

REQUEST FOR QUALIFICATIONS

**State of Wisconsin - Vapor Intrusion Zone Contract (VIZC)
Vapor Intrusion Investigation and/or Mitigation Services
Wisconsin DNR – Remediation and Redevelopment Program
July 25, 2022**

Table of Contents

1. Introduction	2
2. Scope of Services	2
2.1 Sampling and Analysis Plan.....	3
2.2 Scopes of Work.....	3
2.3 Deliverables.....	5
3. Contract Requirements	5
3.1 Consultant's Proposal	5
3.2 Copyrighted Material	6
3.3 Utilization of Disadvantaged Business Enterprises.....	6
3.4 Assignment.....	6
4. Statement of Qualifications (SOQ)	6
5. Preparing and Submitting the SOQ.....	10
5.1 SOQ Submittal Requirements.....	10
5.2 Do No Contact	10
5.3 RFQ Questions.....	10
5.4 RFQ Copies and Response to Questions	10
5.5 Incurred Costs	10
5.6 Confidential Matter	10
6. Schedule and Procedures	11
6.1 Calendar of Events.....	11
6.2 Award Criteria	11
6.3 Interview	11
6.4 Negotiations	11
6.5 Rejection	11
6.6 Award	11

Attachment 1: DNR General Terms and Conditions

Attachment 2: Map of RR Program Regions

1. INTRODUCTION

The Remediation and Redevelopment (RR) Program at the Wisconsin Department of Natural Resources (DNR) has developed this Request for Qualifications (RFQ) to identify up to four consultants to respond to requests to investigate and/or mitigate vapor intrusion (VI) at locations throughout the state of Wisconsin (the “state”) on an as-needed basis. These professional services will be conducted at locations identified by the DNR where vapors associated with the discharge of a hazardous substance to the environment pose a threat to human health and there is not a responsible party taking responsive action. All services shall be conducted in accordance with applicable sections of the Wisconsin Administrative (Wis. Admin.) Code chs. NR 700 – 758 and the terms and conditions in the DNR Professional Services Agreement (Attachment 1).

The DNR, as a representative of the State of Wisconsin, intends to award the selected consultants a 1-year professional services contract, with option for two 1-year extensions (3 years total). This professional services contract is an agreement under which consultants will work, on an as-needed basis, for the DNR and does not guarantee a minimum number of projects, scope or contract value. The RR program manages projects in the state based on regions (i.e., zones) and this professional services contract is herein referred to as the Vapor Intrusion Zone Contract (VIZC). The five regions of the state, as designated by the RR program for the VIZC, are identified on the map in Attachment 2. All activities conducted under the terms of this initiative will be funded and managed by the RR program.

Interested consultants are required to submit a timely Statement of Qualifications (SOQ) to be eligible for consideration for the VIZC. Interested parties can submit a SOQ for only investigation, only mitigation or for both, and should indicate the region(s) of the state that they are interested and capable of performing work under this contract. (A majority of the VIZC work is anticipated to be in the Northeast and Southeast regions, but locations throughout the state are possible.)

Under the VIZC, purchase orders will be distributed among the selected consulting firms on a per-project basis. The distribution may not be equal among the selected consulting firms. Distribution will be determined by the DNR based on project location, anticipated scope of work, consultant’s rates, consultant’s capacity, and/or the qualifications, experience and demonstrated quality of work of the project team, as well as other factors. The total purchase order value and duration will vary based on site-specific conditions and scope of work.

Special Note: The DNR issued a separate RFQ on this same date for federal brownfields assessment at VI priority sites. The federal brownfields assessment grant does not cover vapor mitigation; therefore, it is possible that a consultant selected for VIZC could be requested to provide mitigation services at one or more properties where federal brownfields funds were used for VI assessment.

2. SCOPE OF SERVICES

The sites to be investigated or mitigated using VIZC will be identified by the DNR. VIZC sites are anticipated to primarily be where trichloroethylene (TCE) is a contaminant of concern and poses a VI risk in occupied buildings; however, other contaminants of concern are possible. Most of the work is anticipated to occur in and around residential buildings; however, services at commercial sites may be requested as funds are available. The VI investigations may also include collection of environmental samples within public rights-of-way.

