

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES**  
**Delaware Wildlife Action Plan Review and Revision**  
**ISSUED BY**  
**Delaware Division of Fish and Wildlife**  
**Department of Natural Resources and Environmental Control**  
**CONTRACT NUMBER: NAT-13001-DEWAP**

**I. OVERVIEW**

The State of Delaware Department of Natural Resources and Environmental Control (“DNREC”), Division of Fish and Wildlife (“Division”), seeks the assistance of a Professional Conservation Planner, Biologist or team of professionals with relevant experience necessary to conduct and complete the review and revision of the Delaware Wildlife Action Plan<sup>1</sup> (“DEWAP”) – the State’s comprehensive conservation strategy for wildlife and habitats.

The selected professional services CONTRACTOR will coordinate and facilitate the review and revision process and will produce a complete and final updated version of the DEWAP by August 15, 2015. The Division will form a “DEWAP Review and Revision Oversight Team” comprised of agency leadership / management staff who will advise the selected CONTRACTOR to ensure agency guidance on the approach, methods and products. Division subject matter experts, including managers, scientists, planners and other specialists, will assist the CONTRACTOR in the process, but the CONTRACTOR will also convene external subject matter experts into working groups that will offer technical input in the review and revision process. The CONTRACTOR will also convene a stakeholder working group to offer input and ensure a process of broad public participation at key stages in the review and revision process.

As background, Congress has required that all States commit to reviewing and revising their Wildlife Action Plans. Delaware’s first Wildlife Action Plan was completed in 2007, and the review and revision of the current DEWAP must be completed in 2015. The entire Action Plan must be examined and all of the original “Eight Required Elements”<sup>2</sup> must be reviewed and revised accordingly. In addition, climate change, sea-level rise, and regional and national state wildlife action plan information will also be considered in the DEWAP review and revision process. The Eight Required Elements, as commonly known nationally, are listed here and are more specifically described below this numbered list of eight elements:

- (1) Information on the distribution and abundance of species of wildlife, including low and declining populations as the state fish and wildlife agency deems appropriate, that are indicative of the diversity and health of the state’s wildlife; and,
- (2) Descriptions of extent and condition of habitats and community types essential to conservation of species identified in (1); and,

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<sup>1</sup> <http://www.dnrec.delaware.gov/fw/dwap/Pages/default.aspx>

<sup>2</sup> [http://www.wildlifeactionplan.org/pdfs/eight\\_elements\\_handout.pdf](http://www.wildlifeactionplan.org/pdfs/eight_elements_handout.pdf)

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- (3) Descriptions of problems which may adversely affect species identified in (1) or their habitats, and priority research and survey efforts needed to identify factors which may assist in restoration and improved conservation of these species and habitats; and,
- (4) Descriptions of conservation actions proposed to conserve the identified species and habitats and priorities for implementing such actions; and,
- (5) Proposed plans for monitoring species identified in (1) and their habitats, for monitoring the effectiveness of the conservation actions proposed in (4), and for adapting these conservation actions to respond appropriately to new information or changing conditions; and,
- (6) Descriptions of procedures to review the plan at intervals not to exceed ten years; and,
- (7) Plans for coordinating the development, implementation, review, and revision of the plan with federal, state, and local agencies and Indian tribes that manage significant land and water areas within the state or administer programs that significantly affect the conservation of identified species and habitats.
- (8) Broad public participation is an essential element of developing and implementing these plans, the projects that are carried out while these plans are developed, and the species in greatest need of conservation.

For the purposes of the DEWAP review and revision process, the following Delaware-specific details and expected outcomes for each of the Eight Required Elements are described here:

**Species of Greatest Conservation Need (Element 1):** For Delaware, Species of Greatest Conservation Need (SGCN) are defined as those species indicative of the diversity and health of the State's wildlife resources. Some SGCN may be rare or declining, others may be vital components of certain habitats, and others may have a significant portion of their population in Delaware. The first edition of the DEWAP identified 450 SGCN. Delaware's list of SGCNs are divided into two tiers based on several criteria. Updated information available on the status and distribution of species within the state will be evaluated to ensure appropriate baseline data are considered before additional analyses are conducted to determine whether changes to the list of SGCN are warranted. Taxonomic experts familiar with these species in Delaware will be convened in working groups to perform review of data, participate and advise in analysis and review final products. The criteria and tiered system will also be evaluated to determine whether changes are needed. In addition to factors and criteria currently used to evaluate SGCN status, climate change and sea-level rise impacts will also be considered in the review and revision of SGCN.

