

# **State of Delaware**

**DNREC**

**TASK:  
Direct-Push Drilling Services**

**Request for Proposal for Professional Services  
Contract No. #NAT- 11169 DPDS**

*Direct-Push Drilling Services  
Request for Proposal*

*For Professional Services*

**- Deadline to Respond -  
November 16, 2011  
4:30 p.m.**

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES  
TO PROVIDE  
DIRECT-PUSH DRILLING SERVICES  
ISSUED BY DELAWARE DEPARTMENT OF NATURAL RESOURCES (DNREC)  
CONTRACT #NAT- 11169 DPDS**

The enclosed packet contains a "REQUEST FOR PROPOSAL FOR PROFESSIONAL SERVICES" for Task: Direct-Push Drilling Services. The proposal consists of the following documents:

Request for Proposal for Professional Services - Contract NO. #NAT- 11169 DPDS

Appendix A: Forms

- Non-Collusion Statement
- Organization Fact Sheet
- Assurance Form

**I. Overview**

The State of Delaware, Delaware Department of Natural Resources (DNREC) seeks the submissions of proposals for the Direct-Push Drilling Services contract (#NAT-11169 DPDS) for the performance of work on existing Hazardous Substance Release Sites in Delaware and a number of additional projects (collectively "projects") which DNREC may require from time to time under its authority pursuant to the Delaware Hazardous Substance Cleanup Act, 7 Del. C. Chapter 91 (HSCA). This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: October 26, 2011
Deadline for Receipt of Proposals	Date: November 16, 2011
Notification of Award	Date: December 5, 2011

The State of Delaware, DNREC intends to select multiple qualified vendors to enter into contracts with DNREC to provide specified professional services consisting of direct-push drilling services (herein referred to as "professional services"). Once selected, the vendor will be asked to submit a list of prices which will become part of the contract and apply during the contract period. The selection of qualified vendors through the RFP process for this contract does not commit the vendors or DNREC to perform professional services on any specific project proposals. The selected vendors will be asked to enter into a contract with DNREC which will permit them to receive, during the contract period, notice of requests by DNREC for proposals to perform specified professional services on specific project proposals. The specific project proposals shall be based on the list of prices that are made part of the contract. The bid process and specific project proposals scope of work will be provided to the vendor on a project basis. Whenever DNREC designates a project for which it requires a vendor to provide drilling services, it shall notify the vendor of such designation, provide it with a defined scope of work, and invite the vendor to provide a proposal to perform professional services on the project. DNREC may request more than one vendor to submit proposals on any project. When DNREC selects the project specific proposal of a vendor, it will invite the vendor to enter into negotiations to conclude an agreement to provide professional services for that project. If DNREC and the vendor are able to reach an agreement on a specific project

proposal it shall be set forth in an addendum which shall be attached to this contract and made a part hereof.

## II. **Scope of Services:**

The following are a brief description of the drilling services that are included in the scope of service for the RFP. The submitted proposal shall reflect the organization's ability to perform the tasks. The Work to be conducted on existing Hazardous Substance Release Sites in Delaware and newly identified projects under this contract includes the task list below. DNREC intends to award contract(s) to the most qualified vendor(s).

### A. **Drilling Services:**

The types of services performed under this contract for any or all of the project specific proposals are as follows:

#### 1. Project Management

- Project planning, scheduling, tracking, monitoring, control, implementation, budgeting and cost control in performing work assigned.
- Draft applications for applicable permits and assisting the Department in obtaining necessary permits that the vendor may need to perform the professional services required.

#### 2. Investigation and Remediation Planning

- Perform field work, including:
  - Collection of continuous and/or discrete macro-core soil samples using direct-push samplers advanced by static push, or impacts from hammers, or vibratory methods, or a combination thereof, to the depth of interest;
  - Collection of groundwater samples using either discrete point sampling with a sealed (protected) screen sampler or with a exposed-screen sampler;
  - Collection of soil gas vapor samples using direct-push samplers;
  - Installation and development of small diameter (1 and/or 2 inch) pre-packed wells;
  - Control, collection and containerization of soil cuttings and decontamination fluids;
  - Record keeping, which includes completing and submitting DNREC Well Permit Applications, Well Completion Reports, Formation Logs, and Well Abandonment Reports;
  - Decontamination of equipment;
  - Site safety procedures as they pertain to normal direct-push drilling/invasive operations;
  - Site clean-up;
  - Borehole and well abandonment;
  - Collection of direct push high resolution vertical site profiling data using Electrical Conductivity (EC) and/or any of the following tools: Membrane Interface Probe (MIP), Hydraulic Profiling Tool (HPT), Laser Induced Fluorescence (LIF), and.
  - Presentation of high resolution vertical site profiling data in three dimensions and in real-time to aid in investigation and remediation planning.

- Producing cross-sections, maps and reports using GIS or other mapping software to aid in investigation and remediation planning.
- Environmental database management. All project specific data must be submitted to the State in the EQUIS electronic database format used by DNREC, or a comparable electronic format and hardcopy as approved by DNREC.

### **III. Required Information**

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

#### **A. Minimum Requirements**

The vendor(s) shall provide all materials and labor to satisfy the State's need for Environmental Investigations and Remediation Services as described herein.

1. Delaware business license:  
Applicant must provide evidence of a Delaware business license or evidence of an application to obtain the business license prior to receiving an award.
2. Delaware water well drillers license:  
Applicant must provide evidence of that at least one (1) direct-push drilling operator employed by the applicant is licensed by the State of Delaware as required by 7 Del. C. §6023.
2. Professional liability insurance:  
Applicant must provide evidence of professional liability insurance in the amount of \$1,000,000.00/\$3,000,000.00 as shown in Section IV.D.5.f.
3. OSHA Certification:  
Applicant must provide evidence that direct-push drilling operators and support personnel, which are to provide professional services under this Contract, are currently certified in accordance with OSHA 29 CFR 1910.120.
4. Vendor's experience, if any, providing similar services. Please provide at a minimum of three (3) references from the past three (3) years consisting of current or previous customers of similar scope and value with your reply. Include name, address, telephone number, fax number, e-mail address, and a verified current contact person.
5. A brief history of the subcontractor(s) of the organization, if applicable. Please provide at a minimum of three (3) references for the subcontractor(s).
6. A brief history of the vendor's organization, including accreditation status, if applicable

Information regarding the award of this contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

Failure to respond to any of the requested information may result in rejection of the proposal at the sole discretion of the State.

