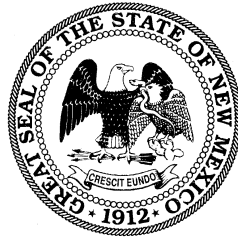


STATE OF NEW MEXICO



NEW MEXICO ENVIRONMENT DEPARTMENT  
SURFACE WATER QUALITY BUREAU  
WATERSHED PROTECTION SECTION

**Request For Proposals – FY 2011**

RFP #: 00-667-00-12366

**Federal Clean Water Act Section 319 (h)  
Nonpoint Source Grant**

*Focus: On-The-Ground  
Surface Water Quality Improvement Projects*

**PROPOSALS DUE APRIL 15, 2010**

RFP Release Date: February 5, 2010



**WATERSHED PROTECTION SECTION**

New Mexico Environment Department

**Surface Water Quality Bureau**

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## I. INTRODUCTION

### A. PURPOSE OF THIS REQUEST FOR PROPOSALS

Nonpoint source pollution is the leading cause of water quality degradation in the United States and poses a substantial problem for the health of New Mexico's streams and rivers. To address this problem, funds are available under Section 319(h) of the Clean Water Act through a competitive proposal selection process. Those eligible for funding include: citizen watershed groups, non-profit organizations, for-profit organizations, individuals, and federal, state and local agencies (including those of Indian Nations, Pueblos, and Tribes). Some §319(h) grants for fiscal year 2011 will fund watershed-based initiatives that are most likely to measurably improve water quality in priority waters by 2014 and in the longer term. With this Request for Proposals, the Surface Water Quality Bureau of the New Mexico Environment Department (NMED) is seeking to develop projects within the watersheds of specified priority stream reaches to achieve the goals of the 2009 State of New Mexico Nonpoint Source Management Program.

Appendix F contains an Acknowledgement of Receipt Form that should be completed and submitted to NMED at the address below by March 8, 2010. Upon receipt of the Acknowledgement of Receipt Form, NMED will create a distribution list of potential offerors for the purpose of sending additional information about this RFP. Failure to return the Acknowledgement of Receipt Form shall constitute a presumption of receipt and rejection of the RFP, and the potential offeror shall not appear on the distribution list. Failure to return the Acknowledgement of Receipt Form does not preclude a potential offeror from submitting a proposal.

### B. SCOPE OF WORK

Through this RFP, the NMED aims to establish Intergovernmental Agreements or Professional Services Contracts for projects in the watersheds of priority impaired stream reaches to produce measurable improvements in water quality by 2014 and in the longer term. Projects must utilize the services of a natural resources professional to coordinate project components. Projects must address specific impaired waters identified in the *2008-2010 State of New Mexico CWA §303(d)/§305(b) Integrated Report*, that also have completed total maximum daily loads describing those impairments. **See Appendix E for eligible waterbodies and impairments.**

### C. PROPOSAL SUBMISSION FORMAT

Proposals not meeting the following proposal submission format requirements will not be evaluated as described in Section II.B.6.

#### **1. Proposal Length**

Each proposal is limited to 15 pages of text (11 point size minimum). This does not include maps, the Campaign Contribution Disclosure Form, or letters of support.

#### **2. Number of Copies**

Each response to this RFP (00-667-00-12366) shall contain:

- One (1) proposal with original signatures. This will be considered the original proposal;
- One (1) proposal in electronic format (CD) in MS Word or Adobe portable document format (.pdf).

### D. PROCUREMENT MANAGER

The Agency has designated a Procurement Manager who is responsible for conducting this §319(h) grant funding process and whose name, address and telephone number follows. All deliveries via US Mail, delivery service, or express carrier should be sent to this address.

<b>Procurement Manager:</b>	<b>Mailing Address:</b>
Abraham Franklin Program Manager, Watershed Protection Section New Mexico Environment Department Surface Water Quality Bureau	State Purchasing Division C/O Fran Dunaway 1100 St. Francis Drive Room 2016 Santa Fe, NM 87505
	Phone: (505) 827-2331, FAX (505) 827-2484

Any inquiries or requests regarding this procurement must be submitted to the Procurement Manager in writing.

#### **E. DEFINITION OF TERMS**

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

**"Agency" or "Department"** means Environment Department, State of New Mexico, acting through the Water and Waste Management Division, Surface Water Quality Bureau, Watershed Protection Section.

**"Best Management Practice" or "BMP"** means a method that has been determined to be the most effective, practical means of preventing or reducing pollution from non-point sources for a specific situation within a watershed.

**"Contract"** means an agreement for the procurement of items of tangible personal property or services.

**"Contractor"** shall mean successful offeror(s).

**"Determination"** means the written documentation of a decision of a procurement manager including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

**"DFA"** means the Department of Finance and Administration for the State of New Mexico.

**"Evaluation Committee"** means a body appointed by the Agency's management to perform the evaluation of offeror proposals.

**"Intergovernmental Agreement"** means a contract between the Department and a public entity (local, state or federal agency, tribe, or other governmental agency) for project implementation.

**"Mandatory"** The terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the offeror proposal.

**"On-the-ground"** means structural or non-structural Best Management Practices that address the root causes and sources of nonpoint source pollution.

**"Offeror or Project Applicant"** is any person, corporation, or partnership who chooses to submit a proposal.

**"Prefers"** The terms "may", "can", "should", "preferably", or "desirable" identify a preferable or discretionary item or factor.

**"Procurement Code"** means Chapter 13, Sections 13-1-28 through 13-1-199 NMSA 1978.

**"Procurement Manager"** means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

**"Request for Proposals" or "RFP"** means all documents, including those attached or incorporated by reference, used for soliciting proposals.

**"Responsible Offeror"** means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that their financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

**"Responsive Offer" or "Responsive Proposal"** means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

**"Scope of Work"** means a summary document that includes the work objectives, an outline of proposed work tasks, a preliminary cost estimate and a proposed schedule.

**"Subcontractor"** refers to a private party or firm hired by the contractor to perform specific project tasks. Subcontractors must be approved by NMED, per terms of the contract.

**"Wage"** means hourly straight-time wage rate or, for workers not paid on an hourly basis, straight-time earnings divided by the corresponding hours. Straight-time wage and salary rates are total earnings before payroll deductions, excluding premium pay for overtime and for work on weekends and holidays, shift differentials, and nonproduction bonuses such as lump-sum payments provided in lieu of wage increases.

**"Watershed-Based Plan" or "WBP"** means a document that characterizes a watershed and identifies causes and sources of water quality impairments; sets goals and identifies solutions that include best management practices to address the impairments; outlines implementation and monitoring programs; and provides an estimate of expected reductions in pollutant load following implementation. Watershed-based plans are further defined in EPA's *Nonpoint Source Program and Grants Guidelines for States and Territories* (Federal Register, Oct. 23, 2003).

**"Workplan"** refers to the detailed document, which directs a contractor to deliver services pursuant to an existing contract. Workplans outline the site conditions, site history, contaminants expected, scope of work to be performed, deliverables, and the schedule and time frame within which work will be performed. Workplans will be accepted by return letter from the Contractor explaining costs not to be exceeded by the contractor for each project. Not to exceed cost estimate will conform to contract General Cost Detail Form negotiated and agreed to by NMED and the contractor and shall identify costs for each task within the workplan. Work will not begin until NMED notifies the contractor that it agrees to the contractor's quoted prices, has secured access to the property, and has determined a date to commence.

## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, and describes the major procurement events and the conditions governing the procurement.

### A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

<b>Action</b>	<b>Responsibility</b>	<b>Date</b>
Issue RFP	NMED / SPD	<i>February 5, 2010</i>

<b>Public Meeting Locations:</b>		<b>Meeting Dates:</b>
Tierra Amarilla, Rio Arriba County Commission Chambers, 149 State Route 162	Department and Project Applicants	March 2, 2010 6:00 – 8:00 pm
Abiquiu, Rural Event Center, 122 State Route 554		March 4, 2010 6:00 – 8:00 pm
Albuquerque, New Mexico Environment Department District 1 Office, 5500 San Antonio Dr. NE		March 9, 2010 6:00 – 8:00 pm
Questa, Village of Questa Hall, 2500 Old State Road 3 (behind Police Department)		March 10, 2010 6:00 – 8:00 pm
Silver City, City Hall Annex (Upstairs Meeting Room), 1203 N. Hudson		March 11, 2010 6:00 – 8:00 pm
Deadline for submission of Acknowledgement of Receipt Form and written questions		Project Applicant
Responses to written questions	Department	March 22, 2010
<b>Deadline for Proposal Submission</b>	<b>Project Applicant</b>	<b>April 15, 2010 3:00 PM MDT</b>
Proposal Evaluation	Evaluation Committee	April – June 2010
Discussion with Offerors / Best and Final Offer	Department, Project Applicant	June 2010
Selection of Finalist(s) / Letters	Evaluation Committee	June 2010
Workplan Development	Department, Finalists	July – August 2010
Workplan Approval	Department, USEPA	November 2010
Finalize Contract / Project Agreements	Department	December 2010
Announcement of Winning Projects and Notification Letter to Unsuccessful Applicants	Department	December 2010
Contract / Intergovernmental Agreement Award	Department, DFA	January 2011
Protest Deadline	SPD	January 2011
Withdrawal of Proposal	Project Applicant	At any time (in writing)
Proposal Offer Firm	Department	90 days after workplan approval

## **B. EXPLANATION OF EVENTS**

Schedule Description: The following paragraphs further describe activities listed in the preceding table.

