



Invitation to Bid – Price Agreement

Title: **CONSTRUCTION SERVICES FOR ABANDONED MINE LANDS - STATEWIDE**

Return Bid to: New Mexico General Services Department State Purchasing Division:

ITB Number: **40-52100-23-06111**

Electronic bid submission:

<https://suppliers.scquest.com/stateofnewmexico/>

Agency Requested Delivery: **As Requested**

Commodity Code(s): **91216, 91219, 91223, 91242, 91244, 91275, 91348, 91355, 91430, 91455, 91458, 91479, 91484, 91485, 96155**

Bids Due No Later Than:

Date: **September 14, 2023** Time: **2:00pm**

Formal Sealed Bid Opening:

Place: **NM State Purchasing Division Bid Room**

To occur immediately following due date/time.

If you have questions regarding this ITB please contact:

Procurement Specialist: **James Ortega** Telephone No.: **505-795-2516** Email: **james.ortega@gsd.nm.gov**

Bidder MUST complete as applicable and sign the following in order for Bid to be valid (type or print clearly):

NM Vendor ID# (if applicable): _____

Address: _____

Company Name: _____

DBA (if applicable): _____

Co. Email: _____

Co. Phone No.: _____

NM Gross Receipts Tax # (CRS): _____

Federal Tax ID#: _____

Payment terms: _____ (Discount will not be considered in computing the low bid, see “Terms and Conditions”)

F.O.B. Point must be Destination, unless otherwise indicated by the NM State Purchasing Agent

Contractor's Delivery: _____ (May be considered in the award)

Authorized Signature: _____

Print or type name: _____

Signatory Email: _____

Phone No.: _____

IMPORTANT - All hard copy bids must be submitted in a sealed envelope or package and must be clearly labeled with the bid number and opening date on the front of the envelope, bottom left-hand side. Sealed bids will be received at the above address until specified due date and local time. Late submission of bids will not be accepted. Sealed bids will be publicly opened in the New Mexico State Purchasing Division Bid Room. Bids are subject to the “Terms and Conditions,” shown on the attached pages of this document, and any additional bidding instructions or requirements.

NOTE: if you decide not to bid, do not return this document.

BIDS SUBMITTED ELECTRONICALLY VIA eProNM (SCI-QUEST): Bids will be time-stamped in the system when Bidder clicks “OK” after “Review and Submit.” The bidder will receive a confirmation email of the submission for their records. Such electronic submissions will be considered sealed bids in conformance with statute.

If applicable, Bidder acknowledges receipt of the following amendments(s):

Amendment No. _____ Dated _____ Amendment No. _____ Dated _____

*It is your responsibility as a bidder to ensure your bid is correct and accurate. By bidding electronically, you acknowledge any and all amendments and it is your responsibility to ensure your bid corresponds with any amendments.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-2

Bidder Instructions for Invitation to Bid (ITB)

Viewing ITB:

1. Bidders can access active procurements at the following sites:
 - http://www.generalservices.state.nm.us/statepurchasing/ITBs_RFPs_and_Bid_Tabulation.aspx
 - <https://suppliers.scquest.com/stateofnewmexico/>
2. Complete bid documents as required by the ITB Specifications, and submit any required documentation, supporting materials, certificates, etc. in addition to the bid documents.

Submitting Bids:

Bidders have two options to submit bids to the State Purchasing Division (SPD):

1. Electronic submissions through eProNM at the following site: <https://suppliers.scquest.com/stateofnewmexico/>
 - A. Bids will be time-stamped in the system when Bidder clicks “OK” after “Review and Submit.” The bidder will receive a confirmation email of the submission for their records. Such electronic submissions will be considered sealed bids in conformance with statute.
 - B. Bids must be received by the due date and time listed on the front page of this ITB or as amended. Bids submitted electronically within 2 hours of the close time cannot be guaranteed to upload successfully.
2. Hard Copy submissions delivered by US mail, courier or in person to the SPD office at:
1100 S. Saint Francis Drive, Room 2016, Santa Fe, NM 87505 (Hand Deliver/courier) **or**
PO Box 6850, Santa Fe, NM 87502-6850 (US Mail)
All hard copy bids must be submitted in a sealed envelope or package and must be clearly labeled with the ITB number and opening date on the front of the envelope, bottom left-hand side. Sealed bids will be received and time-stamped at the above address until specified due date and local time.

Late Submission of Bids Will Not Be Accepted.

Bid Opening:

Sealed bids will be publicly opened in the New Mexico State Purchasing Division Bid Room. Bids are subject to the “Terms and Conditions,” shown on the attached pages of this document, and any additional bidding instructions or requirements. NOTE: if you decide not to bid, do not return this ITB document.

Technical Online Bidding Questions:

Contact SPD directly at (505) 827-0425 or GSD.SPDeProcurement@state.nm.us, or you can contact the buyer listed on the ITB front page.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-3

Terms and Conditions
(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchase document in response to the bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **Assignment:**
 - a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Contractor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the State Purchasing Agent or his/her designee. No such assignment or transfer shall relieve the Contractor from the obligations and liabilities under this order.
 - b. Contractor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Contractor's risk and expense, promptly after notice of rejection.
7. **Inspection of Plant:** The State Purchasing Agent or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. **Commercial Warranty:** The Contractor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Contractor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. **Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.**
9. **Taxes:** The unit price shall exclude all state taxes.
10. **Packing, Shipping and Invoicing:**
 - a. The State's purchasing document number and the Contractor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Contractor as final and conclusive on all shipments not accompanied by a packing ticket.
 - b. The Contractor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted to the using agency and NOT the State Purchasing Agent.
11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Contractor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the State due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-4

Contractor, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

12. **Non-Collusion:** In signing this bid the Contractor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

13. **Nondiscrimination:** Contractor doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

14. **The Procurement Code:** Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

15. **Items:** All bid items are to be NEW and of most current production, unless otherwise specified.

16. **Payment for Purchases:** Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

17. **Workers' Compensation:** The Contractor agrees to comply with state laws and rules pertaining to Workers' Compensation benefits for its employees. If the Contractor fails to comply with Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the contracting agency.

18. **Submission of Bid:** Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

19. **Contractor Personnel:** Personnel proposed in the Contractor's written bid to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

20. **Subcontracting:** The Contractor shall not subcontract any portion of the Price Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontracting obligate payment from the Agency.

21. **Records and Audit:** The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Price Agreement's term and effect, and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Price Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

22. **Subcontracts:** The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-5

Important Bidding Information

All Bidders must notify the State Purchasing Agent or his/her designee if any employee(s) of the requesting agency or the office of the State Purchasing Agent have a financial interest in the Bidder:

☐ **No financial interest** ☐ **Yes financial interest**

If yes specify by name: _____

Bid tabulations will be posted to our website approximately two (2) weeks after bid opening date. To access go to www.generalservices.state.nm.us/spd/, click on Active Bids and Proposals, Bid Tabulations.

Failure of Bidder to complete bidding documents, in accordance with all instructions provided, is cause for this office to reject their bid.

Brand names and numbers are for reference only; equivalents will be considered. If bidding "equivalent" bidders must be prepared to furnish "complete data" upon request, preferably with bid, to avoid delay in award.

Specifications on the bid are not to exclude any bidder or manufacture. Where a brand name or equal is indicated, it is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to restrict competition. "No substitute" specifications may be authorized ONLY if required to match existing equipment.

If any Bidder is of the opinion that the specifications as written preclude him from submitting a bid on this ITB, it is requested that his opinion be made known to the State Purchasing Agent or his/her designee, in writing, at least seven (7) days prior to the bid opening date.

Bidders must, upon request of the State Purchasing Agent or his/her designee, provide information and data to prove that the financial resources, production of service facilities, service reputation and experience are adequate to make satisfactory delivery of the materials and/or services. The State Purchasing Agent or his/her designee reserves the right to require a Bidder to furnish a Performance Bond prior to award, where the Bidder is unable to furnish the required information or data, or for other reasons which would insure proper performance by the Bidder.