IV. Professional Services RFP Administrative Information

**A. RFP Issuance**

**1. Obtaining Copies of the RFP**

This RFP is available in electronic form only through the State of Delaware Procurement website at [www.bids.delaware.gov](http://www.bids.delaware.gov) and the State of Delaware, DNREC website at <http://www.dnrec.delaware.gov/Admin/Pages/RFPsAndRFQs.aspx> Paper copies of this RFP will not be available.

**2. Public Notice**

Public notice has been provided in accordance with 29 *Del. C.* § 6981.

**3. Assistance to Vendors with a Disability**

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

**4. RFP Designated Contact**

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware, Delaware Department of Natural Resources and Environmental Control, Site Investigation and Restoration Branch (DNREC-SIRB). Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

**Robert C. Asreen, Jr.**  
**DNREC-SIRS**  
**391 Lukens Drive**  
**New Castle, DE 19720**  
**robert.asreen@state.de.us**

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

**5. Consultants and Legal Counsel**

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses.

Vendors shall not contact consultant or legal counsel on any matter related to the RFP.

**6. Contact with State Employees**

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

**7. Organizations Ineligible to Bid**

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

**8. Exclusions**

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a)** Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b)** Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c)** Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d)** Has violated contract provisions such as:
  - 1)** Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - 2)** Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;

- e) Has violated ethical standards set out in law or regulation; and
- f) Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

**B. RFP Submissions**

**1. Acknowledgement of Understanding of Terms**

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

**2. Proposals**

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with 2 paper copies and 1 electronic copy on CD and shall bear on the outside the name and address of the bidder as well as the designation of the contract.

All properly sealed and marked proposals are to be sent to the State of Delaware, Department of Natural Resources and Environmental Control, Site Investigation and Restoration Branch and received no later than **4:30 PM EST on November 16, 2011**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**State of Delaware  
Department of Natural Resources and Environmental Control  
Site Investigation and Restoration Section  
391 Lukens Drive  
New Castle, DE 19720  
ATTN: Robert C. Asreen, Jr.**

All proposals will be accepted at the time and place set in the advertisement. Any proposal submitted by US Mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than **4:30 PM EST on November 16, 2011**. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP. A vendor may withdraw his proposal unopened after it has been deposited,

if such a request is made prior to the time set for the opening of the proposal.

Each vendor(s) must provide every component listed in the order shown in this RFP, using the format prescribed for each component. The State reserves the right to reject any non-responsive or non-conforming proposals.

Proposals will have a cover letter on the letterhead of the company or organization submitting the proposal. The cover letter shall briefly summarize the vendor's interest in providing the services specified in the RFP. The cover letter must be signed by a representative who has the legal capacity to enter the organization into a formal contract with the State of Delaware. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the vendor may have taken in presenting the proposal. Furthermore, the transmittal letter must attest to the fact that no activity related to this proposal contract will take place outside of the United States. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

Proposals must include a Table of Contents with page numbers for each of the required components of the proposal. Each proposal must contain a completed copy of the required forms that are attached at the end of the RFP. Each proposal must contain a detailed description of how the vendor(s) will provide each of the services outlined in the RFP. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the vendor(s) will provide that are not mentioned in this RFP.

**3. Proposal Modifications**

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

**4. Proposal Costs and Expenses**

The State of Delaware will not pay any costs incurred by any vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

**5. Proposal Expiration Date**

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through December 31, 2015. Prices are subject to change with written approval by DNREC. The State of Delaware reserves the right to ask for an extension of time if needed.

**6. Late Proposals**

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

**7. Proposal Opening**

The State of Delaware, DNREC-SIRS will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the State of Delaware personnel. Any unopened proposals will be returned to vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

**8. Non-Conforming Proposals**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

Any one or more of the following causes may be considered as sufficient for the disqualification of a vendor and the rejection of his proposal or proposals:

- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among bidders.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- e. If there are any unauthorized additions, interlineations, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.

**9. Concise Proposals**

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective

proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

**10. Realistic Proposals**

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

**11. Confidentiality of Documents**

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

The State of Delaware is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 *Del. C.* § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

## 12. Multi-Vendor Solutions (Joint Ventures)

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the “**prime contractor**”. The “**prime contractor**” must be the joint venture’s contact point for the State of Delaware and be responsible for the joint venture’s performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendor’s systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the State of Delaware, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each vendor.

### a. Primary Vendor

The State of Delaware expects to negotiate and contract with only one “prime vendor”. The State of Delaware will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the State as a result of this procurement. The State will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.16 regarding multiple source contracting.

### b. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any

sub-contractors must be approved by State of Delaware. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

**c. Multiple Proposals**

A primary vendor may not participate in more than one proposal in any form. Sub-contracting vendors may participate in multiple joint venture proposals.

**13. Sub-Contracting**

The vendor selected shall be solely responsible for contractual performance, compliance and management of all subcontract relationships with all terms, conditions and requirements of the RFP and with all local, State and Federal Laws. The vendor shall be liable for any noncompliance by any subcontractor. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

Use of subcontractors must be clearly explained in the specific project proposal, and subcontractors must be identified by name. Every subcontractor shall be identified in the specific project proposal and agreed to in writing by DNREC or as are specifically authorized in writing by DNREC during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of DNREC.

**14. Discrepancies and Omissions**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should a vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

**a. RFP Question and Answer Process**

The State of Delaware, DNREC-SIRS will allow written requests for clarification of the RFP. All questions will be consolidated into

a single set of responses and posted on the State's website at <http://www.dnrec.delaware.gov/Admin/Pages/RFPsAndRFQs.aspx> by 12:00 PM each Friday. Vendors' names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

Question

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

**15. State's Right to Reject Proposals**

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

**16. State's Right to Cancel Solicitation**

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

**17. State's Right to Award Multiple Source Contracting**

Pursuant to 29 *Del. C.* § 6986, the State of Delaware may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

**18. Notification of Withdrawal of Proposal**

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

**19. Revisions to the RFP**

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at <http://www.dnrec.delaware.gov/Admin/Pages/RFPsAndRFQs.aspx>. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

**20. Exceptions to the RFP**

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee.

Vendor(s) may elect to take minor exception to the terms and conditions of this RFP. DNREC will evaluate each exception according to the intent of the terms and conditions contained herein, but DNREC shall reject exceptions that do not conform to State bid law and/or create inequality in the treatment of vendors. Exceptions shall be considered only if they are submitted with the proposal or before the date and time of the proposal opening.

