: RPD criteria only apply to analytes whose concentration in the sample is \geq LOQ. The MD is a second aliquot of the field sample that has been prepared by serial dilution.
Post Spike Sample	Only applies to aqueous samples prepared by serial dilution instead of SPE that have reported value of $<$ LOQ for analyte(s).	Spike all analytes reported as $<$ LOQ into the dilution that the result for that analyte is reported from. The spike must be at the LOQ concentration to be reported for this sample as $<$ LOQ. When analyte concentrations are calculated as $<$ LOQ, the post spike for that analyte must recover within 70-130% of its true value.	When analyte concentrations are calculated as $<$ LOQ, and the spike recovery does not meet the acceptance criteria, the sample, sample duplicate, and post spike sample must be reanalyzed at consecutively higher dilutions until the criteria is met.	Flagging is not appropriate.	When analyte concentrations are calculated as $<$ LOQ, results may not be reported without acceptable post spike recoveries.

Department of Defense/ Department of Energy Quality Systems Manual
Appendix B, Table B-15:
(12 pages)

<https://denix.osd.mil/edqw/documents/manuals/qsm-version-5-3-final/>

Technical Brief: PFAS Methods and Guidance for Sampling and Analyzing Water and Other Environmental Media (https://www.epa.gov/sites/production/files/2019-02/documents/pfas_methods_tech_brief_28feb19_update.pdf)

The undersigned agree to comply by the Testing Methodology stated herein.

(Signature of Authorized Officer)

(Date)

(Printed or Typed Name and Title)

(Company Name)

APPENDIX D:
ACKNOWLEDGEMENT OF CONFLICT(S) OF INTEREST

**ACKNOWLEDGEMENT OF CONFLICT(S) OF INTEREST
REQUEST FOR PROPOSAL
PFAS INVESTIGATION AT CANNON & HOLLOMAN AIR FORCE BASES
21 667 1210 0001**

DISCLOSURE REQUIREMENTS/CONFLICT OF INTEREST CERTIFICATION

Professional Environmental Assessment and Remediation Consulting Services

In accordance with the purpose of the underlying appropriation, Section 98 of the General Appropriation Act of 2020, Chapter 83, Section 98 of New Mexico Laws 2020, this work is undertaken for litigation and protection planning related to PFAS release in New Mexico.

Because of the association with ongoing litigation, the chosen contractor will be required to notify the New Mexico Environment Department of any actual, apparent, or potential conflict of interest regarding any individual working on a contract assignment or having access to information regarding the contract, **SPECIFICALLY THE DEPARTMENT OF DEFENSE (DoD) and the UNITED STATES AIR FORCE (USAF).**

All Offerors are required to disclose all information pertaining to any financial and/or business relationships with identified potentially responsible party(ies) where investigative drilling work is planned or undertaken and will be required to notify NMED of any conflicts of interest. This notification shall include both organizational and personal conflicts of interest and shall be included with the submission of an offeror's proposal.

(Signature of Authorized Officer)

(Date)

(Printed or Typed Name and Title)

(Company Name)

(Mailing Address)

(City, State, ZIP Code)

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, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give 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 during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled 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 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or 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.

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 INCLUDED IN THE REQUEST FOR PROPOSALS AND 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 a 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 [Sections [13-1-28](#) through [13-1-199](#) NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or 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.

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

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

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:
COST RESPONSE FORM

COST RESPONSE FORM
REQUEST FOR PROPOSAL
PFAS INVESTIGATION AT CANNON & HOLLOMAN AIR FORCE BASES
21 667 1210 0001

Description	Type	Quantity	Cost per Item	COST
Objective 1: Plume Definition	EA	1		
Objective 2: Well Sampling	EA	1		
Objective 3: Groundwater Monitoring	EA	1		
Objective 4 Wetlands Complex Investigation	EA	1		
Cost Subtotal				
NMGRT @ _____ %				
TOTAL PROPOSED COST				

All amounts provided must include all labor, materials, equipment, transportation, configuration, installation, training, and profit to provide the goods and/or services described in Section IV.A, (as amended by any current RFP).