Unless otherwise indicated in the bid specifications, samples of the items, when required, shall be free of expense to the State of New Mexico. Samples not destroyed or mutilated in testing will be returned upon request, at Bidders expense. Each sample must be labeled to clearly show the bid number and item number that it pertains to. Unsolicited bid samples or descriptive literature, which is submitted at the Bidder's risk, will not be returned.

Awards

Determination of Lowest Bidder – Following determination of product acceptability, if any is required, bids will be evaluated to determine which Bidder offers the lowest cost to the State in accordance with the specifications and terms & conditions set forth in the Invitation to Bid. The State Purchasing Agent reserves the right to award this Invitation to Bid in total; by groups of items; on the basis of individual items; any combination of these which could result in a multiple award; or as otherwise specified in bid specifications; whichever, in his/her judgment, best serves the interest of the State of New Mexico.

The New Mexico State Purchasing Agent or his/her designee reserves the right to accept and/or reject any and all bids, to waive technical irregularities, and to award to the Bidder whose bid is deemed to be in the best interest of the State of New Mexico.

Special Notice – To preclude any possible errors and/or misinterpretations, bid prices must be affixed legibly in ink or typewritten. Corrections or changes must be signed or initialed by Bidder prior to the scheduled bid opening; failure to do so will be just cause for rejection of bid.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-6

Bids may be withdrawn upon receipt of written request, prior to scheduled bid opening for the purpose of making any corrections and/or changes; such corrections must be properly identified and signed or initialed by Bidder. Resubmittal must be prior to scheduled bid opening for consideration.

After bid opening, no modifications on bid prices or other provisions of bid shall be permitted. A low Bidder alleging a material mistake of fact after bids have been opened may be permitted to withdraw the bid upon written request prior to award at the discretion of the State Purchasing Agent or his/her designee.

F.O.B. Destination – Means goods are to be delivered to the destination designated by the user which is the point at which the user accepts ownership or title of the goods. Laws of New Mexico specifically prohibit acceptance of ownership of goods in transit. Any exception to F.O.B. Destination may cause bid to be declared nonresponsive.

If you are an individual with a disability and you require accommodations such as a hearing interpreter to attend our bid openings, please contact State Purchasing (505) 827-0472 at least five (5) working days prior to the scheduled bid opening.

New Mexico Employees Health Coverage

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for its New Mexico Employees and offer that health insurance to its New Mexico Employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of its New Mexico Employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all of its New Mexico Employees of the availability of State publicly financed health care coverage programs by providing each of its New Mexico Employees with, as a minimum, the following web site link to additional information: <https://www.bewellnm.com/>.

D. For purposes of this Paragraph, the following terms have the following meanings:

- (1) "New Mexico Employee" means any resident of the State of New Mexico employed by Contractor who performs the majority of the employee's work for Contractor within the State of New Mexico, regardless of the location of Contractor's office or offices; and
- (2) "offer" means to make available, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of Executive Order 2007-049. This could include State publicly financed public health coverage programs such as *Insure New Mexico!*

New Mexico Pay Equity Initiative

Contractor agrees, if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees, contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts that are up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-7

meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report it self.

Two (2) copies of the Pay Equity Worksheet shall be submitted prior to Award by the prospective Awarded Contractor.

The PE10-249 and PE250 worksheet is available at the following website:

http://www.generalservices.state.nm.us/statepurchasing/Pay_Equity.aspx

Department Price Agreement

Article I – Statement of Work

Under the terms and conditions of this Price Agreement, the using agency may issue orders for items and/or services described herein.

The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

The items and/or services to be ordered shall be listed under Article IX – Price Schedule. All orders issued hereunder will bear both an order number and this Price Agreement number. It is understood that no guarantee or warranty is made or implied by either the New Mexico State Purchasing Agent or the user that any order for any definite quantity will be issued under this Price Agreement. The Contractor is required to accept the order and furnish the items and/or services in accordance with the articles contained hereunder for the quantity of each order issued.

Article II –Term

The term of this Price Agreement for issuance of orders shall be as indicated in specifications.

Article III –Specifications

Items and/or services furnished hereunder shall conform to the requirements of specifications and/or drawings applicable to items listed under Article IX - Price Schedule. Orders issued against this schedule will show the applicable price agreement item(s), number(s), and price(s); however they may not describe the item(s) fully.

Article IV – Shipping and Billing Instructions

Contractor shall ship in accordance with the instructions of this form. Shipment shall be made only against specific orders which the user may place with the contractor during the term indicated in Article II – Term. The Contractor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item. Delivery shall be made as indicated on page 1. If Contractor is unable to meet stated delivery the State Purchasing Agent must be notified.

Article V – Termination

The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-8

to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

Article VI – Amendment

This Price Agreement may be amended by mutual agreement of the New Mexico State Purchasing Agent or his/her designee and the Contractor upon written notice by either party to the other. An amendment to this Price Agreement shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the New Mexico State Purchasing Agent or his/her designee. Amendments affecting price adjustments and/or the extension of a price agreement expiration date are not allowed unless specifically provided for in the bid and price agreement specifications.

Article VII – Issuance of Orders

Only written signed orders are valid under this Price Agreement.

Article VIII – Packing (if applicable)

Packing shall be in conformance with standard commercial practices.

Article IX – Price Schedule

Prices as listed in the price schedule hereto attached are firm.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-9

Specifications:

The State of New Mexico, Energy, Minerals and Natural Resources Department, Mining and Minerals Division (MMD), Abandoned Mine Land (AML) Program is seeking Contractors to provide construction services on an as-needed basis for reclamation and safeguarding at abandoned mines and associated areas throughout New Mexico. Contractors may bid on any or all scope of work items they are licensed and qualified to perform. Work shall be conducted at abandoned coal and hard rock (non-coal) sites.

Contractors are not required to provide cost information for all unit price specifications listed under this Price Agreement and may bid on only the services they choose to provide. AML may make one or more awards for the Price Agreement and those awards will only be for those unit price specifications that the Contractor provides. Contractors shall use the Bid Form to submit unit prices for the provision of services, and equipment.

It is the Contractors obligation to ensure they are properly licensed or covered by an appropriate license for any work type they are performing. If a Contractor who wishes to undertake certain activities is not licensed, they may enter into a joint venture or subcontract with a licensed contractor to fulfil the requirements. AML may request, and Contractors must supply, copies or verifications of the appropriate license or licenses in connection with a specific bid.

Pre-Bid Meeting

Pre-Bid Meeting: An **Optional** Pre-Bid Meeting will be held as follows:

A virtual pre-bid meeting will be held at the date and time listed below. Prospective Bidders are strongly encouraged to attend the pre-bid meeting to familiarize themselves with the work to be conducted and the construction services that may be needed. The pre-bid meeting gives potential contractors a chance to ask questions about the ITB in a public setting so that all participants receive the same information.

DATE: August 24, 2023

TIME: 10:00 AM

LOCATION: Microsoft Teams Meeting https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDUxYmE3YjMtYWl4Zi00ZmQ3LWJkYzgtMDYxNGVIZGQ2ZWm3%40thread_v2/0?context=%7b%22id%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22oid%22%3a%2252e7598d-ec08-4460-8b5f-d005adaaf761%22%7d

Meeting ID: 288 217 805 943

Passcode: Kee9j3

Term:

Pursuant to NMSA 1978, Section 13-1-150, the initial term of this Price Agreement shall be for one year from date of award with the option to extend for nine additional years, on a year-to-year basis, by mutual agreement of all parties and approval of the New Mexico State Purchasing Agent. This Price Agreement shall not exceed 10 years.