**21. Award of Contract**

The final award of a contract is subject to approval by the State of Delaware. The State shall award this contract to the most responsible and responsive vendor(s) who best meets the terms and conditions of the proposal. The State of Delaware has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

**a. RFP Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the vendor(s) whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the lowest bid of the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award will be based on prior history of service and capability and the guidelines provided in 29 Del. C. §.6981. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the State of Delaware; remaining vendors will be notified in writing of their selection status. Negotiations may be conducted with responsible vendor(s) who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing vendor(s) during the negotiation process.

**C. RFP Evaluation Process**

An evaluation team composed of representatives of the State of Delaware, DNREC will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

Based on the selection criteria the Team shall rank, in order of preference, the applicants deemed to be qualified to perform the required service. Beginning with the qualified firm designated first on the preference list, the Team shall negotiate for professional services at compensations which the Team determines are fair and reasonable. The State reserves the right to reject any or all proposals in whole or in part, multiple awards, partial awards or awards by types, whichever would be the most advantageous to the State. Negotiations may be conducted with responsible vendor(s) who submit proposals found to be reasonably likely to be selected for award. The work performed under the Scope of Work as stated in this RFP will be subject to review by the State.

The State of Delaware, DNREC reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

**1. Proposal Evaluation Team**

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware, DNREC. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. The Team will negotiate with the qualified firm designated 1<sup>st</sup> on the preference list. The Team shall make a recommendation regarding the award to the DNREC-SIRS Environmental Program Administrator, who

shall have final authority, subject to the provisions of this RFP and 29 *Del. C. § 6982*, to award a contract to the successful vendor in the best interests of the State of Delaware.

**2. Proposal Selection Criteria**

The Proposal Evaluation Team shall determine the vendor(s) which meet the minimum requirements pursuant to the Selection Criteria of the RFP. The Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the proposal evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team. For items having quantitative answers, points will be proportionate to each proposal's response. Items with qualitative answers will receive the average of points assigned by the Team members.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one (1) vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C. §6986*. Such selection will be based on the following criteria listed in subsection 2.a., below.

**a. Criteria Weight**

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Points
<p data-bbox="298 386 678 415"><b><u>Experience and Reputation</u></b></p> <p data-bbox="298 420 1071 751">Discuss at least three (3) projects which clearly demonstrate your firm's management and technical experience and capability in the field of providing direct-push drilling services at sites where hazardous substances may be present. It must be in sufficient detail to establish the pertinence of your experience and reputation. No more than five (5) pertinent contracts should be cited in detail to demonstrate your technical experience. Also detail your expertise handling any hazardous substance sites in Delaware.</p> <p data-bbox="298 789 1000 819">The discussion should include the following information:</p> <ul data-bbox="298 856 1029 991" style="list-style-type: none"> <li data-bbox="298 856 769 886">• Title, contract number and client;</li> <li data-bbox="298 890 1029 953">• Brief abstract of work performed under each contract; and</li> <li data-bbox="298 957 773 991">• Total cost at contract completion.</li> </ul>	<p data-bbox="1198 315 1234 344">25</p>
<p data-bbox="298 1404 837 1434"><b><u>Expertise and experience of personnel</u></b></p> <p data-bbox="298 1438 1065 1736">Submit the name, office location and a brief summary of the qualifications and experience of up to three (3) individuals who will actually perform the specified professional services on DNREC projects. The experience summary should address the basis of the person's expertise in the task. An individual may be listed for more than one task, but discuss the expertise separately for each task. Copies of all pertinent licenses and certifications must be included with the proposal.</p> <ul data-bbox="298 1740 1068 1898" style="list-style-type: none"> <li data-bbox="298 1740 1068 1835">• Person(s) responsible for project planning, scheduling, implementation, budget and level of effort estimating, and cost control for DNREC projects.</li> <li data-bbox="298 1839 1068 1898">• Person(s) possessing a Delaware Well Drilling License who will be responsible for drilling, and well installation.</li> </ul>	<p data-bbox="1198 1400 1234 1430">25</p>

Criteria	Points
<ul style="list-style-type: none"> <li>• Person(s) possessing OSHA 29 CFR 1910.120 Certification who will serve as drilling technicians for drilling, and well installation activities.</li> <li>Person(s) responsible for health and safety.</li> <li>•</li> </ul>	
<p>Discuss your firm's types of direct-push equipment, age, specifications, etc.</p>	<b>25</b>
<p><b><u>Geographical locations for field work:</u></b> Discuss your firm's location with respect to the Site Investigation &amp; Restoration Office in New Castle County.</p> <p>Discuss your firm's location with respect to performing site work within any part of the State of Delaware and cost savings measures that may be implemented while conducting field work.</p>	<b>25</b>
<b>Total</b>	<b>100</b>

**3. Proposal Clarification**

The Proposal Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

**4. References**

The Proposal Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

**D. Contract Terms and Conditions**

**1. General Information**

- a. The term of the contract between the successful vendor and the State shall be for 3 years with 2 extensions for a period of 1 year for each extension under the same terms and conditions. Each vendor's contract shall be valid for a three (3) year period from January 1, 2012 through December 31, 2015. Agreement on any optional year must be in writing from both the vendor and DNREC and must be initiated not later than ninety (90) days prior to the termination of the current agreement. Any addenda for specific project proposals entered into during the contract period shall remain valid for the period of time established in the addenda, even if this extends beyond the contract period.
- b. The selected vendor will be required to enter into a written agreement with the State of Delaware. The State of Delaware reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the State of Delaware. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with the State of Delaware, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. The State of Delaware's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations. This contract may be amended, in writing, by mutual agreement of the parties.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance and written State authorization to proceed. The purchase order and written authorization shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.

- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

**2. Collusion or Fraud**

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

**3. Lobbying and Gratuities**

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

**4. Solicitation of State Employees**

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

**5. General Contract Terms**

**a. Independent contractors**

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party, or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the State of Delaware's discretion as to the location of work for the contractual support personnel during the project period. The State of Delaware shall provide working space and sufficient supplies and material to augment the Contractor's services.

**b. Non-Appropriation**

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

**c. Licenses and Permits**

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2502.

Prior to receiving an award, the successful vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or have initiated the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

**d. Notice**

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

**Robert C. Asreen, Jr.  
DNREC-SIRS  
391 Lukens Drive  
New Castle, DE 19720**

**e. Indemnification**

**1. General Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, ole or part, to the State, its employees or agents.

**2. Proprietary Rights Indemnification**

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively ""Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- (a)** Procure the right for the State of Delaware to continue using the Product(s);

- (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- (c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

**f. Insurance**

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney’s fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor’s negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
2. The vendor shall maintain such insurance as will protect against claims under Worker’s Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
3. During the term of this contract, the vendor shall, at its own expense, carry insurance minimum limits as follows:

a.	Commercial General Liability	\$1,000,000
b.	Professional Liability/Misc. Error & Omissions/Product Liability	\$1,000,000/\$3,000,000

If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage’s, secure at its own expense the following coverage:

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

4. The vendor shall provide a certificate of insurance as proof that the vendor has the required insurance before any work is done. Certificates of insurance shall be filed with the State to the following address.