For each project, the DNR will request a consultant to prepare a scope, schedule and budget (i.e., the “Consultant’s Proposal”) to execute a purchase order under VIZC (see Section 3.1 for more information). Consultant prepared scopes will be approved by the DNR Project Manager (PM) prior to execution of the work.

2.1. Sampling and Analysis Plan

Consultants selected to conduct sampling under this RFQ may be requested to submit a Sampling and Analysis Plan (SAP) to the DNR for review and approval. The DNR anticipates requesting a consultant's SAP near the start of the VIZC and the consultant must be able to provide a draft-SAP within 60 days of the request. The SAP must be approved by the DNR before the consultant can conduct field sampling.

The SAP is intended to be a general document used by the consultant for the duration of the VIZC. The SAP must include the consultant's standard operating procedures (SOPs), quality assurance/quality control (QA/QC) procedures and the laboratory methods for environmental sampling anticipated under the VIZC. The SAP must follow applicable requirements of Wis. Admin. Code §§ NR 716.09(f) and NR 716.13 and applicable elements of the DNR's guidance documents *Addressing Vapor Intrusion at Remediation and Redevelopment Sites in Wisconsin* ("RR-800") and *Guidance for Documenting the Investigation of Human-made Preferential Pathways Including Utility Corridors* ("RR-649").

The DNR will reimburse up to \$5,000 to a consultant for development of the SAP. Incurred costs over \$5,000 will be the responsibility of the consultant. Consultants may be requested to periodically update the SAP, for which the DNR will provide reasonable reimbursement.

2.2. Scopes of Work

The scopes of work to be requested under VIZC may include one or more of the following tasks.

A. Access Agreements

For properties where access is needed to complete the vapor investigation and/or mitigation, the consultant may be requested to identify the property owners and communicate and obtain a signed access agreement with owners using DNR-provided template and factsheets.

B. Vapor Field Investigation and Reporting

When a field investigation is requested, the consultant may be asked to review available site information and recommend a scope of work in the Consultant's Proposal for the DNR's review and approval. In some situations, the DNR's request may include specific instructions to the consultant regarding sampling location, methodologies or other site-specific considerations. The scope of work for the Consultant's Proposal must specify the locations, type and number of samples and other field investigation activities proposed for a site. The SAP can be referenced for general sampling procedures; however, if any site-specific procedures are required these must be included in the Consultant's Proposal.

The field investigation must comply with applicable requirements of Wis. Admin. Code ch. NR 716, the DNR-approved SAP, RR-800 and RR-649 and all other applicable regulatory guidelines. The field investigation may include, but is not limited to the following:

- Install soil borings, monitoring wells and/or vapor sampling probes and appropriate protection of sampling locations.
- Survey utility locations and building entry points to identify potential vapor migration pathways and confirm/select sample locations.
- Collect soil, groundwater, soil vapor and/or air samples using procedures in the DNR-approved SAP. For air/vapor samples, this will include, but is not limited to:
 - Collect air/vapor samples using passive sorbent samplers and/or evacuated Summa canisters, as appropriate for the sample type (e.g., indoor air, soil gas, sub-slab vapor or vapor within manholes or utility conduits).
 - Complete appropriate quality QA/QC. For example, sub-slab vapor samples collected using evacuated canisters will require leak testing.

- Submit soil and groundwater samples to a Wis. Admin. Code ch. NR 149 certified laboratory for analysis and submit soil gas and air samples to a laboratory accredited by The National Environmental Laboratory Accreditation Program (NELAP) Institute (TNI).
- Complete field sampling forms to be submitted to the DNR.
- Abandon borings, monitoring wells and/or vapor sampling probes.

