

State of Nebraska

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

RETURN TO:
Nebraska Department
of Environmental Quality
1200 N Street, Suite 400, the Atrium
Phone: (402) 471-2186
Fax: (402) 471-2909

SOLICITATION NUMBER	RELEASE DATE
RFP 2016Z1	February 26, 2016
OPENING DATE AND TIME	PROCUREMENT CONTACT
April 14, 2016; 1:30 PM CDT	Stephanie Vap-Morrow

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 2016Z1 for the purpose of selecting qualified Contractors to provide environmental remediation services relating to releases of petroleum from underground and above ground storage tanks.

Written questions are due no later than 1:00 PM CST on March 11, 2016, and must be submitted via e-mail to stephanie.vap-morrow@nebraska.gov.
Proposals are due no later than 1:00 PM CDT on April 14, 2016.

A Pre-Proposal Conference will not be held.

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 Nebraska Department of Environmental Quality by the date and time of proposal due date 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 Contractor's proposal and any other requirements as specified in the Request for Proposal in order to be considered for an award.

It is the responsibility of the Contractor 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.html>.

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014, will be posted to a public website beginning July 1, 2014. All non-proprietary or confidential information as defined by Law **WILL BE POSTED AND ACCESSIBLE TO THE PUBLIC.**

Contractor hereby grants permission to the State of Nebraska and/or its agencies to reprint or republish any and all copyrighted documents related to the Contractor's response to this Request for Proposal, and any and all figures, illustrations, photographs, charts, and other supplementary material on a website accessible by the public pursuant to Neb. Rev. Stat. §84-602.02. This waiver does not apply to proprietary information properly submitted in a separate sealed package clearly marked "Proprietary."

Contractor represents and warrants that the contents of this response to Request for Proposal and all figures, illustrations, photographs, charts, and other supplementary material herein are original and do not libel anyone or infringe upon any patent, copyright, proprietary right, or any other right whatsoever of any other party. Contractor represents and warrants that Contractor has full power and authority to execute this Copyright Release and to grant the State of Nebraska and/or its agencies the right granted herein.

Contractor agrees to indemnify, defend, and hold harmless the State of Nebraska and/or its agencies against any and all claims, suits, and/or judgments, including costs, expenses, damages, and reasonable legal fees based upon and arising from Contractor's violation of the rights of others and/or by reason of a breach of any of the foregoing warranties.

CONTRACTOR MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the Contractor 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 Contractor maintains a drug free work place environment.

Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat §73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

_____ **NEBRASKA CONTRACTOR AFFIDAVIT:** Contractor hereby attests that Contractor is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this RFP.

_____ 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	iii
GLOSSARY OF TERMS	vi
I. SCOPE OF THE REQUEST FOR PROPOSAL	10
A. SCHEDULE OF EVENTS	10
II. PROCUREMENT PROCEDURES	11
A. PROCURING OFFICE AND CONTACT PERSON	11
B. GENERAL INFORMATION	11
C. CUSTOMER SERVICE.....	11
D. COMMUNICATION WITH STATE STAFF AND EVALUATORS	11
E. WRITTEN QUESTIONS AND ANSWERS	11
F. SUBMISSION OF PROPOSALS.....	12
G. PROPOSAL OPENING	12
H. LATE PROPOSALS.....	12
I. REJECTION OF PROPOSALS	12
J. EVALUATION OF PROPOSALS	12
K. EVALUATION COMMITTEE.....	13
L. EVALUATION PROCEDURE AND CRITERIA	13
M. MANDATORY REQUIREMENTS	14
N. REFERENCE CHECKS.....	14
O. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS	14
P. VIOLATION OF TERMS AND CONDITIONS.....	15
III. TERMS AND CONDITIONS	15
A. GENERAL	15
B. AWARD.....	15
C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION	16
D. PERMITS, REGULATIONS, LAWS	16
E. OWNERSHIP OF INFORMATION AND DATA	16
F. INSURANCE REQUIREMENTS	17
G. COOPERATION WITH OTHER CONTRACTORS	18
H. INDEPENDENT CONTRACTOR	18
I. CONTRACTOR RESPONSIBILITY	18
J. CONTRACTOR PERSONNEL	19
K. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION	19
L. CONFLICT OF INTEREST	19
M. PROPOSAL PREPARATION COSTS	20
N. ERRORS AND OMISSIONS	20
O. BEGINNING OF WORK	20
P. ASSIGNMENT BY THE STATE	20
Q. ASSIGNMENT BY THE CONTRACTOR	20
R. DEVIATIONS FROM THE REQUEST FOR PROPOSAL	21

S.	GOVERNING LAW	21
T.	ATTORNEY'S FEES	21
U.	ADVERTISING	21
V.	STATE PROPERTY	22
W.	SITE RULES AND REGULATIONS.....	22
X.	NOTIFICATION.....	22
Y.	EARLY TERMINATION	23
Z.	FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS.....	23
AA.	BREACH BY CONTRACTOR	23
BB.	ASSURANCES BEFORE BREACH.....	24
CC.	ADMINISTRATION – CONTRACT TERMINATION	24
DD.	RETAINAGE.....	24
EE.	FORCE MAJEURE	25
FF.	PROHIBITION AGAINST ADVANCE PAYMENT.....	25
GG.	PAYMENT.....	25
HH.	INVOICES	25
II.	RIGHT TO AUDIT	26
JJ.	TAXES.....	26
KK.	INSPECTION AND APPROVAL.....	26
LL.	CHANGES IN SCOPE/CHANGE ORDERS	27
MM.	SEVERABILITY	27
NN.	CONFIDENTIALITY	27
OO.	PROPRIETARY INFORMATION.....	27
PP.	STATEMENT OF NON-COLLUSION	28
QQ.	ETHICS IN PUBLIC CONTRACTING.....	28
RR.	INDEMNIFICATION.....	29
SS.	NEBRASKA TECHNOLOGY ACCESS STANDARDS	29
TT.	ANTITRUST	29
UU.	DISASTER RECOVERY/BACK UP PLAN	30
VV.	TIME IS OF THE ESSENCE	30
WW.	RECYCLING.....	30
XX.	DRUG POLICY	30
YY.	EMPLOYEE WORK ELIGIBILITY STATUS.....	30
ZZ.	POLITICAL SUB-DIVISIONS.....	31
AAA.	OFFICE OF PUBLIC COUNSEL	31
BBB.	LONG-TERM CARE OMBUDSMAN	31
CCC.	LICENSE/SERVICE OR OTHER AGREEMENTS.....	32
DDD.	AMERICANS WITH DISABILITIES ACT	32
EEE.	TRAFFICKING VICTIMS PROTECTION ACT OF 2000.....	32
FFF.	CIVIL RIGHTS OBLIGATIONS.....	33
IV.	PROJECT DESCRIPTION AND SCOPE OF WORK	34
A.	BACKGROUND.....	34
B.	SERVICES	34
C.	EMERGENCY RESPONSE.....	38
V.	PERFORMANCE SCHEDULE.....	38
A.	PROPOSALS	38

VI. PROPOSAL INSTRUCTIONS39

- A. TECHNICAL PROPOSAL SUBMISSION39
- B. REQUEST FOR PROPOSAL FORM39
- C. EXPERIENCE AND RELIABILITY OF THE FIRM40
- D. PROPOSED METHOD OF PERFORMANCE.....40

Form A Contractor Contact Sheet44

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.