### **1. Issuance of the RFP will occur on February 5, 2010.**

Copies of the RFP can be obtained from the Procurement Manager and on the SWQB website: <http://www.nmenv.state.nm.us/swqb> and the State Purchasing Division's web page [www.generalservices.state.nm.us/spd](http://www.generalservices.state.nm.us/spd).

### **2. Public Meetings**

The Department will hold pre-proposal meetings in towns near the targeted watersheds **(See table above for location, date and time)**, to provide information and answer questions regarding the RFP. See the SWQB website at [www.nmenv.state.nm.us/swqb](http://www.nmenv.state.nm.us/swqb) and the State Purchasing Division's web page [www.generalservices.state.nm.us/spd](http://www.generalservices.state.nm.us/spd) for the RFP announcement notice and public meeting schedule.

### **3. Deadline to Submit Written Questions**

Potential Offerors may submit written questions as to the intent or clarity of this RFP. Written questions will be accepted until 5:00 PM MDT on March 15, 2010. Written

questions may be mailed, faxed, or sent via e-mail. All written questions must be addressed to the Procurement Manager (see Section I.D).

**4. Response to Written Questions/RFP Amendments**

Responses to written questions and any RFP amendments will be distributed on March 22, 2010 to all potential offerors whose name appears on the procurement distribution list. Appendix F contains an Acknowledgement of Receipt Form that should be completed and submitted to NMED at the listed address by March 15, 2010. Upon receipt of the Acknowledgement of Receipt Form, NMED will create a distribution list of potential offerors for the purpose of sending additional information about this RFP. Failure to return the Acknowledgement of Receipt Form shall constitute a presumption of receipt and rejection of the RFP, and the potential offeror shall not appear on the distribution list. Failure to return the Acknowledgement of Receipt Form does not preclude a potential offeror from submitting a proposal.

Additional written requests for clarification of distributed answers and/or amendments must be received by the procurement manager no later than seven (7) days after the answers and/or amendments were issued.

**5. Deadline for Submission of Proposal**

**ALL PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER NO LATER THAN 3:00 PM MOUNTAIN DAYLIGHT TIME (MDT) ON April 15, 2010.** The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the State Purchasing Division only at the address listed in Section I.D of this RFP. Proposals must be sealed and labeled on the outside of the package clearly indicating it is for “**\$319(h) On-The-Ground Projects – FY11**” and **including the Request for Proposals (RFP) number (00-667-00-12366).** Proposals submitted by fax or email, and those received after the prescribed deadline, will not be accepted. **In addition, projects proposed outside the Scope of Work will be rejected from consideration.**

Proposals will be opened on April 15, 2010 at 3:00 pm MDT. The name of each Project Offeror and the Project Title shall be recorded in the presence of at least one witness. A public log recording the names of all Project Offerors will be maintained by the Department. All information contained in the offer shall be made known only to the Department, EPA, or Evaluation Committee members. After any resulting Intergovernmental Agreement or Contract execution, the proposals and the evaluation documentation shall be open for public inspection.

**6. Proposal Evaluation**

The initial proposal evaluation process will begin with screening conducted by NMED/SWQB staff. The staff will verify that RFP submittals meet the requirements of Section I, Scope of Work and Proposal Submission Format, and meet prescribed Proposal Format and Organization requirements described in Section III of this document. Those proposals eligible for the next phase of review will be forwarded to the Procurement Manager. All other proposals not meeting minimum requirements will be eliminated from further consideration.

Agency management will appoint and convene an Evaluation Committee to perform a detailed review of eligible proposals. The Evaluation Committee will rank the proposals in accordance with the proposal evaluation criteria listed in Section IV of this document. During the evaluation process the procurement manager may, at his option, initiate discussion with offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be evaluated without such discussion. Discussions shall not be initiated by the offeror.

**7. Selection of Project Finalists and Notification Letter**

Based on the ranking of the Evaluation Committee, the Procurement Manager will select a group of proposal finalists to proceed to the workplan development stage. Funding constraints will be factored into the selection process. Written notification that the Project

Applicant is selected to proceed to workplan development stage will be provided by the Procurement Manager.

**8. Best and Final Offers from Finalists**

Finalist offerors may be asked to submit revisions to their proposals for purposes of obtaining best and final offers.

**9. Workplan Approval**

Finalists will begin working with Department Project Officers in formulating and developing project workplans in accordance with CWA §319(h) Grant guidance and requirements. NMED will present a Workplan Workshop in July 2010 (attendance will be mandatory). Workplan development is expected to be completed by late August 2010.

The Department and EPA will review workplans during September and October 2010. Written notification of whether or not the workplan is approved will be provided in November 2010.

**10. Finalize Project Agreements and Agreement Awards**

Contracts or Intergovernmental Agreements will be developed for selected projects during December 2010. The Department will finalize the Intergovernmental Agreements/Contracts in December 2010. This date is subject to change pending completion of agreement development, appropriate state approvals, and receipt of grant funding from EPA.

**11. Public Announcement of Winning Projects / Unsuccessful Notification Letters**

Winning projects will be announced after Intergovernmental Agreement/Contract approval. All RFP respondents who submitted unsuccessful proposals will be notified in writing, return receipt requested.

**12. Protests**

Protests must be in conformance with **NMSA 1978, Section 13-1-172** and applicable procurement regulations and be filed in writing within 15 days of receipt of written notification that the proposal was unsuccessful. The fifteen (15) day protest period for RFP respondents shall begin on the day following receipt of the notification letter. Protests must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest including appropriate supporting documentation or exhibits. Protests received after the deadline will not be accepted. The protest must be delivered to:

Michael Vinyard  
State Purchasing Division  
1100 St. Francis Drive  
Room 2016  
Santa Fe, NM 87505

**13. Withdrawal of Proposal**

Offerors may withdraw their proposals at any time. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager.

**14. Proposal Offer Firm**

Responses to this RFP, including proposal cost, schedules and prices, will be considered firm ninety (90) days after workplan approval.



## **C. GENERAL INFORMATION**

This procurement will be conducted in accordance with the New Mexico State Procurement Code (Section 13-1-1 through 13-1-199 NMSA 1978).

### **1. Intergovernmental Agreement/Contract Period**

The term of any resultant Intergovernmental Agreement/Contract shall become effective upon execution by the contractor, the Department, and DFA, and shall continue for a period of up to three (3) years thereafter, with the possibility of a four (4) year maximum, unless terminated or canceled as otherwise provided herein. The contractor shall submit written, documented justification for a time extension to the Department at least 60 days prior to Intergovernmental Agreement/Contract termination.

### **2. Contract and Intergovernmental Agreement Final Billing**

Due to financial deadlines for the close of the fiscal year (June 30), the Department will require a reconciliation of all outstanding invoices and submittal to the Department by May 15th. Submittal of invoices beyond this deadline may result in reimbursement delays of up to sixty days.

Invoices for work dated between May 15th and June 30 must be delivered to the department no later than July 10th and must clearly state work was completed prior to June 30. Work beginning July 1st or later shall be submitted under separate invoice.

**As a project is nearing completion, NMED reserves the right to withhold final invoice reimbursement until such time as the Final Report deliverable is submitted to NMED for the project.**

### **3. Task Implementation**

Implementation of workplan tasks must begin within three (3) months after the effective date of the Intergovernmental Agreement or Contract and must proceed in accordance with approved workplan schedules. The Department reserves the right to cancel any Intergovernmental Agreement or Contract based on untimely implementation.

### **4. Contractors and Subcontractors**

Use of contractors/subcontractors must be explained in the proposal, and all must be identified by name. The prime contractor shall be wholly responsible for the project performance, whether or not subcontractors are used. Both contractor and subcontractor are responsible for proposal costs that are reasonable in a fair and openly competitive market. Non-wage costs may be included as separate identifiable costs in accordance with the Budget Format. If a contractor/subcontractor is required to complete work, their cost and activity must be explained. Use of subcontractors will require prior written approval of the Department.

Federal funds used to support projects identified with this RFP are subject to a maximum daily rate for consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2009, the limit is \$587.20 per day and \$73.40 per hour. This rate does not include overhead, transportation, and subsistence costs for travel performed. *Non-wage costs may be included as separate identifiable costs in accordance with the budget format.*

### **5. Submittal of Confidential Information**

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data are normally restricted to proprietary financial information concerning the Offeror's organization or data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, **NMSA 1978, Sections 57-3A-1 to 57-3A-7**. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Department shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

**6. Cancellation of Request for Proposals**

The Department reserves the right to cancel this solicitation at anytime. In the event the RFP is canceled, notice of cancellation shall be sent to all RFP respondents by certified mail, return receipt requested.