THIS IS NOT A PROJECT-SPECIFIC PRICE AGREEMENT. This Price Agreement can or may cover any or all abandoned mine related activities. Once AML selects a project, it develops a task order (Task Order). Successful bidders must agree to comply with the terms and conditions of the Task Order, any laws and rules or regulations of a governmental entity who owns or manages the property where work will take place, laws and rules or regulations that govern the work, the terms and conditions of this Price Agreement, and any requirements of the underlying funding entity and funding award. Specifications will not change from this Price Agreement to the Task Order; however, each Task Order will provide specific details about the project. Task Orders are not created until a project is designated.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-10

During the course of the procedure, and except for emergencies as provided below, if Contractor determines that additional services or equipment are required to implement the procedure will exceed the original estimate, Contractor shall prepare and submit to AML contact a written revised cost estimate, and shall obtain written approval from AML contact prior to commencement of the additional services or use of additional equipment.

Insurance:

The Contractor shall provide all insurance necessary for its employees on the project, including, but not limited to, general liability, automobile liability, and worker's compensation insurance. The Contractor agrees to comply with state laws and rules pertaining to workers' compensation insurance coverage for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules, when required to do so, this Task Order will be cancelled immediately.

Contractor shall indemnify and hold harmless the State of New Mexico and AML, their officers, and employees, against liability, claims, damages, losses, or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from, Contractor's or its employees, own negligent acts or omissions while Contractor, or its employees perform or fail to perform its obligations and duties under the terms and conditions of this Price Agreement. This save harmless and indemnification clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., NMSA 1978 Comp. and Section 56-7-1 NMSA 1978 Comp.) and any amendments thereto.

It is specifically agreed between the parties executing this Price Agreement that it is not intended by any of the provisions of any part of the Price Agreement to create the public or any member hereof a third party beneficiary or to authorize anyone not a party to the Price Agreement to maintain a suit for wrongful death, bodily or personal injury to persons, damage to properties and/or other claims whatsoever pursuant to the provisions of this Price Agreement.

The Contractor shall provide public liability insurance for the minimum amount of one hundred thousand dollars (\$100,000) for damage to or destruction of property arising out of each occurrence; the amount of three hundred thousand dollars (\$300,000) to any person for any number of claims arising out of each occurrence for all damages other than property damage as permitted under the New Mexico Tort Claims Act; and the amount of five hundred thousand dollars (\$500,000) for all claims arising out of each occurrence. Umbrella or excess liability coverage shall not be considered as any part of the primary coverage.

All work covered by this Invitation to Bid shall be in accordance with applicable state laws, the International Building Code (IBC), and New Mexico building codes.

Wage Rates:

All work covered by this Price Agreement shall be in accordance with applicable state or federal laws and subject to a minimum wage rate determination issued by the Davis-Bacon Act or the State of New Mexico, Department of Workforce Solutions (DWS).

The Contractor is to maintain and have available for inspection by DWS, upon request, certified copies of its payrolls. The contractor/subcontractors shall pay the higher of the U.S. Department of Labor Davis-Bacon Act or the NM DWS Prevailing wage rate as established. A copy of wage rates shall be posted in a conspicuous location on the job site. It is the responsibility of the Contractor to pay the wage rate in effect when the project was bid.

For all wage rate classifications not listed within the Davis-Bacon Wage Determination, a wage rate decision is required by the New Mexico Public Works Minimum Wage Act for construction, demolition

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-11

or renovation purposes on projects costing sixty thousand dollars (\$60,000) or more and funded in part by state or local funding. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: <http://www.dws.state.nm.us>. AML will request a wage rate determination from the U.S. Department of Labor Wage and Hour Division (WHD) and DWS. For additional Davis-Bacon Act Wage Requirements review **Notice: Davis-Bacon Wage Rate Requirements** in the appendices below.

For Davis-Bacon Act Occupation Definitions please refer the following U.S. Department of Labor SCA Directory of Occupations 5th Edition.

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/SCADirectVers5.pdf>

For New Mexico Department of Workforce Solutions Job Classifications And Descriptions please refer to the following NMAC 11.1.2.18:

https://nmonesource.com/nmos/nmac/en/item/18046/index.do#!b/s11_1_2_18

Since the work to be performed under this agreement is entirely funded by grants from the federal government, all Contractors along with their subcontractors must comply with:

- the Davis-Bacon Act requiring not less than locally prevailing wages and fringe benefits be paid to employees;
- 2 CFR part 1401 Requirements for Drug-Free Workplace requiring a drug-free workplace policy; and
- 40 USC parts 3701-3708 The Contract Work Hours and Safety Standards Act regarding overtime.

Registration with NM Department of Workforce Solutions

When submitting a quote for a specific project valued at more than sixty thousand dollars (\$60,000) for any portion of a public works project greater than sixty thousand dollars (\$60,000) that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the DWS prior to submitting its quote. AML may reject any quote that fails to provide a Public Works Registration Number for the prime Contractor and all other listed Contractors or subcontractors.

The Contractor will be contacted on an as needed basis to perform work associated with this Price Agreement. A Price Agreement award is without assurance of quantity or dollar amount of work to be performed. Failure to respond to MMD's requests may be grounds for termination of this Price Agreement.

Escalation/Reduction Clause

Contractors shall provide pricing fixed for each year of this Price Agreement. The Contractor may adjust unit pricing, including labor rates, through an amendment to the Price Agreement but only at the time of yearly extension. A contractor may request a price escalation or reduction for materials only in the event of a documented increase or decrease in the cost of a physical item. A price escalation is not allowed for subcontractor markup, materials markup, or profit margin. Any escalation or reduction will not be effective until approved by AML and the State Purchasing Agent and will only apply to labor expended and items procured after the date of approval. Wage Rates showing the changes in wages must be submitted with the request.

Tax Note

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-12

A Contractor shall not include state gross receipts tax or local option taxes in the unit price specification on the Bid Form. Such tax or taxes shall be added at time of invoicing at current rate and shown as a separate item to be paid.

Bonding:

The Contractor shall provide a one hundred percent (100%) performance bond and a one hundred percent (100%) payment and materials bond for the total purchase order amount, including appropriate New Mexico Gross Receipts Tax, executed by a surety company authorized to do business in the state of New Mexico. A subcontractor shall provide performance and payment bonds if the subcontractor's contract (to the Contractor) for work to be performed is one hundred twenty five thousand dollars (\$125,000) or more. The Contractor shall deliver the performance bond to the agency no later than 10 calendar days after AML issues a purchase order. Failure of a subcontractor to provide the required bonds shall not subject AML to any increase in cost due to approved substitution of subcontractor. Bonds will be required to obtain prior to each project.

Other:

The awarded Contractor shall be responsible for all permits associated with this work as required by the State of New Mexico Construction Industries Division (CID) or the local authority having jurisdiction.

Contractor Note:

No person shall act as a Contractor without a license issued by the CID, classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in § 60-13-12, NMSA 1978. The following licenses are typically used on projects: GB-98 General Building and GS-8 Earthmoving, Excavating, and Ditching. Other license types may be required depending on the type of work to be undertaken.

Background Information:

In 1977, Title IV of the federal Surface Mining Control and Reclamation Act (Act) established the Abandoned Mine Reclamation Fund. MMD's mandate, initiated in 1981, is to safeguard the public from the physical hazards and environmental detriments associated with mining practices and mines abandoned prior to enactment of the Act.

The AML Program is funded through the Office of Surface Mining Reclamation and Enforcement (OSMRE), U.S. Department of the Interior, therefore all undertakings are subject to provisions of Section 106 (36 C.F.R. Part 800) of the National Historic Preservation Act and related laws and the regulations of the National Environmental Policy Act.