After Receipt of Order (ARO): After Receipt of Order

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.

After Receipt of Order: 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 Contractors 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 Contractor'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 Contractor'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.

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.

Central Processing Unit (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.

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 deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

Contract Period: The duration of the contract.

Contractor: Any individual or entity having or seeking 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.

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.

Customer Service: The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by a Contractor.

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, or contract is 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 of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services.

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/Grievance: A complaint about a governmental action or decision related to a Request for Proposal or resultant contract, brought by a vendor who has timely submitted a bid response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

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

Responsive Contractor: A Contractor 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.

Vendor Performance Report: A report issued to the Contractor by State Purchasing Bureau when products or services delivered or performed fail to meet the terms of the purchase order, contract, and/or specifications, as reported to State Purchasing Bureau by the agency. The State Purchasing Bureau shall contact the Contractor regarding any such report. The vendor performance report will become a part of the permanent record for the Contractor. The State may require vendor to cure. Two such reports may be cause for immediate termination.

Will: See Shall/Will/Must.

Work Day: See Business Day

I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska, Department of Department of Environmental Quality, is issuing this Request for Proposal, RFP Number 2016Z1, for the purpose of selecting qualified Contractors to provide environmental remediation services relating to releases of petroleum. Any resulting contract is not an exclusive contract to furnish the services provided for in this Request for Proposal, and does not preclude the purchase of similar services from other sources.

A contract resulting from this Request for Proposal will be issued for a period of approximately three (3) years effective from the date of the award. The contract has the option to be renewed for two (2) additional one-year periods as mutually agreed upon by all parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Contractor and the State of Nebraska.

ALL INFORMATION PERTINENT TO THIS REQUEST FOR PROPOSAL CAN BE FOUND ON THE INTERNET AT:
<http://das.nebraska.gov/materiel/purchasing.html>

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	February 26, 2016
2.	Last day to submit written questions	March 11, 2016
3.	State responds to written questions through Request for Proposal "Addendum" and/or "Amendment" to be posted to the Internet at http://deq.ne.gov and http://das.nebraska.gov/materiel/purchasing.html	March 18, 2016
4.	Proposal Due Date Location: Department of Environmental Quality 1200 N St., Suite 400, The Atrium Lincoln, NE 68509	April 14, 2016 1:00 pm CDT
5.	Proposal Opening Location: Department of Environmental Quality 1200 N St., Suite 400, The Atrium Lincoln, NE 68509	April 14, 2016 1:30 pm CDT
6.	Review for Conformance of Mandatory Requirements	April 15, 2016
7.	Evaluation Period	April 18 - May 9, 2016
8.	"Oral Interviews/Presentations and/or Demonstrations" (<i>If Required</i>)	May 16 - May 20.
9.	Post "Letter of Intent to Contract" to Internet at: http://deq.ne.gov /or http://das.nebraska.gov/materiel/purchasing.html	May 2016
10.	Contract finalization period	May 2016
11.	Contract award	May 2016
12.	Contractor start date	July 2016

II. PROCUREMENT PROCEDURES

A. PROCURING OFFICE AND CONTACT PERSON

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

Name: **Stephanie Vap-Morrow**
Agency: **Nebraska Department of Environmental Quality**
Address: **1200 N St. The Atrium, Suite 400**
Lincoln, NE 68509
Telephone: **(402) 471-2186**
Facsimile: **(402) 471 2909**
E-Mail: stephanie.vap-morrow@nebraska.gov

B. GENERAL INFORMATION

The Request for Proposal is designed to solicit proposals from qualified vendors who will be responsible for providing environmental remediation services relating to releases of petroleum 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 Contractors 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.

Three or more “time and material” Contracts will be awarded as a result of this RFP. 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. CUSTOMER SERVICE

In addition to any specified service requirements contained in this agreement, the Contractor agrees and understands that satisfactory customer service is required. Contractor will develop or provide technology and business procedures designed to enhance the level of customer satisfaction and to provide the customer appropriate information given their situation. Contractor, its employees, Subcontractors, and agents must be accountable, responsive, reliable, and patient, and have well-developed communication skills as set forth by the customer service industry’s best practices and processes.

D. COMMUNICATION WITH STATE STAFF AND EVALUATORS

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. Contractors shall not have any communication with, or attempt to communicate with or influence in any way, any evaluator involved in this RFP.

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
3. State-requested presentations, key personnel interviews, clarification sessions or discussions to finalize a contract.
4. Negotiations of the time and materials Contract.

Violations of these conditions may be considered sufficient cause to reject a Contractor’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 Department will issue any clarifications or opinions regarding this Request for Proposal in writing.

E. WRITTEN QUESTIONS AND ANSWERS

Any explanation desired by a Contractor regarding the meaning or interpretation of any Request for Proposal provision must be submitted in writing to the Nebraska Department of Environmental Quality and clearly marked “RFP Number 2016Z1; Environmental Remediation Services Relating to Releases of Petroleum Questions”. It is preferred that questions be sent via e-mail to stephanie.vap-morrow@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 RFP Number 2016Z1, showing the total number of pages transmitted, and clearly marked “RFP Number 2016Z1; Environmental Remediation Services Relating to Releases of Petroleum Questions”.

It is recommended that Contractors submit questions sequentially numbered, including 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.html> on or before the date shown in the Schedule of Events.

F. SUBMISSION OF PROPOSALS

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

To facilitate the proposal evaluation process, one (1) original proposal, signed, one (1) electronic copy as a CD, and five (5) printed copies of the entire proposal should be submitted. A separate statement that all of the copies are identical to the signed original must be included. 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 Contractor wishes the State to withhold must be submitted in accordance with the instructions outlined in Section III, OO. Proprietary Information. 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 Contractor’s bid response packet. Rejected late proposals will be returned to the Contractor unopened, if requested, at the Contractor’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 Contractor’s proposal is presented in such a fashion that makes evaluation difficult or overly time consuming, it is likely that the bid will be rejected.

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014, will be posted to a public website beginning July 1, 2014. All non-proprietary or confidential information as defined by Law **WILL BE POSTED FOR PUBLIC VIEWING.** Contractors are required to waive copyrights from privilege for posting to public website.

The Technical Proposals should be packaged separately (loose-leaf binders are preferred) on standard 8 ½” by 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 and referenced in the text by that number. They should be placed as close as possible to the referencing text. The Technical Proposal must not contain any reference to dollar amounts. However, information such as data concerning labor hours and categories, materials, Subcontracts, and so forth, shall be considered in the Technical Proposal so that the Contractor’s understanding of the scope of work may be evaluated. The Technical Proposal shall disclose the Contractor’s technical approach in as much detail as possible, including, but not limited to, the information required by the Technical Proposal instructions.

