

**REQUEST FOR PROPOSALS****Minnesota Department of Natural Resources  
Division of Lands and Minerals****I. Project Overview**

For several years the Minnesota Department of Natural Resources, Division of Lands and Minerals (DNR-LAM), has conducted research seeking cost-effective and efficient ways to reduce mercury emissions from the state's taconite plants. Responders to this solicitation are encouraged to review the nature and results of these prior studies at the following web address: [http://www.dnr.state.mn.us/lands\\_minerals/dnr\\_hg\\_research.html](http://www.dnr.state.mn.us/lands_minerals/dnr_hg_research.html).

Currently, DNR-LAM, in cooperation with the newly formed Minnesota Taconite Mercury Control Advisory Committee (MTMCAC), a consortium of representatives from industry, state agencies, and universities is seeking proposals in the following areas of mercury control:

*1. Laboratory, pilot-scale, and/or plant testing involving:*

- a. Direct capture of Hg from process gas using carbon compounds,*
- b. Addition of compounds to process gas to promote oxidation and capture of Hg,*
- c. Addition of compounds to wet scrubbers to improve Hg capture, and*
- d. Other novel technologies of potential use in taconite plants.*

*2. Perform experiments needed to evaluate technologies used in other industries that may be applicable to the taconite industry.*

Successful respondents to this solicitation will be awarded a State of Minnesota Master Contract to conduct research in one, or more, of the above-mentioned program areas for a two-year period. Specific projects selected will be handled through work-order contracts pursuant to the Master. One or more work-order contracts may be awarded to each Master Contractor. It is expected that up to \$2,000,000.00 will be available for this research.

Proposed projects will be reviewed and selected for funding by members of DNR-LAM and MTMCAC. However, this request for proposals does not obligate the state to award any contract or complete projects, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective responders who have any questions regarding this request for proposal may contact:

Mike Berndt  
DNR-Lands and Minerals  
Box 45 500 Lafayette Road  
St Paul, MN 55155  
651/259-5378  
[mike.berndt@dnr.state.mn.us](mailto:mike.berndt@dnr.state.mn.us)

Other personnel are **NOT** authorized to discuss this request for proposal with responders before the proposal submission deadline. Contact regarding this RFP with any personnel not listed could result in disqualification. All proposals must be received no later than 2:30 pm, December 31, 2009, as indicated by a notation made by the DNR-Lands and Minerals receptionist, 4<sup>th</sup> Floor, 500 Lafayette Road. All costs incurred in responding to this RFP will be borne by the responder. FAX and e-mail responses will not be considered.

**II. Proposal Preparation**

Proposals should be between five and ten pages in length and use the template which is attached and marked as Attachment B.

**Affidavit of Non-collusion**

Each responder must complete the attached Affidavit of Non-Collusion and include it with the response.

**Conflicts of Interest**

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

**Proposal Contents**

By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

**Disposition of Responses**

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the Responder **must**:

(a) Clearly mark all trade secret materials in its response at the time the response is submitted

(b) Include a statement with its response justifying the trade secret designation for each item, and defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

**Contingency Fees Prohibited**

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

**Sample Contract**

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample State of Minnesota Professional/Technical Services Master Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

**Reimbursements**

Reimbursements for travel and subsistence expenses actually and necessarily incurred by the contractor as a result of the contract will be in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

**Organizational Conflicts of Interest**

The Responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances, which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The Responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD"), which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the Responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract", "contractor", and "contracting officer" modified appropriately to preserve the State's rights.

**Preference to Targeted Group and Economically Disadvantaged Business and Individuals**

In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and Individuals submitting proposals as prime contractors shall receive the equivalent of a six percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a six percent preference in the evaluation of their proposal. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by E-mail at [mmdhelp.line@state.mn.us](mailto:mmdhelp.line@state.mn.us). For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

**Veteran-owned/Service Disabled Veteran-Owned Preference**

In accordance with Laws of Minnesota, 2009, Chapter 101, Article 2, Section 56, eligible certified veteran-owned and eligible certified service-disabled veteran-owned small businesses will receive a six percent preference in the evaluation of their proposal.

Eligible veteran-owned and eligible service-disabled veteran-owned small businesses should complete the Veteran-Owned/Service Disabled Veteran-Owned Preference Form in this solicitation, and include the required documentation. Only eligible, certified, veteran-owned/service disabled small businesses that provide the required documentation, per the form, will be given the preference.