**DNREC-SIRS  
Contract No. #NAT- 11169 DPDS  
391 Lukens Drive  
New Castle, DE 19720**

**g. Performance Requirements**

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes. All of the services required hereunder shall be performed by the Contractor or under his direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.

**h. Compliance with Disadvantaged Business Enterprises in Procurement under EPA Financial Assistance Agreements**

Any potential work conducted under the Pre-Remedial Assessment Site Inspection Grant or other applicable grants must comply with the Environmental Protection Agencies' 40 CFR Parts 33 Section 33.302(c) Participation by Disadvantaged Business Enterprises (DBE) in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements (#EPA-HQ-QA-2002-001). All compliance with the DBE regulations and resulting documentation is the responsibility of the prime contractor and not the State of Delaware, DNREC. A Prime Contractor DBE Compliance Statement must be signed for each project to certify that all regulations have been followed and all provisions documented. A copy of the Prime Contractor DBE Compliance Statement is included within Appendix A.

**i. Warranty**

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

**j. Costs and Payment Schedules**

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the State of Delaware. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The State of Delaware will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The State of Delaware may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

**k. Penalties**

The State of Delaware may include in the final contract penalty provisions for non-performance, such as liquidated damages.

**l. Termination for Cause**

If for any reasons, or through any cause, the vendor fails to fulfil in timely and proper manner his obligations under the contract, or if the vendor violates any of the covenants, agreements or stipulations of the contract, the State of Delaware shall thereupon have the right to terminate the contract by giving written notice to the vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination, In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the vendor under the contract shall, at the option of the State of Delaware, become its property, and the vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to the State of Delaware.

**m. Termination for Convenience**

The State of Delaware may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the vendor under the contract shall, at the option of the State of Delaware, become its property, and the vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to the State of Delaware. If the contract is terminated by the State of Delaware as so provided, the vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the vendor as covered by the contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, the vendor shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the contract) incurred by the

vendor during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

**n. Non-discrimination**

In performing the services subject to this RFP the vendor will agree that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

**o. Covenant against Contingent Fees**

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the vendor for the purpose of securing business. For breach or violation of this warranty the State of Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**p. Vendor Activity**

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

**q. Work Product**

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

**r. Contract Documents**

The RFP, the purchase order, the executed contract and any supplemental documents between the State of Delaware and the successful vendor shall constitute the contract between the State of Delaware and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, Addenda and Scope of Work for specific projects, State of Delaware's RFP, Vendor's response to the RFP, purchase order and any other special instructions. No other documents shall be considered. These documents will constitute the entire agreement between the State of Delaware and the vendor.

**s. Applicable Law**

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- (1) the laws of the State of Delaware;
- (2) the applicable portion of the Federal Civil Rights Act of 1964;
- (3) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- (4) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- (5) that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

**t. Scope of Agreement**

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

**u. Other General Conditions**

- (1) **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- (2) **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer’s latest design. All material and equipment offered shall be new and unused.

- (3) **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
- (4) **Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
- (5) **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance
- (6) **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
- (7) **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
- (8) **Additional Terms and Conditions** – The State of Delaware reserves the right to add terms and conditions during the contract negotiations.

## **E. RFP Miscellaneous Information**

### **1. No Press Releases or Public Disclosure**

Vendors may not release any information about this RFP. The State of Delaware reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of the State of Delaware.

### **2. RFP Reference Library**

The State of Delaware has made every attempt to provide the necessary information within this RFP. The State of Delaware will make the reference library available only to the winning bidders.

### **3. Definitions of Requirements**

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

**4. Production Environment Requirements**

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

## **Appendix A: Forms**

**CONTRACT NO.:** #NAT- 11169 DPDS  
**TITLE:** TASK: Direct-Push Drilling Services  
**OPENING DATE:** October 18, 2011

**NON-COLLUSION STATEMENT**

**This is to certify that the undersigned vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to Department of Natural Resources and Environmental Control.**

It is agreed by the undersigned bidder that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this Invitation to Bid including all specifications and special provisions.

**NOTE:** Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Natural Resources and Environmental Control.

COMPANY NAME \_\_\_\_\_

(Check one)

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

NAME OF AUTHORIZED REPRESENTATIVE  
 (Please type or print)

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

STATE OF DELAWARE \_\_\_\_\_

FEDERAL E.I. NUMBER \_\_\_\_\_ LICENSE NUMBER \_\_\_\_\_

COMPANY CLASSIFICATIONS (Please circle)	Women Business	YES	Minority Business	YES	Disadvantage	YES
	NO		NO		NO Business	
	Enterprise (WBW)		Enterprise (MBE)		Enterprise (DBE)	

The above table is for information and statistical use only)

PURCHASE ORDERS SHOULD BE SENT TO:

COMPANY NAME: \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**THIS PAGE MUST BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED**

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

City of \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_

CONTRACT NO. #NAT- 11169 DPDS  
REQUEST FOR PROPOSAL

**TASK: Direct-Push Drilling Services**

ORGANIZATION FACT SHEET

1. RFP Title: \_\_\_\_\_  
(please use exact title of RFP as issued)
2. Contract #: \_\_\_\_\_
3. Name of Organization: \_\_\_\_\_
4. Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Contact Person: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Address (if different from above): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Project Manager (if different from Contact Person):  
Name: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email: \_\_\_\_\_  
Address: \_\_\_\_\_
7. Date of Incorporation: \_\_\_\_\_  
Tax Status (check one of the following):  
\_\_\_\_\_ Profit \_\_\_\_\_ Other (specify)  
\_\_\_\_\_ Private Non-Profit \_\_\_\_\_
8. Delaware Business License Number: \_\_\_\_\_  
(applies to all bidders except non-profit or State agencies)

If you do not yet have a Delaware Business License, please attach a copy of your application.

CONTRACT NO. #NAT- 11169 DPDS  
REQUEST FOR PROPOSAL

**TASK: Direct-Push Drilling Services**

**ASSURANCE**

PLEASE SIGN THIS AND SUBMIT WITH THE PROPOSAL

The vendor represents and certifies as a part of his offer that:

The organization will maintain records, documents, and other required evidence to adequately reflect the service under contract.