After sampling is complete, the consultant will be required to complete evaluation and reporting of the results. This may include, but is not limited to:

- Evaluate the sampling results relative to applicable regulatory standards, guidelines, or public health recommendations.
 - When an acute risk from exposure to vapors is detected, report the results to the DNR immediately upon receipt of the data and work with the DNR, the Wisconsin Department of Health Services (DHS) and local health to communicate with owners/occupants of the building(s) where the acute risk was detected.
 - For all other situations, report the results to the DNR and property owners/tenants within 10-days after receipt of data using notification-templates provided by the DNR.
- Document results in a site investigation status report that complies with applicable requirements of Wis. Admin. Code § NR 716.15.
 - At a minimum, the report must include the sampling and leak-detection procedures, photo documentation of all vapor sampling probes (installed and abandoned), the field data sheets, scaled-figures of sample locations, laboratory data reports and data summary tables. (The DNR anticipates providing the consultant with the format to use for data summary tables.)
 - The report must include conclusions that state if additional vapor assessment and/or mitigation are needed based on the sampling results.

C. Vapor Mitigation Rapid Response ¹

When TCE vapors are found to pose an acute risk in occupied buildings, a consultant may be requested to provide rapid response measures within 24-hours of DNR request to mitigate vapor risk. Rapid response is most likely to include the deployment of air purification units.

D. Vapor Mitigation (Interim Action) Planning and Implementation

When the investigation identifies a risk to occupied building(s), the DNR may request that a consultant assist with vapor mitigation in the building(s). It is anticipated that a radon-type sub-slab depressurization system (SSDS) will most frequently be selected as the mitigation approach under VIZC; however, other mitigation approaches may be required. A request for vapor mitigation may include, but is not limited to, the following:

- Visually inspect building(s) to identify potential vapor entry points and photo document the condition of the building(s).
- Conduct communication testing to confirm sub-slab connectivity for an SSDS and/or to identify air vapor entry points.
- Prepare a vapor mitigation (interim action) design report that complies with applicable requirements in Wis. Admin. Code §§ NR 724.11 and 724.13 and elements in RR-800 and RR-649 for DNR review and approval. (Note, that a written plan for DNR review and approval is not typically required for a simple radon-type SSDS per Wis. Admin. Code § NR 708.11(4)(b).)

¹ The DNR anticipates establishing an annual purchase order for vapor mitigation rapid response with one or more of the VIZC consultants. The annual purchase order would be set for a specific dollar value that the consultant could draw from to be able to complete the mitigation rapid response as soon as the Consultant's Proposal is approved by the DNR PM.

- Install a SSDS and seal any vapor entry points identified during diagnostic testing and the field investigation.
- Complete performance verification testing (e.g., verify pressure field extension of a SSDS and collect indoor air samples).
- Prepare and submit a construction documentation report in accordance with Wis. Admin. Code § NR 724.17 to document the as-built SSDS and results of the performance verification testing.
- Prepare and submit an operation, monitoring and maintenance (OM&M) for the SSDS (or other applicable mitigation measure) to be used by the property owner that complies with Wis. Admin. Code § NR 724.13 (2) and the applicable elements of RR-800.

E. Vapor Mitigation OM&M

For certain sites, the DNR may request that a consultant perform OM&M of an SSDS (or other installed mitigation system) in accordance with the site-specific OM&M Plan. A request for OM&M may include, but is not limited to:

- Visually inspect an SSDS, record readout on the manometer and document if any repairs are needed.
- Complete and submit Form 4400-321 to the DNR.

2.3. Deliverables

For all deliverables, the consultant should expect to submit one electronic working copy (e.g., Word, Excel) and one electronic PDF of the draft reports and one electronic PDF of the final reports to the DNR. The DNR will review and provide comments on the draft; the consultant will be expected to finalize all deliverables within 30 days of receiving the DNR's comments. The consultant should also be able to provide hard copies and other electronic data files comprising the reports upon DNR request.

3. CONTRACT REQUIREMENTS

Each consultant selected through this RFQ process will be established as a VIZC contractor using the DNR's standard Professional Services Contract (Attachment 1). If a firm cannot agree with DNR contract provisions, the DNR may choose to select another consultant. The DNR will not negotiate contract language.

3.1. Consultant's Proposal

As needs arise and as funds are available, the DNR will select a VIZC contractor to prepare a scope, schedule and budget for DNR approval. The scope, schedule and budget (as approved) will comprise the "Consultant's Proposal". In some situations, the DNR's requested scope of work may include specific instructions to the consultant regarding sampling location, methodologies or other site-specific considerations. The VIZC contractor is expected to provide a proposal within 20 hours of receiving a request for vapor mitigation rapid response and within 15 business days of receipt of requests for other services covered in this RFQ. The DNR may request an alternative delivery timeframe for a Consultant's Proposal based on site-specific conditions, and the DNR may approve additional time for the consultant to prepare a proposal, on a case-by-case basis, if more time is requested in writing by the consultant.