**Habitats of Conservation Concern (Element 2):** For Delaware, Habitats of Conservation Concern (HCC) are habitats that are rare, unique or serve a function in supporting SGCN. More than 50 Habitats of Conservation Concern (HCC) were identified in the first edition of the DEWAP. The existing DEWAP habitat classification, including those habitats identified as HCC, will be updated and cross referenced to the Delaware Vegetation Classification and the Northeast Habitat Classification. SGCN will be cross-referenced to HCC. As with SGCN,

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experts familiar with habitats in Delaware will be consulted during the review of data, and to participate and advise in analysis and review of final products. In addition to factors and criteria currently used to evaluate habitat condition, climate change and sea-level rise impacts will also be considered.

**Conservation Issues and Actions** (Element 3 and 4): Issues and actions affecting Delaware’s SGCN and HCC will be reviewed and assessed for relative important and urgency in response, and to identify new or emerging issues and actions. Climate change and sea-level rise impacts will be incorporated into review and revision of conservation issues and actions. A Standard Lexicon for Biodiversity Conservation: Unified Classifications of Threats and Actions<sup>3</sup> will be used to organize and maintain consistency with the first edition of the DEWAP. “Lexicon” refers to a common language used to label or classify threats and actions. Using a common language among jurisdictions supports more efficient and effective conservation regionally or nationally. Additional details specific to describing threats (i.e., conservation issues) and actions in Delaware will be used to modify or clarify the standard lexicon to ensure relevance and meaning to Delaware’s local conservation partners, stakeholders and the general public.

**Monitoring** (Element 5): Plans will be developed for monitoring SGCN and HCC, for monitoring the effectiveness of the conservation actions proposed, and for adapting these conservation actions to respond appropriately to new information or changing conditions. Proposed monitoring plans will consider existing and emerging regional and national monitoring frameworks and methods that will increase scientific consistency and efficiency over a broad geographic area.

**Plan Review and Update Schedule** (Element 6): Though the plan must be comprehensively reviewed every ten years, a more frequent and scaled-back process for review and revision will be determined to ensure emerging issues can be efficiently addressed between 10-year major review periods.

**Partners and Broad Public Participation** (Element 7 and 8): Federal, state and local agencies as well as academic and conservation partners will be involved in the review and revision process as technical subject matter experts or advising stakeholders. Other public and private stakeholders as well as general public will be invited to participate in the review and revision process at key stages.

**Regional and National Coordination:** Though not explicitly one of the Eight Required Elements, national and regional coordination will be essential for effective conservation collaboration across the geographic range of species or habitats. The Association of Fish and Wildlife Agencies (AFWA) has developed national-level guidance for review, revision and implementation of State Wildlife Action Plans (SWAP); this document is titled “Best Practices for SWAPs.”<sup>4</sup> In addition, AFWA has also published “Voluntary Guidance for States to Incorporate Climate Change into SWAP & Other Management Plans.”<sup>5</sup> The Northeast

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<sup>3</sup> <http://www.conservationmeasures.org/>

<sup>4</sup> <http://www.fishwildlife.org/files/SWAPBestPractices.pdf>

<sup>5</sup> [http://www.fishwildlife.org/files/AFWA-Voluntary-Guidance-Incorporating-Climate-Change\\_SWAP.pdf](http://www.fishwildlife.org/files/AFWA-Voluntary-Guidance-Incorporating-Climate-Change_SWAP.pdf)

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Association of Fish and Wildlife Agencies is also currently developing regional-level information that will be incorporated into the DEWAP review and revision process as appropriate (e.g., Northeast SWAP Synthesis Project and Northeast SWAP Database Framework). In addition, relevant projects and associated information and data developed through the Northeast Regional Conservation Needs Grant Program<sup>6</sup> and other regional and national SWAP analyses and guidance will also be considered during the review and revision process.

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: June 14, 2013
Deadline for Questions	Date: July 1, 2013
Response to Questions Posted by:	Date: July 8, 2013
Deadline for Receipt of Proposals	Date: July 31, 2013 at 1:00 PM (Local Time)
Estimated Notification of Award	Date: August 15, 2013

Each proposal must be accompanied by a transmittal letter which briefly summarizes the applicant’s interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 3). 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.

**II. SCOPE OF SERVICES**

The following is a brief description of the services that are included in the scope of work for this RFP. The submitted proposal shall reflect the organization’s ability to perform these tasks. Applicants shall evaluate the current version of the DEWAP (2007)<sup>7</sup> to assist in describing how the tasks below will be accomplished. DNREC intends to award contract(s) to the most qualified CONTRACTOR.