The organization will maintain accurate accounts, books, documents, and other evidentiary, accounting, and fiscal records in accordance with established methods of accounting.

The organization will cooperate with designated program monitors, consultants, or auditors from the Department of Natural Resources and Environmental Control in connection with reviewing the services offered under contract.

The organization will physically secure and safeguard all sensitive and confidential information related to the service given. This includes service activities and case record materials.

The organization will not let subcontracts without prior approval from the contracting Division.

The organization will attempt to obtain all supplies and materials at the lowest practicable cost and to contain its total cost where possible by competitive bidding whenever feasible.

The organization will upon signature of the contract provide written assurance to the Department from its corporate counsel that the organization is qualified to do business in Delaware.

The organization agrees to comply with all terms of Federal Equal Employment Opportunity and Non-Discrimination regulations.

The organization shall comply with the requirements for client confidentiality in accordance with 42 U.S.C. 290 and/or 290 cc-3.

The organization agrees that it is operating as an independent contractor and as such, it agrees to save and hold harmless the State from any liability which may arise as a result of the organization's negligence.

By signing below, bidding contractors certify that:

- 1) They are an established vendor in the services being procured;
- 2) They have the ability to fulfill all requirements specified for development within the RFP and
- 3) They are accurately representing their type of business and affiliations.

CONTRACT NO. #NAT- 11169 DPDS  
REQUEST FOR PROPOSAL

**TASK: Direct-Push Drilling Services**

The following conditions are understood and agreed to:

- 1) The State will have exclusive ownership of all products of this contract unless mutually agreed to in writing at the time of binding contract is executed.

---

Name of Organization's Authorized Administrator

---

Signature of Authorized Administrator

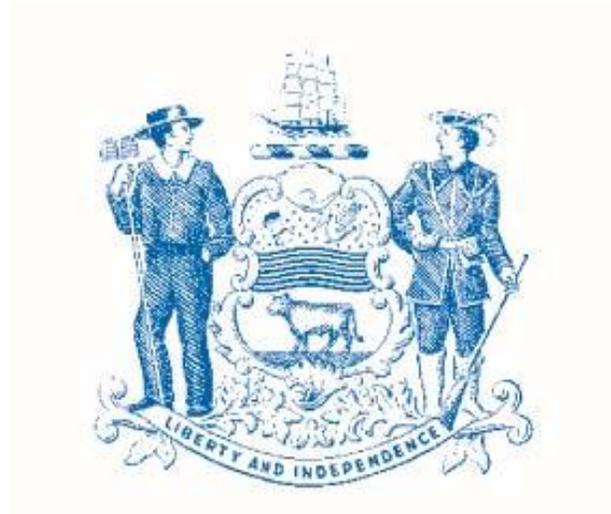
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Date



## **II. State of Delaware**

### **III. Office of Minority and Women Business Enterprise Certification Application**



#### **Complete application and mail to:**

Office of Minority and Women Business Enterprise (OMWBE)  
Haslet Armory  
122 William Penn Street  
Dover, DE 19901  
Telephone: (302)739-4206 Fax: (302)739-1965  
Email: [deomwbe@state.de.us](mailto:deomwbe@state.de.us)  
Website: [www.state.de.us/omwbe](http://www.state.de.us/omwbe)

## **Important Information Please Read!**

### **Is my firm eligible?**

A minority and/or women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Minority groups include: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans.
  - b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
  - c) Serving a for profit business with “useful business functions.”
- An out-of-state company must first **be certified in its home state** before it can be considered for certification in Delaware. This must be a state-level certification, if available.
  - There is no fee for processing your application. In addition, free assistance is available. If you have questions about the application or your company’s qualifications, call (302)739-4206.
  - If your business is certified by **Delaware Department of Transportation (DelDOT) City of Wilmington, Minority Supplier Development Council (MSDC), Women Business Enterprise National Council (WBENC) and located in Delaware**, there is a specialized shortened application. You must also attach a copy of your certification and mail all documents to the OMWBE.
  - Also, please note that it is extremely important to provide other certifying agency documentation. This can expedite the certification process.

(a) Document Request checklist

- Unless otherwise indicated, copies of documents are sufficient.
- **Any deficiency may delay the certification process.**
- **Certification generally takes four to six weeks.**
- **An on-site visit.** *(The OMWBE office may schedule an on-site visit once the completed application and appropriate supporting documentation have been received).*

<b>Documents to attach to your application</b>	<b>Sole Prop</b>	<b>Part/LLP</b>	<b>Corp/S-Corp</b>	<b>LLC</b>	<b>OMWBE Use</b>
Notarized Minority and Women Business Enterprise Affidavit form	Yes	Yes	Yes	Yes	
Copy of birth certificate, permanent resident card, passport or tribal memberships	Yes	Yes	Yes	Yes	
Last two years of your firm's tax returns (gross receipts). If not available, last two years W2 and/or 1099 forms for all owners, directors, officers and senior management.	Yes	Yes	Yes	Yes	
Copy of MBE/WBE certification from home state, if company headquarters are not in Delaware. (must be a state level certification, if available)	Yes	Yes	Yes	Yes	
Copies of any relevant licenses, certificates of training and degrees held by the company or its owners/employees	Yes	Yes	Yes	Yes	
Partnership Agreement, including any amendments, buy-out rights as well as any profit sharing arrangements		Yes			
Articles of Incorporation with all amendments		Yes			
Minutes of the last annual shareholders meeting		Yes			
By-laws and By-law Amendments		Yes			
Copy of most recent Stock Ledger		Yes			
Copy of Certificate of Organization				Yes	
Copy of Operating Agreement				Yes	

## Delaware Minority and/or Women Business Enterprise Certification

### Certification Application

The following is the application for Minority and/or Women Business Enterprise (MWBE) certification with the State of Delaware. All questions must be answered. Please type or print clearly.

### Questions that do not apply to your firm should be marked N/A in the space provided.

The Affidavit on page 14 must be signed and notarized by a Notary Public. Faxed copies of the Affidavit will only be accepted if the notary seal has the stamped seal with the expiration date visible. Otherwise, mail the original Affidavit with the raised seal to our office.

Please return the completed application with signature and required notarization to the address below:

**Office of Minority and Women  
Business Enterprise  
Haslet Armory  
122 William Penn Street  
Dover, DE 19901**

**Phone: (302) 739-4206**

**Fax: (302) 739-1965**

**Web site: [www.state.de.us/omwbe](http://www.state.de.us/omwbe)**

### Definitions

#### Minority and/or Women Business Enterprise

A Minority and Women Business Enterprise is a business that is at least 51 percent owned, controlled and actively managed by minority and/or women group members who are United States citizens or persons lawfully admitted to the United States for permanent residence.