Eligible veteran-owned and eligible service-disabled veteran-owned small businesses must be currently certified by the U.S. Department of Veterans Affairs prior to the solicitation opening date and time to receive the preference.

Information regarding certification by the United States Department of Veterans Affairs may be found at <http://www.vetbiz.gov>.

### **Human Rights Requirements**

For all contracts estimated to be in excess of \$100,000, Responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by Minn. R. 5000.3600, "It is hereby agreed between the parties that Minn. Stat. § 363A.36 and Minn. R.5000.3400 – 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 – 5000.3600 are available upon request from the contracting agency."

### **Immigration Status Certification**

By order of the Governor's Executive Order 08-01, if any response to a solicitation is or could be in excess of \$50,000, vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security. Responder must complete the attached Immigration Status Certification and submit it as part of its proposals.

### **Insurance Requirements**

A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

B. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:

\$100,000 – Bodily Injury by Disease per employee

\$500,000 – Bodily Injury by Disease aggregate

\$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

**Commercial General Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence

\$2,000,000 – annual aggregate

\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury

Blanket Contractual Liability

Products and Completed Operations Liability

Other; if applicable, please list \_\_\_\_\_

State of Minnesota named as an Additional Insured

**Commercial Automobile Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

**C. Additional Insurance Conditions:**

Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contractor's performance under this contract;

Contractor's policy(ies) and Certificate(s) of Insurance shall contain a provision that coverage afforded under the policy(ies) shall not be cancelled without at least thirty (30) days advanced written notice to the State of Minnesota;

Contractor is responsible for payment of Contract related insurance premiums and deductibles;

If Contractor is self-insured, a Certificate of Self-Insurance must be attached;

Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and

CFMS Contract No. \_\_\_\_\_

T-Number \_\_\_\_\_

An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

**D.** The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

**E.** The successful responder is required to submit Certificates of Insurance acceptable to the State of MN as evidence of insurance coverage requirements prior to commencing work under the contract.

**CERTIFICATION REGARDING LOBBYING**  
For State of Minnesota Contracts and Grants over \$100,000

The undersigned certifies, to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Organization Name

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Name and Title of Official Signing for Organization

By:

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Signature of Official

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Date

**State of Minnesota – Affirmative Action Certification**

**If your response to this solicitation is or could be in excess of \$100,00**, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statute 363A.36) certification requirement, and to provide documentation of compliance if necessary. **It is your sole responsibility to provide this information and - if required – to apply for Human Rights certification prior to the due date and time of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.**

**BOX A – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to BOX B.**

Your response will be rejected unless your business:

has a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR)

-or-

has submitted an affirmative action plan to the MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

We have current Certificate of Compliance issued by the MDHR. **Proceed to BOX C. Include a copy of your certificate with your response.**

- We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on \_\_\_\_\_(date). [If the date is the same as the response due date, indicate the time your plan was received; \_\_\_\_\_(time). **Proceed to BOX C.**
- We do not have a Certificate of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. **We acknowledge that our response will be rejected. Proceed to BOX C. Contact the Minnesota Department of Human Rights for assistance.** (See below for contact information.)

**Please note:** Certificates of Compliance must be issued by the Minnesota Department of Human Rights. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed, and approved by the Minnesota Department of Human Rights before a certificate can be issued.

**BOX B – For those companies not described in BOX A**

Check below.

- We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to BOX C.**

**BOX C – For all companies**

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the Responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**For assistance with this form, contact:**

Minnesota Department of Human Rights, Compliance Services Section Mail: 190 East 5th St., Suite 700, St. Paul, MN 55101  
 TC Metro: (651) 296-5663 Toll Free: 800-657-3704 Web: [www.humanrights.state.mn.us](http://www.humanrights.state.mn.us) Fax: (651) 296-9042 TTY: 651-296-1283 Email: [employerinfo@therightsplace.net](mailto:employerinfo@therightsplace.net)

CFMS Contract No. \_\_\_\_\_

T-Number \_\_\_\_\_

**State of Minnesota  
AFFIDAVIT OF NON-COLLUSION**

I swear (or affirm) under the penalty of perjury:

That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);

That the attached proposal submitted in response to the \_\_\_\_\_ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;

That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and

That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: \_\_\_\_\_

Authorized Representative (Please PRINT): \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to me on this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

