

**State of Nebraska**  
**REQUEST FOR PROPOSAL FOR**  
**CONTRACTUAL SERVICES FORM**

RETURN TO:  
 Department of Environmental Quality  
 1200 N Street, Suite 400  
 PO Box 98922  
 Lincoln, NE 68509  
 Phone: (402) 471-5786  
 Fax: (402) 471-2909

SOLICITATION NUMBER	RELEASE DATE
<b>RFP 73138 O3</b>	<b>April 1, 2014</b>
DUE DATE and OPENING DATE AND TIME	PROCUREMENT CONTACT
<b>April 28, 2014 2:00 p.m. Central Time</b>	<b>Kris Young</b>

This form is part of the specification package and must be signed in ink and returned, along with proposal documents, by the opening date and time specified.

**PLEASE READ CAREFULLY!**

**SCOPE OF SERVICE**

The State of Nebraska, Department of Environmental Quality, is issuing this Request for Proposal, RFP Number 73138 O3 for the purpose of selecting a qualified contractor to provide personnel, equipment, and supplies necessary for the drilling and complete installation of monitoring wells in each of six regions of Nebraska.

Written questions are due no later than **April 10, 2014**, and should be submitted via e-mail to kris.young@nebraska.gov.

Bidder should submit one (1) original of the entire proposal. Proposals must be submitted by the proposal due date and time.

PROPOSALS MUST MEET THE REQUIREMENTS OUTLINED IN THIS REQUEST FOR PROPOSAL TO BE CONSIDERED VALID. PROPOSALS WILL BE REJECTED IF NOT IN COMPLIANCE WITH THESE REQUIREMENTS.

1. Sealed proposals must be received in the offices of the Department of Environmental Quality by the date and time of proposal opening indicated above. No late proposals will be accepted. No electronic, e-mail, fax, voice, or telephone proposals will be accepted.
2. This form "REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES" MUST be manually signed, in ink, and returned by the proposal opening date and time along with bidder's proposal and any other requirements as specified in the Request for Proposal in order to be considered for an award.
3. It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <http://deq.ne.gov> and <http://das.nebraska.gov/materiel/purchasing/rfp.htm>
4. It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3, and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid or in the final contract.

IMPORTANT NOTICE: Pursuant to § 84-602, all State contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. Any non-proprietary, non-copyrighted information or other information not specifically excluded by § 84-712.05 **WILL BE POSTED FOR PUBLIC VIEWING.**

**BIDDER MUST COMPLETE THE FOLLOWING**

By signing this Request for Proposal For Contractual Services form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment.

\_\_\_\_\_ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev Stat §73-107 and wish to have preference, if applicable, considered in the award of this contract.

FIRM: \_\_\_\_\_

COMPLETE ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TYPED NAME & TITLE OF SIGNER: \_\_\_\_\_

# TABLE OF CONTENTS

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM.....	i
TABLE OF CONTENTS.....	ii
GLOSSARY OF TERMS.....	iv
<b>I. SCOPE OF THE REQUEST FOR PROPOSAL .....</b>	<b>1</b>
A. SCHEDULE OF EVENTS.....	1
<b>II. PROCUREMENT PROCEDURES.....</b>	<b>2</b>
A. PROCURING OFFICE AND CONTACT PERSON.....	2
B. GENERAL INFORMATION .....	2
C. COMMUNICATION WITH STATE STAFF .....	2
D. WRITTEN QUESTIONS AND ANSWERS.....	3
E. SUBMISSION OF PROPOSALS.....	3
F. PROPOSAL OPENING.....	4
G. LATE PROPOSALS.....	4
H. REJECTION OF PROPOSALS .....	4
I. EVALUATION OF PROPOSALS.....	4
J. EVALUATION COMMITTEE .....	5
K. MANDATORY REQUIREMENTS.....	5
L. REFERENCE CHECKS.....	6
M. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS .....	6
N. VIOLATION OF TERMS AND CONDITIONS .....	6
<b>III. TERMS AND CONDITIONS.....</b>	<b>7</b>
A. GENERAL .....	7
B. AWARD.....	8
C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION .....	8
D. PERMITS, REGULATIONS, LAWS.....	9
E. OWNERSHIP OF INFORMATION AND DATA.....	9
F. INSURANCE REQUIREMENTS .....	9
G. COOPERATION WITH OTHER CONTRACTORS.....	11
H. INDEPENDENT CONTRACTOR .....	11
I. CONTRACTOR RESPONSIBILITY.....	12
J. CONTRACTOR PERSONNEL.....	12
K. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION .....	13
L. CONFLICT OF INTEREST.....	13
M. PROPOSAL PREPARATION COSTS .....	14
N. ERRORS AND OMISSIONS .....	14
O. BEGINNING OF WORK.....	14
P. ASSIGNMENT BY THE STATE .....	14
Q. ASSIGNMENT BY THE CONTRACTOR .....	15
R. DEVIATIONS FROM THE REQUEST FOR PROPOSAL.....	15
S. GOVERNING LAW .....	15
T. ATTORNEY'S FEES.....	16

U.	ADVERTISING.....	16
V.	STATE PROPERTY.....	16
W.	SITE RULES AND REGULATIONS .....	16
X.	NOTIFICATION.....	17
Y.	EARLY TERMINATION .....	18
Z	FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS .....	19
AA.	BREACH BY CONTRACTOR.....	19
BB.	ASSURANCES BEFORE BREACH.....	19
CC.	PENALTY.....	20
DD.	RETAINAGE .....	20
EE.	FORCE MAJEURE .....	20
FF.	PROHIBITION AGAINST ADVANCE PAYMENT .....	20
GG.	PAYMENT.....	21
HH.	INVOICES.....	21
II.	AUDIT REQUIREMENTS.....	22
JJ.	TAXES.....	22
KK.	INSPECTION AND APPROVAL.....	22
LL.	CHANGES IN SCOPE/CHANGE ORDERS.....	23
MM.	SEVERABILITY.....	23
NN.	CONFIDENTIALITY .....	23
OO.	PROPRIETARY INFORMATION.....	24
PP.	CERTIFICATION OF INDEPENDENT PRICE DETERMINATION/COLLUSIVE BIDDING.....	24
QQ.	PRICES.....	25
RR.	BEST AND FINAL OFFER .....	26
SS.	ETHICS IN PUBLIC CONTRACTING .....	26
TT.	INDEMNIFICATION .....	27
UU.	NEBRASKA TECHNOLOGY ACCESS STANDARDS .....	28
VV.	ANTITRUST .....	28
WW.	DISASTER RECOVERY/BACK UP PLAN.....	28
XX.	TIME IS OF THE ESSENCE .....	28
YY.	RECYCLING .....	29
ZZ.	DRUG POLICY .....	29
AAA.	EMPLOYEE WORK ELIGIBILITY STATUS.....	29
BBB.	CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY.....	30
<b>IV.</b>	<b>PROJECT DESCRIPTION AND SCOPE OF WORK.....</b>	<b>31</b>
A.	PROJECT OVERVIEW.....	31
B.	PROJECT ENVIRONMENT .....	31
C.	SCOPE OF WORK.....	31
D.	TECHNICAL REQUIREMENTS .....	33
E.	PROJECT PLANNING AND MANAGEMENT .....	34
F.	DELIVERABLES.....	34
<b>V.</b>	<b>PROPOSAL INSTRUCTIONS.....</b>	<b>35</b>
A.	TECHNICAL PROPOSAL SUBMISSION.....	35
B.	COST PROPOSAL REQUIREMENTS.....	38
C.	PAYMENT SCHEDULE .....	39
	<b>Form A Bidder Contact Sheet.....</b>	<b>40</b>

## GLOSSARY OF TERMS

**Acceptance Test Procedure:** Benchmarks and other performance criteria, developed by the State of Nebraska or other sources of testing standards, for measuring the effectiveness of products or services and the means used for testing such performance.

**Addendum:** Something to be added or deleted to an existing document; a supplement.

**Agency:** Any state agency, board, or commission other than the University of Nebraska, the Nebraska State colleges, the courts, the Legislature, or any other office or agency established by the Constitution of Nebraska.

**Agent/Representative:** A person authorized to act on behalf of another.

**Amend:** To alter or change by adding, subtracting, or substituting.

**Amendment:** A written correction or alteration to a document.

**Appropriation:** Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

**ARO:** After Receipt of Order

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

**Best and Final Offer (BAFO):** In a competitive bid, the final offer submitted which contains the bidder's (vendor's) most favorable terms for price.

**Bid/Proposal:** The offer submitted by a vendor in a response to written solicitation.

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the vendor will not withdraw the bid.

**Bidder:** A vendor who submits an offer bid in response to a written solicitation.

**Business:** Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

**Business Day:** Any weekday, except State-recognized holidays.

**Calendar Day:** Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays.

**Cancellation:** To call off or revoke a purchase order without expectation of conducting or performing it at a later time.

**Collusion:** An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

**Commodities:** Any equipment, material, supply or goods; anything movable or tangible that is provided or sold.

**Commodities Description:** Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.

**Competition:** The effort or action of two or more commercial interests to obtain the same business from third parties.

**Confidential Information:** Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Contract:** An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

**Contract Administration:** The management of the contract which includes and is not limited to contract signing, contract amendments, and any necessary legal actions.

**Contract Management:** The management of day to day activities at the agency which includes and is not limited to ensuring receipt of deliverable(s), that specifications are met, handling meetings, and making payments to the contractor.

**Contract Period:** The duration of the contract.

**Contractor:** Any individual or entity having a contract to furnish commodities or services.

**Cooperative Purchasing:** The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses, or other public benefits.

**Copyright:** A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, and distribute the work.

**CPU:** Any computer or computer system that is used by the State to store, process, or retrieve data or perform other functions using Operating Systems and applications software.