G. PROPOSAL OPENING

The sealed proposals will be publicly opened and the Contractors submitting will be 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.

H. 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 Contractor unopened, if requested, at Contractor’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).

I. REJECTION OF PROPOSALS

The State reserves the right to reject any or all proposals, in whole or in part, or to award to multiple Contractors 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 Contractor’s competitive position. The State reserves the right to reject any or all proposals and re-advertise for proposals. The State further reserves the right to waive any informality or irregularity. All awards will be made in a manner deemed in the best interest of the State.

J. 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. The State may elect to use a third-party to conduct credit checks as part of the corporate overview evaluation. Corporate Overview shall include but is not limited to:

- a. the ability, capacity, and skill of the Contractor 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 Contractor;
- c. whether the Contractor can perform the contract within the specified time frame;
- d. such other information that may be secured and that has a bearing on the decision to award the contract;
- e. the Contractor's past performance showing knowledge and experience in petroleum investigation and remediation;
- f. technical approach.

Neb. Rev. Stat. §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 Contractor, 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 Contractor, 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 so indicated on the RFP cover page under "Contractor must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the vendor within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service;
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
3. 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
4. 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 ten (10) business days of notice will disqualify the Contractor from consideration of the preference.

Evaluation criteria and a list of respondents will be posted to the Internet at: <http://deq.ne.gov> and/or <http://das.nebraska.gov/materiel/purchasing.html>. Evaluation criteria will not be released prior to the proposal opening.

K. EVALUATION COMMITTEE

Proposals will be independently evaluated by members of the Evaluation Committee(s). The Evaluation 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 be published.

Prior to award, Contractors 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.

Any contact, or attempted contact, with an evaluator that is involved with this RFP may result in the rejection of this proposal and further administrative actions may be taken.

L. EVALUATION PROCEDURE AND CRITERIA

1. GENERAL

Proposals submitted in response to this RFP will be evaluated in accordance with the evaluation procedure and the evaluation criteria described below.

2. SELECTION FOR TECHNICAL EVALUATION

Proposals shall be evaluated by NDEQ personnel. NDEQ reserves the right to use the technical assistance of qualified personnel from within the Government and private consultants for the evaluation process if it so desires. By submission of its proposal, the Contractor hereby consents to the disclosure of the contents of its proposal to such personnel for the purpose of evaluation.

3. TECHNICAL EVALUATION

After determining compliance with the requirements in the RFP, the NDEQ Selection Committee shall conduct its evaluation of the technical merit of the proposals. This evaluation will be the scoring of each proposal in accordance with the evaluation criteria included below, to select not less than three firms for interviews. The total number of firms selected for interview will be determined by the Selection Committee.

4. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS

After the completion of the technical evaluation, the evaluation committee will conduct oral interviews/presentations and/or demonstrations to determine the order of Contractors in which rate negotiations will begin. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the technical evaluation. The presentation process will allow the Contractors to demonstrate their proposal and offering, explaining and/or clarifying any unusual or significant elements related to their proposals. The Contractors' key personnel will be requested to participate in a structured interview to determine their understanding of the requirements of this proposal, their authority and reporting relationships within their firm, and their management style and philosophy. Contractors shall not be allowed to alter or amend their proposals. The interview will last approximately one hour with the first ½ hour being reserved for Contractor presentation and the second ½ hour being reserved for Selection Committee questions/discussion/interaction. Only representatives of the State and the presenting Contractors will be permitted to attend the oral interviews/presentations and/or demonstrations.

Once the oral interviews/presentations and/or demonstrations have been completed, the State reserves the right to start rate negotiations for a contract award without any further discussion with the Contractors regarding the proposals received.

Detailed notes of oral interviews/presentations and/or demonstrations may be recorded, and supplemental information (such as briefing charts, etc.) may be accepted. Additional written information gathered in this manner shall not constitute replacement of proposal contents or alter or amend the proposals.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the Contractor and will not be compensated by the State.

5. FINAL RANKING AND SELECTION

After completion of the technical evaluation and interviews, a final ranking based on the combined scores of the technical proposal and the interview will be made of the interviewed Contractors. NDEQ will then proceed to enter into negotiations starting with the Contractor having the highest score. These negotiations will center around time and material rates. If an agreement between NDEQ and the highest ranked Contractor is not reached, NDEQ will enter into negotiations with the Contractor having the next highest score. Negotiations will continue down the list of Contractors until NDEQ has negotiated a contract with selected Contractors. NDEQ shall have the right at any time to terminate this procurement activity in its entirety.

6. CRITERIA FOR TECHNICAL EVALUATION

The following is a list of factors that will be specifically considered in the technical evaluation of the proposals received.

Rating Criteria

- a. Corporate experience and capabilities in the hydrogeologic assessment and corrective action processes associated with releases of petroleum
- b. Experience, competence, and capability of proposed staff to be assigned to the project
- c. Specificity, clarity, directness of the proposal
- d. Ownership of equipment, analytical facilities and facilities necessary for the successful accomplishment of the work
- e. Past performance showing knowledge and experience in petroleum investigation and remediation
- f. Emergency response capabilities
- g. Quality Assurance/Quality Control procedures

M. 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. Request for Proposal For Contractual Services form, signed in ink;
2. Corporate Overview;
3. Technical Approach;
4. EPA Debarment Form 5700-49 ;
5. Architect, Engineer Questionnaire Form 254 or 330.

N. 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. The State may use a third-party to conduct reference checks.

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 Contractors may receive reference checks and negative references may eliminate Contractors from consideration for award.

O. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS

All Contractors shall be authorized to transact business in the State of Nebraska. All Contractors are expected to comply with all Nebraska Secretary of State registration requirements. It is the responsibility of the Contractor 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 Contractor 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 ninety (90) calendar days), valid Certificate of Good Standing or Letter of Good Standing; or in the case of a sole proprietorship, provide written documentation of sole proprietorship. 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 Contractors shall comply with any and all other applicable Nebraska statutes regarding transacting business in the State of Nebraska. Contractors should submit the above certification(s) with their bid.

P. 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 Contractor’s proposal;
2. Suspension of the Contractor 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;
3. Legal action.

III. TERMS AND CONDITIONS

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

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. The signed Request for Proposal for Contractual Services form;
2. The original Request for Proposal Document;
3. The Contractor’s Proposal signed in ink;
4. Amendments to RFP and any Questions and Answers;
5. The original RFP document and any Addenda; and
6. Contract Award

These documents constitute the entirety of the contract.

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, in whole or in part, or to award to multiple Contractors 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 Contractor'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 Contractor grants to the State the right to contact or arrange a visit in person with any or all of the Contractor's clients.

Once intent to award decision has been determined, it will be posted to the Internet at: <http://deq.ne.gov> and/or <http://das.nebraska.gov/materiel/purchasing.html>.

Grievance and protest procedure is available on the Internet at: <http://deq.ne.gov> and/or <http://das.nebraska.gov/materiel/purchasing.html>.