**State of Minnesota**  
**LOCATION OF SERVICE DISCLOSURE AND CERTIFICATION**

**Check all that apply:**

- The services to be performed under the anticipated contract as specified in our proposal will be performed ENTIRELY within the State of Minnesota.
- The services to be performed under the anticipated contract as specified in our proposal entail work ENTIRELY within another state within the United States.
- The services to be performed under the anticipated contract as specified in our proposal will be performed in part within Minnesota and in part within another state within the United States.
- The services to be performed under the anticipated contract as specified in our proposal DO involve work outside the United State. Below (or attached) is a description of
- 1) the identity of the company (identify if subcontractor) performing services outside the United States;
  - 2) the location where services under the contract will be performed; and
  - 3) the percentage of work (in dollars) as compared to the whole that will be conducted in each identified foreign location.

**Certification**

By signing this statement, I certify that the information provided above is accurate and that the location where services have been indicated to be performed will not change during the course of the contract without prior, written approval from the State of Minnesota.

Name of Company: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

**State of Minnesota – Immigration Status Certification**

By order of the Governor's Executive Order 08-01, vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

*E-Verify* program information can be found at <http://www.dhs.gov/ximgtn/programs>.

If any response to a solicitation is or could be in excess of \$50,000, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the contract. All subcontractor certifications must be kept on file with the contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and
2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

**I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.**

Name of Company: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

If the contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the contract, and/or suspending or debaring the contract vendor from state purchasing.

**For assistance with the *E-Verify* Program**

Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833)

**For assistance with this form, contact**

Mail: 112 Administration Bldg, 50 Sherburne Ave., St. Paul, MN 55155

E-mail: [MMDHelp.Line@state.mn.us](mailto:MMDHelp.Line@state.mn.us)

Telephone: 651.296.2600

Persons with a hearing or speech disability may contact us by dialing: 711 or 1.800.627.3529

**STATE OF MINNESOTA**  
**VETERAN-OWNED/SERVICE DISABLED VETERAN-OWNED PREFERENCE FORM**

In accordance with Laws of Minnesota, 2009, Chapter 101, Article 2, Section 56, eligible certified veteran-owned and eligible certified service-disabled veteran-owned small businesses will receive a 6 percent preference in the evaluation of their proposal.

Eligible veteran-owned and eligible service-disabled veteran-owned small businesses include certified small businesses that are majority-owned and operated by either (check the box that applies and attach the certification documents required with your response to this solicitation):

- (1) recently separated veterans, who are veterans as defined in Minn. Stat. §197.447, who have served in active military service, at any time on or after September 11, 2001, and who have been discharged under honorable conditions from active service, as indicated by the person's United States Department of Defense form DD-214 or by the commissioner of veterans affairs; or
- Required Documentation:
- certification by the United States Department of Veterans Affairs as a veteran-owned small business
  - discharge form (DD-214) dated on or after September 11, 2001 with condition honorable
- (2) veterans who are veterans as defined in Minn. Stat. § 197.447, with service-connected disabilities, as determined at any time by the United States Department of Veterans Affairs.
- Required Documentation:
- certification by the United States Department of Veterans Affairs as a service-disabled veteran-owned small business.

Eligible veteran-owned and eligible service-disabled veteran-owned small businesses must be **currently** certified by the U.S. Department of Veterans Affairs prior to the solicitation opening date and time to receive the preference.

Information regarding certification by the United States Department of Veterans Affairs may be found at <http://www.vetbiz.gov>.

You must submit this form and the documentation required above with your response in order to be considered for this preference.

**If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiations.**

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**STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES  
MASTER CONTRACT**

This master contract is between the State of Minnesota, acting through its "commissioner of \_\_\_\_\_" ("State") and ("Contractor").

**Recitals**

1. Under Minn. Stat. § 15.061 the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of \_\_\_\_\_
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this master contract and performed under work order contracts to the satisfaction of the State.

**Master Contract**

**1 Term of Master Contract**

- 1.1 **Effective Date:** \_\_\_\_\_, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.

**The Contractor must not accept work under this master contract until this master contract is fully executed and the Contractor has been notified by the State's Authorized Representative that it may begin accepting Work Order Contracts.**

- 1.2 **Work Order Contracts.** The term of work under work order contracts issued under this master contract may not extend beyond the expiration date of this master contract.
- 1.3 **Expiration Date:** \_\_\_\_\_.
- 1.4 **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 18. Data Disclosure.