**Critical Program Error:** Any Program Error, whether or not known to the State, which prohibits or significantly impairs use of the Licensed Software as set forth in the documentation and intended in the contract.

**Default:** The omission or failure to perform a contractual duty.

**Deviation:** Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

**Evaluation:** The process of examining an offer after opening to determine the vendor's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

**Evaluation Committee:** Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of bids/proposals (offers made in response to written solicitations).

**Extension:** Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with Renewal Period.

**Free on Board (F.O.B.) Destination:** The delivery charges are included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product.

**Free on Board (F.O.B.) Point of Origin:** The delivery charges are not included in the quoted price and are the responsibility of the agency. Agency is responsible for all claims associated with damages during delivery of product.

**Foreign Corporation:** A foreign corporation that was organized and chartered under the laws of another state, government, or country.

**Installation Date:** The date when the procedures described in Installation by Contractor, and Installation by State, as found in the RFP, ITB (written solicitation) or contract are completed.

**Late Bid/Proposal:** An offer received after the Opening Date and Time.

**Licensed Software Documentation:** The user manuals and any other materials in any form or medium customarily provided by the contractor to the users of the Licensed Software which will provide the State with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

**Mandatory/Must:** Required, compulsory, or obligatory.

**May:** Discretionary, permitted; used to express possibility.

**Module (see System):** A collection of routines and data structures that perform a specific function of software.

**Must:** See Shall/Will/Must.

**National Institute for Governmental Purchasing (NIGP):** National Institute for Governmental Purchasing

**Open Market Purchase:** Authorization may be given to an agency to purchase items above direct purchase authority due to the unique nature, price, quantity, location of the using agency, or time limitations by the AS Materiel Division, State Purchasing Bureau.

**Opening Date and Time:** Specified date and time for the public opening of received, labeled, and sealed formal proposals.

**Operating System:** The control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.

**Outsourcing:** The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the process is

purchased back.

**Payroll & Financial Center (PFC):** Electronic procurement system of record.

**Performance Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the contractor fulfills any and all obligations under the contract.

**Platform:** A specific hardware and Operating System combination that is different from other hardware and Operating System combinations to the extent that a different version of the Licensed Software product is required to execute properly in the environment established by such hardware and Operating System combination.

**Pre-Bid/Pre-Proposal Conference:** A meeting scheduled for the purpose of clarifying a written solicitation and related expectations.

**Product:** Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

**Program Error:** Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error.

**Program Set:** The group of programs and products, including the Licensed Software specified in the RFP, plus any additional programs and products licensed by the State under the contract for use by the State.

**Project:** The total scheme, program or method worked out for the accomplishment of an objective, including all documentation, commodities, and services to be provided under the contract.

**Proposal:** See Bid/Proposal.

**Proprietary Information:** Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Protest:** A written objection to a proposed award by a vendor to the same written solicitation.

**Public Proposal Opening:** The process of opening correctly submitted offers at the time and place specified in the written solicitation and in the presence of anyone who wished to attend.

**Recommended Hardware Configuration:** The data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by the State as recommended by the contractor.

**Release Date:** The date of public release of the written solicitation to seek offers

**Renewal Period:** Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension.

**Request for Information (RFI):** A general invitation to vendors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

**Request for Proposal (RFP):** A written solicitation utilized for obtaining competitive offers.

**Responsible Bidder:** A bidder who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Bidder:** A bidder who has submitted a bid which conforms to all requirements of the solicitation document.

**Shall/Will/Must:** An order/command; mandatory.

**Should:** Expected; suggested, but not necessarily mandatory.

**Software License:** Legal instrument with or without printed material that governs the use or redistribution of licensed software.

**Sole Source – Commodity:** When an item is available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

**Sole Source – Services:** A service of such a unique nature that the vendor selected is clearly and justifiably the only practical source to provide the service. Determination that the vendor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required.

**Specifications:** The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract.

**System (see Module):** Any collection or aggregation of two (2) or more Modules that is designed to function, or is represented by the contractor as functioning or being capable of functioning, as an entity.

**Termination:** Occurs when either party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

**Trade Secret:** Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. §87-502(4)).

**Trademark:** A word, phrase, logo, or other graphic symbol used by a manufacturer or vendor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

**Upgrade:** Any change that improves or alters the basic function of a product of service.

**Vendor:** An individual or entity lawfully conducting business in the State of Nebraska, or licensed to do so, who seeks to provide goods or services under the terms of a written solicitation.

**Will:** See Shall/Will/Must.

**Work Day:** See Business Day.

## I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska, Department of Environmental Quality (NDEQ), is issuing this Request for Proposal, RFP Number 73138 O3 for the purpose of selecting up to six (6) qualified contractors to provide personnel, equipment, and supplies necessary for the drilling and complete installation of monitoring wells.

A contract resulting from this Request for Proposal will be issued for a period of approximately four (4) months effective the date of the award through September 30, 2014.

ALL INFORMATION PERTINENT TO THIS REQUEST FOR PROPOSAL CAN BE FOUND ON THE INTERNET AT: <http://www.das.state.ne.us/materiel/purchasing/rfp.htm> and <http://deq.ne.gov>.

### A. SCHEDULE OF EVENTS

The State expects to adhere to the tentative procurement schedule shown below. It should be noted, however, that some dates are approximate and subject to change.

	ACTIVITY	DATE/TIME
1.	Release Request for Proposal	April 1, 2014
2.	Last day to submit written questions	April 10, 2014
3.	State responds to written questions through Request for Proposal "Addendum" and/or "Amendment" to be posted to the Internet at: <a href="http://deq.ne.gov">http://deq.ne.gov</a> and/or <a href="http://www.das.state.ne.us/materiel/purchasing/rfp.htm">http://www.das.state.ne.us/materiel/purchasing/rfp.htm</a>	April 15, 2014
4.	Proposal DUE DATE and opening Location: Nebraska Dept. of Environmental Quality 1200 N Street, Suite 400 Lincoln, NE 68508	April 28 <sup>th</sup> , 2014 2:00 p.m. Central Time
5.	Review for conformance of mandatory requirements	April 28 <sup>th</sup> , 2014
6.	Evaluation period	April 29 to May 6, 2014
7.	Post "Letter of Intent to Contract" to Internet at: <a href="http://deq.ne.gov">http://deq.ne.gov</a> and/or <a href="http://www.as.materielpurchasing@nebraska.gov/rfp.htm">http://www.as.materielpurchasing@nebraska.gov/rfp.htm</a>	May 6, 2014
8.	Contract award	May 16, 2014
9.	Contractor start date	May 16, 2014

## **II. PROCUREMENT PROCEDURES**

### **A. PROCURING OFFICE AND CONTACT PERSON**

Procurement responsibilities related to this Request for Proposal reside with the NDEQ. The point of contact for the procurement is as follows:

Name: Kris Young  
Address: 1200 N Street, Suite 400  
PO Box 98922  
Lincoln, NE 68509  
Telephone: (402) 471-5786  
Facsimile: (402) 471-2909  
E-Mail: [kris.young@nebraska.gov](mailto:kris.young@nebraska.gov)

### **B. GENERAL INFORMATION**

The Request for Proposal is designed to solicit proposals from up to six (6) qualified vendors who will be responsible for providing personnel, equipment, and supplies necessary for the drilling and complete installation of monitoring wells at a competitive and reasonable cost. Proposals that do not conform to the mandatory items as indicated in the Request for Proposal will not be considered.

Proposals shall conform to all instructions, conditions, and requirements included in the Request for Proposal. Prospective bidders are expected to carefully examine all documentation, schedules and requirements stipulated in this Request for Proposal, and respond to each requirement in the format prescribed.

A contract or contracts with a fixed-price per foot of monitoring well will be awarded as a result of this proposal. In addition to the provisions of this Request for Proposal and the awarded proposal, which shall be incorporated by reference in the contract, any additional clauses or provisions required by the terms and conditions will be included as an amendment to the contract.

### **C. COMMUNICATION WITH STATE STAFF**

From the date the Request for Proposal is issued until a determination is announced regarding the selection of the contractor, contact regarding this project between potential contractors and individuals employed by the State is restricted to only written communication with the staff designated above as the point of contact for this Request for Proposal.

Once a contractor is preliminarily selected, as documented in the intent to contract, that contractor is restricted from communicating with State staff until a contract is signed. Violation of this condition may be considered sufficient cause to reject a contractor's proposal and/or selection irrespective of any other condition.

The following exceptions to these restrictions are permitted:

1. Written communication with the person(s) designated as the point(s) of contact for this Request for Proposal or procurement;
2. Contacts made pursuant to any pre-existing contracts or obligations; and
3. State-requested presentations, key personnel interviews, clarification sessions or discussions to finalize a contract.

Violations of these conditions may be considered sufficient cause to reject a bidder's proposal and/or selection irrespective of any other condition. No individual member of the State,

employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this Request for Proposal. The buyer will issue any clarifications or opinions regarding this Request for Proposal in writing.

**D. WRITTEN QUESTIONS AND ANSWERS**

Any explanation desired by a bidder regarding the meaning or interpretation of any Request for Proposal provision must be submitted in writing to the NDEQ and clearly marked “RFP Number 73138 O3; Personnel, Equipment, and Supplies Necessary for the Drilling and Complete Installation of Monitoring Wells Questions”. It is preferred that questions be sent via e-mail to [kris.young@nebraska.gov](mailto:kris.young@nebraska.gov). Questions may also be sent by facsimile to (402) 471-2909, but must include a cover sheet clearly indicating that the transmission is to the attention of Kris Young, showing the total number of pages transmitted, and clearly marked “RFP Number 73138 O3; Personnel, Equipment, and Supplies Necessary for the Drilling and Complete Installation of Monitoring Wells Questions”.