**7. Sufficient Appropriation**

Any Intergovernmental Agreement/Contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations are not available. Notification of Intergovernmental Agreement/Contract termination will occur in writing. The Department's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

**8. Number of Responses**

Each Project Applicant may submit more than one response to this RFP for separate waterbodies.

**9. Department Audits**

The Department may at any time review and audit requests for payment and make adjustments for, but not limited to, math errors, items not built or purchased, unacceptable construction or performance, or lack of conformance with approved workplans and schedules. The contractor and all subcontractors shall retain all records relating to the project for a period of five (5) years from the date of Intergovernmental Agreement/Contract termination in accordance with the provisions of the Office of Management and Budget (OMB) Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations," published in the Federal Register on June 30, 1997, nonfederal entities. Record Keeping Requirements are provided in Appendix C.

**10. Insurance**

Depending on the nature of the proposed work, prior to commencing workplan tasks, the contractor may be required to furnish State certification from insurer(s) for coverage in the minimum amounts as stated below. The coverage shall be maintained in full force and effect during the term of the Intergovernmental Agreement/Contract and shall not serve to limit any liabilities or any other contractor obligations.

General Liability including: Comprehensive Form, Premises Operations, Contractual, Personal Injury, and Limits of Liability minimum - each occurrence.

BODILY INJURY	
Per Person	\$1,000,000
Each Occurrence	\$2,000,000
PROPERTY DAMAGE	
	\$1,000,000
BODILY INJURY & PROPERTY DAMAGE COMBINED	
	\$1,000,000
WORKMEN'S COMPENSATION AND EMPLOYER'S LIABILITY-STATUTORY (EACH ACCIDENT)	
	\$100,000

The State of New Mexico and the Department must be added as additional insureds as required by statute, Intergovernmental Agreement/Contract or other request. It is agreed

that any insurance available to the contractor shall be primary of other sources that may be available.

It is further agreed that no policy shall expire, be canceled or materially changed to affect the coverage available to the State without thirty (30) days written notice to the State. **THE INSURANCE CERTIFICATE IS NOT VALID UNLESS COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE INSURANCE COMPANY.** If notified that insurance is required, within fifteen (15) days following award of Intergovernmental Agreement/Contract, certificates of insurance must be submitted to the Department Procurement Office clearly stating the applicable Intergovernmental Agreement/Contract number, effective date(s) of coverage, and limits of liability required pursuant to the Intergovernmental Agreement/Contract.

**11. Ownership of Information**

Title to all reports, information, data, computer data elements, and software prepared by the contractor in performance of the Intergovernmental Agreement/Contract shall belong to the Department. Subject to applicable state and federal laws and regulations the contractor shall have full and complete rights to reproduce, duplicate, disclose and otherwise use all such information. Commercial use of such information requires written approval of the Department prior to such use.

**12. DBE Monitoring and Reporting**

Disadvantaged Business Enterprise (DBE) reporting is a requirement for Intergovernmental Agreements and Contracts that are funded, in whole or in part, by EPA monies. If a Intergovernmental Agreement or Contract is awarded from this RFP, the award recipient shall be bound to supply a set of required reports to the Department. Guidance and forms will be provided to Project Applicants who receive funding through the Department. Failure to provide required reports may result in delay of payments to contractor or termination of the Intergovernmental Agreement or Contract.

This requirement is not in force during the RFP process but shall commence immediately upon award of a Intergovernmental Agreement or Contract that does or will include federal funds. The contractor shall be notified at the time when federal funding becomes involved, and at that point in time until the expiration of the Intergovernmental Agreement or Contract and any amendments thereto, DBE reports shall be required.

**13. Suspension or Debarment Status**

If the firm, business or person submitting a proposal has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any local, state or federal government, the Project Applicant must include a letter with its proposal setting forth the name and address of the government unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Failure to supply the letter or to disclose all pertinent information regarding a suspension or debarment shall result in rejection of the offer or cancellation of the Intergovernmental Agreement/Contract. The Department may exercise any other remedy available by law.

**14. Project Termination**

In the event the Department determines that the project is not being implemented in accordance with the approved workplan, the Intergovernmental Agreement or Contract may be terminated and/or monies reallocated to other projects.

**15. Intergovernmental Agreement / Contract Terms and Conditions**

The Intergovernmental Agreement or Contract between the Department and a contractor must follow the format specified by the Department and contain the terms set forth in Appendix B or A. The Department reserves the right to negotiate provisions contained in this RFP with a successful Offeror. The contents of this RFP, as revised and/or

supplemented, and the successful Offeror's proposal will be incorporated into and become part of the Intergovernmental Agreement or Contract.

Should an Offeror object to any of the Department's terms, as contained in Appendix A or B of this RFP, that Offeror must propose specific alternative language. The Department may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Department and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

**16. Intergovernmental Agreement/Contract Deviations**

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Department and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

**17. Offeror Qualifications**

The Department may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Department will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in **NMSA 1978, Sections 13-1-83 and 13-1-85**.

**18. Right to Waive Minor Irregularities**

The Department reserves the right to waive minor irregularities. The Department also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Department.

**319(h) Grant Budget and Funding Information:**

**19. Eligible Reimbursement Items**

Items eligible for reimbursement under an awarded contract include:

- Itemized personnel costs, supplies, equipment purchase, rental, or lease fees, operational costs (e.g.; telephone, postage), travel, and Department approved subcontractor services.
- Contractor and subcontractor rates must reflect current fair market rates and must not exceed an hourly wage rate of \$73.40 per hour.
- Other costs will be evaluated on an item-by-item basis

**20. Ineligible Reimbursement Items**

Items not eligible for reimbursement include:

- Research projects
- Funding for projects required under administrative and/or judicial order
- Costs, including personnel costs of securing additional sources of project funds
- Food and drink
- Indirect costs
- Lobbying
- Fellowships or scholarships

**21. Funding and Match Calculations**

All projects require, at a minimum, a non-federal match of 40% of the total project cost, consisting of cash and/or in-kind services. Examples of acceptable match include hourly salaries of personnel paid from non-federal sources, a projection of the fair market value of time donated to project related activities (e.g.; lawyers, youth group volunteers, environmental organizations, etc.), fair market value for utilization of privately owned equipment, etc.

Many of the impaired stream reaches listed in Appendix E are located near or within federally managed land. Salaries and equipment derived from federal funds cannot be used to meet match requirements.

Total project costs (100%) equal federal §319 funds (60%) plus non-federal match (40%). Methods for calculating total project costs, federal §319 funds, and non-federal match funds follow:

- Total project costs multiplied by 0.6 equals federal §319 funds; and total project costs multiplied by 0.4 equals non-federal match.
- Total project costs equal federal §319 funds divided by 0.6.
- Total project costs minus federal §319 funds equal non-federal match.

**22. Quality Assurance Project Plans**

Environmental monitoring conducted with support of funds administered by the US Environmental Protection Agency must be conducted under a monitoring plan, called a Quality Assurance Project Plan (QAPP), approved by EPA. The NMED Surface Water Quality Bureau is developing a QAPP which includes some effectiveness monitoring conducted with oversight provided by NMED staff. If the proposed project includes a monitoring component not described in the NMED/SWQB QAPP, then the applicant must have such an approved QAPP in place, or the applicant will be required to develop a QAPP as part of the project. Guidance for QAPP preparation is available at <http://www.epa.gov/QUALITY/faq6.html>.

**23. Reports**

Reports shall be prepared and submitted to the Department on a quarterly basis. Reports shall be submitted by regular mail in hard copy or electronically by e-mail or in the form of compact disk (CD) in Windows Microsoft (MS) Word or other Department approved software. All electronic reports shall be submitted free of computer viruses. The quarterly narrative progress report shall include a discussion of progress made towards each project task as outlined in the project workplan. At the end of the project term, a final report shall be submitted which includes an analysis and assessment of the project, pictures of sites, and a written analysis of project successes and failures that can be used as guidance for similar endeavors. Note that future funding decisions will be based in part on meeting past workplans and schedules.

**24. Payments**

Project Applicants will be reimbursed per task completion by certified detailed "Expenditure/Request for Funds" invoice (Appendix D) indicating direct cost and calculated match amounts. After Department review, payment will be made upon receipt of an "Acceptable Report" and approval by the Department of each narrative progress report. As described in Section II.C.2 above, **final project invoice payments will be withheld until the project's Final Report is received by NMED.**

### III. PROPOSAL FORMAT AND ORGANIZATION

**A. PROPOSAL COMPONENTS:**

The following describes how each proposal is to be organized. Only complete proposals addressing the goals of this RFP (Sections I.A, I.B), for the designated impaired water reaches, will be evaluated. Each proposal is limited to 15 pages of text (11 point size minimum). This does not include maps, the Campaign Contribution Disclosure Form, or letters of support. Proposals that do not meet the required deadline, do not adhere to both the prescribed content and format specified below, or omit requested information will be rejected and will not be evaluated. Any assumptions used in the proposal should be clearly stated.

**1. Project Title**

The title should be concise, one line at most, and descriptive of the project.