Scope of Work:

The Abandoned Mine Land Program is seeking offerors to provide construction services on an as-needed basis for reclamation and safeguarding at abandoned mines and associated areas throughout the State of New Mexico. Contractors may bid on any or all scope of work items they are licensed and qualified to perform. Work shall be conducted at abandoned coal and hard rock (non-coal) sites. AML projects include but are not limited to:

Earthwork Services

Earthwork may include excavation of collapsed or backfilled mine openings to expose the mine workings for further safeguarding; backfilling abandoned mine openings, including vertical shafts, horizontal adits, inclined portals, and sinkholes with on-site excavated material or imported fill; geomorphic reclamation of mine waste materials to move and recontour mine waste piles; construction of soil covers over mine waste materials with imported material; reestablishment of streambed channels through earthwork,

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-13

including reestablishment of meandering; excavation of mine-fire zones followed by mixing with on-site or imported materials to extinguish mine fires; construction of stormwater and erosion control structures made from earthen materials such as rock, soil, and mine waste; and decompaction of on-site soils and mine waste materials. Earthwork most often involves the use of heavy equipment but may occasionally be performed by hand, as required by the AML Program.

Revegetation Services

Reclamation at abandoned mine sites is often accomplished through revegetation. Revegetation services may include application of soil amendments and fertilizers to improve the quality of mine waste piles and abandoned mine areas for planting; planting and protection of seedlings or hydroseeding in project areas; and application of mulch products over reclaimed areas.

Drilling and Grouting Services

Drilling and grouting services may include exploratory geotechnical drilling to investigate subsurface conditions at abandoned mine sites, including soil sampling and rock core collection; ground improvement in subsidence zones through vertical and angled drilling and casing followed by injection of ground-improving materials, including but not limited to cementitious materials, sand and aggregate, or foamed materials. Drilling depths rarely exceed 200ft below ground surface.

Specialty Services

AML specialty services may include construction of metal bat gates, bat cupolas, or polyurethane foam (PUF) plugs over mine openings, including vertical shafts, horizontal adits, and declined portals, including shop fabrication and on-site cutting and welding services; installation of corrugated steel pipe within mine openings; construction of cable nets over large or irregularly shaped mine features, with anchoring of the net into bedrock; construction of barbed wire, chain link, or steel fencing around dangerous mine openings to prevent access; and use of specialty equipment to access and transport materials to mine sites, including helicopters and pack animals, safeguarding of abandoned mine openings through backfilling, construction of steel gates while maintaining access for wildlife, fencing, and closure with polyurethane foam plugs. Safeguarding work may also include drilling and injection of stabilizing materials to address mine-related subsidence of the ground surface. Stabilization work may also include rock slope stabilization and rockfall protection measures. Work may also include mine fire extinguishment and mitigation. Reclamation work consists of mine waste stabilization through construction of stormwater control measures and revegetation; reclamation work may also include stream restoration and realignment. Most AML projects finish with seeding and mulching of all areas disturbed by construction.

Projects may be of short or long-term duration and may be located throughout the State. Projects may include work in remote areas and/or in areas with challenging access and conditions due to the prevalence of archeologically and biologically sensitive resources, steep terrains, remote locations, dangerous mine openings, loose soils, and/or wet conditions.

MMD may enter into multiple agreements with contractors who demonstrate their experience with the scope of work. Contractors will be contacted on an as-needed basis to perform work on individual projects associated with this Price Agreement. Contractors shall indicate which part of the scope of work they are qualified to perform. Work shall be described in MMD's Task Order described below.

Contractor Requirements:

Contractors shall have experienced staff to perform AML work. The Contractor is responsible for obtaining all required licenses, fees and permits required by government agencies to perform the work. Contractors must have a current and appropriate Contractors License with the State of New Mexico and

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-14

shall be capable of providing all coordination, supervision and services required for construction work in abandoned mine lands.

Contractors shall provide all materials, labor, equipment, and tools required to successfully complete the work requested. The Contractors shall be capable of providing a work force with supervision, adequate to perform work for a 40 hour work week during normal working hours (Monday through Friday, 8 a.m. to 5 p.m.) with the option of working non-normal or overtime hours if required.

Subcontracting of work is allowed and shall be prior approved by AML. Subcontractors shall have the appropriate current and valid Contractor's licenses for their work and shall furnish proof upon request.

Contractors shall comply with all local, state and federal laws governing safety, health and sanitation and shall comply with Occupational Safety and Health Administration (OSHA) regulations. AML shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices and protective equipment; take any actions necessary to protect the life and health of employees on the job; the safety of the public; and to protect the property of MMD in connection with the performance of the work covered by this Price Agreement. This shall include the preparation of health and safety plans pertinent to the work being performed.

Projects under this Price Agreement will use federal funds and awarded suppliers shall be registered with System for **Award Management Systems** <http://www.sam.gov/SAM/> and shall provide **Unique Entity Identifier** (UEI) number prior to awarding Task Orders and must **maintain an active status** throughout the term of the Price Agreement.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. The Contractor shall ensure that equipment requiring licensed operators are operated by appropriately qualified and licensed workers.

The Contractor shall provide all clean-up for its operations and control of all construction debris. All work areas shall be maintained in a neat and workmanlike manner. All construction debris shall be removed from the work areas and disposed of at an approved waste disposal site.

AML reserves the right to escort any or all employees of the Contractor off the project site, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement.

Bid Price Requirements:

Contractor's price shall include all labor costs, tools, equipment, materials, permits, overhead, profit, insurance and any other fees necessary to perform the work called for in AML's scope of work.

The bid price for this Price Agreement shall **not** include New Mexico gross receipts tax or local option tax(es). Such tax or taxes shall be added by the Contractor to its quote (line item on schedule of values) at the current tax rate at the project's location. As a separate item, AML shall ensure the appropriate gross receipts tax is added to the Contractor's project quote and that it is encumbered in the Purchase Order. The prices quoted for each project represent the total compensation to be paid by AML for the goods or services provided including any and all labor, equipment, tools, materials, taxes, permits, licenses, or other costs necessary to complete the service or goods provided.

Task Order:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-15

Each project under this Price Agreement will be individually described in a "Task Order". When a service is needed, AML shall provide, at a minimum, a detailed scope of work, technical specifications, and/or drawings defining work required. The Task Order will also describe the purpose of the proposed undertaking that requires AML construction services, background information and use of the project area, geographical limits of the project area including maps of location of the project, and land ownership and property boundaries. The terms and conditions of this Price Agreement will apply to all Purchase Orders which result from the accepted quote in response to the Task Order.

There will be NO markups allowed for adding subcontractor costs and to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project, the reimbursement must be at actual cost of the subcontractor's cost.

The Contractor shall provide materials required to complete the project scope of work. The Contractor may NOT add markups for the materials purchased. The Contractor shall provide an itemized, quantifiable list of materials required for the project. If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. AML reserves the right to purchase materials directly from its other Price Agreements and other sources and to provide these materials to the Contractor.

AML reserves the right to procure specialty services directly from its other Price Agreements and other sources. Specialty services provided from other Price Agreements and other sources shall be coordinated with the Contractor.

AML reserves the right to obtain quotes from multiple Contractors covered under this Price Agreement and award a project to a Contractor based on the quotes.

The Contractor shall visit the site and compare AML's scope of work or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement.

The Contractor shall prepare and submit a written quote in response to MMD's Task Order at no cost to AML. The quote shall include a timetable and budget to perform the work described in the Task Order. The timetable shall include the expected date of substantial completion, which is defined as the stage when the construction project is deemed sufficiently completed to the point where the owner can use it for its intended purpose.

Prior to commencement of any work performed and upon receipt of an approved Purchase Order, AML will issue a Notice to Proceed to the Contractor for the work based on the prices set forth by Contractor's price quote. The work on any project to be performed under this Price Agreement shall commence no later than 10 consecutive calendar days after the date of written notice to proceed.

The Contractor shall begin the work based on the schedule established with AML. Any delay beyond the stated completion date shall be upon written agreement by AML and the Contractor.