It is recommended that Bidders submit questions sequentially numbered, include the RFP reference and page number using the following format.

<u>Question Number</u>	<u>RFP Section Reference</u>	<u>RFP Page Number</u>	<u>Question</u>

Written answers will be provided through an addendum to be posted on the Internet at <http://deq.ne.gov> and/or <http://das.nebraska.gov/materiel/purchasing/rfp.htm> on or before the date shown in the Schedule of Events.

**E. SUBMISSION OF PROPOSALS**

The following describes the requirements related to proposal submission, proposal handling and review by the State.

Bidder should submit one (1) original of the entire proposal. Proposals must be submitted by the proposal due date and time. **A separate sheet must be provided that clearly states which sections have been submitted as proprietary or have copyrighted materials.** All proprietary information the bidder wishes the State to withhold must be submitted in accordance with the instructions outlined in Section III, Proprietary Information. Proposal responses should include the completed Form A, Bidder Contact Sheet. Proposals must reference the request for proposal number and be sent to the specified address. Please note that the address label should appear in Section II part A as specified on the face of each container or bidder’s bid response packet. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. If a recipient phone number is required for delivery purposes, (402) 471-2186 should be used. The request for proposal number must be included in all correspondence.

Emphasis should be concentrated on conformance to the Request for Proposal instructions, responsiveness to requirements, completeness and clarity of content. If the bidder’s proposal is presented in such a fashion that makes evaluation difficult or overly time consuming, it is likely that points will be lost in the evaluation process. Elaborate and lengthy proposals are neither necessary nor desired.

The Technical and Cost Proposals should be presented in separate sections (loose-leaf binders are preferred) on standard 8 ½” x 11” paper, except that charts, diagrams and the like may be on fold-outs which, when folded, fit into the 8 ½” by 11” format. Pages may be consecutively numbered for the entire proposal, or may be numbered consecutively within

sections. Figures and tables must be numbered consecutively within sections. Figures and tables must be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text.

**IMPORTANT NOTICE:** Pursuant to § 84-602, all State contracts in effect as of January 1, 2014 will be posted to a public website beginning July 1, 2014. Any non-proprietary, non-copyrighted information or other information not specifically excluded by § 84-712.05 **WILL BE POSTED FOR PUBLIC VIEWING.**

**F. PROPOSAL OPENING**

The sealed proposals will be publicly opened and the bidding entities announced on the date, time and location shown in the Schedule of Events. Proposals will be available for viewing by those present at the proposal opening. Vendors may also contact the State to schedule an appointment for viewing proposals after the Intent to Award has been posted to the website.

**G. LATE PROPOSALS**

Proposals received after the time and date of the proposal opening will be considered late proposals. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. The State is not responsible for proposals that are late or lost due to mail service inadequacies, traffic or any other reason(s).

**H. REJECTION OF PROPOSALS**

The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

**I. EVALUATION OF PROPOSALS**

All responses to this Request for Proposal which fulfill all mandatory requirements will be evaluated. Each category will have a maximum possible point potential. The State will conduct a fair, impartial and comprehensive evaluation of all proposals in accordance with the criteria set forth below. Areas that will be addressed and scored during the evaluation include:

1. Corporate Overview shall include but is not limited to;
  - a. the ability, capacity and skill of the bidder to deliver and implement the system or project that meets the requirements of the Request for Proposal;
  - b. the character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - c. whether the bidder can perform the contract within the specified time frame;
  - d. the quality of bidder performance on prior contracts;
  - e. such other information that may be secured and that has a bearing on the decision to award the contract;
2. Technical Approach; and
3. Cost Proposal.

State Statute 73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone. When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.

Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision(a) of this subsection. Any contract entered into without compliance with this section shall be null and void.

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a bid in accordance with Neb. Rev. Stat. §73-107 and has checked "yes" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the vendor within 10 business days of request:

- a. Documentation from the United States Armed Forces confirming service,
- b. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions),
- c. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
- d. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within 10 business days of notice will disqualify the bidder from consideration of the preference.

Evaluation criteria will become public information at the time of the Request for Proposal opening. Evaluation criteria and a list of respondents will be posted to the Internet at: <http://deq.ne.gov> and/or <http://www.das.state.ne.us/materiel/purchasing/rfp.htm>. Evaluation criteria will not be released prior to the proposal opening.

#### **J. EVALUATION COMMITTEE**

Proposals will be independently evaluated by members of the Evaluation Committee(s). The committee(s) will consist of staff with the appropriate expertise to conduct such proposal evaluations. Names of the members of the Evaluation Committee(s) will not become public information.

Prior to award, bidders are advised that only the point of contact indicated on the front cover of this Request For Proposal For Contractual Services Form can clarify issues or render any opinion regarding this Request for Proposal. No individual member of the State, employee of the State or member of the Evaluation Committee(s) is empowered to make binding statements regarding this Request for Proposal.

#### **K. MANDATORY REQUIREMENTS**

The proposals will first be examined to determine if all mandatory requirements listed below have been addressed to warrant further evaluation. Proposals not meeting mandatory requirements will be excluded from further evaluation. The mandatory requirement items are as follows:

1. Signed in ink Request For Proposal For Contractual Services form;
2. Corporate Overview;
3. Technical Approach; and
4. Cost Proposal.

**L. REFERENCE CHECKS**

The State reserves the right to check any reference(s), regardless of the source of the reference information, including but not limited to, those that are identified by the company in the proposal, those indicated through the explicitly specified contacts, those that are identified during the review of the proposal, or those that result from communication with other entities involved with similar projects.

Information to be requested and evaluated from references may include, but is not limited to, some or all of the following: financial stability of the company, project description and background, job performed, functional and technical abilities, communication skills and timeliness, cost and schedule estimates and accuracy, problems (poor quality deliverables, contract disputes, work stoppages, et cetera), overall performance, and whether or not the reference would rehire the firm or individual. Only top scoring bidders may receive reference checks and negative references may eliminate bidders from consideration for award.

**M. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS**

All bidders shall be authorized to transact business in the State of Nebraska. All bidders are expected to comply with all Nebraska Secretary of State registration requirements. It is the responsibility of the bidder to comply with any registration requirements pertaining to types of business entities (e.g. person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation or other type of business entity). The Bidder who is the recipient of an Intent to Award will be required to certify that it has so complied and produce a true and exact copy of its current (within 90 days), valid Certificate of Good Standing or Letter of Good Standing; or in the case registration is not required, to provide, in writing, the reason as to why none is required. This must be accomplished prior to the award of the contract. Construction contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration. Further, all bidders shall comply with any and all other applicable Nebraska statutes regarding transacting business in the State of Nebraska. Bidders should submit the above certification(s) with their bid.

**N. VIOLATION OF TERMS AND CONDITIONS**

Violation of the terms and conditions contained in this Request for Proposal or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a bidder's proposal;
2. Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

### III. TERMS AND CONDITIONS

By signing the "Request for Proposal for Contractual Services" form, the Bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions and certifies bidder maintains a drug free work place environment.

Bidders are expected to closely read the Terms and Conditions and provide a binding signature of intent to comply with the Terms and Conditions; provided, however, a bidder may indicate any exceptions to the Terms and Conditions by (1) clearly identifying the term or condition by subsection, and (2) including an explanation for the bidder's inability to comply with such term or condition which includes a statement recommending terms and conditions the bidder would find acceptable. Rejection in whole or in part of the Terms and Conditions may be cause for rejection of a bidder's proposal. Bidders should include completed Section III with their proposal response.

#### A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract resulting from this Request for Proposal shall incorporate the following documents:

1. Amendment to Contract Award with the most recent dated amendment having the highest priority;
2. Contract Award and any attached Addenda;
3. The signed in ink Request for Proposal form and the Contractor's Proposal;
4. Amendments to RFP and any Questions and Answers; and
5. The original RFP document and any Addenda.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to Contract Award with the most recent dated amendment having the highest priority, 2) Contract Award and any attached Addenda, 3) the signed Request for Proposal form and the Contractor's Proposal, 4) Amendments to RFP and any Questions and Answers, 5) the original RFP document and any Addenda.

Any ambiguity in any provision of this contract which shall be discovered after its execution shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

Once proposals are opened they become the property of the State of Nebraska and will not be returned.

**B. AWARD**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part, and at its discretion, may withdraw or amend the Request for Proposal at any time. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State. The Request for Proposal does not commit the State to award a contract. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.

By submitting a proposal in response to this Request for Proposal, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients.

Once an intent to award decision has been determined, it will be posted to the Internet at: <http://deq.ne.gov> and/or <http://www.das.state.ne.us/materiel/purchasing/rfp.htm>

Grievance and protest procedure is available on the Internet at: <http://www.das.state.ne.us/materiel/purchasing/agency-services-procurement-manual/ProtestGrievanceProcedureForServices.doc>

Any protests must be filed by a vendor within ten (10) calendar days after the intent to award decision is posted to the Internet.

**C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall comply with all applicable local, State and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Request for Proposal.

**D. PERMITS, REGULATIONS, LAWS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of the contract. The contractor shall comply with all applicable local, State, and federal laws, ordinances, rules, orders, and regulations.

**E. OWNERSHIP OF INFORMATION AND DATA**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State of Nebraska shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or derived by the contractor pursuant to this contract.