Cost-effective and efficient approaches are important to maximize the amount of investigation and mitigation performed for a project using limited state dollars. The DNR may request adjustments to the Consultant's Proposal prior to approval. If the selected VIZC contractor cannot provide the requested services or reach agreement with the DNR on the proposal, then the DNR may request a proposal from another VIZC contractor.

The DNR and the selected consultant may amend the Consultant's Proposal, upon mutual written consent, as needed. Any amendments to the Consultant's Proposal must be approved by the DNR PM.

3.2. Copyrighted Material

No documents or information that is developed and paid for under this initiative for the DNR may be copyrighted by any environmental consultant. The copyrighted materials conditions in Attachment 1 also apply.

3.3. Utilization of Disadvantaged Business Enterprises

The State of Wisconsin is committed to the promotion of minority business in the state's purchasing program and a goal of placing 5% of its total purchasing dollars with certified minority businesses and 1% of its total purchasing power with disabled veteran-owned businesses. Authority for this program is found in ss. 15.107(2), 16.75(3M), 16.75(4), and 16.755, Wisconsin Statutes. Minority-owned and disabled veteran-owned business enterprises certified by the Wisconsin Department of Administration (DOA) Supplier Diversity Program should have the maximum opportunity to participate in the performance of its contracts. A searchable listing of certified minority and disabled veteran-owned businesses, as well as the services and commodities they provide, is available at: <http://wisdp.wi.gov/search.aspx>.

3.4. Assignment

The proposer may not reassign any portion of the work that is awarded as a result of this RFQ, without prior written consent from the DNR.

4. STATEMENT OF QUALIFICATIONS

SOQs must include the following elements to be considered responsive to this RFQ.

Letter Of Transmittal (maximum of 2 pages)

This letter should be signed by the proposed Project Manager (PM) and one Principal, and should state the respondent's understanding of the work to be performed and the abilities of the firm and the designated PM to perform the work for the DNR.

Title Page (maximum of 1 page)

The title page should state that it pertains to:

STATEMENT OF QUALIFICATIONS
State of Wisconsin – Vapor Intrusion Zone Contract (VIZC)
Vapor Intrusion Investigation Services for All Regions (or list specific region[s])*
Vapor Intrusion Mitigation Services for All Regions (or list specific region[s])*
Wisconsin DNR – Bureau for Remediation and Redevelopment
July 25, 2022

It must include the name of the proposing firm, address, telephone number, name and email address of the proposed PM, and the submittal date.

** The Title page must indicate clearly if the respondent is providing the SOQ for vapor investigation services, vapor mitigation services or both, and include if the respondent is interested in providing services to all regions in the state or specific regions (see map of five regions in Attachment 2).*

Table Of Contents

The table of contents should identify each section of the SOQ and the beginning page numbers of each section.

Sections

The sections must be presented in the following order with the following headings and adhere to the maximum number of pages identified below.

1. Firm Profile (maximum of 2 pages)

Describe the range of services that the firm provides directly related to this RFQ.

Include whether the firm has SOPs in place for vapor site investigation activities that have been used for sites following Wis. Admin. Code ch. NR 716 for site investigations in Wisconsin, and the ability to produce an approved-SAP efficiently at the start of the contract.

2. Project Team Qualifications (maximum of 4 pages)

Describe the pertinent qualifications of the proposed PM and the proposed project team to be used on the contract. Those qualifications should be related to the applicable portions of Wis. Admin. Code ch. NR 712 and the specific vapor sampling experience of the project team.

Include a one-page resume for the PM and summarize the key members and strengths of the project team, years of experience for key staff and expected continuity of service. Identify and list any proposed subcontractors and pertinent certifications, including the Wis. Admin. Code ch. NR 149-certified analytical laboratories and TNI-accredited laboratories to be used on this contract. Identify if any are minority or disabled veteran-owned business enterprises.