The selected contractor will be responsible for all aspects of coordinating and facilitating the DEWAP review and revision process, and producing and delivering to the Division a complete and final updated version of the DEWAP by August 15, 2015. In

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<sup>6</sup> <http://rcngrants.org/>

<sup>7</sup> <http://www.dnrec.delaware.gov/fw/dwap/Pages/default.aspx>

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consideration of this and the *Overview* information provided above, the selected contractor will, in coordination with the Division:

- A. Develop and facilitate a comprehensive approach to reviewing and revising the DEWAP, according to the Eight Required Elements and in consideration of climate change and sea-level rise factors as well regional and national SWAP initiatives as appropriate.
- B. Convene, organize, coordinate logistics, and facilitate meetings, workshops and other work of the Division Oversight Team, Division scientists, managers and other specialists, technical working groups, stakeholders and the broad public.
  - 1) Technical working groups will be comprised of internal and external subject matter experts including wildlife and fisheries scientists, habitat managers, restoration specialists, education, outreach and volunteer specialists, enforcement agents and others as identified in coordination with the Division.
  - 2) Participation in technical work groups and stakeholders will include (at least) representatives from federal, state, and local agencies, universities, non-governmental organizations, and private-sector interests, where appropriate.
  - 3) Frequency of meetings will be driven by work load identified by applicant's proposed methods, analyses and overall process negotiated with the selected contractor.
- C. Compile, synthesize and provide, in coordination with the Division, all necessary data and information (e.g., including figures, tables, maps, outlines, reports, draft DEWAP elements) for individuals, work groups, and others assisting with the review and revision process, and for stakeholder and public meetings and workshops.
- D. Facilitate and carry-out analyses as guided by advisory and working groups.
- E. Develop a relational database that supports queries of species, habitats, issues and actions and supports tracking DEWAP implementation.
- F. Develop GIS spatial data to represent species and habitats using existing data sources and models (e.g., Natural Heritage elements including original DEWAP SGCN layers, original DEWAP HCC layer, vegetation communities, "Delaware Ecological Network"<sup>8</sup>); development of any new data representing species or habitats will be considered by the Division's DEWAP Oversight Team only after existing spatial data has been deemed insufficient and as time and project budget allow.
- G. Collect, design, prepare and manage digital and print materials used to support review and revision process.
- H. Assist the Division in tracking in-kind match (non-federal) from eligible review and revision participants.
- I. Produce the second edition of the DEWAP, including an Executive Summary, in print and digital media formats. Printed version of the DEWAP may be limited to a

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<sup>8</sup> [http://www.journalconsplanning.org/2007/Volume3/JCP\\_V3\\_Weber.pdf](http://www.journalconsplanning.org/2007/Volume3/JCP_V3_Weber.pdf)

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comprehensive Executive Summary of key findings, in text, table and graphic format, whereas full version DEWAP may be delivered in digital Adobe PDF, relational database and GIS spatial files. Delivery of final products is due to the Division by August 15, 2015.

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**III. REQUIRED INFORMATION**

CONTRACTOR proposals must clearly describe their approach to the above Scope of Services requested, including a description of the CONTRACTOR's experience creating, reviewing or revising State Wildlife Action Plans, as well as technical experience and qualifications of the persons, including any subcontractors, assigned to the project including experience with biological or ecological data analysis in a conservation planning context, relational database development, spatial data development, meeting and workshop facilitation for technical and general public audiences, writing at both technical and general audience levels, publication design, and web-content development.

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. See also page 16, Section IV "C. Proposal Evaluation Process".

**A. *Minimum Requirements***

1. Provide Delaware license(s) or certification(s) necessary to perform services as identified in the scope of work.

Prior to receiving an award, the successful CONTRACTOR shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required.

2. CONTRACTOR shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFP.
4. Insurance including Professional Liability Insurance:

Provide evidence of professional liability insurance in the amount of \$1,000,000.00/\$3,000,000.00.

Proof of insurance and amount of insurance shall be furnished to the Agency and shall be no less than as identified in the bid solicitation.

5. Provide response to Employing Delawareans Report (Attachment 9).

**B. *General Evaluation Requirements***

1. Experience and Reputation;
2. Expertise;

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3. Capacity to fulfill Scope of Services including how work will be distributed among individuals, and subcontractors if applicable;
4. Distribution of work to individuals and subcontractors, if applicable;
5. Location (geographical); and
6. Budget

**IV. PROFESSIONAL SERVICES RFP ADMINISTRATIVE INFORMATION**

**A. *RFP Issuance***

**1. Obtaining Copies of the RFP**

This RFP is available in electronic form through the State of Delaware Procurement website at [www.bids.delaware.gov](http://www.bids.delaware.gov). 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 CONTRACTORS with a Disability**

CONTRACTORS 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. 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 CONTRACTOR. CONTRACTORS should rely only on written statements issued by the RFP designated contact.

**Rob Hossler**

Wildlife Program Manager – Species Conservation and Research

Delaware Division of Fish and Wildlife

6180 Hay Point Landing Road

Smyrna, DE 19977

Phone: (302) 735-3602

Fax: (302) 653-6755

Email: [Robert.Hossler@state.de.us](mailto:Robert.Hossler@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.

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**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 CONTRACTORS' responses. Bidders 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 or official designee regarding this RFP is expressly prohibited without prior consent. CONTRACTORS 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 CONTRACTOR 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.