The contractor must guarantee that it has the full legal right to the materials, supplies, equipment, and other rights or titles (e.g. rights to licenses transfer or assign deliverables) necessary to execute this contract. The contract price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks, and copyrights that are in any way involved in the contract. It shall be the responsibility of the contractor to pay for all royalties and costs, and the State must be held harmless from any such claims.

**F. INSURANCE REQUIREMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall not commence work under this contract until all the insurance required hereunder has been obtained and such insurance has been approved by the State. If contractor will be utilizing any subcontractors, the contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all subcontractor(s). The contractor is also responsible for ensuring subcontractor(s) maintain the insurance required until completion of the contract requirements. The contractor shall not allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been obtained and approved by the contractor. Approval of the insurance by the State shall not limit, relieve or decrease the liability of the contractor hereunder.

If by the terms of any insurance a mandatory deductible is required, or if the contractor elects to increase the mandatory deductible amount, the contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

**1. WORKERS' COMPENSATION INSURANCE**

The contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

**2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the contractor or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. The policy shall include the State, and others as required by the contract documents, as an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

**3. INSURANCE COVERAGE AMOUNTS REQUIRED**

**a. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Coverage A	Statutory
Coverage B	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

**b. COMMERCIAL GENERAL LIABILITY**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 any one person
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Fire Damage	\$50,000 any one fire
Medical Payments	\$5,000 any one person

**c. COMMERCIAL AUTOMOBILE LIABILITY**

Bodily Injury/Property Damage \$1,000,000 combined single limit

**d. UMBRELLA/EXCESS LIABILITY**

Over Primary Insurance \$1,000,000 per occurrence

**4. EVIDENCE OF COVERAGE**

The Contractor should furnish the State, with their proposal response, a certificate of insurance coverage complying with the above requirements, which shall be submitted to the NDEQ at PO Box 98922, Lincoln, NE 68509 (facsimile (402) 471-2909). These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the State is damaged by the failure of the contractor to maintain such insurance, then the contractor shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to the NDEQ when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**G. COOPERATION WITH OTHER CONTRACTORS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may already have in place or choose to award supplemental contracts for work related to this Request for Proposal, or any portion thereof.

1. The State reserves the right to award the contract jointly between two or more potential contractors, if such an arrangement is in the best interest of the State.
2. The contractor shall agree to cooperate with such other contractors, and shall not commit or permit any act which may interfere with the performance of work by any other contractor.

**H. INDEPENDENT CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of partners between the parties hereto. The contractor represents that it has, or will secure at its own expense, all personnel required to perform the services under the contract. The contractor's employees and other persons engaged in work or services required by the contractor under the contract shall have no contractual relationship with the State; they shall not be considered employees of the State.

All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination against the contractor, its officers, or its agents) shall in no way be the responsibility of the State. The contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits from the State including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

**I. CONTRACTOR RESPONSIBILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor is solely responsible for fulfilling the contract, with responsibility for all services offered and products to be delivered as stated in the Request for Proposal, the contractor's proposal, and the resulting contract. The contractor shall be the sole point of contact regarding all contractual matters.

If the contractor intends to utilize any subcontractor's services, the subcontractor's level of effort, tasks, and time allocation must be clearly defined in the contractor's proposal. The contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract, without the prior written authorization of the State. Following execution of the contract, the contractor shall proceed diligently with all services and shall perform such services with qualified personnel in accordance with the contract.

**J. CONTRACTOR PERSONNEL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor warrants that all persons assigned to the project shall be employees of the contractor or specified subcontractors, and shall be fully qualified to perform the work required herein. Personnel employed by the contractor to fulfill the terms of the contract shall remain under the sole direction and control of the contractor. The contractor shall include a similar provision in any contract with any subcontractor selected to perform work on the project.

Personnel commitments made in the contractor's proposal shall not be changed without the prior written approval of the State. Replacement of key personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The State reserves the right to require the contractor to reassign or remove from the project any contractor or subcontractor employee.

In respect to its employees, the contractor agrees to be responsible for the following:

1. any and all employment taxes and/or other payroll withholding;
2. any and all vehicles used by the contractor's employees, including all insurance required by state law;
3. damages incurred by contractor's employees within the scope of their duties under the contract;
4. maintaining workers' compensation and health insurance and submitting any reports on such insurance to the extent required by governing State law; and
5. determining the hours to be worked and the duties to be performed by the contractor's employees.

Notice of cancellation of any required insurance policy must be submitted to the State when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**K. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall not, at any time, recruit or employ any State employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

**L. CONFLICT OF INTEREST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

By submitting a proposal, bidder certifies that there does not now exist any relationship between the bidder and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal or project.

The bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest.

The bidder certifies that it will not employ any individual known by bidder to have a conflict of interest.

**M. PROPOSAL PREPARATION COSTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State shall not incur any liability for any costs incurred by bidders in replying to this Request for Proposal, in the demonstrations and/or oral presentations, or in any other activity related to bidding on this Request for Proposal.

**N. ERRORS AND OMISSIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The bidder shall not take advantage of any errors and/or omissions in this Request for Proposal or resulting contract. The bidder must promptly notify the State of any errors and/or omissions that are discovered.

**O. BEGINNING OF WORK**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful contractor. The contractor will be notified in writing when work may begin.

**P. ASSIGNMENT BY THE STATE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State shall have the right to assign or transfer the contract or any of its interests herein to any agency, board, commission, or political subdivision of the State of Nebraska. There shall be no charge to the State for any assignment hereunder.

**Q. ASSIGNMENT BY THE CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor may not assign, voluntarily or involuntarily, the contract or any of its rights or obligations hereunder (including without limitation rights and duties of performance) to any third party, without the prior written consent of the State, which will not be unreasonably withheld.

**R. DEVIATIONS FROM THE REQUEST FOR PROPOSAL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The requirements contained in the Request for Proposal become a part of the terms and conditions of the contract resulting from this Request for Proposal. Any deviations from the Request for Proposal must be clearly defined by the bidder in its proposal and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the Request for Proposal or mandatory requirements. "Deviation", for the purposes of this RFP, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this RFP. The State discourages deviations and reserves the right to reject proposed deviations.

**S. GOVERNING LAW**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska regarding this Request for Proposal or any resultant contract shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. The contractor must be in compliance with all Nebraska statutory and regulatory law.

**T. ATTORNEY'S FEES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the contractor agrees to pay all expenses of such action, as permitted by law, including attorney's fees and costs, if the State is the prevailing party.

**U. ADVERTISING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. News releases pertaining to the project shall not be issued without prior written approval from the State.

**V. STATE PROPERTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the contractor's use during the performance of the contract. The contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

**W. SITE RULES AND REGULATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contractor shall use its best efforts to ensure that its employees, agents, and subcontractors comply with site rules and regulations while on State premises. If the contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been

arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to between the State and the contractor.

**X. NOTIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

During the bid process, all communication between the State and a bidder shall be between the bidder's representative clearly noted in its proposal and the Contact Person of this RFP (noted in Section II.A.). After the award of the contract, all notices under the contract shall be deemed duly given upon delivery to the staff designated as the point of contact for this Request for Proposal, in person, or upon delivery by U.S. Mail, facsimile, or e-mail. Each bidder should provide in its proposal the name, title and complete address of its designee to receive notices.

1. Except as otherwise expressly specified herein, all notices, requests, or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth above, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) days following deposit in the mail.
  
2. Whenever the contractor encounters any difficulty which is delaying or threatens to delay its timely performance under the contract, the contractor shall immediately give notice thereof in writing to the State reciting all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the State of any of its rights or remedies to which it is entitled by law or equity or pursuant to the provisions of the contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

For the duration of the contract, all communication between contractor and the State regarding the contract shall take place between the contractor and individuals specified by the State in writing. Communication about the contract between contractor and individuals not designated as points of contact by the State is strictly forbidden.

**Y. EARLY TERMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract may be terminated as follows:

1. The State and the contractor, by mutual written agreement, may terminate the contract at any time.
  
2. The State, in its sole discretion, may terminate the contract for any reason upon 30 days written notice to the contractor. Such termination shall not relieve the contractor of warranty or other service obligations incurred under the terms of the contract. In the event of cancellation the contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
  
3. The State may terminate the contract immediately for the following reasons:
  - a. If directed to do so by statute;
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
  - c. A trustee or receiver of the contractor or of any substantial part of the contractor's assets has been appointed by a court;
  - d. Fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its contractor, its employees, officers, directors, or shareholders;
  - e. An involuntary proceeding has been commenced by any party against the contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) days; or (ii) the contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the contractor has been decreed or adjudged a debtor;
  - f. A voluntary petition has been filed by the contractor under any of the chapters of Title 11 of the United States Code;
  - g. Contractor intentionally discloses confidential information;
  - h. Contractor has or announces it will discontinue support of the deliverable;
  - i. Second or subsequent documented "vendor performance report" form deemed acceptable by the State Purchasing Bureau.

**Z FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may terminate the contract, in whole or in part, in the event funding is no longer available. The State’s obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for the contract. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give the contractor written notice thirty (30) days prior to the effective date of any termination, and advise the contractor of the location (address and room number) of any related equipment. All obligations of the State to make payments after the termination date will cease and all interest of the State in any related equipment will terminate. The contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the contractor be paid for a loss of anticipated profit.

**AA. BREACH BY CONTRACTOR**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may terminate the contract, in whole or in part, if the contractor fails to perform its obligations under the contract in a timely and proper manner. The State may, by providing a written notice of default to the contractor, allow the contractor to cure a failure or breach of contract within a period of thirty (30) days (or longer at State’s discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing the contractor time to cure a failure or breach of contract does not waive the State’s right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the contractor, the State may contract the service from other sources and hold the contractor responsible for any excess cost occasioned thereby.