Change Orders:

Any change orders to the project scope will require an additional Task Order justifying why the change order was required and shall include backup materials and costs provided by the Contractor. Change orders shall be managed closely by AML. Change order abuse shall be reported to the Procurement Specialist listed on the cover page of this Price Agreement. Preventative measures to avoid change orders shall be taken by both the Contractor and AML prior to issuing the notice to proceed. Such measures may include: clarification of ambiguity in the project plan, the scope of work, the Task Order, project technical

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-16

specifications and drawings, or other project documents. The project scope will be completely defined and agreed upon before any work begins.

Mining and Minerals Division's Obligations:

MMD shall perform the following tasks for each project:

- provide, at a minimum, a detailed scope of work or drawings defining work required;
- provide periodic or random progress inspections of its projects. Progress inspections shall include a description of work completed and photography of the project's progress and shall be documented in field observation reports;
- conduct weekly on-site meetings with the Contractor, or on an as-needed basis, to ensure compliance with the scope of work for the project; provide assistance and guidance to resolve problems arising during the project; and ensure quality of work and materials being incorporated into the project;
- attend pre-construction conferences, progress meetings, job conferences, and other project-related meetings as required;
- if applicable, procure independent inspections, testing, and surveys; and
- make a final inspection and written report upon completion of the project, including recommendation concerning final payment to the Contractor.

Other Construction-Related Terms and Conditions:

Time Considerations:

The work on any project to be performed under this Price Agreement shall commence no later than 10 consecutive calendar days after the date of written notice to proceed. The date of substantial completion shall be described in the Task Order. The date can be extended by MMD by valid written Change Order.

Should the Contractor neglect, refuse, or otherwise fail to complete the work on the project within the time specified in the Task Order, the Contractor agrees, in partial consideration for the award of the Purchase Order, to pay to MMD the amount of dollars named in the Task Order per consecutive calendar day, not as a penalty, but as liquidated damages for such breach of the Purchase Order under this Price Agreement.

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of **60 days** from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

- A. services include services performed, workmanship, and material furnished or used in the performance of services;
- B. the Contractor shall provide and maintain an inspection system acceptable to MMD covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to MMD or other party to the Purchase Order during the term of performance of the Work and for as long thereafter as required;

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-17

- C. MMD has the right to inspect and test all services to the extent practicable at all times and places during the term of the project. MMD shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance;
- D. if MMD performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests;
- E. if any part of the services do not conform with the requirements, MMD may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, MMD may:
 - (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
 - (2) reduce the Purchase Order price to reflect the reduced value of the services performed; and
- F. if the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, MMD may:
 - (1) by agreement or otherwise, perform the services and charge to the Contractor any cost incurred by MMD that is directly related to the performance of such service; or
 - (2) cancel the Purchase Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE MMD'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/PRICE AGREEMENT.

Suspension, Delay or Interruption of Work:

MMD may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as MMD may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within 30 days after suspension of work is lifted and return to work is authorized.

Clean Up and Storage:

- A. the Contractor will provide off-site legal disposal of all waste products, trash, and debris. Contractor shall be responsible for the provision and maintenance of portable toilets;
- B. the Contractor on a daily basis shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the work, the Contractor shall remove from and about the project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to MMD's satisfaction;
- C. materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed; and
- D. The Contractor shall inform MMD of the location of stored materials and construction equipment throughout the duration of the project.

Permits and Fees:

- A. IF APPLICABLE- the Contractor shall secure and pay for permits, fees, licenses, and inspections necessary for proper execution and completion of the work; and
- B. the Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the work.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-18

Schedule, Progress Meetings and Reports:

- A. The Contractor, promptly after being awarded a project and before the first payment application, shall prepare and submit for MMD's information a construction schedule for the work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, subcontractors, material suppliers, and equipment suppliers. At a minimum, the schedule shall include dates for completion of each item in the scope of work and shall not exceed time limits allowed by the Task Order or notice to proceed.
- B. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.
- C. The Contractor shall prepare a daily report each day that Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. MMD may request copies at any time. The reports may include:
 - 1. report date and who prepared the report;
 - 2. weather conditions - low temp, high temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
 - 3. companies present by name and their number of workers, work location, total person hours that day for each company;
 - 4. equipment - type, source, units of work done, location of work, hour meter reading;
 - 5. material brought to site - description, units, quantity, quality, location, time;
 - 6. visitors to site - name, company, time;
 - 7. safety concerns - company, contact, noticed by, work activity, safety issue, requirement, outcome; and,
 - 8. quality assurance and control - company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to MMD a separate and detailed closeout schedule indicating the date of final completion and all work to be completed before final completion including close-out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Task Order. Before Final Completion can be achieved, all Work must be complete and inspected and accepted by MMD.

Payment Provisions:

Generally, payments are made on a 21-day billing cycle. Payment for projects of less than 21 days' duration shall be paid upon MMD's acceptance of the work.

All payments under this Price Agreement and Task Orders are subject to the following provisions:

- A. Acceptance - In accordance with NMSA 1978, Section 13-1-158, MMD shall determine if the construction work provided meets specifications. No payment shall be made for any work until the work has been accepted in writing by MMD. Unless otherwise agreed upon between MMD and the Contractor, within 15 days from the date MMD receives written notice from the Contractor that payment is requested for work, MMD shall issue a written certification of complete or partial acceptance or rejection of the work. Unless MMD gives notice of rejection within the specified time period, the work will be deemed to have been accepted.
- B. Payment of Invoice - Upon acceptance that the work has been received and accepted, payment shall be tendered to the Contractor within 30 days after the date of acceptance of an undisputed invoice.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-19

- C. The Contractor, before final payment of the amount due under each Task Order, shall provide requested close-out documents including any release of liens.

BID INFORMATION:

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to MMD for use on other projects.

The State of New Mexico requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted, with MMD's approval.

As work to be performed under this Price Agreement is entirely funded by grants from the federal government, all contractors along with their subcontractors must comply with:

- Executive Order #14005 *Ensuring the Future is Made in All of America by All of America's Workers* to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive;
- 42 USC part 6901 The Resource Conservation and Recovery Act (RCRA) regulating the generation, transportation, treatment, and disposal of hazardous wastes; and
- 42 USC part 9601 The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) addressing responsibilities related to hazardous substance releases, threatened releases and environmental cleanup.

Mileage and Per Diem: MMD shall pay such travel expenses as may be incurred in, and that are necessary for, the performance of this Price Agreement at the rates established in the New Mexico Per Diem and Mileage Act, NMSA 1978, Section 10-8-1 *et seq.*, as implemented by the current Department of Finance and Administration (DFA) rule and the current EMNRD Travel Policy. The Contractor's cost to perform the work may include any applicable per diem.

"Per Diem Rate" means lodging, meals, and incidentals (excluding taxes).

<https://www.nmdfa.state.nm.us/financial-control/resource-information/memos-and-notices/>

Working Hours:

Regular Hours: Monday through Friday and 8 a.m. through 5 p.m., excluding federal and State of New Mexico holidays, or as determined by MMD.

After Hours: All hours not within the days and times listed for regular hours.

The State of New Mexico reserves the right to award this Price Agreement to multiple Contractors.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-20

Documentation Bidder Shall Include with Bid

Appendix A – Unit Price Schedule Specifications
Appendix B – Contractor Experience
Appendix C – Equipment and Tooling List
Appendix D – Wage Rates Contractor Certification
Appendix E – Contractor Licensing and Registration
Appendix F – Certification of Disbarment
Appendix G – Applicant/Violator System Form

Additional Notices for Contractor to Review Prior to Bidding

Notice: Buy America Domestic Procurement Preference
Notice: Davis-Bacon Wage Rate Requirements

Appendix A. Unit Price Schedule Specifications

The Bid Form only needs to be completed for those unit price schedule items a Contractor wishes to provide. The Contractor will be bound by those prices throughout each individual year (initial or extended) of this agreement.