Any protests must be filed by a vendor within ten (10) business 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, compensations, or privileges of employment because of race, color, religion, sex, disability, marital status, 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. The Contractor shall maintain all required insurance for the life of this contract and shall ensure that the State Purchasing Bureau has the most current certificate of insurance throughout the life of this contract. 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). 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 contactors' 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 Additional Insured(s). 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

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	
Coverage A	Statutory
Coverage B	Statutory
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee
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
COMMERCIAL AUTOMOBILE LIABILITY	
Bodily Injury/Property Damage	\$1,000,000 combined single limit
UMBRELLA/EXCESS LIABILITY	
Over Primary Insurance	\$1,000,000 per occurrence
SUBROGATION WAIVER	
"Waiver of Subrogation on the Worker's Compensation in favor of the State of Nebraska."	
LIABILITY WAIVER	
"The State of Nebraska, Certificate holder, is an additionally insured, primary & noncontributory on the General Liability."	

4. EVIDENCE OF COVERAGE

The Contractor shall furnish the State, after negotiating a contract, a certificate of insurance coverage complying with the above requirements, which shall be submitted to the Department of Environmental Quality, at 1200 N Street, Suite 400, The Atrium, Lincoln, NE 68509 (facsimile (402) 471-2909). The certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. No work may begin until the certificate of insurance is on file with the NDEQ. 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 NDEQ at address above, 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.

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, Contractor 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 Contractor 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 Contractor certifies that it will not employ any individual known by Contractor 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 Contractors in replying to this Request for Proposal, in the demonstrations and/or oral presentations, or in any other activity related to this Request for Proposal.

N. ERRORS AND OMISSIONS

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

The Contractor shall not take advantage of any errors and/or omissions in this Request for Proposal or resulting contract. The Contractor 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 Contractor 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 Contractor 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, mandatory requirements, or applicable state or federal laws or statutes. "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 Contractor shall be between the Contractor's representative clearly noted in its proposal and the buyer noted in Section II. A., Procuring Office and Contact Person, of this RFP. 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 Contractor 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) calendar 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 thirty (30) calendar 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 termination 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) calendar 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 Agency; or
 - j. Contractor engaged in collusion or actions which could have provided Contractor an unfair advantage in obtaining this contract.

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) calendar 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) calendar 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. ADMINISTRATION – CONTRACT TERMINATION

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

1. Contractor must provide confirmation that upon contract termination all deliverables prepared in accordance with this agreement shall become the property of the State of Nebraska; subject to the ownership provision (section E) contained herein, and is provided to the State of Nebraska at no additional cost to the State.
2. Contractor must provide confirmation that in the event of contract termination, all records that are the property of the State will be returned to the State within thirty (30) calendar days. Notwithstanding the above, Contractor may retain one copy of any information as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures.

DD. RETAINAGE

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

The State may withhold ten percent (10%) of each payment due as retainage. The entire retainage amount will be payable upon successful completion of the project. Upon completion of the project, the Contractor will invoice the State for any outstanding work and for the retainage. The State may reject the final invoice by identifying the specific reasons for such rejection in writing to the Contractor within forty-five (45) calendar days of receipt of the final invoice. Otherwise, the project will be deemed accepted and the State will release the final payment and retainage in accordance with the contract payment terms.

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 will 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. RIGHT TO AUDIT

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

Contractor shall establish and maintain a reasonable accounting system that enables the State to readily audit contract. The State and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors, and Subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

Contractor shall, at all times during the term of this contract and for a period of five (5) years after the completion of this contract, maintain such records, together with such supporting or underlying documents and materials. The Contractor shall at any time requested by the State, whether during or after completion of this contract and at Contractor’s own expense make such records available for inspection and audit (including copies and extracts of records as required) by the State. Such records shall be made available to the State during normal business hours at the Contractor’s office or place of business. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the State. Contractor shall ensure the State has these rights with Contractor’s assigns, successors, and Subcontractors, and the obligations of these rights shall be explicitly included in any Subcontracts or agreements formed between the Contractor and any Subcontractors to the extent that those Subcontracts or agreements relate to fulfillment of the Contractor’s obligations to the State.

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by the State unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Contractor to the State in excess of one-half of one percent (.5%) of the total contract billings, the Contractor shall reimburse the State for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, the Contractor shall reimburse the State for total costs of audit. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor’s invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the State’s findings to Contractor.

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, upon the written agreement of Contractor, make changes to the contract within the general scope of the RFP. The State may, at any time work is in progress, by written agreement, make alterations in the terms of work as shown in the specifications, require the Contractor to make corrections, 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 shall be determined in accordance with applicable unit prices if any, or a pro-rated value.

Corrections of any deliverable, service or performance of work required pursuant to the contract shall not be deemed a modification. Changes or additions to the contract beyond the scope of the RFP are not permitted.

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 Contractor 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 Contractor wishes the State to withhold must be submitted in a sealed package, which is separate from the remainder of the proposal, and provide supporting documents showing why such documents should be marked proprietary.** The separate package must be clearly marked PROPRIETARY on the outside of the package. **Contractors may not mark their entire Request for Proposal as proprietary.** Contractor's cost proposals may not be marked as proprietary information. Failure of the Contractor to follow the instructions for submitting proprietary and copyrighted information may result in the information being viewed by other Contractors 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, Contractors 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.

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. §84-602.02, all State contracts in effect as of January 1, 2014, will be posted to a public website beginning July 1, 2014. All non-proprietary or confidential information as defined by Law **WILL BE POSTED FOR PUBLIC VIEWING.** Contractors are required to waive copyrights from privilege for posting on public website.

PP. STATEMENT OF NON-COLLUSION

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

The proposal shall be arrived at by the Contractor independently and be submitted without collusion with, and without any direct or indirect agreement, understanding or planned common course of action with, any person; firm; corporation; Contractor of materials, supplies, equipment or services described in this RFP. Contractor shall not collude with, or attempt to collude with, any state officials, employees or agents; or evaluators or any person involved in this RFP.

Should it be determined that collusion occurred, the State reserves the right to reject a submittal or terminate the contract and impose further administrative sanctions.

QQ. ETHICS IN PUBLIC CONTRACTING

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

No Contractor 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, employee or evaluator based on the understanding that the receiving person's vote, actions or judgment will be influenced thereby. No Contractor shall give any item of value to any employee of the State Purchasing Bureau or any evaluator.

Contractors 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 Contractors from seeking professional advice, for example consulting legal counsel, regarding terms and conditions of this Request for Proposal or the format or content of their proposal.

If the Contractor 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.

RR. 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.

SS. 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/2-201.html> and ensure that products and/or services provided under the contract are in compliance or will 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.

TT. 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.

UU. 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.

VV. 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.

WW. 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.

XX. 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.

YY. 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 a newly hired 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: <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the Request for Proposal response.

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.