**BB. ASSURANCES BEFORE BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If any document or deliverable required pursuant to the contract does not fulfill the requirements of the Request for Proposal/resulting contract, upon written notice from the

State, the contractor shall deliver assurances in the form of additional contractor resources at no additional cost to the project in order to complete the deliverable, and to ensure that other project schedules will not be adversely affected.

**CC. PENALTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

In the event that the contractor fails to perform any substantial obligation under the contract, the State may withhold all monies due and payable to the contractor, without penalty, until such failure is cured or otherwise adjudicated.

**DD. RETAINAGE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Not applicable.

**EE. FORCE MAJEURE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party (“Force Majeure Event”). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The State may grant relief from performance of the contract if the contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the contractor. To obtain release based on a Force Majeure Event, the contractor shall file a written request for such relief with the State Purchasing Bureau. Labor disputes with the impacted party’s own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

**FF. PROHIBITION AGAINST ADVANCE PAYMENT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Payments shall not be made until contractual deliverable(s) are received and accepted by the State.

**GG. PAYMENT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

State will render payment to contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the contractor as solely determined by the State. Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). The State may require the contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any services provided by the contractor prior to the Effective Date, and the contractor hereby waives any claim or cause of action for any such services.

**HH. INVOICES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Invoices for payments must be submitted by the contractor to the agency requesting the services with sufficient detail to support payment. The terms and conditions included in the contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

**II. AUDIT REQUIREMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation, or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

**JJ. TAXES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State is not required to pay taxes of any kind and assumes no such liability as a result of this solicitation. Any property tax payable on the contractor's equipment which may be installed in a state-owned facility is the responsibility of the contractor.

**KK. INSPECTION AND APPROVAL**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Final inspection and approval of all work required under the contract shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where the contractor or subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

**LL. CHANGES IN SCOPE/CHANGE ORDERS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may, at any time with written notice to the contractor, make changes within the general scope of the contract. Changes in scope shall only be conducted with the written approval of the State's designee as so defined by the State from time to time. (The State retains the right to employ the services of a third party to perform any change order(s).)

The State may, at any time work is in progress, by written order, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. The contractor shall not claim forfeiture of contract by reasons of such changes by the State. Changes in work and the amount of compensation to be paid to the contractor for any extra work so ordered shall be determined in accordance with the applicable unit prices of the contractor's proposal.

Corrections of any deliverable services or performance of work required pursuant to the contract shall not be deemed a modification requiring a change order.

**MM. SEVERABILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

**NN. CONFIDENTIALITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

All materials and information provided by the State or acquired by the contractor on behalf of the State shall be regarded as confidential information. All materials and information provided by the State or acquired by the contractor on behalf of the State shall be handled in accordance with federal and State Law, and ethical standards. The contractor must ensure the confidentiality of such materials or information. Should said confidentiality be breached by

a contractor; contractor shall notify the State immediately of said breach and take immediate corrective action.

It is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable to contractors by 5 U.S.C. 552a (m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

**OO. PROPRIETARY INFORMATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

Data contained in the proposal and all documentation provided therein, become the property of the State of Nebraska and the data becomes public information upon opening the proposal. If the bidder wishes to have any information withheld from the public, such information must fall within the definition of proprietary information contained within Nebraska's public record statutes. All proprietary information the bidder wishes the State to withhold must be submitted in a sealed package, which is separate from the remainder of the proposal. The separate package must be clearly marked PROPRIETARY on the outside of the package. Bidders may not mark their entire Request for Proposal as proprietary. Bidder's cost proposals may not be marked as proprietary information. Failure of the bidder to follow the instructions for submitting proprietary and copyrighted information may result in the information being viewed by other bidders and the public. Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, bidders submitting information as proprietary may be required to prove specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive. Although every effort will be made to withhold information that is properly submitted as proprietary and meets the State's definition of proprietary information, the State is under no obligation to maintain the confidentiality of proprietary information and accepts no liability for the release of such information.

**PP. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION/COLLUSIVE BIDDING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

By submission of this proposal, the bidder certifies, that it is the party making the foregoing proposal and that the proposal is not made in the interest of, or on behalf of, any undisclosed

person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further that the bidder has not, directly or indirectly, submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

**QQ. PRICES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

All prices, costs, and Terms and Conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made (and for bidder receiving award prices shall remain as bid for the duration of the contract unless otherwise so stated in the contract) or the Request for Proposal is cancelled.

Contractor represents and warrants that all prices for services, now or subsequently specified, are as low as and no higher than prices which the contractor has charged or intends to charge customers other than the State for the same or similar products and services of the same or equivalent quantity and quality for delivery or performance during the same periods of time. If, during the term of the contract, the contractor shall reduce any and/or all prices charged to any customers other than the State for the same or similar products or services specified herein, the contractor shall make an equal or equivalent reduction in corresponding prices for said specified products or services.

Contractor also represents and warrants that all prices set forth in the contract and all prices in addition, which the contractor may charge under the terms of the contract, do not and will not violate any existing federal, State, or municipal law or regulations concerning price discrimination and/or price fixing. Contractor agrees to hold the State harmless from any such violation. Prices quoted shall not be subject to increase throughout the contract period unless specifically allowed by these specifications.

**RR. BEST AND FINAL OFFER**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

The State will compile the final scores for all parts of each proposal. The award may be granted to the highest scoring responsive and responsible bidder for each region. Alternatively, the highest scoring bidder or bidders may be requested to submit best and final offers. If best and final offers are requested by the State and submitted by the bidder, they will be evaluated (using the stated criteria), scored, and ranked by the Evaluation Committee. The award will then be granted to the highest scoring bidder. However, a bidder should provide its best offer in its original proposal. Bidders should not expect that the State will request a best and final offer.

**SS. ETHICS IN PUBLIC CONTRACTING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

No bidder shall pay or offer to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or anything of value to any State officer, legislator, or employee based on the understanding that the receiving person's vote, actions, or judgment will be influenced thereby. No bidder shall give any item of value to any employee of the State Purchasing Bureau or the Department of Environmental Quality.

Bidders shall be prohibited from utilizing the services of lobbyists, attorneys, political activists, or consultants to secure the contract. It is the intent of this provision to assure that the prohibition of state contact during the procurement process is not subverted through the use of lobbyists, attorneys, political activists, or consultants. It is the intent of the State that the process of evaluation of proposals and award of the contract be completed without external influence. It is not the intent of this section to prohibit bidders from seeking professional advice, such as consulting legal counsel, regarding terms and conditions of this Request for Proposal or the format or content of their proposal.

If the bidder is found to be in non-compliance with this section of the Request for Proposal, they may forfeit the contract if awarded to them or be disqualified from the selection process.

**TT. INDEMNIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

**1. GENERAL**

The contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials (“the indemnified parties”) from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

**2. INTELLECTUAL PROPERTY**

The contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the contractor or its employees, subcontractors, consultants, representatives, and agents; provided, however, the State gives the contractor prompt notice in writing of the claim. The contractor may not settle any infringement claim that will affect the State’s use of the Licensed Software without the State’s prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State’s use of any intellectual property for which the contractor has indemnified the State, the contractor shall at the contractor’s sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State’s behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State’s election, the actual or anticipated judgment may be treated as a breach of warranty by the contractor, and the State may receive the remedies provided under this RFP.

**3. PERSONNEL**

The contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel provided by the contractor.

**UU. NEBRASKA TECHNOLOGY ACCESS STANDARDS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-101.html> and ensure that products and/or services provided under the contract comply with the applicable standards. In the event such standards change during the contractor’s performance, the State may create an amendment to the contract to request that contract comply with the changed standard at a cost mutually acceptable to the parties.

**VV. ANTITRUST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

The contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**WW. DISASTER RECOVERY/BACK UP PLAN**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

The contractor shall have a disaster recovery and back-up plan, of which a copy should be provided to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue services as specified under these specifications in the event of a disaster.

**XX. TIME IS OF THE ESSENCE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a

waiver of the requirement of timely performance of any obligations on the part of the contractor remaining to be performed.

**YY. RECYCLING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per Neb. Rev. Stat. §81-15, 159.

**ZZ. DRUG POLICY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

Contractor certifies that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**AAA. EMPLOYEE WORK ELIGIBILITY STATUS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services

documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**BBB. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS

The contractor, by signature to this RFP, certifies that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The contractor also agrees to include the above requirements in any and all subcontracts into which it enters. The contractor shall immediately notify the Department if, during the term of this contract, contractor becomes debarred. The Department may immediately terminate this contract by providing contractor written notice if contractor becomes debarred during the term of this contract.

#### **IV. PROJECT DESCRIPTION AND SCOPE OF WORK**

The bidder must provide the following information in response to this Request for Proposal.

##### **A. PROJECT OVERVIEW**

This RFP seeks contractor(s) to drill and install up to three (3) monitoring wells in up to forty-nine (49) locations throughout Nebraska. The University of Nebraska – Conservation and Survey Division will drill test holes prior to any monitoring well installation. The exact number of well sites will be determined as test hole data are assessed by NDEQ.

##### **B. PROJECT ENVIRONMENT**

Exhibit 2 shows a generalized location of each well site and Exhibit 3 lists the estimated total depth of each well. The exact location and specific depth of each monitoring well may be changed at the discretion of the NDEQ. The exact location of each monitoring well will be determined by the NDEQ prior to the commencement of drilling. An attempt will be made to complete monitoring wells in protected areas which may include fence lines. The Contractor will be responsible for the site preparation for the drilling equipment. If upon examination of the exact drilling site the Contractor finds any condition that prevents drilling to the specifications of this contract, the Contractor shall promptly notify the NDEQ and a new site may be selected.