As required by Section 70914 of the Bipartisan Infrastructure Law, on or after May 14, 2022, all the iron, steel, manufactured products, and construction materials must be produced in the United States, unless such products or materials subject to an approved waiver consistent with that law.

| Item | Group ID | Item Description | Units | Unit Cost |
|------|----------|--|---------|-----------|
| | A | Personnel | | |
| 1 | A1 | Senior scientist, or professional geologist/certified scientist with more than five years of experience or certification in the applicable field and less than 10 years experience | \$/hour | |
| 2 | A2 | Project scientist with degree in science related field and more than 2 years of experience | \$/hour | |
| 3 | A3 | Project engineer with degree in science related field and more than two years of experience | \$/hour | |
| 4 | A4 | Senior professional engineer with more than five years of experience or certification in the applicable field and less than 10 years experience | \$/hour | |
| 5 | A5 | Superintendent | \$/hour | |
| 6 | A6 | Foreman | \$/hour | |
| | | Laborers | | |
| 7 | A7 | Group I-Unskilled | \$/hour | |
| 8 | A8 | Group II-Semi-skilled | \$/hour | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-21

| Item | Group ID | Item Description | Units | Unit Cost |
|---|----------|---------------------------------------|---------|-----------|
| 9 | A9 | Group III-Skilled | \$/hour | |
| 10 | A10 | Group IV-Specialty | \$/hour | |
| | | Operators | | |
| 11 | A11 | Group I | \$/hour | |
| 12 | A12 | Group II | \$/hour | |
| 13 | A13 | Group III | \$/hour | |
| 14 | A14 | Group IV | \$/hour | |
| 15 | A15 | Group V | \$/hour | |
| 16 | A16 | Group VI | \$/hour | |
| 17 | A17 | Group VII | \$/hour | |
| 18 | A18 | Group VIII | \$/hour | |
| 19 | A19 | Group IX | \$/hour | |
| 20 | A20 | Group X | \$/hour | |
| | | Truck Drivers | | |
| 21 | A21 | Group I-VII | \$/hour | |
| 22 | A22 | Group VIII | \$/hour | |
| 23 | A23 | Group IX | \$/hour | |
| | | Other | | |
| 24 | A24 | Field technician | \$/hour | |
| 25 | A25 | Laborer/helper | \$/hour | |
| 26 | A26 | Administrator | \$/hour | |
| 27 | A27 | Certified welder | \$/hour | |
| *Reference NMAC 11.1.2.18 for a complete list of NM Department of Workforce Solutions labor definitions or visit https://nmonesource.com/nmos/nmac/en/item/18046/index.do#!b/s11_1_2_18 | | | | |
| | B | Drilling and Grouting Services | | |
| 28 | B1 | Pickup truck | \$/mile | |
| 29 | B2 | Support truck | \$/mile | |
| 30 | B3 | Support trailer | \$/day | |
| 31 | B4 | Light equipment transport | \$/mile | |
| 32 | B5 | Heavy equipment transport | \$/mile | |
| 33 | B6 | Mobilize/demobilize truck rig | \$/mile | |
| 34 | B7 | Mobilize/demobilize tracked rig | \$/mile | |
| 35 | B8 | Mobilize/demobilize buggy rig | \$/mile | |
| 36 | B9 | Downhole camera | \$/day | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-22

| Item | Group ID | Item Description | Units | Unit Cost |
|------|----------|---|---------|-----------|
| 37 | B10 | Drill standby time (geophysical testing, traffic control, weather delays, etc.) | \$/hour | |
| 38 | B11 | 80 bbl. water truck w/pump or vacuum system | \$/day | |
| 39 | B12 | 120 bbl. or greater water truck w/pump or vacuum system | \$/day | |
| 40 | B13 | Skid steer - Caterpillar 262D or equivalent | \$/day | |
| 41 | B14 | Mini excavator/track hoe - Caterpillar 305 or equivalent | \$/day | |
| 42 | B15 | Air compressor - portable | \$/day | |
| 43 | B16 | Artesian packer contingency | \$/day | |
| 44 | B17 | Field threader | \$/day | |
| | | Truck Mounted Equipment | | |
| 45 | B18 | Truck mount drill - solid stem auger (SSA.) | \$/hour | |
| 46 | B19 | Truck mount drill - hollow stem auger (HSA) | \$/hour | |
| 47 | B20 | Truck mount drill - casing advancer | \$/hour | |
| 48 | B21 | Truck mount drill - air rotary | \$/hour | |
| 49 | B22 | Truck mount drill - mud rotary | \$/hour | |
| 50 | B23 | Truck mount drill - coring | \$/hour | |
| 51 | B24 | Truck mount drill - overburden drilling excentric (ODEX) | \$/hour | |
| 52 | B25 | Truck mount drill - down the hole hammer (DTHH) | \$/hour | |
| 53 | B26 | Truck mount drill - sonic | \$/hour | |
| 54 | B27 | Truck mount drill - direct push technology (DPT) | \$/hour | |
| | | Track Mounted Equipment | | |
| 55 | B28 | Tracked drill - solid stem auger (SSA) | \$/hour | |
| 56 | B29 | Tracked drill- hollow stem auger (HSA) | \$/hour | |
| 57 | B30 | Tracked drill - casing advancer | \$/hour | |
| 58 | B31 | Tracked drill - air rotary | \$/hour | |
| 59 | B32 | Tracked drill - mud rotary | \$/hour | |
| 60 | B33 | Tracked drill - coring | \$/hour | |
| 61 | B34 | Tracked drill - overburden drilling excentric (ODEX) | \$/hour | |
| 62 | B35 | Tracked drill - down the hole hammer (DTHH) | \$/hour | |
| 63 | B36 | Tracked drill - sonic | \$/hour | |
| 64 | B37 | Tracked drill - direct push technology (DPT) | \$/hour | |
| | | Buggy Mounted Equipment | | |
| 65 | B38 | Buggy mount drill - air rotary | \$/hour | |
| 66 | B39 | Buggy mount drill - mud rotary | \$/hour | |
| | | Other | | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-23

| Item | Group ID | Item Description | Units | Unit Cost |
|----------|----------|--|---------|-----------|
| 67 | B40 | HQ coring equipment/additional costs | \$/day | |
| 68 | B41 | Concrete grout injection pump Pressure (Min) 1,000 Pounds per Square Inch (PSI) Flowrate (min) - 40 Cubic Yards (CY)/hr. | \$/day | |
| C | | Earthwork Services | | |
| 69 | C1 | Pickup truck | \$/mile | |
| 70 | C2 | Support truck | \$/mile | |
| 71 | C3 | Support trailer | \$/day | |
| 72 | C4 | 900 CFM air compressor | \$/day | |
| 73 | C5 | 185 CFM air compressor | \$/day | |
| 74 | C6 | Job support trailer complete with tools | \$/day | |
| 75 | C7 | Light equipment transport | \$/mile | |
| 76 | C8 | Heavy equipment transport | \$/mile | |
| 77 | C9 | Skid steer - Caterpillar 262D or equivalent | \$/day | |
| 78 | C10 | Mini backhoe loader - Kubota B26 or equivalent | \$/day | |
| 79 | C11 | Backhoe loader - Caterpillar 310 or equivalent | \$/day | |
| 80 | C12 | Mini excavator/track hoe - Caterpillar 305 or equivalent | \$/day | |
| 81 | C13 | Excavator/track hoe - Caterpillar 325 or equivalent | \$/day | |
| 82 | C14 | Loader - Caterpillar 920 or equivalent | \$/day | |
| 83 | C15 | Grader - 140H Model, 185HP or equivalent | \$/day | |
| 84 | C16 | D-6 Caterpillar dozer - 185HP or equivalent | \$/day | |
| 85 | C17 | D-8 Caterpillar dozer - 305HP or equivalent | \$/day | |
| 86 | C18 | 45HP tractor with disk or equivalent | \$/day | |
| 87 | C19 | 12 yard dump truck | \$/day | |
| 88 | C20 | 18 yard dump truck or belly dump | \$/day | |
| 89 | C21 | 80 bbl. water truck w/pump or vacuum system | \$/day | |
| 90 | C22 | 120 bbl. or greater water truck w/pump or vacuum system | \$/day | |
| 91 | C23 | Drum or sheep's foot rolling compactor | \$/day | |
| 92 | C24 | Small compactor (jumping jack or vibratory) | \$/day | |
| 93 | C25 | Forklift | \$/day | |
| D | | Revegetation Services | | |
| 94 | D1 | Pickup truck | \$/mile | |
| 95 | D2 | Support truck | \$/mile | |
| 96 | D3 | Support trailer | \$/day | |
| 97 | D4 | Light equipment transport | \$/mile | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-24