APPENDIX G:
DRAFT CONTRACT

DRAFT 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 General Services Department/State Purchasing Division (GSD/SPD Contracts Review Bureau).

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

Consistent with the appropriation of funding within Section 98 of the General Appropriation Act of 2020, Chapter 83, Section 98 of New Mexico Laws 2020, the State of New Mexico through the New Mexico Environment Department (NMED) issues this Request for Proposal to investigate perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination at Cannon Air Force Base (Cannon), located near the city of Clovis in Curry County, and Holloman Air Force Base (Holloman), located near the city of Alamogordo in Otero County, (collectively the Bases).

The PFAS groundwater contamination plumes at Cannon and Holloman are likely miles in length, with maximum concentrations greatly exceeding advisory health limit recommendations established by EPA (Figures 1, 2a, and 2b). Given the potential magnitude of these groundwater plumes, the contractor shall conduct an efficient and technically defensible data-driven investigation that will make progress on high-priority objectives. Substantial data and information on groundwater levels and aquifer hydraulic parameters already exist at both sites. While the investigation will generate additional water-level and other hydraulic information that can supplement the existing body of knowledge, the main focus of the investigation shall be on water quality and PFAS contamination, including empirically derived rates of movements of contaminants. The contractor shall propose a detailed Work Plan to make progress on the following objectives:

5. Provide better definition of existing groundwater plume geometry and predictions of future plume migration and surface water contamination and conveyance, including empirically derived rates of movements of contaminants.
6. Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.
7. Establish regular groundwater monitoring programs.
8. Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.

Activities that the contractor may perform to achieve project objectives include, but are not necessarily limited to, the following:

- Review relevant hydrogeologic reports and maps, and water-quality data available from the U.S. Geological Survey, N.M. Bureau of Geology, N.M. State Engineer, N.M. Environment Department, publicly available consultant reports, from public water supply system, and from municipal and county agencies.
- Sample existing public and private water supply wells.
- Drill monitoring wells, collect and analyze groundwater and subsurface soil samples to fill critical data gaps.
- Perform aquifer performance testing.
- Perform groundwater-contaminant modeling including empirically derived rates of movements of contaminants.
- Observe and possibly collect samples of waterfowl and surface water.

Objective 1 – Provide better definition of existing plume geometry and predictions of future plume migration.

The contractor’s work plan shall include a combination of sampling existing wells, drilling monitoring wells, and performing numerical modeling, all designed to provide better plume definition, including PFAS vertical distributions, and prediction of future plume migration direction and rate.

Sampling existing water-supply wells serves the dual purposes of providing information on the areal extent of contamination, as well as identifying wells that are contaminated (Objective 2 below). Utilizing water quality data from existing supply wells to define groundwater contamination plumes is not ideal, but is done when plumes cover square miles of area. In the case of the 3-mile long off-site Cannon plume, it will be necessary to use water-quality data from supply wells to help define the plume. Decades of water-level decline due to groundwater depletion has significantly decreased the saturated thickness of the Ogallala aquifer. This decrease, thus decreasing the level of certainty of where samples from existing wells are drawn from. PFAS concentrations in a monitoring well sampled in the Cannon fire training area are very similar to PFAS concentrations in a nearby irrigation well that is outside the base boundary.

The contractor shall propose to drill monitoring wells to fill critical off -site data gaps in both the Cannon and Holloman plumes with priority given to defining distal plume conditions. Anticipated high-priority locations for monitoring wells include the areas with question marks shown in Figure 1 and Figure 2b. Well drilling and subsurface soil sampling shall proceed with a carefully planned, phased, and data-driven process. Each phase of drilling informs subsequent phases of the investigations conducted on the Bases and surrounding areas. The contractor shall submit for NMED approval a Phase 1 well drilling work plan that includes well locations, drilling, construction, and completion plans, sediment and groundwater sampling, and water-level measurement methods. NMED shall be responsible for negotiating well-drilling access agreements with third party landowners. As directed by NMED, the contractor shall submit drilling work plans for subsequent phases.