##### **C. SCOPE OF WORK**

###### **1. Monitoring Well Installation Procedures**

Monitoring wells will be installed following the guidelines set forth in the EPA publication "Handbook of Suggested Practices for the Design and Installation of Groundwater Monitoring Wells". All construction material and methods will meet the requirements set by the Nebraska Department of Health and Human Services (DHHS) in Article 12 "Water Well Standards", specifically Title 178 NAC 12.007. Exhibit 4 is a typical monitoring well schematic. All well construction materials including but not limited to casing, end caps, screens, centralizers, filter material, grout and protective covers will be provided by the Contractor.

The monitoring well borehole shall be sufficiently straight and of sufficient diameter to allow for installation of up to 6-inch ID casing and tremie pipe required for grout placement. All casing shall be PVC with commercially slotted screen (0.010-inch slots) equipped with a flush plug at the bottom. Casing shall be a minimum Schedule 40 with diameters ranging from 2.5-inch, to 6-inch depending on the depth of the well. Joints may be flush threaded for wells up to 100 feet deep but must be belled (screwed and glued) or splined for wells greater than 100 feet deep.

The borehole depth shall be specified by the NDEQ representative. The anticipated depths of the wells range from 20 feet to 900 feet. The wells shall be screened as directed by the NDEQ representative based on the test hole log previously drilled at each site.

Centralizers will be set at the top of each screen. All screens will vary between 10 and 40 feet in length. Once the screen is set at the specified depth, a filter pack consisting of graded silica sand (16/35 mesh) will be placed in the annulus around the screen. The top of the filter pack shall be measured frequently with the end of the tremie pipe or weighted tape, after allowing adequate time for settling. The filter pack shall be placed from the borehole bottom to about 2 to 3 feet above the top of the screen.

A 2 to 3 foot thick bentonite chip or pellet seal shall be placed above the filter pack and allowed to hydrate 10 minutes prior to grouting. A bentonite slurry (grout) shall be placed above the chip/pellet seal. The grout will be mixed in a grout mixer according to the manufacturer's recommendations and pumped through a tremie pipe from the top of the chip/pellet seal within 3 feet of the ground surface. The grout will be allowed to settle and set sufficiently prior the installation of the steel protective cover. If the grout settles, bentonite chips or pellets will be used on top of the grout to bring it within 3 feet of the ground surface. The 5-foot long lockable steel protective cover will be placed approximately 2.5 feet into the ground with concrete filling the remaining borehole and forming a concrete pad that extends 1-foot past the edge of the borehole (3-foot minimum diameter pad). The concrete pad must be at least 8-inches thick with the finish grade sloping away from the protective cover to allow surface water to flow away from the well. The protective cover will be centered around the PVC well casing and placed in a manner to allow for easy access to the well.

**2. Well Development**

The bentonite grout shall be allowed to set for 24 hours prior to any development activities. The Contractor shall develop each well to remove excess drilling fluid and debris remaining in the filter pack and formation as part of the drilling process. Any combination of bailing, surging, airlifting or over-pumping may be used. The well shall be considered adequately developed when the produced water contains no sediment or drilling fluid and the temperature of the water indicates that there is a good connection between the water bearing formation and the well.

**3. Permission to Drill**

The Natural Resources District (NRD) representative will obtain permission from the property owners to drill at the site. Contractors will not be responsible for obtaining permission for site access.

**4. Site Preservation and Restoration**

After completion of all other work described herein, the site shall be restored as nearly as possible to its original condition. Such restoration will include, but is not limited to, the following:

- a. All Contractor's equipment shall be removed from the site.
- b. Holes, depressions, and tire tracks shall be smoothed out.
- c. Any fences removed or damaged will be reset or replaced.
- d. Debris associated with the drilling shall be removed.

The work specified in this contract shall not be considered complete, nor shall the final invoice for the work be approved, until site restoration is completed to the satisfaction of the NDEQ.

**5. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements**

The Contractor shall preserve and protect all structures, equipment, and vegetation on or adjacent to the work site which are not to be removed and which do not unreasonably interfere with the work required under this contract. The contractor shall repair any damage to structures, equipment, or vegetation associated with the drilling operations.

**6. Abandoned Hole**

A satisfactory bore hole that is acceptable under these specifications shall be completed to the depth designated by the NDEQ and sufficiently straight to allow for well completion materials. Any hole that does not satisfy the requirements described herein and which cannot be made acceptable shall be declared an abandoned hole. Any hole in which the contractor voluntarily stops work and/or fails to complete in a satisfactory manner shall be considered as abandoned by the Contractor.

No payment will be made for the drilling, casing and completion materials, or development of the abandoned hole. An abandoned hole shall be filled according to DHHS rules and regulations and all applicable state laws of Nebraska by the Contractor at the Contractor's own expense. The Contractor shall then move to another NDEQ designated location and drill a second hole in accordance with these specifications.

**7. Site Investigation**

This RFP requires bids be submitted as a fixed-price per foot for well construction activities. Potential contractors are responsible for all necessary research and investigation in order to submit their proposal. No adjustments in cost will be made for unforeseen circumstances encountered during completion of contract requirements.

**D. TECHNICAL REQUIREMENTS**

**1. Representative of the Contractor**

The Contractor shall have an experienced foreman or driller, with full authority to act on behalf of the contractor directing all field operations. This representative shall be experienced in the operation and maintenance of their equipment. This representative must be acceptable to the NDEQ. In the event that the Contractor Representative becomes unacceptable, the NDEQ shall provide written notice and the Contractor shall replace the representative with an acceptable replacement within five (5) working days of receipt of the notice.

**2. Contractor**

The Contractor must understand the geology and the type of material (lithology) of the area in order to provide the necessary and proper drilling tools, well completion tools, etc. The drilling unit and equipment shall be in good working condition and of such capacity as to drill a hole of sufficient depth and diameter to accommodate the required casing diameter and tremie pipe for grout placement.

The Contractor will furnish all necessary equipment, tools, supplies, fuel, labor, materials, and anything else necessary for drilling, well construction, well development, and site restoration involved with this program.

The Contractor shall maintain all equipment in satisfactory operating condition for the duration of the contract. If based on the work completed to date, the equipment is considered unsatisfactory by the NDEQ, thus endangering performance under this contract, the Contractor shall be notified of such in writing, and a copy of such notification shall be sent to the contracting officer for corrective action. The Contractor shall then cease work immediately and within ten (10) days of receipt of notice, replace the unsatisfactory equipment with equipment approved by the NDEQ.

The Contractor shall assume all responsibility for damage to their equipment, whether from the elements, vandalism, operation under the contract, or movement to, from or between drilling locations.

The Contractor shall provide all water for drilling. The water used for drilling must be fresh water and must be approved by the NDEQ. No contaminated or polluted water shall be used in the drilling or well completion process. Suitable water generally is not available at the drill site.

Contractor's personnel shall be experienced in operation and maintenance of their equipment, as described herein.

**3. Licenses**

The Contractor(s) must be currently licensed in the State of Nebraska for the drilling and installation of wells.

**E. PROJECT PLANNING AND MANAGEMENT**

**1. Supervision**

At least one representative of the NDEQ may be present at all times during monitoring well completion. These NDEQ representatives will act as an inspector for well construction and material placement. These representatives will issue the necessary orders to accomplish the goals of the program as provided by these specifications. The Contractor must notify the NDEQ at least 10 days prior to drilling each well.

The presence or absence of these representatives from the drilling site will in no way relieve the Contractor of the responsibility for prosecuting all work diligently and thoroughly as specified in this contract.

**2. Inspection and Acceptance**

All inspections and acceptance will take place at the drill site(s). Inspection of final products will be conducted by the NDEQ and will consist of examination for 1) compliance with these specifications; 2) thoroughness with respect to content; and 3) quality with respect to generally acceptable professional standards.

**3. Accidents**

The Contractor will be liable for any and all accidents or damage to persons, equipment, or property incurred during the execution of this contract.

**4. Working Schedule**

All drilling shall be done during daylight hours of a 5-day work week (Monday through Friday) unless otherwise mutually agreed upon by the NDEQ and Contractor representative. If it is necessary to continue into hours of darkness, sufficient lighting shall be provided by the Contractor so that work may be carried out in a safe and efficient manner.

**F. DELIVERABLES**

Monitoring well locations are divided into (6) six regions (Exhibits 2 & 3). Bidders may bid for well locations in any or all regions. The Contractor(s) must drill and install all wells and complete all of the requirements in this Scope of Work at the site(s) within the region(s).

## **V. PROPOSAL INSTRUCTIONS**

This section documents the mandatory requirements that must be met by bidders in preparing the Technical and Cost Proposal. Bidders should identify the subdivisions of "Project Description and Scope of Work" clearly in their proposals; failure to do so may result in disqualification. Failure to respond to a specific requirement may be the basis for elimination from consideration during the State's comparative evaluation.

Proposals are due by the date and time shown in the Schedule of Events. Content requirements for the Technical and Cost Proposal are presented separately in the following subdivisions:

### **A. TECHNICAL PROPOSAL SUBMISSION**

The Technical Proposal shall consist of four (4) sections:

1. SIGNED in ink "State of Nebraska Request For Proposal For Contractual Services" form;
2. Corporate Overview; and
3. Technical Approach.
4. Cost Proposal

#### **1. REQUEST FOR PROPOSAL FORM**

By signing the "Request for Proposal for Contractual Services" form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions stated in this Request for Proposal unless otherwise agreed to and certifies bidder maintains a drug free work place environment.