**2 Scope of Work**

The Contractor, who is not a state employee, may be requested to perform any of the following services under individual work order contracts:

The Contractor understands that only the receipt of a fully executed work order contract authorizes the Contractor to begin work under this master contract. Any and all effort, expenses, or actions taken before the work order contract is fully executed is not authorized under Minnesota Statutes and is under taken at the sole responsibility and expense of the Contractor. A sample work order contract is attached and incorporated into this master contract as Exhibit A.

The Contractor understands that this master contract is not a guarantee of a work order contract. The State has determined that it may have need for the services under this master contract, but does not commit to spending any money with the Contractor.

### 3 Time

The Contractor must comply with all the time requirements described in work order contracts. In the performance of work order contracts, time is of the essence.

### 4 Consideration and Payment

4.1 **Consideration.** The State will pay for all services satisfactorily performed by the Contractor for all work order contracts issued under this master contract. The total compensation of all work order contracts may not exceed \$\_\_\_\_\_.

**Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of any work order contract will be reimbursed in same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

#### 4.2. Payment

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely no more frequently than monthly.
- (B) **Retainage.** Under Minn. Stat. § 16C.08, subd. 5(b), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of the work order contract.

### 5 Conditions of Payment

All services provided by the Contractor under a work order contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

### 6 Authorized Representatives and Project Managers

The State's Authorized Representative for this master contract is \_\_\_\_\_, or his/her successor, and has the responsibility to monitor the Contractor's performance.

The State's Project Manager will be identified in each work order contract.

The Contractor's Authorized Representative is \_\_\_\_\_. If the Contractor's Authorized Representative changes at any time during this master contract, the Contractor must immediately notify the State.

The Contractor's Project Manager will be identified in each work order contract.

### 7 Assignment, Amendments, Waiver, and Contract Complete

7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this master contract or any work order contract without the prior consent of the State and a fully executed Assignment

Agreement, executed and approved by the same parties who executed and approved this master contract, or their successors in office.

- 7.2 **Amendments.** Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or its right to enforce it.
- 7.4 **Contract Complete.** This master contract and any work order contract contain all negotiations and agreements between the State and the Contractor. No other understanding regarding this master contract or work order contract, whether written or oral, may be used to bind either party.

## 8 **Liability**

The Contractor must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this master contract or work order contract by the Contractor or the Contractor's agents or employees. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligations under this master contract or any work order contract.

## 9 **State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this master contract.

## 10 **Government Data Practices and Intellectual Property**

- 10.1. **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under the work order contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

### 10.2. **Intellectual Property Rights**

- (A) **Intellectual Property Rights.** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under work order contracts*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this master contract or any work order contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of a work order contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of the work order contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made

for hire.” The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State’s ownership interest in the Works and Documents.

(B) *Obligations*

1. *Notification.* Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of the work order contract, the Contractor will immediately give the State’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. *Representation.* The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor’s expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor’s or the State’s opinion is likely to arise, the Contractor must, at the State’s discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

## 11 Affirmative Action

### **[Affirmative Action Requirements for Contracts in Excess of \$100,000 if the Contractor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business]**

The State intends to carry out its responsibility for requiring affirmative action by its Contractors.

11.1 ***Covered Contracts and Contractors.*** If the Contract exceeds \$100,000 and the contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

11.2 ***Minn. Stat. § 363A.36.*** Minn. Stat. § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

11.3 ***Minn. R. Parts 5000.3400-5000.3600.***

a. ***General.*** Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn.

R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

- b. *Disabled Workers.* The Contractor must comply with the following affirmative action requirements for disabled workers.

1. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
  2. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
  5. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- c. *Consequences.* The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.
- d. *Certification.* The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

## **12 Workers' Compensation and Other Insurance**

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract.

Further, the Contractor certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

## **13 Publicity and Endorsement**

13.1 *Publicity.* Any publicity regarding the subject matter of a work order contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public

notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from a work order contract.

13.2 **Endorsement.** The Contractor must not claim that the State endorses its products or services.