- 2. Project Applicant**  
Describe the organization or governmental entity that the Project Applicant is representing, if any. Indicate the Project Applicant name, address, telephone and fax numbers, and e-mail address.
- 3. Project Area**  
Indicate the priority stream reach where the project will be occurring as identified in Appendix E. State the number of stream miles or acres of area affected by the project. Cite a watershed-based plan or equivalent documents describing the significance of the project location relative to other portions of the watershed. A map of the project area at an appropriate scale, clearly identifying project boundaries, is required.
- 4. Project Manager**  
A Project Manager must be identified who will be responsible for implementation of the approved project including: administrating subcontracts; communicating with affected landowners; ensuring technical viability of the project; ensuring all funds expended are within the budget; obtaining any necessary permits; providing quarterly fiscal and technical progress reports to NMED as well as a final report; and long term maintenance and monitoring oversight.
- 5. Start and End Dates**  
Indicate the proposed beginning and ending dates of the project.
- 6. Past CWA § 319(h) Activities**  
Indicate whether your organization has received any CWA Section 319(h) grant funding in the past, including the dates and project title(s).
- 7. Problem Statement**  
Indicate the impairment or impairments listed in Appendix E that will be addressed by the project. Clearly describe what you know about the contributors to the impairment in the watershed. Include land use, nonpoint source pollution sources and related water quality problems of the watershed. Cite a watershed-based plan or equivalent documents (with enough information that reviewers may find them) with this information.
- 8. Key Persons**  
Describe the key individuals who will be responsible for completing workplan objectives or tasks. Briefly describe qualifications of each key person. Briefly list the major participating organizations or agencies, and their specific role in the project. Include documentation of Cooperator commitments to the project.
- 9. Proposal Description**  
The proposal must address each of the following items:
  - State a pollutant load reduction goal for the project. Provide a brief explanation of how the goal was developed. Cite a watershed-based plan or equivalent documents with this information.
  - Describe efforts that will be made to utilize other state or federal conservation programs which could complement CWA Sec. 319 activities in mitigating the identified water quality problems.
  - List any permits, certifications and clearances that will be needed to implement the project and the progress made to obtain those permits, certifications and clearances.
  - For projects located on private land, describe how the project provides a benefit to the State of New Mexico and the public, and what measures will be taken to ensure long term maintenance of BMPs.

**10. Implementation Plan and Schedule**

Describe the tasks needed to achieve project results. Task descriptions must include the person responsible for implementation, expected task completion dates, a deliverable for each task, and a brief description of how each task will be accomplished.

**11. Measures of Success**

Describe the indicators that will be used to document project success. Indicators may be of three types: 1) direct water quality measurements used to detect changes in water quality and assess water quality against water quality standards, 2) measurements of environmental parameters such as ground cover or canopy cover that will be used to model changes in pollutant loading, or 3) implementation monitoring of successful installation or adoption of best management practices coupled with load reduction estimates associated with those practices. Cite a watershed plan or equivalent documents supporting selected measures of success.

Environmental monitoring conducted with support of funds administered by the US Environmental Protection Agency must be conducted under a monitoring plan, called a Quality Assurance Project Plan (QAPP), approved by EPA. See Section II.C.22 for more information.

**12. Match**

Describe the type of funds and in-kind match the project will be using, in accordance with Sections II.C.19 through II.C.21 of this RFP. Total project costs (100%) equals federal 319 funds (60%) plus non-federal match (40%).

**13. Fiscal Accounting Responsibility**

This is a reimbursement program. The proposal must provide documentation that the applicant is qualified to provide fiscal accounting for the project, or that a federal, state or local public entity acting as fiscal agent, or a non-profit organization acting as fiscal agent, understands the role of fiscal agent, is qualified to provide fiscal accounting services, and has agreed to provide those services.

**14. Budget**

For this RFP, the applicant is required to submit a budget for the life of the project. The budget must include costs of work divided into the following categories:

- Personnel (identify each person, his/her area of expertise, anticipated hours and hourly rate). The Department must approve changes to personnel and hourly rates in advance. Professional services hourly rates must reflect current market value and shall not exceed an hourly wage rate of \$73.40 per hour.
- Equipment (tangible items purchased to complete project tasks).
- Travel (per diem costs for food and lodging not to exceed \$85 per night, and mileage not to exceed the current federal rate).
- Supplies (specify the type, quantity and costs of supplies needed).
- Contractual/ Subcontracts (identify the subcontractor and all costs to be incurred by the contractors).
- Other (telephones, postage etc. with a detailed listing).

The following table indicates the preferred budget format and an appropriate level of detail. Categories may include, but are not limited to, the examples shown below.

BUDGET CATEGORIES	CWA 319 Funds	Cash or In-Kind MATCH	TOTAL
<b>Personnel:</b> (hourly salaries must not exceed \$73.40/hour wage rate)			
Project Coordinator			
Other paid staff - (identify each person)			
Volunteer participation, planning, review, monitoring			
Benefits (paid insurance, vacation, etc.)			
<b>Equipment:</b>			
Field equipment; digital camera; computer; software; field garden hand tools; aerial photos; etc.			
Sampling equipment pH / conductivity / turbidity meters			
<b>Travel:</b>			
Lodging / per diem (maximum \$85/night in-state travel rate)			
Mileage reimbursement (@ 2009 Federal mileage rate of \$0.55/mi)			
Mileage match for volunteers			
<b>Supplies:</b>			
Field supplies / seed / plants / feed / reclamation materials			
Office / meetings / public announcement supplies			
Materials donations			
<b>Contractual – Direct Labor, Outside Services:</b> (maximum \$73.40/hour wage rate plus overhead costs)			
Consultants / instructors			
Field contractors/subcontractors: labor and services			
Workshop arrangements / publications (drafting, printing) / web site			
<b>Other:</b>			
Map and photo duplication; postage/ mailing costs			
Office / workshop venue; port-a-potty rentals; telephone			
Rent; insurance			
Miscellaneous; & other overhead costs			
<b>TOTAL</b>			
<i>% Of Adjusted Total</i>	%	%	100%

**15. Campaign Contribution Disclosure Form**

Include with the proposal a completed Campaign Contribution Disclosure Form (see 0). This form is required pursuant to **NMSA 1978, § 13-1-191.1.**

**IV. PROPOSAL EVALUATION CRITERIA**

In accordance with the New Mexico **Procurement Code NMSA 1978, Section 13-1-117** (Competitive Sealed Proposals), awards shall be made to the applicant(s) whose proposal is determined to offer the best opportunities for achieving the goal of this Request for Proposals, as discussed in Section I. Each of the following four (4) major evaluation criteria is point-weighted, with subfactors listed in descending



order. The total maximum point allocation cannot exceed **1000** points for any proposal. The evaluation criteria are as follows:

<b>Criterion</b>	<b>Description</b>	<b>Possible points</b>
<b>A.</b>	<p><b><u>Program alignment</u></b></p> <p>Likelihood that project will produce long-term measurable improvements in water quality <b>(130 max. points)</b>.</p> <p>Likelihood that project will produce measurable improvements in water quality by 2014 <b>(90 max points)</b>.</p> <p>Problem statement accurately cites 2008-2010 CWA Section 305(b)/303(d) Integrated Report and at least one TMDL, and states a goal relative to a target load reduction within at least one TMDL <b>(20 max. points)</b>.</p> <p>Project addresses at least one water quality impairment identified by NMED in the 2002-2004 CWA Section 305(b)/303(d) Integrated Report. This factor originates from EPA performance measures that utilize a 2002 baseline <b>(10 max. points)</b>.</p>	<u>250</u>
<b>B.</b>	<p><b><u>Technical strength</u></b></p> <p>Selected BMPs are appropriate for identified pollutant sources and are aligned with a watershed-based plan or equivalent documents <b>(200 max. points)</b>.</p> <p>The description of project tasks, associated schedule, and project area are clear and well developed <b>(50 max. points)</b>.</p> <p>Rationale for selection of the project area is presented and is aligned with a watershed-based plan or equivalent documents <b>(25 max. points)</b>.</p> <p>A practical, effective means of documenting project success is presented <b>(25 max. points)</b>.</p>	<u>300</u>
<b>C.</b>	<p><b><u>Value</u></b></p> <p>Cost of project relative to expected long-term pollutant load reduction, based on maintenance and longevity of implemented BMPs <b>(75 max. points)</b>.</p> <p>Costs of individual project components are fair relative to market conditions <b>(75 max. points)</b>.</p> <p>Cost of project relative to expected short-term (i.e., by 2014) pollutant load reduction <b>(50 max. points)</b>.</p> <p>Non-federal match appropriately complements federally funded project components and appears attainable <b>(50 max. points)</b>.</p>	<u>250</u>
<b>D.</b>	<p><b><u>Organizational strength</u></b></p> <p>Roles, responsibilities, and qualifications of the Project Manager and other project partners are well described and appropriate to accomplish the goals of the project <b>(75 max. points)</b>.</p> <p>Project partners are committed to assist with their portions of the project as described in the proposal <b>(75 max. points)</b>.</p> <p>Environmental clearances are substantially complete, and agency partners are committed to assist with remaining tasks related to clearances <b>(50 max. points)</b>.</p>	<u>200</u>
<b>Total</b>		<u>1000</u>