The Request for Proposal for Contractual Services form must be signed in ink and returned by the stated date and time in order to be considered for an award.

#### **2. CORPORATE OVERVIEW**

The Corporate Overview section of the Technical Proposal must consist of the following subdivisions:

##### **a. BIDDER IDENTIFICATION AND INFORMATION**

The bidder must provide the full company or corporate name, address of the company's headquarters, entity organization (corporation, partnership, proprietorship), state in which the bidder is incorporated or otherwise organized to do business, year in which the bidder first organized to do business, whether the name and form of organization has changed since first organized, and Federal Employer Identification Number and/or Social Security Number.

**b. FINANCIAL STATEMENTS**

The bidder must provide financial statements applicable to the firm. If publicly held, the bidder must provide a copy of the corporation's most recent audited financial reports and statements, and the name, address and telephone number of the fiscally responsible representative of the bidder's financial or banking organization.

If the bidder is not a publicly held corporation, either the reports and statements required of a publicly held corporation, or a description of the organization, including size, longevity, client base, areas of specialization and expertise, and any other pertinent information must be submitted in such a manner that proposal evaluators may reasonably formulate a determination about the stability and financial strength of the organization. Additionally, a non-publicly held firm must provide a banking reference.

The bidder must disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals, which might materially affect the viability or stability of the organization, or state that no such condition is known to exist.

**c. CHANGE OF OWNERSHIP**

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, the bidder must describe the circumstances of such change and indicate when the change will likely occur. Any change of ownership to an awarded vendor(s) will require notification to the State.

**d. OFFICE LOCATION**

The bidder's office location responsible for performance pursuant to an award of a contract with the State of Nebraska must be identified.

**e. RELATIONSHIPS WITH THE STATE**

The bidder shall describe any dealings with the State over the previous two (2) years. If the organization, its predecessor, or any party named in the bidder's proposal response has contracted with the State, the bidder shall identify the contract number(s) and/or any other information available to identify such contract(s). If no such contracts exist, so declare.

**f. BIDDER'S EMPLOYEE RELATIONS TO STATE**

If any party named in the bidder's proposal response is or was an employee of the State within the past twelve (12) months, identify the individual(s) by name, State agency with whom employed, job title or position held with the State, and separation date. If no such relationship exists or has existed, so declare.

If any employee of any agency of the State of Nebraska is employed by the bidder or is a subcontractor to the bidder, as of the due date for proposal submission, identify all such persons by name, position held with the bidder, and position held with the State (including job title and agency). Describe the responsibilities of such persons within the proposing organization. If, after review of this information by the State, it is determined that a conflict of interest exists or may exist, the bidder may be disqualified from further consideration in this proposal. If no such relationship exists, so declare.

**g. CONTRACT PERFORMANCE**

If the bidder or any proposed subcontractor has had a contract terminated for default during the past two (2) years, all such instances must be described as required below. Termination for default is defined as a notice to stop performance delivery due to the bidder's non-performance or poor performance, and the issue was either not litigated due to inaction on the part of the bidder or litigated and such litigation determined the bidder to be in default.

It is mandatory that the bidder submit full details of all termination for default experienced during the past two (2) years, including the other party's name, address and telephone number. The response to this section must present the bidder's position on the matter. The State will evaluate the facts and will score the bidder's proposal accordingly. If no such termination for default has been experienced by the bidder in the past two (2) years, so declare.

If at any time during the past two (2) years, the bidder has had a contract terminated for convenience, non-performance, non-allocation of funds, or any other reason, describe fully all circumstances surrounding such termination, including the name and address of the other contracting party.

**h. SUMMARY OF BIDDER'S CORPORATE EXPERIENCE**

The bidder shall provide a summary matrix listing the bidder's previous projects similar to this Request for Proposal in size, scope and complexity. The State will use no more than three (3) narrative project descriptions submitted by the bidder during its evaluation of the proposal.

The bidder must address the following:

- i. Bidder must provide narrative descriptions to highlight the similarities between their experience and this Request for Proposal. These descriptions must include:
  - a) The time period of the project;
  - b) The scheduled and actual completion dates;
  - c) The contractor's responsibilities;
  - d) For reference purposes, a customer name (including the name of a contact person, a current telephone number, a facsimile number and e-mail address); and
  - e) Each project description shall identify whether the work was performed as the prime contractor or as a subcontractor. If a bidder performed as the prime contractor, the description must provide the originally scheduled completion date and budget, as well as the actual (or currently planned) completion date and actual (or currently planned) budget.
- ii. Contractor and subcontractor(s) experience must be listed separately. Narrative descriptions submitted for subcontractors must be specifically identified as subcontractor projects.
- iii. If the work was performed as a subcontractor, the narrative description shall identify the same information as requested for the contractors above. In addition, subcontractors shall identify what share of contract costs, project responsibilities, and time period were performed as a subcontractor.

**i. SUMMARY OF BIDDER'S PROPOSED PERSONNEL/MANAGEMENT APPROACH**

The bidder must present a detailed description of its proposed approach to the management of the project.

The bidder must identify the specific professionals who will work on the State's project if their company is awarded the contract resulting from this Request for Proposal. The names and titles of the team proposed for assignment to the State project shall be identified in full, with a description of the team leadership, interface and support functions, and reporting relationships. The primary work assigned to each person should also be identified.

The bidder shall provide resumes for all personnel proposed by the bidder to work on the project. The State will consider the resumes as a key indicator of the bidder's understanding of the skill mixes required to carry out the requirements of the Request for Proposal in addition to assessing the experience of specific individuals.

Resumes must not be longer than three (3) pages. Resumes shall include, at a minimum, academic background and degrees, professional certifications, understanding of the process, and at least three (3) references (name, address, and telephone number) who can attest to the competence and skill level of the individual. Any changes in proposed personnel shall only be implemented after written approval from the State.

**j. SUBCONTRACTORS**

If the bidder intends to subcontract any part of its performance hereunder, the bidder must provide:

- i.** Name, address and telephone number of the subcontractor(s);
- ii.** Specific tasks for each subcontractor(s);
- iii.** Percentage of performance hours intended for each subcontract; and
- iv.** Total percentage of subcontractor(s) performance hours.

**3. TECHNICAL APPROACH**

Monitoring well locations are divided into (6) six regions (Exhibits 2 & 3). Bidders may bid for well locations in individual or all regions. Bidders are not required to submit a technical approach for each region, but should note in their technical approach locations where they may use a different approach and describe the alternative approach. The technical approach section of the Technical Proposal must consist of the following subsections:

- a.** Understanding of the project requirements;
- b.** Proposed development approach;
- c.** Technical considerations;
- d.** Detailed project work plan; and
- e.** Deliverables and due dates.

**4. COST PROPOSAL REQUIREMENTS**

This section describes the requirements to be addressed by bidders in preparing the Cost Proposal. The bidder must submit the Cost Proposal in a section of the proposal

that is a separate section or is packaged separately as specified in the RFP from the Technical Proposal section.

The fixed-price per foot of monitoring well proposal for providing the services set forth in the Request for Proposal must be provided by submitting forms substantially equivalent to those provided in Exhibit 1.

**a. PRICING SUMMARY**

This summary shall present the fixed-price per foot of monitoring well to perform all of the requirements of the Request for Proposal. Monitoring well locations are divided into (6) six regions (Exhibits 2 & 3). Bidders may bid for well locations in individual or all regions. The Contractor(s) must complete the drilling and installation of all wells at the site(s) bid upon within the region(s). A contract for the price per foot for drilling and installing up to three (3) monitoring wells at each location will be awarded as a result of this proposal. The price per foot shall include all of the costs of well drilling and installation, including, but not limited to, the cost of materials, labor, fuel, equipment, insurance, travel, well development, and all miscellaneous costs.

**B. PAYMENT SCHEDULE**

An invoice may be submitted by the contractor upon completion and acceptance of related deliverables for each region. No invoice will be approved unless the associated deliverables have been approved.

# Form A

## Bidder Contact Sheet

### Request for Proposal Number 73138 O3

The Bidder Contact Sheet should be completed and submitted with each response to this Request for Proposal. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response. Each bidder shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Preparation of Response Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

Each bidder shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

Exhibit 1  
Request for Proposal Number 73138 O3

Cost Sheet

This RFP seeks contractor(s) to drill and install up to three (3) monitoring wells in up to forty-nine (49) locations throughout Nebraska. The University of Nebraska – Conservation and Survey Division will drill test holes prior to any monitoring well installation. The exact number of wells per site will be determined as test hole data are assessed by NDEQ.

Bids are requested in any combination of regions (Exhibits 2 & 3). A bidder can bid for one, more than one, or all regions.