For consultants proposing to provide mitigation services, the entities that will design and install a SSDS must be certified as a soil gas mitigator through a national certification program. Certified mitigators who have experience with chemical VI (i.e., not just radon) will receive preference. Identify mitigation subcontractors and applicable certifications and experience with chemical VI.

3. Project Experience (maximum of 8 pages)

This section may include project summaries or additional information to demonstrate the project team's experience related to successful execution of work covered in this RFQ. Project summaries should be associated with projects completed since January 1, 2018. Emphasis should be on experience related to the following, as applicable:

- success in implementing vapor investigations in Wisconsin following RR-800 and RR-649,
- range and type of sites where team has completed vapor investigations and/or mitigation,
- range of vapor sampling techniques used by the project team; specify any experience with passive sampler and evaluation/testing for vapors in utility conduits (e.g., sanitary sewers),
- success mitigating VI in residential properties where chlorinated volatile organic compounds (CVOCs) were a potential vapor risk; include description or list selected mitigation subcontractor's experience with CVOC sites,
- performance verification testing and troubleshooting to optimize SSDS performance,
- preparation of user-friendly OM&M plans for SSDS, and
- risk communication to negotiate access and to share vapor sampling results.

4. Professional References (maximum 1 page)

List three non-DNR, professional references and the name, email address and telephone number of a person to contact for each and type of work firm completed for each reference. References should be clients that can attest to quality of work that relate to this RFQ.

5. Geographic Presence (maximum of 2 pages)

Provide a map of office location(s) in Wisconsin and/or adjacent states, and identify the location of the PM and project staff proposed for this contract.

6. Project Approach (maximum of 5 pages)

As described above, under the professional services agreement, the selected consultants will be requested to provide vapor investigation and/or mitigation services on an as-needed basis. Describe how your PM and project team will interact with the DNR, describe how you will efficiently respond to the DNR's requests for services, how you will cost-effectively accomplish project objectives for the type of services included in this RFQ and your ability to produce quality documents at reasonable rates

that satisfy regulatory requirements. Demonstrate your project team's knowledge and understanding of RR-800 and RR-649 and ability to efficiently begin executing vapor investigations and/or mitigation upon request with minimal direction from the DNR.

If providing an SOQ for vapor investigation services, include a copy of the firm's field sampling log, or description of parameters typically monitored during a vapor field investigation, which demonstrate the team's knowledge and readiness to perform the work.

If providing an SOQ that includes mitigation services, include a description of the team's access to air purification units to respond within 24-hours if mitigation rapid response is requested for an occupied building. Also include a copy of a typical OM&M plan for an SSDS, or description of parameters typically monitored during OM&M of an SSDS, which demonstrate the team's knowledge and readiness to perform typical mitigation work.

7. Cost Proposal (maximum of 5 pages)

Provide a list of the firm's labor rates and identify the billing rates/staff categories for each member of the proposed project team. Provide unit rates to be charged for typical field equipment and travel expenses. (**Note**, mark-up may not exceed 10% on subcontractors and all overhead expenses must be included within the labor rates and/or the standard unit rates. Straight percentage overhead charges are not allowed on invoices under this contract.)

The selected contractors will be expected to keep the rates presented in the Cost Proposal for the duration of the contract unless changes are requested and approved by the DNR.

Provide example budgets for the following scenarios that use the labor rates, unit rates, laboratory rates and subcontractor charges that would be applied if awarded the work. Include estimated hours and unit charges when applicable. (Refer to the Scope of Services above if needed.) Cost proposals should demonstrate efficiency, but should also reflect knowledge of typical level of effort to coordinate and perform vapor assessments and requirements for preparing quality reports.

Scenario 1: Vapor Sampling at a Residential Building

Assume a residential property is located within 100 feet of a former dry cleaner where CVOCs, including TCE is present in groundwater at the water table, located 15 feet below the ground surface beneath the building. The building is an owner-occupied single-family residence with a basement. Assume the property is located 40 miles from your office.