The business must be a for-profit business and currently be performing a useful function.

**Minorities** – United States citizens or permanent residents who are African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, Subcontinent Asian Americans, or as defined herein:

**African (Black) Americans.** All persons having origins from any of the Black groups of Africa and all persons having origins in any of the original peoples of the Cape Verde Islands.

**Asian/Pacific Americans.** All persons having origins from any of the original peoples of the Far East, Asia, or the Pacific Islands, including China, Japan, Korea, Samoa, Philippine Islands, and Hawaii. Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas.

**Hispanic Americans.** Persons having origins from any of the Spanish-speaking peoples of México, Puerto Rico, Cuba, Central or South America, or the Caribbean Islands.

**Native Americans.** All persons having origins from the original peoples of North America and who are recognized as Native Americans by a tribe or tribal organization.

**Subcontinent Asian Americans.** All persons whose ancestors originated in India, Pakistan or Bangladesh.

**Certification** - A determination by the OMWBE that a for-profit business entity is a Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE).

## Definitions

### Ownership

The minority or woman ownership interest in the firm must be real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. The minority and women owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interest as demonstrated both by an examination of the substance and form of arrangements.

### Control

Control will be exemplified by possession of the requisite knowledge and expertise to run the particular business. Control includes the authority to determine the direction of a business, including but not limited to capital investments and all other financial transactions; property acquisitions; day-to-day decisions; contract negotiations; legal matters; selection and hiring of officers, directors, and employees; operating responsibility; cost-control; income and dividend matters; and the rights of other shareholders or partners.

The minority and/or women owners must hold the highest officer position in their companies, example chief executive officer or president.

The minority and/or women must demonstrate that they possess the experience, expertise and knowledge to operate their particular types of business.

Expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the company is insufficient to demonstrate control. Women and/or minority owners must also verify that they hold any licenses or certification required by the type of business in which they are engaged.

## Definitions

**Minority Business Enterprise (MBE)** - A for profit business in which at least 51% of the beneficial ownership interest and control are held by a minority or minorities. In the case of a corporation, minorities must hold at least 51% of voting interest.

**Minority & Women Business Enterprise (MWBE)** - A for-profit business in which at least 51% of beneficial interest and control is held by minority women or by an equal combination of minorities and women. In the case of a corporation, women and minorities must also hold at least 51% of voting interest.

**Women Business Enterprise (WBE)** - A for-profit business in which at least 51% of beneficial interest and control is held by women. In the case of a corporation, women must also hold at least 51% of the voting interest.

### Useful Business Function

A useful business function is one, which results in the provision of materials, supplies, equipment or services to consumers in the State. A business acting as a conduit to transfer funds to a non-minority business does not constitute a useful business function unless doing so is a normal industry practice.

### Benefits of Certification

Current certified minority and/or women owned firms are eligible to be listed in the State of Delaware Directory of Minority and Women Owned Businesses which is circulated to all state and local government agencies.

### Recertification

At the ends of three years from original certification date, firms must submit the recertification affidavit to remain actively visible in the State of Delaware's Minority and/or Women Business Enterprise database.

## Eligibility

A minority and women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Belong to a minority group: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans. *(Please reference above definitions)*
- b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
- c) Serving a for profit business with "useful business functions." *(Please reference above definitions)*

**Reasons for denial** *(please note the below may include but not be limited to)*

- a) A business located in a state other than Delaware must first obtain state-level certification in its home state, if such certification is available. "Home state" is defined as the state the company's headquarters are located.
- b) All securities, which constitute ownership and/or control of a corporation for the purpose of establishing it as a MWBE, must be held directly by minorities or women. No securities held in trust, or by a guardian for a minor, shall be considered as held by a minority or women in determining the ownership or control of a corporation.
- c) If the business operations do not reflect the ownership shown on paper.

- d) Firm is not a for-profit business
- e) Firm has provided false or misleading information
- f) Control will not be deemed to exist in cases of simple majority or absentee ownership, or when a non-minority/non-female owner or employee of the firm is disproportionately responsible for its operation.
- g) The firm shall not be subject to any formal or informal restrictions through, for example through, by-laws provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevents the minority and women owners, without the cooperation or vote of any owner who is not a minority or women for making a business decision of the firm.
- h) If the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities and shall not be considered as MWBE within the meaning of the definition. Where the actual management of the firm is contracted out to individuals other than the owner, those person who have the ultimate power to hire and fire the managers, can, for the purpose of this
- i) The certification application was submitted incomplete.

## How to Apply

- Applications and additional information are available by calling the Office of Minority and Women Business Enterprise at (302) 739-4206 or visiting the web site [www.state.de.us/omwbe](http://www.state.de.us/omwbe)
- Complete an application for certification and provide required documentation (ethnic status of minority owner(s), financial records, on-going business activity, etc.)
- Provide access to its business facilities and key personnel for state certification on-site visit.

## WHERE TO APPLY:

Submit completed applications to:  
Office of Minority and Women Business  
Enterprise  
Haslet Armory  
122 William Penn Street  
Dover, DE 19901

## Frequently Asked Questions

Q: Does certification cost money?

A: No

Q: Are there any set asides for MWBEs?

A: No

Q: Does my certification expire?

A: At the end of three years from original certification date.

Q: Will I be notified of all procurement opportunities?

A: No, however, the OMWBE will continue to research bid opportunities and assist in your effort. We are consistently working on ways to improve communication but strongly encourage you to visit the respective resources.

Q: What is the best way to communicate with the OMWBE?

A: Email. Please check your email daily for procurement opportunities.

Q: Do I have to register with any other agency?

A: Yes. There are multiple agencies that have their own bidders list. Please check OMWBE's web site for each respective agency. For example, Government Support Services and the Department of Technology and Information have vendor registration processes.

State of Delaware Minority and/or Women Business Enterprise Application  
*All completed applications must be returned with the appropriate requested documents listed.*

**Please type or print clearly**

OMWBE use only: Application Date:

Mail application to:  
 Office of Women and Minority Business Enterprise  
 Haslet Armory  
 122 William Penn Street  
 Dover, DE 19901

If you have any questions regarding the completion of this application, please contact us at (302) 739-4206.