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**B. RFP Submissions**

**1. Acknowledgement of Understanding of Terms**

By submitting a bid, each CONTRACTOR 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 three (3) paper copies and one (1) electronic copy on CD or USB memory stick.

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than **1:00 PM (Local Time) on July 31, 2013**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand to:

**Delaware Division of Fish and Wildlife  
ATTN: Karen Kennedy  
89 Kings Highway  
Dover, Delaware 19901**

***Any proposal submitted by U.S. Mail shall be sent by either certified or registered mail.*** Proposals must be received at the above address no later than **1:00 PM (Local Time) on July 31, 2013**. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing CONTRACTOR 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 CONTRACTOR proposals, each CONTRACTOR 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 CONTRACTORs from any obligation in respect to 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 CONTRACTOR associated with any aspect of responding to this solicitation, including proposal

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preparation, printing or delivery, attendance at CONTRACTOR'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 January 31, 2014. 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, CONTRACTOR 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 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 CONTRACTOR.

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

**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 CONTRACTORS 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,

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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 CONTRACTOR'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 CONTRACTOR's proposal will be deemed confidential during the evaluation process. CONTRACTOR 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 CONTRACTOR's information to a competing CONTRACTOR 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. CONTRACTOR(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.

CONTRACTOR(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 CONTRACTOR 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. CONTRACTOR(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 CONTRACTOR'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-CONTRACTOR Solutions (Joint Ventures)**

Multi-CONTRACTOR solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "prime contractor". The "prime contractor"

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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 CONTRACTOR'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 CONTRACTOR of responsibility for the professional and technical accuracy and adequacy of the work. Further, CONTRACTOR 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-CONTRACTOR 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 CONTRACTOR.

**a. Primary CONTRACTOR**

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

Any contract that may result from this RFP shall specify that the prime CONTRACTOR 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 CONTRACTOR. Payments to any subcontractors are the sole responsibility of the prime CONTRACTOR (awarded CONTRACTOR).

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 CONTRACTOR selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, CONTRACTORs 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 CONTRACTOR shall be wholly responsible for the entire contract performance whether or not**

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**subcontractors are used.** Any sub-contractors must be approved by State of Delaware.

**c. Multiple Proposals**

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

**13. Sub-Contracting**

The CONTRACTOR selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, CONTRACTORS 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 subcontractors must be identified by name. Any sub-contractors must be approved by State of Delaware.

**14. Discrepancies and Omissions**

CONTRACTOR 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 CONTRACTOR. Should CONTRACTOR find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, CONTRACTOR 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 CONTRACTOR'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, at least ten (10) calendar days prior to the time set for opening of the proposals.

**a. RFP Question and Answer Process**

The State of Delaware 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 [www.bids.delaware.gov](http://www.bids.delaware.gov) by the date of **July 8, 2013**.

CONTRACTOR 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:

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- Section number
- Paragraph number
- Page number
- Test of passage being questioned
- 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 CONTRACTOR'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 CONTRACTOR.

This RFP does not constitute an offer by the State of Delaware. CONTRACTOR'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 CONTRACTORS 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**

CONTRACTOR 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.

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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 [www.bids.delaware.gov](http://www.bids.delaware.gov). 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 recorded on Attachment 3. Acceptance of exceptions is within the sole discretion of the evaluation committee.

**21. Award of Contract**

The final award of a contract is subject to approval by the State of Delaware. The State of Delaware has the sole right to select the successful CONTRACTOR(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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR who submits the lowest bid of the CONTRACTOR who receives the highest total point score, rather the contract will be awarded to the CONTRACTOR whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

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After a final selection is made, the winning CONTRACTOR will be invited to negotiate a contract with the State of Delaware; remaining CONTRACTORS will be notified in writing of their selection status.

**22. Cooperatives**

CONTRACTORS, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

**C. Proposal Evaluation Process**

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

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of CONTRACTORS. CONTRACTORS 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. The Team shall determine which CONTRACTORS meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. **The Team may negotiate with one or more CONTRACTORS during the same period and may, at its discretion, terminate negotiations with any or all CONTRACTORS.** The Team shall make a recommendation regarding the award to the DNREC Secretary, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § 6982, to award a contract to the successful CONTRACTOR in the best interests of the State of Delaware.

**2. Proposal Selection Criteria**

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing CONTRACTOR's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall 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 bid 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

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non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

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 CONTRACTORS during the contract review and negotiation.
- Negotiate any aspect of the proposal with any CONTRACTOR and negotiate with more than one CONTRACTOR at the same time.