ZZ. POLITICAL SUB-DIVISIONS

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

The Contractor may extend the contract to political sub-divisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political sub-divisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political sub-divisions or other public entities not authorized by Neb. Rev. Stat. §81-145, listed as “all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations.” A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

AAA. OFFICE OF PUBLIC COUNSEL

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

If it provides, under the terms of this contract and on behalf of the State of Nebraska, health and human services to individuals; service delivery; service coordination; or case management, Contractor shall submit to the jurisdiction of the Office of Public Counsel, pursuant to Neb. Rev. Stat. §§ 81-8,240 et seq. This section shall survive the termination of this contract and shall not apply if Contractor is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq.

BBB. LONG-TERM CARE OMBUDSMAN

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

If it is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq., Contractor shall comply with the Act. This section shall survive the termination of this contract.

CCC. LICENSE/SERVICE OR OTHER AGREEMENTS

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

Any License/Service or other such agreements which the Contractor may want the State to consider must be submitted with the RFP. Any License/Service or other such agreements submitted to the State post RFP opening may result in the proposal being rejected in its entirety. Any such agreement, if agreed to by the State, will be considered an addendum to the contract. Any terms and conditions contained in any such accepted agreement (addendum) must not conflict with or alter the State’s Terms and Conditions (Terms and Conditions) as contained in the RFP and finalized in the contract. In the event of any conflict between the Terms and Conditions and any addendum the Terms and Conditions will prevail.

The State reserves the right to reject any submitted addendum and considers the submission of any such addendum to be a proposed alteration of the Terms and Conditions.

This clause does not apply to any third party license or service agreements.

DDD. AMERICANS WITH DISABILITIES ACT

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

The contractor shall comply with all applicable provisions of the Americans with Disabilities Act.

EEE. TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

1. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a sub-recipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the sub- recipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.
2. Our right to terminate unilaterally that is described in the above paragraph: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of the Prohibition Statement below in any sub- award you make to a private entity.

Prohibition Statement - You as the recipient, your employees, sub-recipients under this award, and sub-recipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub- awards under the award.

FFF. CIVIL RIGHTS OBLIGATIONS

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

GENERAL

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Pre-award Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 4248 or Standard Form 4240, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

STATUTORY REQUIREMENTS

In carrying out this agreement, the recipient must comply with:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and

The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

If the recipient is conducting an education program under this agreement, it must also comply with:

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.

If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:

Section 13 of the Federal Water Pollution Control Act Amendments of 1972 which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

REGULATORY REQUIREMENTS

The recipient agrees to comply with all applicable EPA civil rights regulations, including:

For Title IX obligations, 40 C.F.R. Part 5; and

For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R. Part 7.

As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

TITLE VI - LEP, Public Participation and Affirmative Compliance Obligation

As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled " *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.*" The guidance can be found at <http://www.epa.gov/civilrights/lepaccess.htm>

If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.

In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

IV. PROJECT DESCRIPTION AND SCOPE OF WORK

A. BACKGROUND

The Nebraska Department of Environmental Quality (NDEQ) operates a program dealing with the remediation of petroleum releases. The purpose of the program is to clean up petroleum releases from underground storage tanks, above ground storage tanks, and other sources. In general the State may use Contractors for the investigation and remediation of petroleum releases where the responsible party is unknown, recalcitrant, or insolvent, or in circumstances where an emergency exists that requires immediate action to protect human health, safety, and the environment. Funds to pay Contractors under this Contract come from the Petroleum Release Remedial Action Cash Fund (State money), the Leaking Underground Storage Tank Grants between the State and the U.S. Environmental Protection Agency (Federal money), and other resources.

Sites that meet the above criteria are prioritized and placed on a list. The priority list currently consists of approximately 450 sites. NDEQ intends to investigate and/or remediate as many of these sites as possible in order of priority, within the financial and staffing constraints of the agency.

This scope of work describes the general type of work the Contractor shall be capable of performing in order to achieve the above stated objective.

B. SERVICES

The Contractor shall have the capability to provide the following services:

1. Tier 1 Site Assessment

The Contractor shall perform initial site assessments to gather information necessary to make a risk-based corrective action evaluation of the petroleum release. The results of the site assessment must be presented in written report format. The report shall contain at a minimum:

- a. Site diagram (to scale)
 - Locations of major surface structures (buildings, streets, etc.)
 - Location of contaminant source (tank, piping, dispensers, facility, etc.)
 - Location of test borings, wells, probes holes, etc.
 - Outline of the lateral extent of the free product plume.
 - Location and elevation of site Benchmark
 - Symbol indicating inferred direction of ground water flow
 - Identification and location of points of exposure (wells, basements, etc.)
 - Subsurface utilities
- b. Test Boring Logs
 - Soil and/or rock type described using the Unified Soils Classification System
 - Depth and thickness of lithological units
 - Depth to water at time of drilling (referenced to surface elevation)
 - Depth to water after water level stabilization (referenced to surface elevation)
 - Surface elevation (referenced to site Benchmark)
 - Ground water elevation
 - Contaminated soil and water intervals (as determined by analytical results and field measurements).
- c. Monitoring Well Construction Details
 - Schematic diagram
 - Construction and materials.
 - Screened, cased, grouted, gravel packed intervals
 - Screened slot size
 - Screen type
 - Filter pack type and gradation
 - Top of casing and ground level elevations (referenced to site Benchmark)
- d. Required State and Local Forms
 - NPDES Permits including Construction permits (storm water)
 - Certificate of well driller
 - Well registration
 - Contaminated Soils Disposal Form
 - City Right-of-Way

- DOR Right-of-Way
 - Landfill disposal (Part B)
- e. Laboratory and Field Analyses of Ground Water Sampling
- Results presented in tabular form in report text
 - Specify parameter, test method, equipment, and test or equipment detection limits.
 - Chain-of-Custody record
- f. Narrative of field Activities and Discussion of Results

2. Tier 2 Site Assessment

The Contractor shall perform detailed site assessments that determine surface and subsurface characteristics of the release site, identify the source(s) of the release, and identify potential and actual points of exposure of the released contaminant. The results of the detailed site assessments must be presented in written report format:

- a. Site Diagram
- Information required for site diagram of initial site characterization
 - Locations, depth below ground level, and elevations of subsurface structures (basements, utilities lines, etc.)
 - Configuration of the surface of the water table
 - Isopach map of free product thickness
 - Isocon map of dissolved product concentration
 - Cross-section diagrams that illustrate subsurface conditions. Cross sections should illustrate the extent of contamination, soil/rock type, lithological boundaries, water table, free product thickness, and subsurface structures.
- b. Large Scale Map
- Location of all water wells within 2000 feet of the site.
 - Topography
 - Regional ground water flow
- c. Aquifer Parameters
- Materials, thickness, hydraulic conductivity, transmissivity, storage coefficient, porosity, secondary permeability structures
 - Aquifer test results, test method, data, plots, calculated and estimated test parameters
- d. Water Usage
- Water well owners' names and addresses within 2000 feet of the site
 - Well usage
 - Water quality
 - Potential for use

3. Remedial Action Alternative

If requested, the Contractor shall, after NDEQ establishes cleanup levels for a site, investigate remedial action alternatives that will meet the cleanup levels established. Contractor shall prepare a report containing schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved and the alternative solutions or methods available. Minimum information to be presented on the recommended remedial action shall include discussion of:

- a. Each cleanup methodology to include advantages and disadvantages
- b. Availability of materials
- c. Availability of competent construction Contractors
- d. Necessary permits, fees, bonding requirements and easements
- e. Operation and maintenance requirements
- f. Methods of disposal and/or treatment of recovered fuel, generated wastewater, and waste.
- g. Probable costs including construction costs, contingencies, charges for professionals and consultants, allowances for the cost of land and rights-of-way, and operation and maintenance
- h. Cost-effectiveness to include comparison on a present worth and annual worth basis
- i. Operation time necessary to achieve required results

4. Cleanup System Design

The Contractor shall prepare and submit a design report for the cleanup alternative selected by NDEQ. The report shall include the information required for the alternative report and in addition the following:

- a. Final design criteria
 - b. Plans
 - c. Specifications
 - d. Work safety requirements
 - e. QA/QC inspection procedures of construction activities
 - f. Equivalent substitutions of specified "brand name" materials
5. Subcontracting
The Contractor shall subcontract work elements beyond its own capabilities in order to meet the performance requirements set forth in a Task Assignment. State Contractors must require subcontractors to meet all State and Federal regulatory requirements including but not limited to debarment, DBE, Attestation.
6. Bidding and Award of Construction Contracts
The Contractor shall solicit and award construction contracts. The Contractor shall prepare contract agreement forms, general and supplementary conditions, bid forms, invitations and instructions to Contractors, and other related proposal documents. The Contractor shall be responsible for evaluating bids or proposals and in assembling and awarding contracts.
7. Oversight of Construction - Contracts
The Contractor shall inspect construction progress. The Contractor shall determine that construction procedures and products conform with plans and specifications and shall advise NDEQ of observations and noted discrepancies. The Contractor shall monitor the progress of the work and perform tests necessary to determine the quality of the executed work.
8. Site Health and Safety (SHS) Plan
The Contractor shall prepare and submit to the NDEQ a site-specific Site Health and Safety (SHS) plan for its workers and subcontractors. The contents of the SHS plan shall be in accordance with Standards of the Occupational Safety and Health Administration 29 CFR (1994 edition), Part 1910. The Contractor shall assume the sole responsibility of ensuring that its workers and subcontractors adhere to the plan. The Contractor shall require all personnel to read and sign an agreement indicating compliance with the plan prior to commencing work. The Contractor shall submit the plan to the NDEQ prior to beginning work at the site.
9. Quality Assurance and Quality Control (QA/QC)
The Contractor shall demonstrate a QA/QC program to insure that all work is carried out in accordance with established and acceptable standards of practice and that the work executed is fully documented. The Contractor shall collect environmental data pursuant to the Department's most recent QA/QC document, Quality Assurance Project Plan for State-Lead Petroleum Remedial Activities, as approved by designated representatives of both the Department and Contractor.
10. Field Log Book
The Contractor shall document all field activities in a hardbound logbook. Entries into the logbook will, at a minimum, be made on a daily basis when in the field. The Contractor shall modify record keeping procedures as required by NDEQ.
11. Progress Reports
The Contractor shall prepare progress reports that describe both the technical and financial status of the work. The technical section shall consist of a narrative describing work performed, upcoming work, problems encountered and resolutions made, and suggested changes to the work progress. Reports will be submitted in a format and frequency that is acceptable to NDEQ.
12. Meetings
The Contractor shall make available its key personnel to NDEQ for meetings as deemed necessary by NDEQ to discuss or coordinate any aspect of the work or proposed work.
13. Records Search
As required by NDEQ, the Contractor shall research and review records related to work efforts and prepare a report of findings. Records to be researched include historical and/or government documents related to property and land transactions and technical documents and data.

14. Consulting

The Contractor shall provide professional consulting services. Consulting services shall include, but not be limited to, providing recommendations regarding engineering design, construction methods, remediation technology, health and safety measures, cost accounting and analyses, and regulatory affairs. When required, the Contractor shall prepare special reports presenting their recommendations and/or associated research.

15. Sampling

The Contractor shall provide sampling of air, soil, and/or water (surface and ground water) for field and/or laboratory analysis.

16. Analytical Services

The Contractor shall provide field and laboratory analysis for petroleum products.

- a. Field analysis capability shall be sufficient to identify and quantify levels of petroleum products. Analytical instruments could include any one of the following:
 - Photoionization detector
 - Organic vapor analyzer
 - Gas chromatograph
 - Flame ionization detector
- b. In addition, the Contractor shall have in its possession a combustible gas indicator calibrated for petroleum product detection during performance of the field work.
- c. Laboratory analytical capability shall be limited to methodologies approved by NDEQ. Laboratories used must be in accredited with NELAC.

17. Soil Gas Surveys

The Contractor shall perform active soil gas surveys. Equipment shall be capable of obtaining vertical profiles and have a minimum depth capability of 50 feet. The Contractor shall prepare and submit results in a format acceptable to NDEQ.

18. Test Hole Drilling

The Contractor shall drill test holes for the purpose of determining site stratigraphy, soil and ground water sampling, and contaminant detection. The Contractor shall be capable of solid and hollow stem auguring and mud rotary drilling to a depth of 100 feet. The Contractor shall properly dispose of all drilling fluids, soil cuttings, and other suspected contaminated drilling materials. The Contractor shall abandon test holes and/or monitoring wells in accordance with applicable local and state regulations and laws.

19. Well Installation

The Contractor shall install monitoring, recovery and vapor extraction wells capable of producing quality, representative formation samples and meeting performance standards of the monitoring and/or remediation system designed wells.

20. Excavating

The Contractor shall be capable of digging, trenching, and excavating buried structures and materials. The Contractor shall replace excavated materials and properly dispose of contaminated materials.

21. Petroleum Product Collection

The Contractor shall collect, store, transport and dispose of recovered petroleum product. At a minimum, Contractor shall:

- a. Remove product from surface and ground water and from the land surface
- b. Pump, store, and treat contaminated ground water
- c. Contain and/or divert flowing product

22. Site Restoration

The Contractor shall repair or replace material damaged during the remediation of a release and restore as near as possible the damaged environment to pre-release conditions. At a minimum, the Contractor shall replace or repair all materials or property removed or damaged during work such as:

- a. Regrade surface configuration
- b. Replace soil
- c. Replace damaged concrete, asphalt or other synthetic surface cover
- d. Reseed or replant vegetation

23. Site Security

The Contractor shall provide security to the release site to protect the public and the work site. The security level shall be sufficient to reasonably protect personal property and persons from damage or harm.

24. Dispose, Reuse, or Recycle

The Contractor shall be responsible for the proper and legal disposal, reuse, or recycling of all contaminated materials generated through the performance of work under a Task Assignment.

25. Alternate Drinking Water Supply

The Contractor shall supply temporary drinking water to the affected community and individuals as directed by NDEQ. The Contractor shall supply permanent drinking water by constructing new wells or installing water lines as directed by NDEQ.