**Note – This section must be filled out in its entirety for the application to be processed.  
 Incomplete applications will not be processed.**

<b>1. Business Name(s), Contact Information, Federal Employee Identification Number or Social Security Number(EIN/SSN)</b>			
Legal Name of Firm:			
Doing Business As (If applicable):			
Federal E.IN or SSN:		E-Mail Address:	
Address line 1:			
Address line 2:			
City		State	Zip Code
Country			
Telephone Number:		Extension:	Fax Number:
Company Web Site Address:			
Corp <input type="checkbox"/>	LLC* <input type="checkbox"/>	S Corp <input type="checkbox"/>	Partnership <input type="checkbox"/>
LLP** <input type="checkbox"/>	Sole Proprietor <input type="checkbox"/>	Joint Venture <input type="checkbox"/>	
Date firm was established?			
Date firm began doing business (date of first contract or sale)			

\* Limited Liability Corporation

\*\* Limited Liability Partnership

<b>2. Primary owner applicant information</b>				
Name:		Title:		
Home Address:		City:	State:	Zip Code: Country:
Telephone Number:		Extension:	Fax Number:	
E-Mail Address:				
Date owner acquired controlling interest?				
Sex: <input type="checkbox"/> M <input type="checkbox"/> F		Ethnic Group:		
U.S. Citizen or Permanent Resident: <input type="checkbox"/> No <input type="checkbox"/> Yes				

<b>3. Firm is applying as:</b>			
<b>Minority Business Enterprise</b>		<b>Women Business Enterprise</b>	
<input type="checkbox"/> African American	<input type="checkbox"/> Asian American	<input type="checkbox"/> African American	<input type="checkbox"/> Asian American
<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American	<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American
<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> Other	<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> White American
		<input type="checkbox"/> Other	

<b>4. Describe, in detail, what product(s) and/or services your business provides. Attach additional pages and/or the company's catalog or inventory list, if needed.</b>					
<b>5. Five digit North American Industry Classification System (NAICS) Code(s): (To assist you in determining your NAICS Code(s) go to <a href="http://www.census.gov/naics">www.census.gov/naics</a>)</b>					
1.	2.	3.	4.	5.	6.

<b>6. Type of Business</b>		
<input type="checkbox"/> Building trade	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Other
<input type="checkbox"/> Consultant	<input type="checkbox"/> Supplier	
<input type="checkbox"/> Generalized service	<input type="checkbox"/> Highway Construction	
<input type="checkbox"/> Licensed professional services		

<b>7. Provide the following information for: 1) all business owners, 2) corporate directors (if incorporated), 3) officers, and 4) senior management. If more space is needed, attach additional pages.</b>				
Name	Title	Date Appointed	Gender	Ethnicity
<b>Officers of the Company</b>				
<b>Board of Directors</b>				

**8. Is any owner or board member of the business, an owner or former owner of another firm engaged in the same or similar type of enterprise?**

No                       Yes (If yes, identity below)

**9. Are there any written, oral, or implied agreements between persons associated in any manner with the firm concerning its ownership and/or operation? (check one)**  No

Yes

**10. Please list the gross receipts of last two years**

(A) Year Ending:	Gross Receipts:
(B) Year Ending:	Gross Receipts:

**11. Number of employees**

Full time:

Part time:

Seasonal (approximate):

**12. List names and titles of persons who perform the following functions. If more than one, indicate what percent each person handles.**

	Name	Ethnicity	Gender
Financial Decisions			
Estimating & Bidding			
Negotiating & Contract Execution			
Personnel Management			
Field/Production Operations Supervisor			
Office Management			
Marketing/Sales			
Purchasing of Major Equipment			
Authorized to Sign Company Checks (for any purpose)			



**16. Has this firm or other firm(s) owned by any of its current owners or officers ever been denied certification by the OMWBE or any other certifying entity (check one)?**  No;  Yes (If yes, provide the name of the certifying organization and the reason(s) given for denial, below. Attach copies of any relevant documents (letters, appeal documents, etc.).

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**17. Debarment**

**Is this company, or any other company owned in full or part by any of this company's owners and/or officers, currently debarred from doing business with the State of Delaware?**  No;  Yes.

**18. Is the Business certified as a M/W/BE with any other certifying agency? If yes, provide the name(s) of the certifying organization(s), below, and attach letters or other documents verifying such certification.**

No  Yes

Name	Date Certified	Expiration Date
a.		
b.		
c.		
d.		
e.		
f.		

**19. How did you hear about the Office of Minority and Women Business Enterprise:**

- |  |   |
|--|---|
| <input type="checkbox"/> OMWBE staff speak at an event sponsored by another organization | <input type="checkbox"/> OMWBE staff at a trade show or expo    |
| <input type="checkbox"/> OMWBE's web site  | <input type="checkbox"/> Materials published by OMWBE           |
| <input type="checkbox"/> Referred by another organization                                | <input type="checkbox"/> Referred by the owner of an MBE or WBE |
| <input type="checkbox"/> Delaware state employee   | <input type="checkbox"/> Other, please explain briefly:         |

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## Optional Questions

You are not required to answer the following questions and the answers will not affect your company's eligibility for certification. However, the answers will help OMWBE to identify business opportunities that may be suited to your company. Answers may be estimated; exact figures aren't necessary.

<b>For all companies</b>
How many years has your company been conducting business with you as owner?
How many contracts, subcontracts, and/or sales has your company completed during the last 12 months?
What is the largest contract, subcontract, or sale your company completed in the past 24 months?
Has your company done any business with government? <input type="checkbox"/> No; <input type="checkbox"/> Yes
If yes, what level of government (check all that apply): <input type="checkbox"/> Federal; <input type="checkbox"/> State; <input type="checkbox"/> Local
Has your company done any business with government in the State of Delaware? <input type="checkbox"/> No; <input type="checkbox"/> Yes
Number of government contracts, subcontracts, or sales completed (estimate):
<b>For Construction-Related Companies Only (not including suppliers of construction materials)</b>
What is your company's bonding capacity? \$ _____ (indicate "unknown" if you do not know)
What % of your business is direct contracting?
What % of your business is subcontracting?

Updated 1/07

**b) State of Delaware Minority and/or Women Business Enterprise Affidavit**

Hereafter, "the Business" refers to

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Business Name

I understand the illegal nature of receiving public or private funds or other property as a consequence of false representation as to the minority status of the business and do herein certify under penalty imposed by Delaware statutes that the information provided is correct and said information herein may be used for the purposes of certifying the business as a Minority and/or Women Business Enterprise. Any false representation will be grounds for denying certification or initiating decertification in the future.

I agree to make available for inspection to the MWBE office any such materials that may be required to substantiate the degree of minority and women ownership and control of the business. I agree to arrange for on-site inspections of the business' facilities in order to verify information provided in this document.