**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:

<b>Criteria</b>	<b>Weight</b>
Describe the qualifications and experience of all persons, including subcontractors, assigned to the proposed project, including: <ul style="list-style-type: none"> <li>• Biological or ecological data analysis in a conservation planning context;</li> <li>• Relational database development;</li> <li>• Spatial data development;</li> <li>• Meeting and workshop facilitation for technical and general public audiences;</li> <li>• Writing for both technical and general-level audiences;</li> <li>• Publication design; and</li> <li>• Web-content development including interactive approaches to gathering comments and other feedback, interactive queries and downloading exporting data functions.</li> </ul>	<b>35</b>
Describe your team’s experience with coordinating and facilitating the creation or review and revision of State Wildlife Action Plans (SWAP). Provide examples of SWAPs that:	<b>25</b>

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Criteria	Weight
<ul style="list-style-type: none"> <li>• You or your team have created; and / or</li> <li>• You or your team have reviewed and revised or are currently reviewing and revising.</li> </ul>	
Describe your team’s familiarity with national and regional efforts to guide development and coordination among State Wildlife Action Plans. Provide examples of national and regional efforts with which your team is familiar. Describe how you are familiar with these efforts (e.g., involved in development, reviewed, or applied to past or current projects).	<b>10</b>
Describe familiarity with Delaware’s wildlife, habitats, conservation issues and stakeholders, and familiarity with northeast regional conservation issues. Provide the geographic location of your team, including subcontractors.	<b>15</b>
Describe how your proposed process and work plan is cost-effective, efficient and will ensure timely completion of the project. Describe your team’s ability to complete similar complex planning projects on time and on budget. Provide specific examples, including SWAP examples, if applicable.	<b>10</b>
Provide a minimum of three references for the primary CONTRACTOR and three references for each subcontractor.	<b>5</b>
<b>Total</b>	<b>100%</b>

**3. Proposal Clarification**

The Evaluation Team may contact any CONTRACTOR 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 Evaluation Team may contact any customer of the CONTRACTOR, whether or not included in the CONTRACTOR’s reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing

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installations of comparable systems, which may or may not include CONTRACTOR personnel. If the CONTRACTOR is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

**5. Oral Presentations**

Selected CONTRACTORS may be invited to make oral presentations to the Evaluation Team. The CONTRACTOR representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the CONTRACTOR's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the CONTRACTOR's responsibility.

***D. Contract Terms and Conditions***

**1. General Information**

- a. The term of the contract between the successful bidder and the State shall be valid for 2 years from August 16, 2013 through August 15, 2015. This contract may be renewed for one (1) year increments under the same terms and conditions. Agreement on optional years must be in writing from the CONTRACTOR(s) and DNREC, Division of Fish and Wildlife and must be initiated no later than ninety (90) days prior to the termination of the current agreement.
- b. The selected CONTRACTOR 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. CONTRACTORS will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected CONTRACTOR or CONTRACTORS 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 CONTRACTOR'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 CONTRACTOR'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.
- e. The successful CONTRACTOR shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract. No CONTRACTOR is to begin any service prior to receipt a State of Delaware

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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. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful CONTRACTOR.

- f. If the CONTRACTOR 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 CONTRACTOR. Such CONTRACTOR 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 CONTRACTOR(s) and prospective CONTRACTOR(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such CONTRACTOR(s) void.

By responding, the CONTRACTOR shall be deemed to have represented and warranted that its proposal is not made in connection with any competing CONTRACTOR submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the CONTRACTOR 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 CONTRACTOR's proposal preparation.

Advance knowledge of information which gives any particular CONTRACTOR advantages over any other interested CONTRACTOR(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. CONTRACTORS 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 CONTRACTOR 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.

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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, CONTRACTORS 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 CONTRACTOR, its affiliates, actual or prospective contractors, or any person acting in concert with CONTRACTOR, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a CONTRACTOR may result in rejection of the CONTRACTOR's proposal.

This paragraph does not prevent the employment by a CONTRACTOR of a State of Delaware employee who has initiated contact with the CONTRACTOR. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. CONTRACTORS may not knowingly employ a person who cannot legally accept employment under state or federal law. If a CONTRACTOR 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.

**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 or upon the exhaustion of funds.

**c. Licenses and Permits**

In performance of the contract, the CONTRACTOR will be required to comply with all applicable federal, state and local laws, ordinances, codes, and

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regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful CONTRACTOR. The CONTRACTOR 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 CONTRACTOR shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate 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 CONTRACTOR 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:

**Delaware Division of Fish and Wildlife  
ATTN: Karen Kennedy  
89 Kings Highway  
Dover, Delaware 19901**

**e. Indemnification**

**1. General Indemnification**

By submitting a proposal, the proposing CONTRACTOR 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 CONTRACTOR'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, whole or part, to the State, its employees or agents.