Region 1 Drilling fee: \_\_\_\_\_ per foot

Region 2 Drilling fee: \_\_\_\_\_ per foot

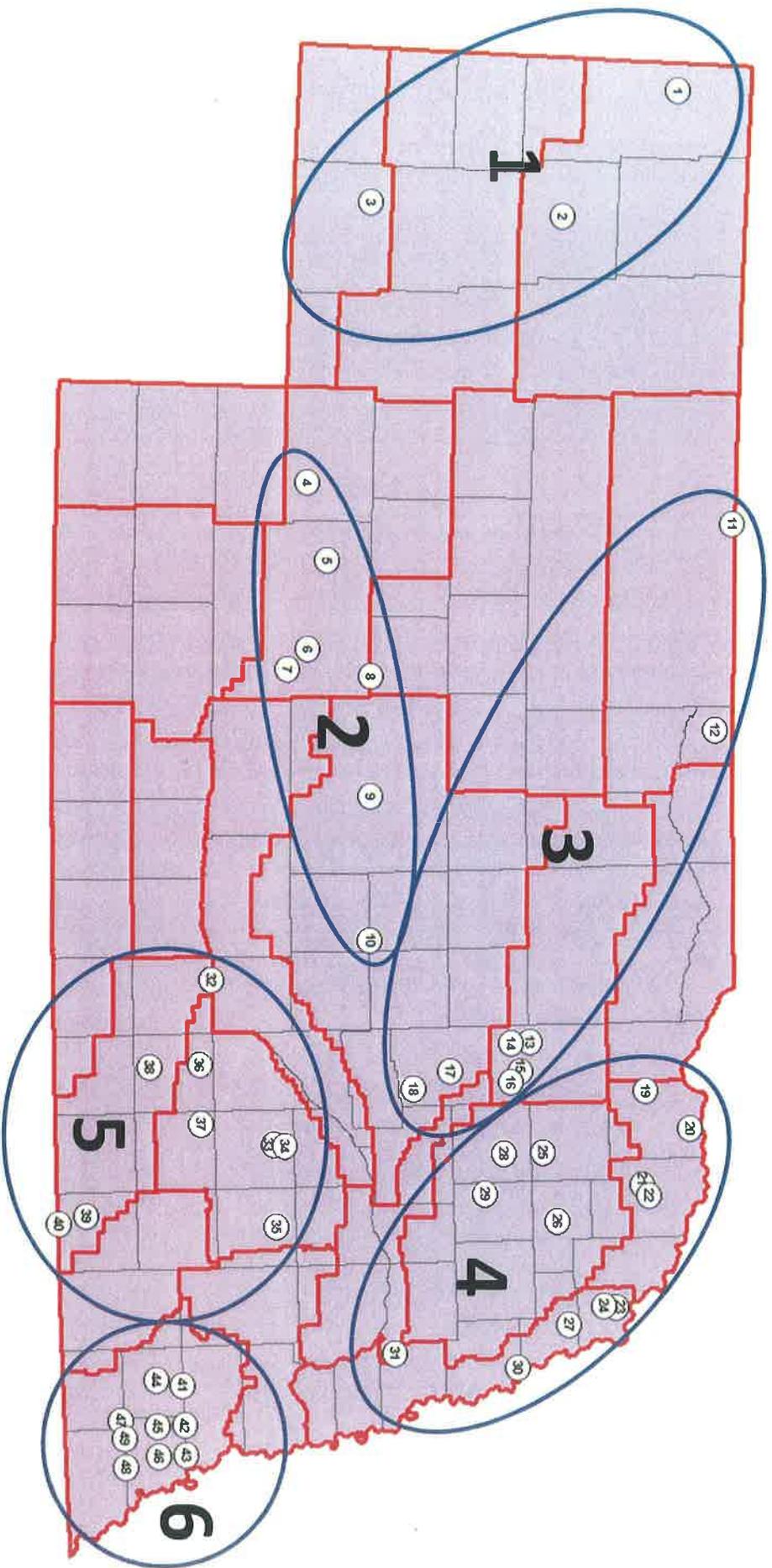
Region 3 Drilling fee: \_\_\_\_\_ per foot

Region 4 Drilling fee: \_\_\_\_\_ per foot

Region 5 Drilling fee: \_\_\_\_\_ per foot

Region 6 Drilling fee: \_\_\_\_\_ per foot

# Exhibit 2 – Drilling Areas and Well Locations



# Exhibit 3

## Drilling Area 1

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Upper Niobrara-White	1	Sioux Co.	NE	10	31	56	W	42.677890	-103.882803	1	250		
Upper Niobrara-White	2	Box Butte	NE	35	26	50	W	42.189867	-103.112833	1	300		
South Platte	3	NW Cheyenne	SE	22	16	51	W	41.343000	-103.151000	2	100	400	
<b>Total Footage</b>											<b>1050</b>		

## Drilling Area 2

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Twin Platte	4	West Paxton	NE	18	13	36	W	41.102819	-101.488331	1	400		
Twin Platte	5	North Hershey	SW	7	14	32	W	41.196828	-101.032553	1	900		
Twin Platte	6	North Brady	SE	3	13	28	W	41.119614	-100.513428	1	800		
Twin Platte	7	West Brady	NE	4	12	27	W	41.030983	-100.397014	1	600		
Upper Loup	8	Logan	C	31	17	26	W	41.401000	-100.357000	2	100	800	
Lower Loup	9	Broken Bow WHP	SW	32	17	21	W	41.396940	-99.651560	3	50	150	300
Lower Loup	10	Davis Creek Site	SE	4	17	13	W	41.396930	-98.809300	3	50	175	325
<b>Total Footage</b>											<b>4650</b>		

## Drilling Area 3

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Middle Niobrara	11	Cherry	SE	26	35	34	W	42.981000	-101.288000	2	100	240	
Middle Niobrara	12	Keya Paha	NW	17	34	23	W	42.919000	-100.053000	2	80	170	
Upper Elkhorn	13	Antelope A	C	36	25	8	W	42.096415	-98.194188	1	150	398	
Upper Elkhorn	14	Antelope B	C	36	24	8	W	42.009300	-98.190399	2	155	310	
Upper Elkhorn	15	Antelope C	C	16	24	6	W	42.053025	-98.017829	2	176	375	
Upper Elkhorn	16	Antelope D	C	36	24	6	W	42.010211	-97.959877	2	200	310	
Lower Loup	17	Boone Central	NE	5	20	6	W	41.741800	-98.025000	3	50	175	375
Lower Loup	18	Boone South	SW	32	19	5	W	41.575429	-97.926426	3	50	100	200
<b>Total Footage</b>											<b>3614</b>		

# Exhibit 3 (continued)

## Drilling Area 4

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Lewis & Clark	19	Center WHP	C	3	30	5	W	42.603239	-97.885975	1	75		
Lewis & Clark	20	N. Bloomfield	C	34	33	3	W	42.794586	-97.652744	2	300	500	
Lewis & Clark	21	S. Hartington	C	16	30	1	E	42.576231	-97.321292	2	200	500	
Lewis & Clark	22	Hartington WHP	C	1	30	1	E	42.605394	-97.259539	1	80		
Papio-Missouri	23	Jackson Dakota	NW	34	29	7	E	42.447131	-96.599853	3	60	255	300
Papio-Missouri	24	Hubbard Upland	SE	16	28	7	E	42.394696	-96.610233	2	110	150	
Lower Elkhorn	25	Pierce	C	15	25	2	W	42.141364	-97.533298	2	125	325	
Lower Elkhorn	26	Wayne	C	30	26	3	E	42.199674	-97.124869	1	250		
Papio-Missouri	27	Winnebego	NW	14	26	8	E	42.234481	-96.501537	3	75	100	150
Lower Elkhorn	28	Madison	C	15	23	2	W	41.967828	-97.533226	2	100	375	
Lower Elkhorn	29	Stanton	C	8 or 15	22	1	E	41.880865	-97.300487	2	100	300	
Papio-Missouri	30	Decatur	NE	2	23	10	E	41.999837	-96.263180	2	70	155	190
Papio-Missouri	31	Arlington Dakota	NE	2	17	9	E	41.463987	-96.376063	3	185	235	275
											Total Footage	5540	

## Drilling Area 5

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Little Blue	32	Prosser	SW	5	8	11	W	40.691361	-98.582782	2	100	300	
Upper Big Blue	33	York WHP	NE	2	11	3	W	40.958960	-97.617210	2	100	225	
Upper Big Blue	34	Bennedict WHP	SW	13	12	3	W	41.003070	-97.606400	2	125	350	
Upper Big Blue	35	Seward	NE	31	11	2	E	40.956760	-97.139160	2	25	200	
Upper Big Blue	36	Harvard WHP	NE	27	8	7	W	40.640210	-98.094250	2	100	250	
Upper Big Blue	37	Fillmore	NW	26	8	4	W	40.640280	-97.745310	2	75	200	
Little Blue	38	Deweese	NW	31	5	7	W	40.416336	-98.080454	3	100	150	200
Little Blue	39	Fairbury	NE	20	2	2	E	40.125162	-97.227442	2	100	125	
Little Blue	40	Jefferson	NW	34	1	2	E	40.009327	-97.190198	3	175	200	250
											Total Footage	3350	

# Exhibit 3 (continued)

## Drilling Area 6

NRD	ID#	Site Name	1/4	Sec.	TS	R	Dir.	Lat	Long	# wells	Depth	Depth	Depth
Nemaha	41	Cook West	SW	31	7	11	E	40.524160	-96.234743	2	100	200	
Nemaha	42	Talmage	SW	31	7	13	E	40.524432	-96.006750	2	50	125	
Nemaha	43	Julian	SE	33	7	14	E	40.523598	-95.841273	3	50	100	225
Nemaha	44	St. Mary	SW	11	5	10	E	40.407083	-96.272280	2	100	200	
Nemaha	45	Johnson	NE	13	5	12	E	40.406266	-96.010881	1	100		
Nemaha	46	Auburn	NE	16	5	14	E	40.406714	-95.839711	2	50	100	
Nemaha	47	Pawnee RWD #1	NW	11	3	12	E	40.246099	-96.047781	2	100	175	
Nemaha	48	Stella	NE	1	3	14	E	40.261142	-95.786644	2	50	80	
Nemaha	49	Nemaha	SW	34	4	13	E	40.261991	-95.949920	2	100	200	
<b>Total Footage</b>											<b>2105</b>		

# Exhibit 4 - Typical Monitoring Well Construction