The contractor may propose, subject to NMED approval, to conduct one or more aquifer performance tests as necessary to define hydraulic properties, capture zones, and other parameters used as input to modeling simulations quantifying groundwater flow and contaminant transport.

To the extent authorized by NMED, the contractor shall utilize available modeling efforts. The contractor shall construct groundwater models that predict the migration and fate of PFAS contamination at each Base, including estimation of capture zones and particle tracking for public and private water supply wells under typical pumping conditions.

Objective 2 – Identify and sample all participating public and private water supply wells that have had PFAS detections or are at potential risk of future PFAS contamination.

The contractor shall resample all existing water-supply wells that have previously shown PFAS detections, including the EPCOR wells located east of Cannon, and private water supply wells located north, northeast, east and southeast of Holloman. Using available hydrogeologic information, the contractor shall identify, subject to NMED approval, and sample additional water-supply wells that may be at risk of contamination. NMED will be responsible for securing access permission and providing well owners with copies of analytical test results.

Objective 3 – Establish regular groundwater monitoring programs.

The contractor shall propose, subject to NMED approval, a network of wells to be used for regular groundwater monitoring at each site. The networks may consist of a combination of water supply and monitoring wells that will provide useful information on plume migration and fluctuation of contaminant levels. The contractor also shall propose, subject to NMED approval, a means of tracking water level monitoring conducted by other agencies as this information is relevant to monitoring PFAS contamination. Upon NMED approval, the contractor shall implement the groundwater monitoring programs as resources allow. Field parameters, consisting of temperature, pH, specific conductance, turbidity, and dissolved oxygen, shall be measured at all surface water and groundwater stations during sampling using flow-through cells whenever possible.

Objective 4 – Investigate the extent to which resident and migratory waterfowl at the Lake Holloman Wetlands Complex are contaminated with, or otherwise adversely affected by, PFAS.

Public concerns have been raised regarding the safety of hunting and eating waterfowl that are exposed to the extraordinarily high PFAS concentrations in the Lake Holloman Wetlands Complex. Additionally, there are reports that PFAS may remove the oil that birds secrete, that waterproofs their feathers, thereby making them vulnerable to getting wet and suffering from hypothermia during cold weather. The contractor shall propose and undertake activities to investigate these waterfowl issues.

Laboratory Analyses

NOTE: See APPENDIX C: Acknowledgement of Testing Method Compliance

Analysis of PFAS in aqueous and solid samples requires a precise and accurate analytical method and strict Quality Assurance/ Quality Control (QA/QC) to provide technically defensible data and information for conducting robust scientific and regulatory investigations. The Department of Defense (DoD) Environmental Data Quality Workgroup (EDQW) and the Department of Energy (DOE) Consolidated Audit Program (DOECAP) Data Quality Workgroup (DOE-DQW) participants developed the DoD/DOE Quality Systems Manual (QSM), version 5.3, for Environmental Laboratories. The DoD/DOE QSM provides baseline requirements for establishing and managing of quality systems for laboratories performing analytical testing services, including PFAS, cations, anions, metals, radionuclides, and organic chemicals for the DoD and the DOE. **Analytical laboratories used as part of this RFP must be DoD/DOE certified to perform PFAS analysis of environmental samples (aqueous and solids).**

PFAS Analyses – Unless otherwise directed by NMED, PFAS samples shall be analyzed using EPA test methods 537, 537.1, and 533 using isotope dilution, strictly adhering to DOE/DoD Quality System Manual (QSM), Version 5.3 (2019) including Table B-15.

Isotope dilution is a quantitation technique that considers sample matrix effects on each individual PFAS quantitation in the most precise manner possible. This technique quantifies analytes of interest against the isotopically labeled analogs of the analytes, which are added to the sample prior to and after sample preparation. Addition prior to preparation helps account for loss of analyte during the preparation process, while addition after preparation to an aliquot of the sample extract accounts for the bias associated with the instrumentation. Methods using isotope dilution should include isotope recovery for each sample and analyte in data reports. Isotope analog recoveries should be reported, and minimum/maximum isotope recoveries may be required by specific analytical procedures. Low isotope recovery may indicate that quantitation was inadequate; the data are then reported as estimated values.