**2. Proprietary Rights Indemnification**

CONTRACTOR 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

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promptly notify the CONTRACTOR in writing and CONTRACTOR shall defend such claim, suit or action at CONTRACTOR's expense, and CONTRACTOR 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 CONTRACTOR (collectively "Products") is or in CONTRACTOR's reasonable judgment is likely to be, held to constitute an infringing product, CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR in their negligent performance under this contract.
- 2. The CONTRACTOR 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 CONTRACTOR is an independent contractor and is not an employee of the State of Delaware.
- 3. During the term of this contract, the CONTRACTOR shall, at its own expense, carry insurance minimum limits as follows:

a.	Comprehensive General Liability	\$1,000,000 per person and \$3,000,000 per occurrence
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And at least one of the following, as outlined below:

b.	Medical or Professional Liability	\$1,000,000/\$3,000,000
c.	Misc. Errors and Omissions	\$1,000,000/\$3,000,000
d.	Product Liability	\$1,000,000/\$3,000,000

The successful CONTRACTOR must carry (a) and at least one of (b), (c), or (d) above, depending on the type of Service or Product being delivered.

If the contractual service requires the transportation of departmental clients or staff, the CONTRACTOR 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 CONTRACTOR shall provide a certificate of insurance as proof that the CONTRACTOR has the required insurance.

**g. Performance Requirements**

The selected CONTRACTOR 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.

**h. Warranty**

The CONTRACTOR 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 CONTRACTOR correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

**i. Costs and Payment Schedules**

All contract costs must be as detailed specifically in the CONTRACTOR'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 CONTRACTOR 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

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work performed. The State of Delaware may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

**j. Penalties**

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

**k. Termination for Cause**

If for any reasons, or through any cause, the CONTRACTOR fails to fulfil in timely and proper manner his or her obligations under the contract, or if the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR under the contract shall, at the option of the State of Delaware, become its property, and the CONTRACTOR 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.

**l. 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 CONTRACTOR under the contract shall, at the option of the State of Delaware, become its property, and the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

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**m. Non-discrimination**

In performing the services subject to this RFP the CONTRACTOR 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 CONTRACTOR 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.

**n. Covenant against Contingent Fees**

The successful CONTRACTOR 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 CONTRACTOR 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.

**o. CONTRACTOR 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 CONTRACTOR. The CONTRACTOR 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.

**p. Work Product**

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

**q. Contract Documents**

The RFP, the purchase order, the executed contract and any supplemental documents between the State of Delaware and the successful CONTRACTOR shall constitute the contract between the State of Delaware and the CONTRACTOR. 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, State of Delaware's RFP, CONTRACTOR's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the State of Delaware and the CONTRACTOR.

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**r. Applicable Law**

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

In submitting a proposal, CONTRACTORS 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 CONTRACTOR 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 CONTRACTOR in default.

The selected CONTRACTOR 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.

**s. Severability**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**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

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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 CONTRACTOR 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**

CONTRACTORS 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. 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. CONTRACTORS must respond to all mandatory

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requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

**3. 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.

**F. Attachments**

The following attachments and appendixes shall be considered part of the solicitation:

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2<sup>nd</sup> Tier Spend) Report
- Attachment 9 – Employing Delawareans Report
- Attachment 10 – Office of Supplier Diversity Application
- Appendix A – Minimum Response Requirement

**IMPORTANT – PLEASE NOTE:**

- **Attachments 2, 3, 4, 5 and 9 must be included in your proposal.**
- Attachment 6 must be included in your proposal if subcontractors will be involved.
- Attachments 7 and 8 represent required reporting on the part of awarded CONTRACTORS. Those bidders receiving an award will be provided with active spreadsheets for reporting.

**REQUIRED REPORTING:**

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested CONTRACTORS.

A Usage Report (Attachment 7) shall be furnished on the 15<sup>th</sup> (or next business day after the 15<sup>th</sup> day) of each month by the successful CONTRACTOR **Electronically in Excel format**

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detailing the purchasing of all items on this contract. The reports (Attachment 8) shall be submitted electronically in EXCEL and sent as an attachment to AGENCY CONTACT. It shall contain the six-digit department and organization code. Any exception to this mandatory requirement may result in cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, CONTRACTORS who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

In accordance with Executive Order 14 – Increasing Supplier Diversity Initiatives within State Government, the State of Delaware is committed to supporting its diverse business industry and population. The successful CONTRACTOR will be required to report on the participation by a minority and/or women owned business (MWBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the MWBE, MWBE contact information (phone, email), type of product or service provided by MWBE and any MWBE certifications for the subcontractor (State MWBE certification, Minority Supplier Development Council, Women’s Business Enterprise Council). The format used for this 2<sup>nd</sup> Tier report is found in Attachment 8.

2nd tier reports (Attachment 8) shall be submitted to the contracting Agency’s Supplier Diversity Liaison at [CONTRACTORusage@state.de.us](mailto:CONTRACTORusage@state.de.us) on the 15<sup>th</sup> (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spend during the covered periods shall result in a report even if the contract has expired by the report due date.