| Item | Group ID | Item Description | Units | Unit Cost |
|------|----------|--|---------|-----------|
| 98 | D5 | Heavy equipment transport | \$/mile | |
| 99 | D6 | Skid steer - Caterpillar 262D or equivalent | \$/day | |
| 100 | D7 | Mini Excavator/Track hoe - Caterpillar 305 or equivalent | \$/day | |
| 101 | D8 | Excavator/track hoe - Caterpillar 325 or equivalent | \$/day | |
| 102 | D9 | Loader - Caterpillar 920 or equivalent | \$/day | |
| 103 | D10 | 45HP tractor or equivalent | \$/day | |
| 104 | D11 | Attachment – rangeland drill | \$/day | |
| 105 | D12 | Attachment – pitter seeder | \$/day | |
| 106 | D13 | Attachment – mower | \$/day | |
| 107 | D14 | Attachment – crimper | \$/day | |
| 108 | D15 | Attachment – disk | \$/day | |
| 109 | D16 | Attachment – ripper | \$/day | |
| 110 | D17 | Attachment – sprayer | \$/day | |
| 111 | D18 | Attachment – mulcher | \$/day | |
| 112 | D19 | Attachment – 4 ft. extender | \$/day | |
| 113 | D20 | Attachment – 8 ft. extender | \$/day | |
| 114 | D21 | All-terrain vehicle (ATV) | \$/day | |
| 115 | D22 | Utility task vehicle (UTV) | \$/day | |
| 116 | D23 | ATV/UTV attachment – mounter sprayer | \$/day | |
| 117 | D24 | ATV/UTV attachment – broadcast seeder | \$/day | |
| 118 | D25 | ATV/UTV attachment - harrow/drag | \$/day | |
| | E | Specialty | | |
| 119 | E1 | 185 CFM air compressor or similar | \$/day | |
| 120 | E2 | 400 CFM air compressor or similar | \$/day | |
| 121 | E3 | Water tank portable | \$/day | |
| 122 | E4 | Generator small (<5000w) | \$/day | |
| 123 | E5 | Generator large (>5000w) | \$/day | |
| 124 | E6 | Portable welder | \$/day | |
| 125 | E7 | Dry cut steel saw | \$/day | |
| 126 | E8 | Portable cold cut steel saw | \$/day | |
| 127 | E9 | Vertical rope gear | \$/day | |
| 128 | E10 | Hammer drill capable of one-inch holes | \$/day | |
| 129 | E11 | Portable demo saw | \$/day | |
| 130 | E12 | Gas/air powered T-post driver | \$/day | |
| 131 | E13 | Portable auger | \$/day | |
| 132 | E14 | Jackhammer | \$/day | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-25

| Item | Group ID | Item Description | Units | Unit Cost |
|------|----------|--|---|-----------|
| 133 | E15 | Gas monitors | \$/day | |
| 134 | E16 | Survey equipment | \$/day | |
| 135 | E17 | GPS equipment | \$/day | |
| 136 | E18 | All-terrain vehicle (ATV) | \$/day | |
| 137 | E19 | Utility task vehicle (UTV) | \$/day | |
| 138 | E20 | Morooka MST1500VD or equivalent | \$/day | |
| 139 | E21 | Vacuum trailer | \$/day | |
| | F | Additional Equipment Not Listed | | |
| 140 | F1 | | | |
| 141 | F2 | | | |
| 142 | F3 | | | |
| 143 | F4 | | | |
| 144 | F5 | | | |
| 145 | F6 | | | |
| | G | Performance Bond | | |
| 146 | G1 | 100% performance bond | To be added to as specified Task Order as a separate line-item at the applicable rate. | |
| 147 | G2 | 100% payment and materials bond | To be added to as specified in Task Order as a separate line-item at the applicable rate. | |
| | H | New Mexico Gross Receipts Tax | | |
| 148 | H1 | Gross receipts tax, all items provided | To be added to invoice/pay application as a separate line-item at the applicable rate. | N/A |
| | I | Per Diem | | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-26

| Item | Group ID | Item Description | Units | Unit Cost |
|------|----------|------------------------------|--|-----------|
| 149 | II | State of New Mexico per diem | To be added to invoice/pay application as a separate line-item at the applicable rate. | |

*** 149 Items Total ***

Appendix B. Contractor Experience

DESCRIPTION OF EXPERIENCE

(This form can be retyped or handwritten on a separate form.)

Describe below projects similar in nature to this project that your company has performed. Under each category, Item 1 requires Contractor to list previous AML or other mining-related experience. Item 2 requires Bidder to list related non-mining experience pertinent to specified technique. In each case, include project name, location, project sponsor, and a brief description of project. Brief descriptions shall include but are not necessarily limited to: reclamation objective, drilling methodology, equipment used and Bidder's safety program. Include cost of work and date work was completed.

A. Earthwork Services

1. AML or Mine-Related Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

2. Other Related Experience Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

B. Revegetation Services

1. AML or Mine-Related Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-28

2. Other Related Experience Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

C. Drilling and Grouting - Drilling and Sampling, Drilling and Grouting

1. AML or Mine-Related Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

2. Other Related Experience Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

D. Specialty Services

1. AML or Mine-Related Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-29

2. Other Related Experience Project Name, Location, and Owner:

Cost of Work

Year Completed:

Brief Description of Work:

Page-30

[illegible]

Page-31

[illegible]

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-32

| Drill Method | Equipment Capacity Range | Range of Drillhole Inner Diameter | Range of Drillhole Outer Diameter |
|--------------------------------------|---------------------------------|--|--|
| Solid stem auger (SSA) | | | |
| Hollow stem auger (HSA) | | | |
| Casing advancer | | | |
| Air rotary | | | |
| Mud rotary | | | |
| Coring | | | |
| Overburden drilling excentric (ODEX) | | | |
| Down the hole hammer (DTHH) | | | |
| Sonic | | | |
| Direct push technology (DPT) | | | |

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-33

Appendix D. Wage Rates Contractor Certification

Whereas the firm of _____ (Contractor Name & License No.)
(henceforth known as firm), has bid on the *Construction Services for Abandoned Mine Lands - Statewide*, which will
be funded in part or in whole by a federal funds, the firm does hereby certify that it will comply with all
requirements by the State of New Mexico or federal government concerning Davis-Bacon Wage Rates requirements
of law. The firm also certifies that it will pay the higher of Davis-Bacon Wage Rates or the state prevailing wage
rate for all employees covered by these regulations.

Contractor Firm Name

Name (Printed)

Authorized Officer Title

Name (Signature)

Date

Appendix E. Contactor Licensing and Registration

Contractor's New Mexico license no.: _____

New Mexico well license no.: _____

Contractor's classification no.: _____

State tax identification no.: _____

Public works registration no.*: _____

**System for Award Management (SAM)
Unique Entity Identifier (UEI) no.:** _____

*Pursuant to: NMSA 1978, Section 13-4-13.1, Public Works Contracts; Registration of Contractors and Subcontractors

Appendix F - Certification of Disbarment

U.S. DEPARTMENT OF THE INTERIOR Office of Surface Mining Reclamation and Enforcement

Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying

Persons signing this form should refer to the regulations referenced below for complete instructions.

Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions. (See Appendix A of Subpart D of 43 CFR 12).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (See Appendix B of Subpart D of 43 CFR 12).

Certification Regarding Drug-Free Workplace Requirements (Grantees Other Than Individuals) (See Appendix C of Subpart D of 43 CFR 12).

Certification Regarding Lobbying (See 43 CFR 18).

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Office of Surface Mining determines to award the covered transaction, grant or cooperative agreement.

| |
|--|
| PART A: Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions |
|--|

— *CHECK IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE*

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local).
2. The prospective primary participant agrees by submitting this proposal that it will include the clauses

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-36

under Part B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

3. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| |
|---|
| PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions |
|---|

— *CHECK IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| |
|---|
| PART C: Certification Regarding Drug Free Workplace Requirements |
|---|

— *CHECK IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.*

1. The grantee certifies that it will or continue to provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about --
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
 - (1) Abide by the terms of the statement and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-37

officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant;

- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
2. The grantee shall provide below the site(s) of the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

☐ Check if there are workplaces on file that are not identified here.

| |
|---|
| PART D: Certification Regarding Lobbying |
|---|

☐ *CHECK IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.*

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 an agency, a Member of Congress and 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 subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify accordingly.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-38

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 Section 1352, title 31, U.S. Code. 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.

As the authorized certifying official, I hereby certify that the above specified certifications are true.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

TYPED NAME AND TITLE
DATE

This form consolidates DI-1953, DI-1954, DI-1955, DI-1956 and DI-1963.

DI-2010 (March 1995)
Modified for OSM Use

Appendix G - Applicant/Violator System Form

Instructions for Completing the AML Contractor Form OMB #1029-0119

Purpose: The Office of Surface Mining Reclamation and Enforcement Applicant/Violator System (AVS) office is required to conduct eligibility checks for businesses performing abandoned mine land (AML) reclamation work to ensure those businesses are not associated with any coal mining violations. This form is used to update the AVS database which maintains relationship information between individuals and their associated businesses. If you have any questions, please contact the AVS Office at 800-643-9748 or avshelp@osmre.gov.

Part A: General Information: Part A should be completed by the AML Contractor. You can find an electronic fillable form on our website (https://www.osmre.gov/sites/default/files/inline-files/AML%20Contractor%20Information%20Form%202024_6.pdf). **ELECTRONIC FORM MUST BE COMPLETED AND SUBMITTED WITH BID**

Part B: Obtain an Organizational Family Tree (OFT): Part B should be completed by the AML Contractor. An Organizational Family Tree (OFT) indicates the relationships between individuals and their associated business.

To obtain an OFT:

1. Go to the AVS database website: <https://avss.osmre.gov>.
2. Click "Access AVS", and then "Login as Guest".
3. Hover your cursor over the word "Reports" and select "Entity OFT Report".
4. In the search box labelled "Entity Name" type the first few letters or words of your business name.
5. Click the magnifying glass to search for your business.
6. Possible matches will appear in the lower drop down. Select the correct business. If this drop down is blank or your business does not appear in the list your business is not in the AVS and you should check Box 3, and complete Part D of this form.
7. When your business is correctly displayed in the drop down click "Load Report" to generate an OFT.
8. Enter your e-mail in the "Mail To" box and click send. A pdf of the report will be sent by the system.

If you are a new company and/or this is your first AML bid: Your business is most likely **not** in the AVS. If your company does not appear in the AVS database, move on to Part C, check Box 3, and complete Part D of this form.

If your company has worked on previous AML projects or in the coal mining industry: Your business is most likely in the AVS but may need to be updated. Obtain and review your OFT and then complete Part C.

If you require assistance you may contact the AVS Office by phone at: 800-643-9748, or by email at: avshelp@osmre.gov.

Part C: Certifying and updating information in the Applicant/Violator System (AVS).

Part C should be completed by the AML Contractor. Please check the box that best describes your situation, sign and date.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-40

Part D: OFT Information. Part D should be completed by the AML Contractor **only** if you want to make updates to what information is in the AVS, or if your company **does not** have any information in the AVS. Include **all** fields, including the relevant begin and/or end dates for individuals, including middle name or initial for individuals if possible.

Answers to Part D FAQs:

Which employees should be included in Part D?

Any current or separated employee of significance should be listed. Refer to the list provided at the top of Part D. For those owning less than 10% reporting the ownership is optional. Include those employees who direct, manage, or control the project.

What address and phone number should I use?

Use the address and phone number where the person receives business correspondence.

What are the begin and end dates for?

Begin dates indicate when a person started in that position in your company. If an individual still works at the company, you can simply fill in the begin date and leave the end date blank or write "N/A". **End dates** are used for indicating that someone no longer works in that capacity or is no longer employed at the company. **If an employee has held more than one position** or title, note the begin dates/end dates for each position.

NOTICE: Buy America Domestic Procurement Preference

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit www.doi.gov/grants/BuyAmerica. Additional information can also be found at the White House Made in America Office website: www.whitehouse.gov/omb/management/made-in-america/.

Waivers

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-42

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at: www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers. If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the recipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a recipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request. Waiver requests will be posted to www.doi.gov/grants/buyamerica and are subject to public comment periods of no less than 15 days. Waiver requests will also be reviewed by the Made in America Office.

1. Type of waiver requested (non-availability, unreasonable cost, or public interest).
2. Requesting entity and Unique Entity Identifier (UEI) submitting the request.
3. Department of Interior Bureau or Office who issued the award.
4. Federal financial assistance listing name and number (reference block 2 on DOI Notice of Award)
5. Financial assistance title of project (reference block 8 on DOI Notice of Award).
6. Federal Award Identification Number (FAIN).
7. Federal funding amount (reference block 11.m. on DO Notice of Award).
8. Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
9. Infrastructure project description(s) and location(s) (to the extent known).
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant PSC or NAICS code for each.

Approved waivers will be posted at www.doi.gov/grants/BuyAmerica/ApprovedWaivers; recipients requesting a waiver will be notified of their waiver request determination by an awarding officer.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-43

Questions pertaining to waivers should be directed to the financial assistance awarding officer.

Definitions

“Construction materials” includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Construction Materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

NOTICE: Davis-Bacon Wage Rate Requirements

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.*

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-45

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met.

The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-46

necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.*

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-47

address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees* -

(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-48

registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-49

Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of eligibility.*

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-50

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting

State of New Mexico
General Services Department
Purchasing Division
Price Agreement # 40-52100-23-06111:

Page-51

officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Items' Submission Instructions:

Submission process only - Contact the help line directly at: GSD.SPDeProcurement@state.nm.us if you have any questions or concerns.

Items are located on our website:

https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfNewMexico&tab=PHX_NAV_SourcingOpenForBid&tmstamp=1467214109161.

Online Submissions (Items' Page):

Use the following option on eProNM to submit your prices for each item:

1. Download the Excel spreadsheet;
2. Enter your bid prices into the spreadsheet;
3. Upload the spreadsheet into the website.

*Exporting the Items may leave out any item options (make, model, vehicle options, etc.). If you choose to fill out the Excel spreadsheet (Option 1), make sure you respond to the additional information in the comments section. After importing the spreadsheet make sure all items are complete and all necessary item options are complete.

NOTE: Bids on the website must be received by the due date and time listed on the front page of this ITB or as amended. Electronic submissions via eProNM

(https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfNewMexico&tab=PHX_NAV_SourcingOpenForBid&tmstamp=1467214109161) submitted within 2 hours of the close time cannot be guaranteed to upload successfully.

***** 149 Items Total *****