26. Temporary Housing

The Contractor shall provide temporary housing to evacuees, as directed by NDEQ.

C. EMERGENCY RESPONSE

The Contractor shall meet the following special requirements related to providing services when an urgent need is identified by NDEQ.

1. Notification of Needed Service

The Contractor shall maintain a 24-hour, seven days per week on-call system to allow NDEQ immediate access to the Contractor's services. The on-call status shall include weekends, holidays, and after hours.

2. Response Personnel

When requested by NDEQ, the Contractor shall have their Project Manager at the release site within 12 hours from receipt of notification by the Contractor for the need of Contractor's services.

3. Response Time - Emergency services, equipment, materials, support staff

When requested by NDEQ, the Contractor shall have the capacity of assembling on site within 12 hours, all equipment, material, and support staff necessary to perform the following services listed in this Scope of Work:

- Project management
- Consulting
- Sampling
- Analytical services
- Drilling
- Well installation
- Excavating
- Petroleum product collection

4. Response Time - Analytical

The Contractor shall provide a minimum of 72-hour emergency analytical turnaround time for analytical services in emergency situations, as determined by NDEQ. Turnaround time shall mean the time from initial sample collection until analytical results are made available.

V. PERFORMANCE SCHEDULE

The Contractor shall meet the following time requirements related to performance of work under this contract:

A. PROPOSALS

1. Emergency Services

The Contractor shall submit a proposal within five calendar days of receiving verbal authorization to perform emergency services.

2. Non-emergency Services

The Contractor shall submit a proposal for services within ten calendar days of receiving a request for proposal on needed services.

3. Tier 1 Site Assessment
The Contractor shall submit a report for a Tier 1 within sixty calendar days of receiving authorization to proceed.
4. Tier 2 Site Assessment
The Contractor shall submit a Tier 2 report within sixty calendar days of receipt of authorization to proceed.
5. Remedial Action Alternatives
The Contractor shall submit the remedial action alternatives report within thirty calendar days of receipt of authorization to proceed.
6. Cleanup System Design
The Contractor shall submit designs, blueprints and as-builts within 30 calendar days after the remediation system is operational.
7. Special Reports
All other reports or data shall be submitted as determined necessary by NDEQ.
8. Meetings
Meetings will be scheduled by NDEQ as needed.

The above time requirements represent minimum requirements. In the event circumstances warrant, shorter time requirements for performance may be required by NDEQ.

VI. PROPOSAL INSTRUCTIONS

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

Content requirements for the Technical Proposal are presented separately in the following subdivisions:

A. TECHNICAL PROPOSAL SUBMISSION

The Technical Proposal shall consist of five (5) sections:

1. Request for Proposal For Contractual Services form, signed in ink;
2. Corporate Overview;
3. Technical Approach.
4. Architect, Engineer Questionnaire Form 254 or 330.
5. EPA Debarment Form 5700-49

B. REQUEST FOR PROPOSAL FORM

By signing the Request For Proposal For Contractual Services form, the Contractor guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions stated in this Request for Proposal and certifies that the Contractor 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.

The technical proposal will primarily determine the capability of the organization to participate in the procurement. It must be specific and complete in every detail. The proposal must be practical and should be prepared simply and economically, providing straightforward, concise delineation of capabilities to perform the contract effort being sought.

The technical proposal must outline the actual work proposed as specifically as possible by the Contractor. The Contractor should review the evaluation criteria in Section M (Evaluation Procedure and Criteria) of this RFP for further guidance regarding information that should be included in the Contractor's proposal.

Mandatory requirements are also labeled or are identified by the terms "must," "required," "shall or "will." Other information requested will be considered in the evaluations.

C. EXPERIENCE AND RELIABILITY OF THE FIRM

Experience and reliability of the Contractor's organization is considered in the evaluation process. Therefore, the Contractor is advised to submit any information, which documents successful and reliable experience in past performances, especially those performances related to the requirements of the Scope of Work.

The proposal must contain the information on the Contractor as well as on any subcontractors or consultants to be used. The Contractor shall provide a summary matrix listing the Contractor's previous projects similar to this Request for Proposal in size, scope and complexity during the last five years.

The proposal must provide the following information related to not more than five and no less than three recently completed contracts, which are considered identical or similar to the requirements of the RFP during the last five years:

1. Name, address, and telephone number of contracting organization and a contact person who may be contacted for verification of all data submitted.
2. Dates of contract.
3. A brief, written description of the specific prior services performed and requirements.
4. The scheduled and actual completion times.
5. The Contractor's responsibilities.

D. PROPOSED METHOD OF PERFORMANCE

Proposals will be evaluated based on the Contractor's distinctive plan for performing the requirements of the RFP. It is not sufficient for the Contractor to repeat the exact RFP language or to present a paraphrased version, as an original idea for a technical approach. The Contractor shall present a written narrative, which demonstrates the method, or manner in which the Contractor proposes to satisfy the requirements of the scope of work. The language of the narrative must be straightforward and limited to facts, solutions and problems, and plans of proposed action. The statement of work for the contemplated Contract is enclosed with this RFP. NDEQ reserves the right to excerpt all or any portion of the successful technical proposal for use as final contract language in the event conditions so warrant.

The Contractor must provide an organizational chart showing the staffing and lines of authority for the personnel to be used. The relationship of the Project Manager to the management and to support personnel must be clearly illustrated.

1. EXECUTIVE SUMMARY

The Executive Summary shall condense and highlight the contents of the solution being proposed by the Contractor in such a way as to provide the Evaluation Committee with a broad understanding of the Contractor's Technical Proposal.

Contractors must present their understanding of the problems being addressed by implementing the objectives and intended results of the project, and the scope of work. Contractors shall summarize how their Technical Proposal meets the requirements of the Request for Proposal, and why they are best qualified to perform the work required herein.

2. CORPORATE OVERVIEW

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

a. CONTRACTOR IDENTIFICATION AND INFORMATION

The Contractor must provide the full company or corporate name, address of the company's headquarters, entity organization (corporation, partnership, proprietorship), state in which the Contractor is incorporated or otherwise organized to do business, year in which the Contractor 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. 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 Contractor must describe the circumstances of such change and indicate when the change will likely occur. Any change of ownership to an awarded Contractor will require notification to the State.

c. OFFICE LOCATION

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

d. **RELATIONSHIPS WITH THE STATE**

The Contractor shall describe any dealings with the State over the previous three (3) years. If the organization, its predecessor, or any party named in the Contractor's proposal response has contracted with the State, the Contractor shall identify the contract number(s) and/or any other information available to identify such contract(s). If no such contracts exist, the Contractor shall so declare.

e. **CONTRACTOR'S EMPLOYEE RELATIONS TO STATE**

If any party named in the Contractor's proposal response is or was an employee of the State of Nebraska within the past twelve (12) months, the Contractor must 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, that must be stated.