I agree to provide written information relative to any future change in ownership and/or management of the business to the MWBE office within two weeks of the occurrence of the change. I acknowledge that failure to timely submit required change of status documentation might result in the decertification of the business.

I understand that the certification expiration is three years following the initial date of certification. I further understand that the business must apply for recertification prior to the expiration.

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Type or Print Name of Owner

---

Signature of Owner  
Date

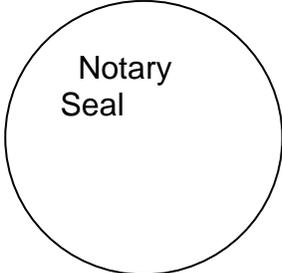
---

Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ a.d.

Month, Year

Signed \_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE



County of \_\_\_\_\_

State \_\_\_\_\_

My Commission Expires \_\_\_\_\_  
Date

State of Delaware  
Department of Natural Resources and Environmental Control

**PRIME CONTRACTOR DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
COMPLIANCE STATEMENT**

COMPANY NAME: \_\_\_\_\_

CONTRACT NAME: \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

SITE NAME/SITE ID: \_\_\_\_\_

As the duly authorized representative for the above named company, I certify that the six good faith efforts have been performed in conformance with DBE regulations found in 40 CFR, Section 33.301. All efforts have been properly documented and such documentation is subject to audit by review by the US Environmental Protection Agency or the State of Delaware Department of Natural Resources and Environmental Control to further ensure compliance. I understand that by signing this statement that the DBE regulations 40 CFR, Section 33.105 include compliance and enforcement provisions to which the grant recipient and sub-recipients are subject. I understand signing this statement that the DBE regulations 40 CFR, Section 33.302 include additional contract administrative requirements that I must comply with (Attachment A).

As a prime contractor for the Department of Natural Resources and Environmental Control on this project, I shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. I shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. I understand that failure to do so is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

\_\_\_\_\_  
Signature of Duly Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Duly Authorized Representative

## Attachment A

### **Other Administrative Requirements Found in 40 CFR Section 33.302**

- a) Prime contractors must pay their subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient.
- (b) Prime contractors must notify the State of Delaware DNREC prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (c) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts described in §33.301 if soliciting a replacement subcontractor.
- (d) Prime contractors must employ the six good faith efforts described in §33.301 even if the prime contractor has achieved its fair share objectives under subpart D of this part.
- (e) Prime contractors must provide EPA Form 6100-2—DBE Program Subcontractor Participation Form to all of its DBE subcontractors. EPA Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have, for example reasons why the DBE subcontractor believes it was terminated by the prime contractor. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to Ms. Ramona McQueen, EPA Region 3, 1650 Arch Street (3PM00), Philadelphia PA.19103-2029.
- (f) Prime contractors must have DBE subcontractors complete EPA Form 6100-3—DBE Program Subcontractor Performance Form and include this form as part of the prime contractor's bid or proposal package if a DBE subcontractor is selected by the prime contractor.
- (g) Prime contractors must complete and submit EPA Form 6100-4—DBE Program Subcontractor Utilization Form as part of the prime contractor's proposal package if a DBE subcontractor is selected or submit this information to DNREC.
- (h) Copies of EPA Form 6100-2—DBE Program Subcontractor Participation Form, EPA Form 6100-3—DBE Program Subcontractor Performance Form and EPA Form 6100-4—DBE Program Subcontractor Utilization Form may be obtained from EPA OSDBU's Home Page ([www.epa.gov/osbp/dbe\\_forms.htm](http://www.epa.gov/osbp/dbe_forms.htm)) on the Internet or directly from EPA OSDBU (202-566-2933).
- (i) Prime contractors must include the statement, "I shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. I shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. I understand that failure to do so is a material breach of this contract which may result in the termination of this contract or other legally available remedies." in all subcontracting requests for proposals.

## **Delaware Department of Natural Resources and Environmental Control Disadvantaged Business Enterprise Guidance**

### **What is the purpose of the six good faith efforts?**

The six good faith efforts are methods used by EPA grant recipients to ensure that disadvantaged business enterprises (DBE's) have the opportunity to compete for procurements supported by federal grant dollars.

### **What are the six good faith efforts?**

- Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the SBA, Minority Business Development Agency of the Department of Commerce, and State of Delaware Office of Minority and Women Business Enterprise.
- If the prime contractor awards subcontracts, require the prime contractor to take the 6 steps listed above.

### **What are the New Contract Administration Requirements?**

There are a number of new provisions designed to prevent unfair practices that adversely affect DBEs. Those provisions are as follows:

- A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor’s receipt of payment from the recipient.
- A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six good faith efforts if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

**What Are the New Forms Associated With the New Contract Administration Provisions?**

- EPA Form 6100-2 - DBE Program Subcontractor Participation Form. This form gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have. Prime contractor must supply to subcontractors.
- EPA Form 6100-3 - DBE Program Subcontractor Performance Form. This form captures an intended subcontractor’s description of work to be performed for the prime contractor and the price of the work submitted to the prime. This form must be included in prime contractors project specific proposal and must be supplied to the subcontractor.
- EPA Form 6100-4 – DBE Program Subcontractor Utilization Form. This form captures the prime’s intended use of an identified DBE subcontractor, and the estimated dollar amount of the subcontract. This form must be included in prime contractors’ project specific proposal, if a DBE subcontractor is selected.

Form	Requirement	Form provided by:	Form completed by:	Form submitted to:
EPA Form 6100-2	Prime contractors must provide form to Subcontractors. Completion and submission to EPA is optional	Prime Contractor	DBE Subcontractors	EPA Region 3 DBE Coordinator, Ms. Ramona McQueen by the DBE Subcontractors.
EPA Form 6100-3	Prime contractors must provide form to Subcontractors.	Prime Contractor	DBE Subcontractors	Prime Contractor by DBE Subcontractors. Included in the project specific proposal submitted to DNREC
EPA Form 6100-4	DNREC provides form to Prime Contractors	DNREC	Prime Contractors	DNREC in the project specific proposal submitted by Prime Contractor only if a DBE subcontractor is selected

**How do you develop a solicitation list of MBE/WBE/DBE Contractors?**

Delaware's Office of Minority and Women Business Enterprise maintains a website that contains information on MBE/WBE firms that have been certified in Delaware.

<http://omwbe.delaware.gov/certdir.asp>. This database is searchable by North American Industry Classification System.

**What information must be retained on the solicitation lists that the prime contractor develops during the bid process?**

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and email address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as an MBE/WBE or non-MBE/WBE.

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