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## **APPENDICES**

### **REQUEST FOR PROPOSAL**

**FY10 CWA §319(h) On-The-Ground Projects  
RFP #: FY10-SWQB/NPS-0002**

- A. Sample Agreement - Professional Services Contract
- B. Sample Agreement – Intergovernmental Agreement
- C. Record Keeping Requirements
- D. Expenditure / Request for Funds
- E. Eligible Watersheds and Stream Segments
- F. Acknowledgement of Receipt Form
- G. Campaign Contribution Disclosure Form

## Appendix A

### SAMPLE AGREEMENT – HYBRID SERVICES CONTRACT

#### STATE OF NEW MEXICO NEW MEXICO ENVIRONMENT DEPARTMENT

CONTRACT # \_\_\_\_\_

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Environment Department, hereinafter referred to as (the "Agency") and **NAME OF CONTRACTOR**, hereinafter referred to as (the "Contractor"), and is effective as of the date set forth below upon which it is executed by the State Purchasing Agent.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference:

Performance Measures, default by Contractor – Contractor shall substantially perform the Performance Measures set forth in **Attachment 1**. In the event that the Contractor fails to obtain the results described in **Attachment 1**, the Agency may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise the Agency of specific steps that it will take to achieve these results in the future and the timetable for implementation. Nothing in this subparagraph shall be construed to prevent the Agency from exercising its right pursuant to Paragraph 4 below.

**2. Compensation.**

A. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$\_\_\_\_\_. This amount is a maximum and not a guarantee that the work assigned to Contractor under this Agreement to be performed shall equal the amount stated herein.

B. The Agency shall pay to the Contractor in full payment for services satisfactorily performed at the rate of\_\_\_\_\_. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$\_\_\_\_\_ shall be paid by the Agency to the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the DFA. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not

acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

### 3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE DFA. This Agreement shall begin on **DATE** for a term of one (1) year unless terminated pursuant to paragraph 4, infra, or paragraph 5. The agency reserves the right to extend the contract on an annual basis, or any portions thereof, for up to three (3) additional years. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

### 4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

B. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become

property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for Violation of Law.**

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 illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

Any person, group or organization, that signs this agreement shall comply with the following federal statutes: Title VI of the Civil Rights Act of 1964, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 and their implementing regulations at 40 C.F.R. Parts 5 and 7 where applicable. **(IF FEDERALLY FUNDED)**

**17. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

**19. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments

**20. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.



**21. 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:

(1) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(2) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2011 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

(3) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2012 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of 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 employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information:  
<http://insurenewmexico.state.nm.us/>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

**22. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Agency: [insert name, address and email].

To the Contractor: [insert name, address and email].

**25. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract. **(IF FEDERALLY FUNDED)**

**26. Approval of Contractor Personnel**

Personnel proposed in the Contractor's written proposal to the procuring agency are considered material to any work performed under this Price Agreement. 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.

**27. Limit of Liability**

The contractor's liability to the SPA or a procuring agency for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject of SPA's or the procuring agency's claim. The foregoing limitation does not apply to Paragraphs 20 and 34 of this agreement or to damages resulting from personal injury caused by the contractor's negligence.

In no event will the contractor be liable for any damages resulting from loss of data or use, lost profits or any incidental or consequential damages.

**28. Survival**

The agreement paragraph titled Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

**29. Succession**

This agreement shall extend to and be binding upon the successors and assigns of the parties

**30. Impracticality of Performance**

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**31. Incorporation and Order of Precedence.**

Request for Proposals No. 00-667-00-11979 and the contractor's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the Contractors Best and Final Offer(s), in reverse chronological order; then
5. the contractor's proposal; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

**32. Patent, Copyright, Trademark and Trade Secret Indemnification**

A. The contractor shall defend, at its own expense, the State and its agencies against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a procuring agency based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the State for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the State shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and

iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency to the extent such modification is the cause of the claim.

**33. Minimum Wage Rate.**

If applicable, Contractor shall comply with minimum wage rates as established by the New Mexico Department of Workforce Solutions, Labor and Industrial Division, and with all other applicable requirements of that Department, including posting of the wage rates in a prominent location on the site of hiring for and performance of this Agreement.

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the DFA Contracts Review Bureau below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cabinet Secretary

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Department, Office of General Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: 00-000000-00-0

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Taxation and Revenue Department

This Agreement has been approved by the SPA:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Purchasing Agent for the State of New Mexico

Attachment 1

Scope of Work

**Performance Measures**

*(Performance Measures should be based on the Scope of Work and must be tied to the Agency's Strategic Plan. The Plan should be referenced in the Measures and the applicable part of the Strategic Plan copied below or in an attachment. To the extent possible based on the nature of the work to be performed, the Measures should be "Output" oriented and specify an "Outcome.")*

Performance Measures in Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Agency's Strategic Plan:

**Example:** Goal: Reduce or Increase or Other Service [insert blank].<sup>1</sup>

Objective: To reduce or increase or Other Service [insert blank] by [blank] percent or by a certain time.<sup>2</sup>

Activities: [Insert what services the Contractor is expected to perform to accomplish goals and objectives including an evaluation of the process and the outcome as well as provides efficiency measures that relate efforts to outputs of services].

**OR:** Through satisfactory completion of the Scope of Work set forth above and submission of acceptable Deliverables, the Contractor will assist the Agency to meet the portions of its Strategic Plan set forth below (*insert additional language if necessary to describe how Contractor's work will assist the Agency to fulfill its duties*).

<sup>1</sup> A goal is an "output" measure. It measures the quantity of a service provided. For example, the number of students graduated or promoted; the number of two-lane highways repaired; or the number of crimes investigated. It also can measure the quantity of a service provided that meets a certain quality requirement. For example, the number of students graduated or promoted who meet a minimum preset level of achievement; the number of miles of roads repaired to a minimum safety standard; or the number of criminal investigations performed that result in identification of a prime suspect.

<sup>2</sup> An accomplishment is an "outcome" measure. These indicators measure accomplishments or results that occur (at least partially) because the services were provided. For example, the percentage of students achieving a specified skill level in reading, the percentage of miles of roads in excellent, good or fair condition; or the percent reduction in serious crimes or the percent of residents who perceive their neighborhoods as safe. 319

## Appendix B

### SAMPLE AGREEMENT – INTERGORVERNMENTAL AGREEMENT

#### INTERGOVERNMENTAL AGREEMENT BETWEEN THE NEW MEXICO ENVIRONMENT DEPARTMENT AND

#### [INSERT DEPARTMENT OR AGENCY]

This **INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into by and between the State of New Mexico, Environment Department, hereinafter referred to as (the "Department" or “NMED”) and [INSERT NAME OF DEPARTMENT OR AGENCY], hereinafter referred to as (the "Name of Agency”), and is effective as of the date set forth below upon which it is executed by the New Mexico Environment Department (“NMED”).

**WHEREAS**, the [Insert Federal Department or Local or State Agency] is a public entity that is authorized by the United States Congress and/or the New Mexico Legislature for the performance of this Agreement, under the authority of (Federal or State Statute), to implement the project titled [Insert Project Title], hereinafter referred to as the “Project”;

**WHEREAS**, this Agreement is exempt from the provisions of the procurement code in accordance with the NMSA 1978, Section 13-1-98A;

**WHEREAS**, NMED and the [Insert Federal Department or State Agency] desire to enter into this “Agreement” to accomplish the Project in the most cost-effective and administratively efficient manner; and

**WHEREAS**, NMED is authorized by [ Insert Statute or Regulation] to enter into this Agreement to/for [Insert Purpose].

NOW, THEREFORE, the parties mutually agree as follows:

#### A. Purpose.

The Project will address: [Insert overall goal of the program.]The purpose of the Project/Task is to: [Insert Purpose]. The Project is mutually beneficial because [State mutual benefit to the agencies.]

#### B. Disbursement of Funds.

1. NMED shall transfer to the [Insert Federal Department or State Agency] funds in an amount not to exceed \$ \_\_\_\_\_ to reimburse the [Insert Federal Department or State Agency]for costs actually incurred in carrying out the Project in accordance with the Scope of Work.
2. The [Insert Federal Department or State Agency] shall submit to NMED receipts for costs actually incurred in carrying out the Project in accordance with the Project Work Plan. Invoices/receipts shall be submitted to:

[Insert NMED Project Officer]  
[Insert Bureau]  
New Mexico Environment Department  
PO Box 26110  
Santa Fe, New Mexico 87502  
[Insert Bureau Phone Number]

C. Scope of Work.

The [Insert Federal Department or State Agency] shall complete the Project in accordance with this Scope of Work incorporated into this Agreement [or Insert as Attachment A].

1. The [Insert Federal Department or State Agency] shall perform the following work:
2. Services will be performed (AT)(WITHIN)(LOCATION):

D. Reports.

The [Insert Federal Department or State Agency] shall provide reports, including but not limited to task completion progress, reasons for delay of task implementation (if any), expenditures on Project implementation, and results of Project implementation, to NMED or other organizations or members of the public upon request. Reports will be provided Quarterly.