Level four quality assurance/quality control shall be adhered to with all aspects of PFAS sampling on environmental media. Quality assurance/quality control samples for liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) analysis for PFAS include field reagent blanks, equipment blanks, matrix spike samples, matrix spike duplicate samples, laboratory control samples, laboratory control sample duplicates, and method blanks. The DoD/DOE-certified analytical laboratory qualified to perform PFAS analysis on aqueous and solid samples shall be capable of performing total oxidizable precursor (TOP) assay on select samples upon NMED's request.

The contractor shall submit all PFAS water, sediment, and biological samples directly to NMED's PFAS contract laboratory, and upon billing NMED shall remit payment for all such samples directly to the laboratory. In the event that NMED does not have a PFAS laboratory contract in effect at the time of any sampling event, the contractor shall subcontract for PFAS analyses.

General Chemistry Analyses – The first regularly scheduled sample from each designated PFAS monitoring station also shall be analyzed for dissolved major anions and cations, dissolved metals,

total organic carbon, Total Kjeldahl nitrogen, and dissolved nitrate-nitrite. The contractor shall submit inorganic samples directly to the N.M. Department of Health, Scientific Laboratory Division (SLD) using laboratory forms and user codes provided by NMED. Samples shall be submitted to SLD with non-billable NMED user codes, and there will be no invoicing or payment required.

Figure 1. PFAS Detections in Groundwater on and in the Vicinity of Cannon Air Force Base.