**14 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract and/or any work order contracts, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**15 Payment to Subcontractors**

(If applicable) As required by Minn. Stat. § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

**16 Minn. Stat. § 181.59** The vendor will comply with the provisions of Minn. Stat. § 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

**17 Termination**

17.1 **Termination by the State.** The State or commissioner of Administration may cancel this master contract and any work order contracts at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

17.2 **Termination for Insufficient Funding.** The State may immediately terminate this master contract and any work order contract if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis,

for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the master contract or work order is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

**18 Data Disclosure**

Under Minn. Stat. § 270.66, and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Contractor to file state tax returns and pay delinquent state tax liabilities, if any.

**19 Foreign Outsourcing**

Contractor agrees that the disclosures and certifications made in its Location of Service Disclosure and Certification Form submitted with its proposal are true, accurate and incorporated into this contract by reference.

**20 Employee Status**

By order of the Governor's Executive Order 08-01, if this contract, including any extension options, is or could be in excess of \$50,000, Contractor certifies that it and its subcontractors:

1. Comply with the Immigration Reform and Control Act of 1986 (U.S.C. 1101 et. seq.) in relation to all employees performing work in the United States and do not knowingly employ persons in violation of the United States' immigrations laws; and
2. By the date of the performance of services under this contract, Contractor and all its subcontractors have implemented or are in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

Contractor shall obtain certifications of compliance with this section from all subcontractors who will participate in the performance of this contract. Subcontractor certifications shall be maintained by Contractor and made available to the state upon request. If Contractor or its subcontractors are not in compliance with 1 or 2 above or have not begun or implemented the *E-Verify* program for all newly hired employees performing work under the contract, the state reserves the right to determine what action it may take including but not limited to, cancelling the contract and/or suspending or debaring the contractor from state purchasing.

SIGNATURES AS REQUIRED BY THE STATE.

Exhibit A

**SAMPLE STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES  
WORK ORDER CONTRACT**

This work order contract is between the State of Minnesota, acting through its \_\_\_\_\_ ("State") and \_\_\_\_\_ ("Contractor"). This work order contract is issued under the authority of Master Contract T-Number \_\_\_\_\_, CFMS Number \_\_\_\_\_, and is subject to all provisions of the master contract which is incorporated by reference.

Work Order Contract

**1 Term of Contract**

Effective date: \_\_\_\_\_, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Contractor must not begin work under this contract until this contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.

Expiration date: \_\_\_\_\_, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

**2 Contractor's Duties**

The Contractor, who is not a state employee, will:

**3 Consideration and Payment**

Consideration. The State will pay for all services performed by the Contractor under this work order contract as follows:

Compensation. The Contractor will be paid \_\_\_\_\_.

Travel Expenses. Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this work order contract will not exceed \$\_\_\_\_\_.

Total Obligation. The total obligation of the State for all compensation and reimbursements to the Contractor under this work order contract will not exceed \$\_\_\_\_\_.

Invoices. The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule:

**4 Project Managers**

The State's Project Manager is \_\_\_\_\_. The State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Project Manager is \_\_\_\_\_. If the Contractor's Project Manager changes at any time during this work order contract, the Contractor must immediately notify the State.

SIGNATURES AS REQUIRED BY THE STATE.

**Attachment B**

**Minnesota Department of Natural Resources  
Application Cover Page  
Mercury Control In Taconite Processing Plants**

Organization/Applicant:

Mailing address:

City:

State:

Zip code:

Contact/Authorized Representative name:

Title:

E-mail:

Telephone:

Applicant's Web site:

Fax:

Project title:

Project start date:

Project end date:

Amount requested: \$

Brief Summary

All proposals must be submitted in duplicate to:

Mike Berndt  
DNR-Lands and Minerals  
Box 45 500 Lafayette Road  
St Paul, MN 55155  
651/259-5378  
[mike.berndt@dnr.state.mn.us](mailto:mike.berndt@dnr.state.mn.us)

All proposals must be received no later than 2:30 pm, December 31, 2009, as indicated by a notation made by the DNR-Lands and Minerals receptionist, 500 Lafayette Road, St Paul, MN 55155. All costs incurred in responding to this RFP will be borne by the responder. Fax and E-mail responses will not be considered for the date and time received. However, the DNR requests that an electronic copy of the proposal also be sent to Dr. Berndt to expedite the proposal review process.



**Budget Justification:** Explain Entries in the above table

**(6) Publications:** Provide up to ten applicable reports and papers that are most closely related to the topic of the proposal.

**(7) Facilities:** Where will this research be conducted and what equipment does this facility have that will permit the research to be conducted?

**(8) Resumes:** Provide one to two page resumes for key participants.