E. Strict Accountability.

The [Insert Federal Department or State Agency] shall maintain fiscal records consistent with generally accepted accounting principles (GAAP); shall account for all receipts and disbursements of funds transferred pursuant to this Agreement and along with NMED, shall be strictly accountable for all receipts and disbursements under this Agreement through the end of the fiscal year following the termination of this Agreement.

F. Access to Records.

NMED, the [Insert Federal Department or State Agency], the New Mexico Department of Finance and Administration (“DFA”), or the State Auditor, through any authorized representative, shall be granted access to and have the right to examine all books, papers, or documents related to this Agreement.

G. Amendment.

Any and all amendments, changes, and/or modifications of this Agreement shall be made in writing, signed and dated by both parties before becoming effective. Neither NMED nor the [Insert Federal Department or State Agency] is obligated to fund any changes and/or modifications not approved in writing by both parties.

H. Termination.



1. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the proposed termination date. This Agreement may be terminated immediately upon written notice to the [Insert Federal Department or State Agency] if the [Insert Federal Department or State Agency] becomes unable to perform the services within the Scope of Work, as determined by NMED or if, during the term of this Agreement, the [Insert Federal Department or State Agency] or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph, Section M, herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/ BREACH OF THIS AGREEMENT.*

2. Termination Management. Immediately upon receipt by either NMED or the [Insert Federal Department or State Agency] of notice of termination of this Agreement, the [Insert Federal Department or State Agency] shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of NMED; 2) comply with all directives issued by NMED in the notice of termination as to the performance of work under this Agreement; and 3) take such action as NMED shall direct for the protection, preservation, retention or transfer of all property titled to NMED and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the [Insert Federal Department or State Agency] with contract funds shall become property of NMED upon termination and shall be submitted to the agency as soon as practicable.

#### I. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1 (G). By execution of this Agreement, [Insert Federal Department or State Agency] acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. Any procurement made by the [Insert Federal Department or State Agency], pursuant to this Agreement shall be made in accordance with applicable procurement policies and procedures, applicable federal laws and regulations, and applicable provisions in the Scope of Work.

#### J. Liability.

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of this Agreement. Each party shall be liable for its own actions incurred as a result of its negligence, acts or omissions in connection with this Agreement. [If Federal Department: Liability of the Federal Department shall be governed by the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.] [If State Agency: Any liability incurred by State Agency in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act]. Any liability

incurred by NMED in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act.

K. Equal Opportunity Compliance.

The [Insert Federal Department or State Agency] shall abide by all state and federal rules and regulations pertaining to equal employment opportunity. In accordance with these laws and regulations, the [Insert Federal Department or State Agency], shall assure that no person in the United States shall, on the grounds of race, color, national origin, sex, age, sexual preference or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity related to this Agreement. If the [Insert Federal Department or State Agency], is found not to be in compliance with these requirements during the life of the Agreement, the [Insert Federal Department or State Agency], agrees to take appropriate steps to correct these deficiencies.

Any person, group or organization, that signs this Agreement shall comply with the following federal statutes: Title VI of the Civil Rights Act of 1964, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, title IX of the Education Amendments of 1972 and their implementing regulations at 40 C.F.R. Parts 5 and 7 where applicable.

L. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL SIGNED AND ACCPETED BY ALL PARTIES. This Agreement shall terminate on [INSERT DATE] unless terminated pursuant to paragraph 4, infra, or paragraph 5.

M. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization from the New Mexico State Legislature and/or the United States Environmental Protection Agency. If sufficient appropriations or authorization are not granted, this Agreement shall be terminated upon written notice from NMED. The decision as to whether sufficient appropriations/ authorizations are available is it's the sole discretion of NMED and shall be final and binding.

N. Participation in Similar Projects.

This Agreement in no way restricts the [Insert Federal Department or State Agency] or NMED from entering into other Agreements with other public or private agencies, organizations, and individuals, or participating in similar projects.

**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT:**

**STATE OF NEW MEXICO**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ron Curry, Secretary  
New Mexico Environment Department

Approved as to Form and Legal Sufficiency

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Tracy Hughes, General Counsel  
New Mexico Environment Department

**[INSERT FEDERAL DEPARTMENT OR STATE AGENCY]:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signatory Authority)

## **Appendix C RECORD KEEPING REQUIREMENTS**

- A. The Public Agency or Independent Contractor shall provide a detailed budget clearly distinguishing between expenses for which reimbursement is requested, and cash and non-cash matching contributions, prior to submittal of the first payment request.
- B. With each payment request, submit a detailed schedule reflecting your cash and in-kind expenditures (must be identified separately) for the current and cumulative periods. This schedule must also include a comparison of your approved match budget (by line item detail) to actual cumulative match expenditures.
- C. A file(s) must be dedicated to this contract or agreement and will consist of the following:
  - 1. For any declared in-kind contributions, the following documentation will be maintained in the file(s):
    - (a) An itemized listing of each employee's hourly rate. (Prevailing Wage Rates may be used if applicable).
    - (b) A copy of an approved Overhead/Indirect Cost Allocation Plan.
    - (c) An itemization of per diem rates, equipment rental/usage rates, etc. that will be used as match for this contract or agreement.
    - (d) Copies (or originals) of time sheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
    - (e) Copies (or originals) of logs/schedules for equipment usage.
    - (f) Signed statements noting fair market value for in-kind donations of materials or supplies.
  - 2. For any declared cash contributions, the following documentation will be maintained in the file:
    - (a) An itemization of per diem rates, equipment rental/usage rates, etc.
    - (b) Copies (or originals) of time sheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
    - (c) Copies (or originals) of logs/schedules for equipment usage.
    - (d) Copies (or originals) of invoices for materials, supplies, equipment, etc.
- D. The Public Agency or Independent Contractor agrees and acknowledges that:
  - 1. Neither the costs nor the values of third party in-kind contributions being used to satisfy the cost sharing or matching requirements of the attached contract or agreement have been or will be counted towards satisfying a cost sharing or matching requirement of another federal grant agreement, a federal procurement contract, or any other award of federal funds.
  - 2. Any third-party matching fund contributions or expenditures must be made with the effective dates specified in the attached contract or agreement.
  - 3. All financial records, including match documentation, relevant to this project shall be retained by the Public Agency or Independent Contractor until three (3) years after submittal of the Final Financial Status Report. The Public Agency or Independent Contractor must obtain authorization from the New Mexico Environment Department prior to disposal of any records.
  - 4. The New Mexico Environment Department may, at any time, audit these files to ensure compliance with the Match Record-Keeping Requirements. The Department reserves the right to disallow contributions deemed inappropriate or unreasonable either during an audit or during the review of the detailed schedule reflecting match expenditures.
  - 5. The Department will be reimbursed by the Public Agency or the Independent Contractor for any portion of the contract or agreement funding provided to the Public Agency or Independent Contractor under the attached contract or agreement which the Public Agency or Independent Contractor was unable to match or adequately document.

## Appendix D EXPENDITURE/REQUEST FOR FUNDS

New Mexico Environment Department  
Surface Water Quality Bureau, Watershed Protection Section  
1190 St. Francis Drive  
Runnels Bldg. Room N-2100  
Santa Fe, NM 87502

1. Contractor's Name \_\_\_\_\_  Monthly Report  Quarterly Report  
 Final Report  Other

2. Contract ID Number \_\_\_\_\_

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

Address: \_\_\_\_\_

3. Time Period: From \_\_\_\_\_ To \_\_\_\_\_

**Include copies of equipment purchases, time sheets, and other accounting documents.**

4. Amount Due

5. Identify Completed Tasks

6. Contractor's Certification:

I certify that this report and supporting documentation has been examined by me, and to the best of my knowledge and belief, the reported expenditures are valid, based upon our official accounting records (books of account) and are consistent with the terms of the contract/agent. It is also understood that the payments are calculated by the NMED based upon information provided in this report and as designated in said contract.

\_\_\_\_\_  
Authorized Contractor Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

7. NMED Project Officer Certification:

Performance satisfactory for payment.

No payment due.

\_\_\_\_\_  
Project Officer Signature / Date

## Appendix E ELIGIBLE STREAM SEGMENTS

In the following table, "Assessment Unit" refers to a stream segment identified by NMED as not meeting one or more designated uses established in New Mexico Water Quality Standards. "Impairments with TMDL" indicates the water quality parameters which exceed standards, and for which total maximum daily loads have been prepared and approved by WQCC and EPA. "2002 303(d) List" indicates whether impairments indicated under "Impairments with TMDL" were recognized in the 2002-2004 CWA Section 305(b)/303(d) Integrated Report. "No" indicates the impairment was not recognized on the 2002 list, but is recognized in the current 2008-2010 impaired waters list. "Yes" indicates the impairment was recognized in 2002-2004, and is still listed on the current 2008-2010 impaired waters list.