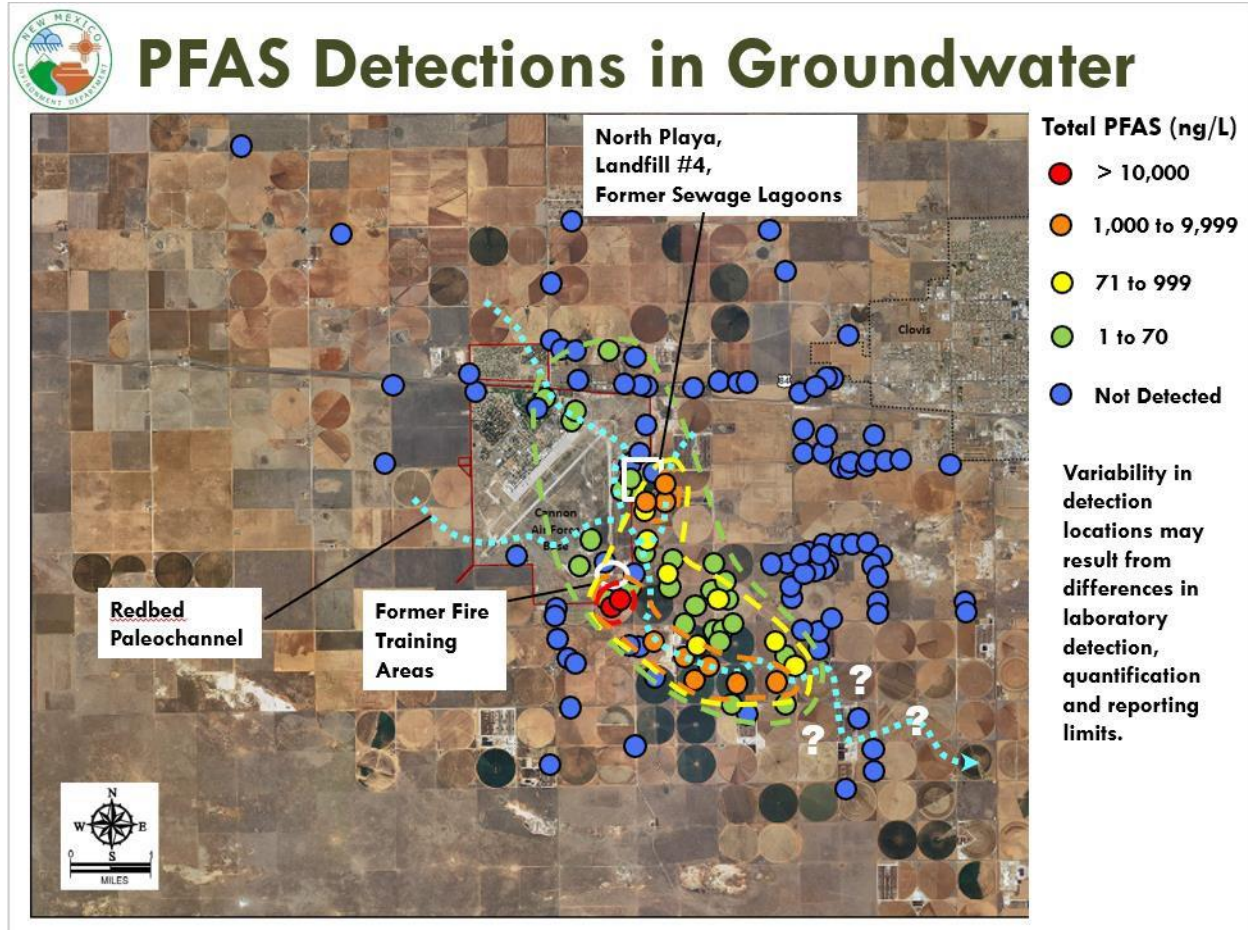


Figure 2a. PFAS Detections in Groundwater and Surface Water on Holloman Air Force Base.