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Attachment 1

NO PROPOSAL REPLY FORM

Contract No. NAT-13001-DEWAP

Contract Title: Delaware Wildlife Action  
Plan Review and Revision

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the CONTRACTOR's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

- \_\_\_\_\_ 1. We do not wish to participate in the proposal process.
- \_\_\_\_\_ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 3. We do not feel we can be competitive.
- \_\_\_\_\_ 4. We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company.
- \_\_\_\_\_ 5. We do not wish to sell to the State. Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 6. We do not sell the items/services on which Proposals are requested.
- \_\_\_\_\_ 7. Other: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_ We wish to remain on the CONTRACTOR's List **for these goods or services.**

\_\_\_\_\_ We wish to be deleted from the CONTRACTOR's List **for these goods or services.**

**CONTRACT NO.:** NAT-13001-DEWAP  
**CONTRACT TITLE:** Delaware Wildlife Action Plan Review and Revision  
**OPENING DATE:** July 31, 2013 at 1:00 PM (Local Time)

NON-COLLUSION STATEMENT

This is to certify that the undersigned CONTRACTOR 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 proposal, **and further certifies that it is not a sub-contractor to another CONTRACTOR who also submitted a proposal as a primary CONTRACTOR in response to this solicitation** submitted this date to the State of Delaware, Department of Natural Resources and Environmental Control, Enter Agency Name \_\_\_\_\_

It is agreed by the undersigned CONTRACTOR that the signed delivery of this bid represents the CONTRACTOR's acceptance of the terms and conditions of this Request for Proposal 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, Division of Fish and Wildlife.

COMPANY NAME \_\_\_\_\_ (Check one)

Corporation
Partnership
Individual

NAME OF AUTHORIZED REPRESENTATIVE  
(Please type or print) \_\_\_\_\_

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

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

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

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

FEDERAL E.I. NUMBER \_\_\_\_\_ STATE OF DELAWARE LICENSE NUMBER \_\_\_\_\_

	(circle one)	(circle one)	(circle one)
COMPANY CLASSIFICATIONS: CERT. NO. _____	<u>Women Business Enterprise (WBE)</u> Yes    No	<u>Minority Business Enterprise (MBE)</u> Yes    No	<u>Disadvantaged Business Enterprise (WBE)</u> Yes    No

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:  
(COMPANY NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT \_\_\_\_\_

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

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

**AFFIRMATION:** Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES \_\_\_\_\_ NO \_\_\_\_\_ if yes, please explain \_\_\_\_\_

**THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED WITH YOUR PROPOSAL TO BE CONSIDERED**

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

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

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





STATE OF DELAWARE  
Delaware Division of Fish and Wildlife, DNREC

Attachment 5

Contract No. NAT-13001-DEWAP  
Contract Title: Delaware Wildlife Action Plan Review and Revision

BUSINESS REFERENCES

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

1.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current CONTRACTOR (YES or NO):</b>	
	<b>Years Associated &amp; Type of Work Performed:</b>	

2.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current CONTRACTOR (YES or NO):</b>	
	<b>Years Associated &amp; Type of Work Performed:</b>	

3.	<b>Contact Name &amp; Title:</b>	
	<b>Business Name:</b>	
	<b>Address:</b>	
	<b>Email:</b>	
	<b>Phone # / Fax #:</b>	
	<b>Current CONTRACTOR (YES or NO):</b>	

STATE OF DELAWARE  
Delaware Division of Fish and Wildlife, DNREC

Years Associated & Type of  
Work Performed:

--

STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.

**SUBCONTRACTOR INFORMATION FORM**

<b>PART I – STATEMENT BY PROPOSING CONTRACTOR</b>		
1. CONTRACT NO. ENTER CONTRACT NUMBER	2. Proposing CONTRACTOR Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OMWBE Classification:  Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY ( <i>Signature</i> )	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
<b>PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR</b>		
9a. NAME OF PERSON SIGNING	10. BY ( <i>Signature</i> )	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

\* Use a separate form for each subcontractor

STATE OF DELAWARE  
Delaware Division of Fish and Wildlife, DNREC

Attachment 7

State of Delaware  
Monthly Usage Report

**FOR ILLUSTRATION PURPOSES ONLY**

State of Delaware									
Monthly Usage Report									
<b>Supplier Name:</b>				Insert Contract No.	<b>Report Start Date:</b>				
<b>Contact Name:</b>					<b>Report End Date:</b>				
<b>Contact Phone:</b>						<b>Today's Date:</b>			
Agency Name or School District	Division or Name of School	Budget Code	<a href="#">UNSPSC</a>	Item Description	Contract Item Number	Unit of Measure	Qty	Contract Proposal Price/Rate	Total Spend
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00
									\$0.00

**Note:** A copy of the Usage Report will be sent by electronic mail to the Awarded CONTRACTOR. The report shall be submitted electronically in **EXCEL** and sent as an attachment to [CONTRACTORusage@state.de.us](mailto:CONTRACTORusage@state.de.us). It shall contain the six-digit department and organization code for each agency and school district.