Assessment Unit (AU) Name	AU ID	Impairments with TMDL	2002 303(d) List
<b>ANIMAS WATERSHED (14080104)</b>			
Animas River (San Juan River to Estes Arroyo)	NM-2403.A_00	Plant Nutrients	No
<b>CANADIAN HEADWATERS WATERSHED (11080001)</b>			
Caliente Canyon (Vermejo River to headwaters)	NM-2306.A_151	Specific Conductance	No
Vermejo River (Canadian River to Rail Canyon)	NM-2305.A_210	None (flow impairment)	No
Vermejo River (Rail Canyon to York Canyon)	NM-2305.A_220	Specific Conductance, Temperature	No
Vermejo River (York Canyon to headwaters)	NM-2305.A_230	Temperature	No
York Canyon (Vermejo River to headwaters)	NM-2306.A_153	Specific Conductance	No
<b>CIMARRON HEADWATERS WATERSHED (11040001)</b>			
Dry Cimarron River (Perennial reaches OK bnd to Long Canyon)	NM-2701_00	Sulfate, Total dissolved solids	Yes
Dry Cimarron River (Perennial reaches Long Canyon to Oak)	NM-2701_02	E.coli, Total dissolved solids	Yes
Long Canyon (Perennial reaches abv Dry Cimarron)	NM-2701_20	E.coli, Selenium	Yes
Oak Creek (Dry Cimarron to headwaters)	NM-2701_10	Nutrients, E.coli	No
<b>CIMARRON WATERSHED (11080002)</b>			
Cieneguilla Creek (Eagle Nest Lake to headwaters)	NM-2306.A_065	Sedimentation, Turbidity	Yes
Middle Ponil Creek (South Ponil to Greenwood Creek)	NM-2306.A_121	Temperature, Turbidity	Yes
Moreno Creek (Eagle Nest Lake to headwaters)	NM-2306.A_060	Turbidity	Yes
North Ponil Creek (South Ponil Creek to Seally Cyn)	NM-2306.A_110	Sedimentation, Temperature, turbidity	Yes
Ponil Creek (Cimarron River to US 64)	NM-2306.A_100	Al chronic, Temperature, Turbidity	Yes
Ponil Creek (US 64 to confl North & South Ponil)	NM-2306.A_101	Temperature, Turbidity	Yes

<b>Assessment Unit (AU) Name</b>	<b>AU ID</b>	<b>Impairments with TMDL</b>	<b>2002 303(d) List</b>
Rayado Creek (Cimarron River to Miami Lake Division)	NM-2305.A_80	Sedimentation	Yes
Sixmile Creek (Eagle Nest Lake to headwaters)	NM-2306.A_064	Fecal Coliform, Turbidity	Yes
<b>CONEJOS WATERSHED (13010005)</b>			
Rio de los Pinos (New Mexico reaches)	NM-2120.A_900	Temperature	No
Rio San Antonio (Montoya Canyon to headwaters)	NM-2120.A_901	Temperature	No
<b>EL PASO-LAS CRUCES WATERSHED (13030102)</b>			
Rio Grande (Anthony Bridge to Picacho Bridge)	NM-2101_01	E.coli	No
Rio Grande (International Mexico bnd to Anthony Bridge)	NM-2101_00	E.coli	No
Rio Grande (Leasburg Dam to Percha Dam)	NM-2101_10	E.coli	No
Rio Grande (Picacho Bridge to Leasburg Dam)	NM-2101_02	E.coli	No
<b>JEMEZ WATERSHED (13020202)</b>			
Clear Creek (Rio de las Vacas to San Gregorio Lake)	NM-2106.A_54	Turbidity	Yes
East Fork Jemez (San Antonio Creek to VCNP bnd)	NM-2106.A_13	Arsenic, Temperature, Turbidity	Yes
East Fork Jemez (VCNP bnd to headwaters)	NM-2106.A_10	Temperature, Turbidity	Yes
Jaramillo Creek (East Fork Jemez to headwaters)	NM-2106.A_12	Temperature, Turbidity	No
Jemez River (Zia Pueblo bnd to Jemez Pueblo bnd)	NM-2105_75	Arsenic, Boron	No
Jemez River (Jemez Pueblo bnd to Rio Guadalupe)	NM-2105_71	Arsenic, Boron	No
Jemez River (Rio Guadalupe to Soda Dam nr Jemez Springs)	NM-2105.5_10	Arsenic, Boron, Temperature, Nutrients, Al chronic, Turbidity	Yes
Jemez River (Soda Dam nr Jemez Springs to East Fork)	NM-2106.A_00	Arsenic, Al chronic, Turbidity	Yes
Redondo Creek (Sulphur Creek to VCNP bnd)	NM-2106.A_21	Turbidity	Yes
Redondo Creek (VCNP bnd to headwaters)	NM-2106.A_25	Temperature, Turbidity	Yes
Rio Cebolla (Fenton Lake to headwaters)	NM-2106.A_52	Sedimentation	Yes
Rio de las Vacas (Rio Cebolla to Clear Creek)	NM-2106.A_40	Temperature, Nutrients	Yes
Rio Guadalupe (Jemez River to confl with Rio Cebolla)	NM-2106.A_30	Al chronic, Turbidity, Temperature	Yes
Rito de las Palomas (Rio de las Vacas to headwaters)	NM-2106.A_43	Temperature, Sedimentation	No
Rito Peñas Negras (Rio de las Vacas to headwaters)	NM-2106.A_42	Sedimentation, Temperature, Nutrients	Yes
San Antonio Creek (East Fork Jemez R to VCNP bnd)	NM-2106.A_20	Temperature, Turbidity, Arsenic	Yes
San Antonio Creek (VCNP bnd to headwaters)	NM-2106.A_26	Temperature	Yes

Assessment Unit (AU) Name	AU ID	Impairments with TMDL	2002 303(d) List
<b>MIDDLE SAN JUAN WATERSHED (14080105)</b>			
La Plata River (McDermott Arroyo to CO border)	NM-2402.A_01	Dissolved Oxygen, Fecal Coliform	No
La Plata River (San Juan River to McDermott Arroyo)	NM-2402.A_00	Sedimentation	No
San Juan River (Navajo bnd at Hogback to Animas River)	NM-2401_10	Fecal Coliform	No
<b>MORA WATERSHED (11080004)</b>			
Coyote Creek (Mora River to Black Lake)	NM-2306.A_020	Specific Conductance, Temperature	No
Little Coyote Creek (Black Lake to headwaters)	NM-2306.A_024	Plant Nutrients	No
Mora River (HWY 434 to Luna Creek)	NM-2306.A_000	Sedimentation/siltation, Specific Conductance	Yes
Mora River (USGS gage east of Shoemaker to HWY 434)	NM-2305.3.A_00	Plant Nutrients	No
Rito San Jose (Manuelitas Creek to headwaters)	NM-2305.3.A_22	None (flow impairment)	No
Sapello River (Mora River to Manuelitas Creek)	NM-2305.3.A_20	Sedimentation	No
Wolf Creek (Mora River to headwaters)	NM-2305.3.A_10	None (flow impairment)	No
<b>PECOS HEADWATERS WATERSHED (13060001)</b>			
Bull Creek (Cow Creek to headwaters)	NM-2214.A_091	Temperature	No
Cow Creek (Bull Creek to headwaters)	NM-2214.A_102	Temperature, Turbidity	No
Cow Creek (Pecos River to Bull Creek)	NM-2214.A_090	Temperature, Turbidity	No
Gallinas River (Las Vegas Diversion to headwaters)	NM-2212_00	Temperature	Yes
Gallinas River (Pecos River to San Augustin)	NM-2213_20	None (flow impairment)	No
Pecos River (Alamitos Canyon to Willow Creek)	NM-2214.A_002	Turbidity	Yes
Pecos River (Canon de Manzanita to Alamitos Canyon)	NM-2214.A_003	Temperature, Turbidity	No
<b>RIO CHAMA WATERSHED (13020102)</b>			
Abiquiu Creek (Rio Chama to headwaters)	NM-2113_50	Dissolved Oxygen	Yes
Canones Creek (Abiquiu Reservoir to headwaters)	NM-2116.A_010	Al chronic, Fecal Coliform, Turbidity	Yes
Chavez Creek (Rio Brazos to headwaters)	NM-2116.A_081	Temperature	Yes
Poleo Creek (Rio Puerco de Chama to headwaters)	NM-2116.A_023	Turbidity	Yes
Polvadera Creek (Cañones Creek to headwaters)	NM-2116.A_011	Temperature	Yes
Rio Brazos (Rio Chama to Chavez Creek)	NM-2116.A_080	Temperature	Yes
Rio Chama (Rio Brazos to Little Willow Creek)	NM-2116.A_001	Temperature	Yes