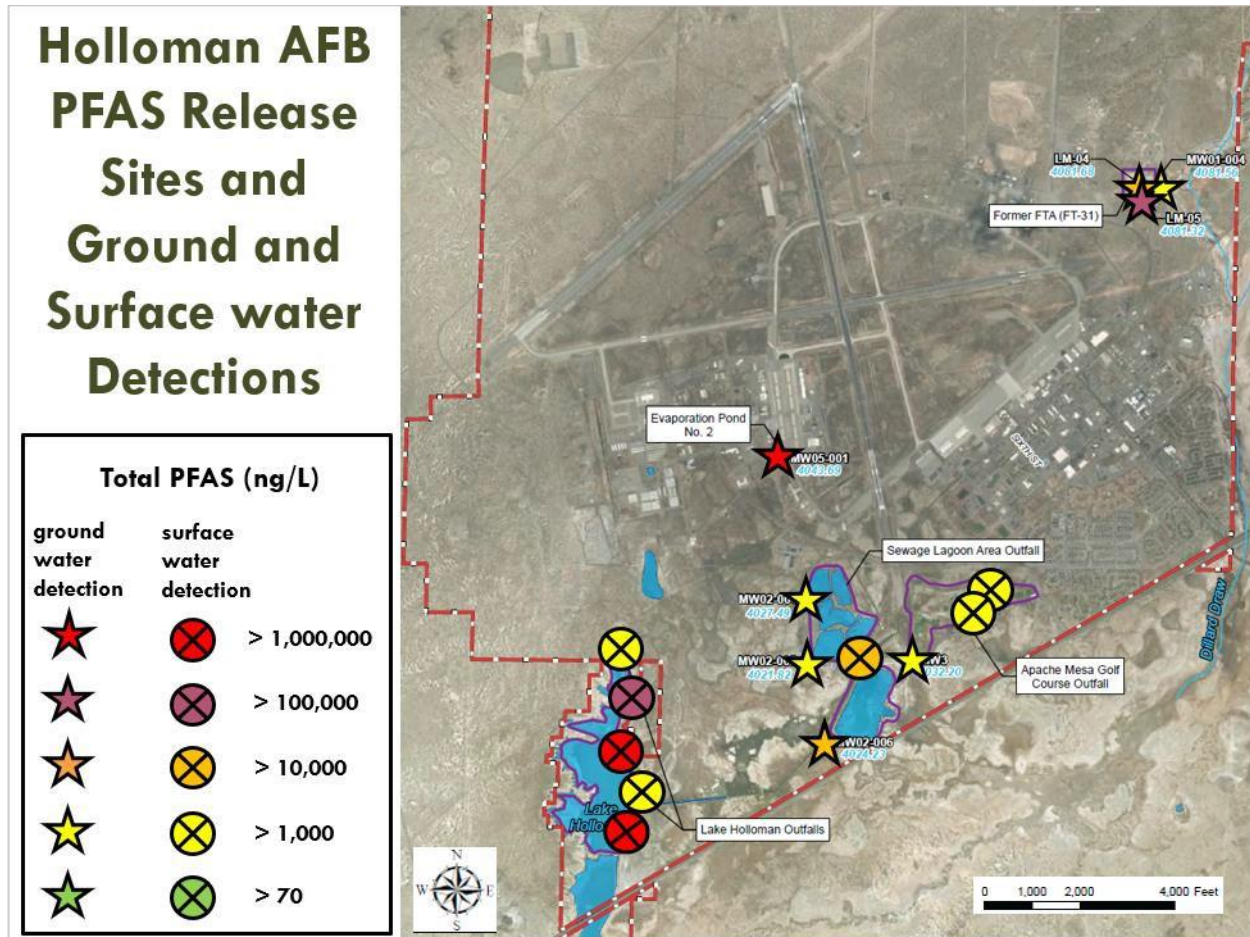
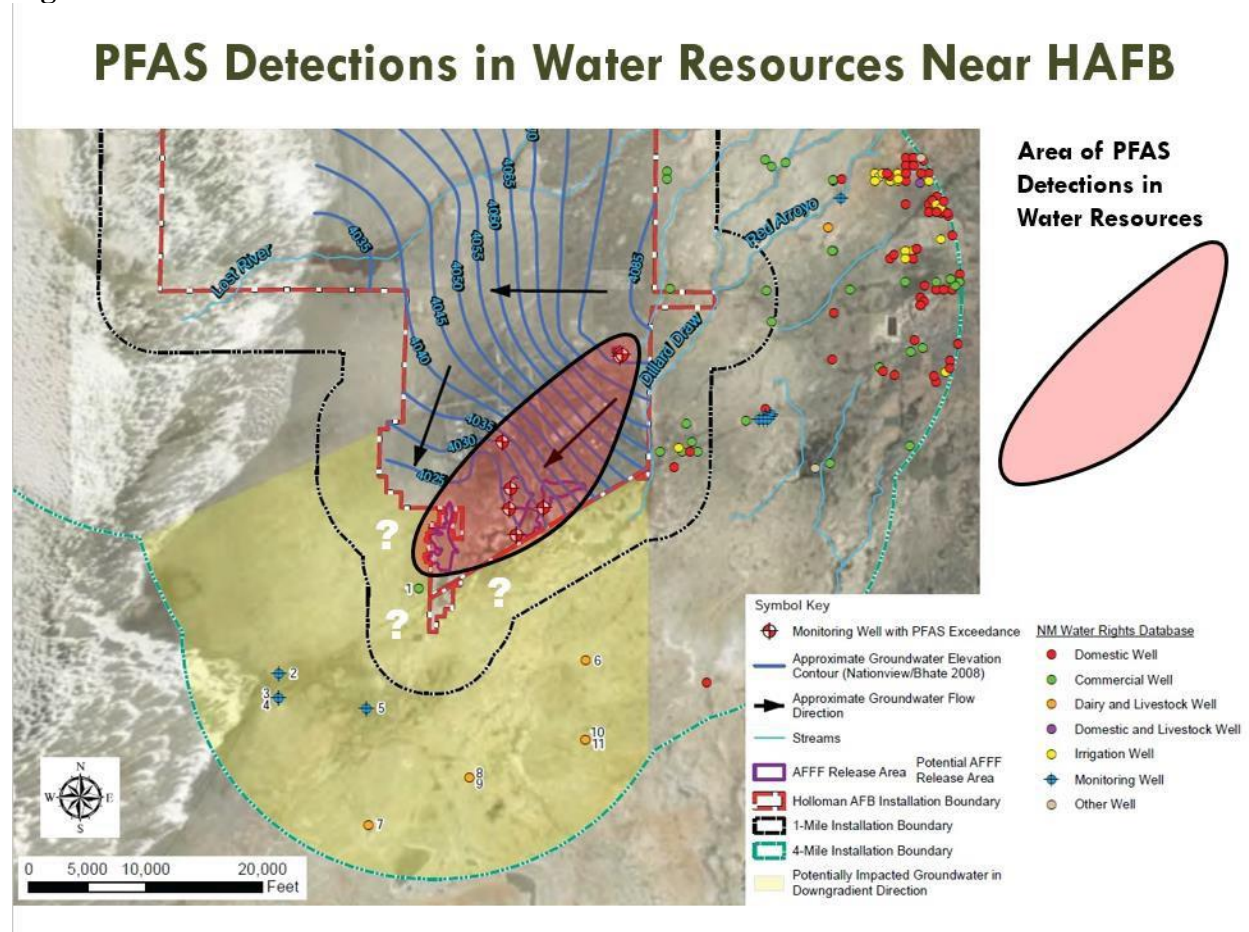