STATE OF DELAWARE  
Delaware Division of Fish and Wildlife, DNREC

Attachment 8

FOR ILLUSTRATION PURPOSES ONLY

State of Delaware																			
Subcontracting (2nd tier) Quarterly Report																			
Prime Name:							Report Start Date:												
Contract Name/Number							Report End Date:												
Contact Name:							Today's Date:												
Contact Phone:							*Minimum Required			Requested detail									
CONTRACTOR Name*	CONTRACTOR TaxID*	Contract Name/Number*	CONTRACTOR Contact Name*	CONTRACTOR Contact Phone*	Report Start Date*	Report End Date*	Amount Paid to Subcontractor*	Work Performed by Subcontractor UNSPSC	M/WB E Certifying Agency	Veteran/Service Disabled Veteran Certifying Agency	2nd tier Supplier Name	2nd tier Supplier Address	2nd tier Supplier Phone Number	2nd tier Supplier email	Description of Work Performed	2nd tier Supplier Tax Id	Date Paid		

**Note:** A copy of the Subcontracting Quarterly Report will be sent by electronic mail to the Awarded CONTRACTOR.

Completed reports shall be saved in an Excel format, and submitted to the following email address: [contracting@state.de.us](mailto:contracting@state.de.us)

Contract No. NAT-13001-DEWAP  
Contract Title: Delaware Wildlife Action Plan Review and Revision

**EMPLOYING DELAWAREANS REPORT**

As required by House Bill # 410 (Bond Bill) of the 146<sup>th</sup> General Assembly and under Section 30, No bid for any public works or professional services contract shall be responsive unless the prospective bidder discloses its reasonable, good-faith determination of:

1. Number of employees reasonable anticipated to be employed on the project: \_\_\_\_\_
2. Number and percentage of such employees who are bona fide legal residents of Delaware:  
\_\_\_\_\_
3. Total number of employees of the bidder: \_\_\_\_\_
4. Total percentage of employees who are bona fide resident of Delaware: \_\_\_\_\_

If subcontractors are to be used:

1. Number of employees who are residents of Delaware: \_\_\_\_\_
2. Percentage of employees who are residents of Delaware: \_\_\_\_\_

“Bona fide legal resident of this State” shall mean any resident who has established residence of at least 90 days in the State.

## State of Delaware

### Office of Supplier Diversity Certification Application

The most recent application can be downloaded from the following site:  
<http://gss.omb.delaware.gov/osd/certify.shtml>



**Complete application and mail, email or fax to:**

Office of Supplier Diversity (OSD)  
100 Enterprise Place, Suite 4  
Dover, DE 19904-8202  
Telephone: (302) 857-4554 Fax: (302) 677-7086  
Email: [osd@state.de.us](mailto:osd@state.de.us)  
Web site: <http://gss.omb.delaware.gov/osd/index.shtml>

STATE OF DELAWARE  
Delaware Division of Fish and Wildlife, DNREC

**APPENDIX A  
MINIMUM MANDATORY SUBMISSION REQUIREMENTS**

The response should contain at a minimum the following information:

1. Transmittal Letter outlining content or applicant's proposal .
2. Two (2) paper copies of the CONTRACTOR proposal. The CONTRACTOR proposal shall identify how the CONTRACTOR proposes meeting the contract requirements and shall include pricing.

***CONTRACTORS are encouraged to review the section "III. REQUIRED INFORMATION" on page 6 and section "C. Proposal Evaluation Process" on page 16 to verify that the response has sufficient documentation to support each criterion identified.***

3. One (1) electronic copy of the CONTRACTOR proposal saved to CD or USB memory stick.
4. One (1) complete, signed and notarized copy of the non-collusion agreement (See Attachment 2). **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK** – Form must be included.
5. One (1) completed RFP Exception form (See Attachment 3) – please check box if no information – Form must be included.
6. One (1) completed Confidentiality Form (See Attachment 4) – please check if no information is deemed confidential – Form must be included.
7. One (1) completed Business Reference form (See Attachment 5) – please provide references other than State of Delaware contacts – Form must be included.
8. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment 6) for each subcontractor – only provide if applicable.
9. One (1) complete Employing Delawareans Report (See Attachment 9).
10. One (1) complete OMWBE application (see link on Attachment 10) – only provide if applicable.

The items listed above provide the basis for evaluating each CONTRACTOR'S proposal. **Failure to provide all appropriate information may deem the submitting CONTRACTOR as "non-responsive" and exclude the CONTRACTOR from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.