If any employee of any agency of the State of Nebraska is employed by the Contractor or is a subcontractor to the Contractor, as of the due date for proposal submission, the Contractor must identify all such persons by name, position held with the Contractor, and position held with the State (including job title and agency). The Contractor must 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 Contractor may be disqualified from further consideration in this proposal. If no such relationship exists, the Contractor shall so declare.

f. **CONTRACT PERFORMANCE**

If the Contractor or any proposed subcontractor has had a contract terminated for default during the past three (3) 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 Contractor's non-performance or poor performance, and the issue was either not litigated due to inaction on the part of the Contractor or litigated and such litigation determined the Contractor to be in default.

It is mandatory that the Contractor submit full details of all termination for default experienced during the past three (3) years, including the other party's name, address and telephone number. The response to this section must present the Contractor's position on the matter. The State will evaluate the facts and will score the Contractor's proposal accordingly. If no such termination for default has been experienced by the Contractor in the past three (3) years, that must be stated.

If at any time during the past three (3) years, the Contractor has had a contract terminated for convenience, non-performance, non-allocation of funds, or any other reason, the Contractor must describe fully all circumstances surrounding such termination, including the name and address of the other contracting party.

g. **SUMMARY OF CONTRACTOR'S PROPOSED PERSONNEL/MANAGEMENT APPROACH**

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

The Contractor 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 Contractor shall provide resumes for all personnel proposed by the Contractor to work on the project. The State will consider the resumes as a key indicator of the Contractor'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.

It having been determined that the employees whose names appear in the contract documents, or persons approved by NDEQ as persons of substantially equal abilities and qualifications, are necessary for the successful performance of this Contract, the Contractor agrees to assign such employees or persons to the performance of the work under this Contract and shall not reassign or remove any of them without the consent of NDEQ. Whenever, for any reason, one or more of the aforementioned employees is unavailable for assignment for work under the Contract, the Contractor shall, with the approval of NDEQ, replace such employee with an employee of substantially equal abilities and qualifications.

1. CONTRACT ADMINISTRATOR

The Contractor shall designate a **Contract Administrator** for this contract. The Contract Administrator shall be the single point of contact with NDEQ regarding contractual matters. Specific responsibilities of the Contract Administrator shall include, but not be limited to, the following:

- a. Providing all support staff, facilities, administrative capabilities, and all other resources as needed to ensure the successful and efficient accomplishment of Task Assignments issued under this Contract.
- b. Receiving, acknowledging, and implementing all Tasks Assignments.
- c. Designating a Project Manager for each Task Assignment.
- d. Providing overall supervision and administrative support to the Project Manager.
- e. Reporting and correcting all problems encountered in performing Task Assignments or in the administration of this Contract whether noted by the Contractor or as noted by NDEQ.
- f. Preparing and submitting all reports, data, or other deliverables required in Task Assignments.
- g. Implementing a system to provide NDEQ communications access to the Contractor twenty-four hours per day, seven days per week.

2. PROJECT MANAGER

The **Project Manager** designated by the Contract Administrator shall be fully dedicated to the assignment until its completion. Specific responsibilities of the Project Manager shall include, but not be limited to, the following:

- a. Maintaining close communication and coordination with NDEQ and the Contract Administrator regarding performance of a Task Assignment.
- b. Conducting on-site reconnaissance to develop detailed proposals.
- c. Providing administrative support, supervision, and management of personnel equipment, materials, and subcontractors assigned to the Task Assignment. Personnel and subcontractors shall remain fully dedicated to the assignment and not be removed until its completion unless authorized or required by NDEQ.
- d. Taking immediate corrective action when performance is not acceptable to NDEQ.
- e. Ensuring that quality assurance, quality control, site health and safety, and any other performance related controls are adhered to during the performance of the work.

The Contractor must also have on staff the following two professionals:

3. PROFESSIONAL ENGINEER

The Contractor must have a Nebraska licensed **Professional Engineer** on staff that shall be assigned to prepare or approve all design documents, plans, and specifications for the project. Reciprocity from another State with Nebraska is acceptable if approved by the Nebraska Board of Engineers. The engineer shall have expertise in hydrogeology and the design of treatment facilities for treating petroleum contaminated soil and ground water.

4. PROFESSIONAL GEOLOGIST

A Nebraska licensed **Professional Geologist** shall be on staff and assigned to direct Geology related field activities and prepare or approve geological reports. The Geologist must hold a Certified Professional Geologist (CPG) license in the State of Nebraska. Reciprocity from another State with Nebraska is acceptable if approved by the Nebraska Board of Geologists.

5. SUBCONTRACTORS

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

- a. name, address and telephone number of the subcontractor(s);
- b. specific tasks for each subcontractor(s);
- c. percentage of performance hours intended for each subcontract; and
- d. total percentage of subcontractor(s) performance hours.

6. INSPECTIONS OF WORK

NDEQ shall at all times have access to the work and to all workshops and places where work is being prepared or from where materials or machinery are being obtained for the work, and the Contractor shall afford every facility for, and every assistance in, obtaining the right to such access.

7. PERMITS AND RESPONSIBILITIES

The Contractor shall secure, pay, and sign for all permits, licenses, and governmental fees necessary for the proper execution and completion of the work.

The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the work.

The Contractor shall be responsible for all damages and shall indemnify and save NDEQ harmless from and against all additional cost, damages, and liability which may arise out of the failure of the Contractor to secure and pay for any such licenses and permits or to comply fully with any and all applicable laws, ordinances, rules, and regulations.

8. TRAVEL EXPENSES

The Contractor shall use the same guidelines for travel reimbursement expenses as the State of Nebraska. The Contractor must keep meal receipts, but is not required to provide the state with meal receipts. The Contractor shall keep a daily record of all meal costs and record the amount the employee spent for housing and meals.

9. DISPOSABLE ITEMS

The Contractor shall not purchase disposable items for use in the field when non disposable items are available. This type of item would include, but is not limited to, cameras. It is not NDEQ's intent to further add disposable items to Nebraska's landfills. Exceptions to this requirement are items used where QA/QC is of concern such as sampling and personal safety items.

10. NEWS RELEASES

News releases pertaining to this procurement or any part of the proposal shall not be made without the prior approval of the NDEQ. Violation of this paragraph may be grounds for disqualification of Contractor's proposal.

11. COMPETITIVE BIDDING REQUIREMENTS

The Contractor is required by State law to engage in a process of competitive bidding for single items of equipment or for subcontracted activities that exceed \$10,000 in value. To ensure contract payment under this contract, the bids must meet the following minimum criteria:

- a. A minimum of three bids must be obtained.
- b. Bids must be for comparable items.
- c. Bids must be obtained from Contractors who can demonstrate adequate experience, equipment and personnel to accomplish the scope of the bid items.

The Contractor is required to accept the lowest responsible bid. However, in cases in which the lowest Contractor was not selected, a justification of the decision must be provided to the Department's Project Manager. Records documenting the competitive bidding process performed during the term of the Contract must be retained four years after termination of the Contract.

Form A

Contractor Contact Sheet

Request for Proposal Number 2016Z1

The Contractor 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 Contractor's name and address, and the specific person(s) who are responsible for preparation of the Contractor's response. Each Contractor shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the Contractor'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	
Contractor Name:	
Contractor Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	