Assessment Unit (AU) Name	AU ID	Impairments with TMDL	2002 303(d) List
Rio Chamita (Rio Chama to CO border)	NM-2116.A_110	Al chronic, Ammonia, Fecal Coliform, Temperature	Yes
Rio Nutrias (Rio Chama to headwaters)	NM-2116.A_060	Turbidity	Yes
Rio Vallecitos (Rio Tusas to headwaters)	NM-2112.A_00	Al chronic, Temperature, Turbidity	Yes
Rito de Tierra Amarilla (Rio Chama to HWY 64)	NM-2116.A_070	Sedimentation, Temperature, Turbidity	Yes
<b>RIO GRANDE-ALBUQUERQUE WATERSHED (13020203)</b>			
Rio Grande (Isleta Pueblo bnd to Alameda Street Bridge)	NM-2105_50	Fecal Coliform	Yes
Rio Grande (non-pueblo Alameda Bridge to Angostura Div)	NM-2105.1_00	Fecal Coliform	Yes
<b>RIO GRANDE-SANTA FE WATERSHED (13020201)</b>			
Santa Fe River (Cochiti Reservoir to Santa Fe WWTP)	NM-2110_00	Dissolved Oxygen, Sedimentation	Yes
<b>RIO HONDO WATERSHED (13060008)</b>			
Carrizo Creek (Rio Ruidoso to Mescalero Apache bnd)	NM-2209.A_22	Fecal coliform	No
Eagle Creek (Alto Reservoir to Mescalero Apache bnd)	NM-2209.A_00	None (flow impairment)	No
Rio Bonito (NM 48 near Angus to headwaters)	NM-2209.A_10	Fecal coliform	No
Rio Bonito (Rio Ruidoso to NM 48 near Angus)	NM-2208_10	None (flow impairment)	No
Rio Hondo (Perennial reaches Pecos R to Rio Ruidoso)	NM-2208_30	Bacteria	No
Rio Ruidoso (Rio Bonito to US Hwy 70 Bridge)	NM-2208_20	Plant Nutrients	Yes
Rio Ruidoso (US Hwy 70 Bridge to Mescalero Apache bnd)	NM-2209.A_20	Temperature, Turbidity	Yes
<b>RIO PUERCO WATERSHED (13020204)</b>			
La Jara Creek (perennial reaches above Arroyo San Jose)	NM-2107.A_46	chronic Al	No
Rio Puerco (Arroyo Chijuilla to northern bnd Cuba)	NM-2107.A_40	Chronic Al, Plant Nutrients, Sedimentation	Yes
Rito Leche (Perennial reaches above HWY 126)	NM-2107.A_43	None (flow impairment)	No
<b>RIO SAN JOSE WATERSHED (13020207)</b>			
Bluewater Creek (Bluewater Rsvr to headwaters)	NM-2107.A_01	Plant Nutrients, Temperature	Yes

<b>Assessment Unit (AU) Name</b>	<b>AU ID</b>	<b>Impairments with TMDL</b>	<b>2002 303(d) List</b>
Bluewater Creek (non-tribal Rio San Jose to Bluewater Rsvr)	NM-2107.A_00	Plant Nutrients, Temperature	Yes
Rio Moquino (Laguna Pueblo to Seboyettia Creek)	NM-2107.A_10	Plant Nutrients, Temperature	Yes
<b>SAN FRANCISCO WATERSHED (15040004)</b>			
Centerfire Creek (San Francisco R to headwaters)	NM-2603.A_50	Conductivity, Plant Nutrients	Yes
San Francisco River (Centerfire Creek to AZ border)	NM-2602_20	Plant Nutrients, Temperature	Yes
South Fork Negrito Creek (Negrito Creek to headwaters)	NM-2603.A_43	Temperature	Yes
Tularosa River (San Francisco R to Apache Creek)	NM-2603.A_40	Conductivity	Yes
Whitewater Creek (San Francisco R to Whitewater Campground)	NM-2603.A_10	Turbidity	Yes
Whitewater Creek (Whitewater Campgrd to headwaters)	NM-2603.A_12	Aluminum	Yes
<b>TULAROSA VALLEY WATERSHED (13050003)</b>			
Three Rivers (Perennial prt HWY 54 to USFS exc Mescalero)	NM-2802_00	None (flow impairment)	Yes
<b>UPPER CANADIAN WATERSHED (110080003)</b>			
Ocate Creek (Ocate to Wheaton Creek)	NM-2306.A_070	None (flow impairment)	No
<b>UPPER GILA WATERSHED (15040001)</b>			
Black Canyon Creek (East Fork Gila River to headwaters)	NM-2503_21	Temperature	Yes
Canyon Creek (Middle Fork Gila River to headwaters)	NM-2503_43	Plant Nutrients, Turbidity	Yes
East Fork Gila River (Gila River to headwaters)	NM-2503_20	AI chronic	Yes
Mogollon Creek (Perennial reaches abv USGS gage)	NM-2503_02	AI chronic	Yes
Sapillo Creek (Gila River to Lake Roberts)	NM-2503_04	Turbidity	Yes
Taylor Creek (Beaver Creek to Wall Lake)	NM-2503_23	AI chronic, Temperature	Yes
<b>UPPER GILA-MANGAS WATERSHED (15040002)</b>			
Mangas Creek (Gila River to Mangas Springs)	NM-2502.A_21	Plant Nutrients	Yes
<b>UPPER PECOS-BLACK (13060011)</b>			
Pecos River (Lake Carlsbad to Avalon Reservoir)	NM-2203.A_00	None (flow impairment)	No
<b>UPPER RIO GRANDE WATERSHED (13020101)</b>			
Bitter Creek (Red River to headwaters)	NM-2120.A_705	AI acute, Sedimentation	Yes

<b>Assessment Unit (AU) Name</b>	<b>AU ID</b>	<b>Impairments with TMDL</b>	<b>2002 303(d) List</b>
Comanche Creek (Costilla Creek to headwaters)	NM-2120.A_827	Temperature	No
Cordova Creek (Costilla Creek to headwaters)	NM-2120.A_823	Sedimentation, Turbidity	Yes
Costilla Creek (diversion ab Costilla to Comanche Creek)	NM-2120.A_820	Temperature	No
Costilla Creek (CO border to diversion above Costilla)	NM-2120.A_810	None (flow impairment)	Yes
Costilla Creek (Rio Grande to CO border)	NM-2120.A_800	None (flow impairment)	No
Embudo Creek (Rio Grande to Canada de Ojo Sarco)	NM-2111_41	Sedimentation, Turbidity	No
Little Tesuque Creek (Rio Tesuque to headwaters)	NM-2118.A_34	Al chronic	Yes
Pioneer Creek (Red River to headwaters)	NM-2120.A_703	Turbidity	Yes
Placer Creek (Red River to headwaters)	NM-2120.A_706	Al acute	Yes
Red River (Rio Grande to Placer Creek)	NM-2119_10	Al acute	Yes
Rio Fernando de Taos (Rio Pueblo de Taos to Tienditas Creek)	NM-2120.A_512	Conductivity, Temperature	Yes
Rio Grande (Red River to CO border)	NM-2119_05	Temperature	Yes
Rio Grande (non-pueblo Santa Clara to Embudo Creek)	NM-2111_10	Turbidity	Yes
Rio Grande del Rancho (Rio Pueblo de Taos to HWY 518)	NM-2120.A_501	Conductivity	Yes
Rio Hondo (Rio Grande to USFS bnd)	NM-2120.A_600	Temperature	Yes
Rio Pueblo de Taos (Arroyo del Alamo to R Grande del Rancho)	NM-2119_30	Sedimentation, Temperature	Yes
Rio Pueblo de Taos (R Grande del Rancho to Taos pueblo bnd)	NM-2120.A_511	Temperature	Yes
Rio Pueblo de Taos (Rio Grande to Arroyo del Alamo)	NM-2119_20	Temperature	Yes
Rio Santa Barbara (Picuris Pueblo bnd to USFS bnd)	NM-2120.A_419	Turbidity	No
<b>UPPER SAN JUAN WATERSHED (14080101)</b>			
Gallegos Canyon (San Juan River to Navajo bnd)	NM-9000.A_060	Selenium	No
San Juan River (Animas River to Cañon Largo)	NM-2401_00	Fecal Coliform, Sedimentation	Yes

**Appendix F                    ACKNOWLEDGEMENT OF RECEIPT FORM**

Request for Proposal: **FY11 CWA 319(h) On-The-Ground Projects**

**RFP No. 00-667-00-12366**

In acknowledgement of receipt of this Request for Proposals, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix G.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than **March 15, 2010**. Only potential offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all offeror written questions and the Agency’s written responses to those questions, as well as RFP amendments, if any are issued.

FIRM: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE NO: \_\_\_\_\_ FAX NO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

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

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (**circle one**) intend to respond to this Request for Proposals.

Return to:  
Abraham Franklin  
New Mexico Environment Department  
Surface Water Quality Bureau  
Harold Runnels Building (Suite N2100)  
1190 St. Francis Drive  
P.O. Box 5469  
Santa Fe, NM 87502  
Phone: (505) 827-2793, FAX (505) 827-0160

## Appendix G

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

**"Applicable public official"** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**"Campaign Contribution"** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or

other

personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of

a political committee that are paid by an organization that sponsors the committee.

**"Family member"** means spouse, father, mother, child, father-in-law, mother-in-law,

daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

**“Pendency of the procurement process”** means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

**“Prospective contractor”** means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

**“Representative of a prospective contractor”** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: \_\_\_\_\_  
(Completed by State Agency or Local Public Body)

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE** to an applicable public official by me, a family member or representative.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)