Figure 2b. Area of PFAS Detections in Water Resources on Holloman Air Force Base.



ANTICIPATED ORDER OF EVENTS

- Anticipated Notice to Proceed
- NMED submits site-specific statements of work to contractor, holds meeting to discuss work
- Consultant submits detailed workplans, schedules, QAPPs, and HASPs to NMED
- NMED issues work order, with locations and access agreements of Phase 1 wells to be drilled, to consultant for immediate commencement of investigation
- Consultant completes literature and information review
- Consultant samples existing water supply wells known to be contaminated or at risk of contamination
- Phase 1 monitor well drilling, construction and development (regular sampling commences upon development of each well)
- Phase 1 progress report due from consultant to include results of literature review, water supply well testing, Phase 1 drilling, and proposed Phase 2 drilling workplan with suggested well locations to be approved by NMED
- NMED issues work order for Phase 2 drilling

- Negotiate Phase 2 access agreements, drill monitor wells, construction and development (regular sampling commences upon development of each well)
- Phase 2 progress report due from consultant to include results of Phase 2 drilling, and proposed Phase 3 drilling workplan with suggested well locations to be approved by NMED
- NMED issues work order for Phase 3 drilling
- Negotiate Phase 3 access agreements, drill monitor wells, construction and development (regular sampling commences upon development of each well)
- Phase 3 progress report due from consultant to include results of Phase 3 drilling, and proposed Phase 4 drilling workplan with suggested well locations to be approved by NMED, if needed
- Phase 4 drilling, if necessary
- Waterfowl investigation proposal from consultant, work order issued by NMED, field work, final report
- Groundwater modeling
- Consultant submits draft report to NMED
- Consultant submits final report to NMED

2. **Compensation.**

A. The Agency shall pay to the Contractor in full payment for services satisfactorily Performed BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT), including gross receipts tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. 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 GSD/SPD. 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, payments 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 GSD/SPD Contracts Review Bureau. This Agreement shall terminate on **(DATE)** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

4. Termination.

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

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

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

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

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

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the

Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

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

7. Assignment.

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

8. Subcontracting.

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

9. Release.

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

10. Confidentiality.

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

11. Product of Service -- Copyright.

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

12. Conflict of Interest; Governmental Conduct Act.

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

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

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

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

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

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

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

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

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

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

13. Amendment.

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

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

14. Merger.

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

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures

that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

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

19. Records and Financial Audit.

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

20. Indemnification.

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

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are

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

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

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage.

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:
[insert name, address and email].

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

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 GSD/SPD Contracts Review Bureau below.

By: _____ Date ____ ____
Agency

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

By: _____ Date ____ ____
Agency's Chief Financial Officer

By: _____ Date ____ ____
Contractor

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

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

By: _____ Date ____ ____
Taxation and Revenue Department

This Agreement has been approved by the GSD/SPD Contracts Review Bureau:

By: _____ Date ____ ____
GSD/SPD Contracts Review Bureau