- Communicate and establish an access agreement with the property owner.
- Complete the field work in the approved-sampling plan. Assume sampling duration and approach to follows RR-800 and RR-649 and includes the following:
 - Install two sub-slab sample ports in the basement floor.
 - Collect one sealed head-space sample from the basement sump and one round of sub-slab vapor samples from the vapor sample port using Summa canister and submitted to laboratory for TO-15 analysis.
 - Collect two indoor air samples and one outdoor air sample using passive Beacon samplers and submitted to Beacon for VOC analysis.
 - Collect a vapor sample from the sanitary sewer cleanout using the procedures recommended in RR-649.
- Evaluate the sampling results and provide the DNR and the owner with written notification of the results within 10 days of receipt of the final laboratory report.

- Prepare a documentation report to summarize the field investigation activities, results and recommendations for next steps based on evaluation of the data. Assume one round of revisions needed on the report.

Scenario 2: Immediate Action to Mitigate Acute TCE Vapor Risk

Assume DNR requests immediate action to address TCE detected in indoor air at concentrations that pose an acute risk in the home sampled in Scenario 1.

- Mobilize within 24 hours to install two portable air purification units.
- Collect one 24-hour indoor air sample following installation of the air purification units. Submit for TO-15 analysis using 3-day rush turn-around-time.
- Evaluate the sampling results and provide the owners with written notification of the results within 10 days of receipt of the final laboratory reports.
- Prepare a documentation report to summarize the immediate action and testing results. Assume no revisions are needed to the summary report.

Scenario 3: SSDS Installation at Single-Family Home to Mitigate TCE Vapor Risk

Assume a single-family residential home requires mitigation to address TCE-vapor intrusion risk. The VI assessment on the property, including planning and design for the SSDS were completed under separate contract using the federal brownfields assessment funding. Assume the property is located approximately 30 miles from your office.

- Seal and properly vent the basement sump and seal several cracks in basement floor.
- Install a SSDS using one new drop point installed in the basement.
- Measure the pressure field extension post-SSDS installation. Assume that four new vapor probes must be installed in the basement floor and three rounds of testing are needed to complete the communication testing. Assume no changes to SSDS are needed based on performance verification testing.
- Collect a 24-hour indoor air sample following the first round of performance verification testing. Submit for TO-15 analysis.
- Evaluate the sampling results and provide the DNR and owner with written notification of the results within 10 days of receipt of the final laboratory reports.
- Prepare a summary report to submit to the DNR to document the as-built conditions, which includes photographs and drawings of the SSDS and results from the performance verification. Assume no revisions are needed to the summary report.
- Prepare an OM&M plan for the SSDS to be shared with the property owner. Assume no revisions are needed.

5. **PREPARING AND SUBMITTING THE SOQ**

5.1. **SOQ Submittal Requirements**

Proposers must submit their SOQs in accordance with the following requirements:

- Prepared using Arial, 10-point font, single-spaced with 1-inch margins, size 8.5 by 11-inch.
- Submitted electronically as a PDF via email to Alyssa.Sellwood@wisconsin.gov using the following naming conventions:
 - File Name: **FIRMNAME_SOQ_VIZC.pdf**
 - Email Subject Line: **VIZC SOQ: FirmName**
- Received any time prior to the closing date and time. SOQs must be received no later than **4:00 P.M. Central Daylight Time (CDT) on August 31, 2022**. An email will be sent to verify receipt of your submission.

5.2. **Do Not Contact**

Proposers are directed not to contact any DNR staff related to this RFQ except for submittal question to the email address below. Unauthorized contact with any DNR personnel will be cause for disqualification of the SOQ

5.3. **RFQ Questions**

The deadline for submitting questions on this RFQ is **4:00 pm CDT on August 2, 2022**. Questions must be submitted to Alyssa Sellwood via e-mail at Alyssa.Sellwood@wisconsin.gov. Questions submitted by telephone will not be accepted.

5.4. **RFQ Copies and Response to Questions**

Copies of the RFQ and answers to the written questions will be posted on the RR Program's Public Notices webpage at <https://dnr.wisconsin.gov/topic/brownfields/publicnotices.html>. Response to questions for this RFQ will be posted by **August 5, 2022**. It is the responsibility of the respondent, prior to submitting a response to the RFQ, to periodically check the RR Program's Public Notices to ensure that all addenda for this RFQ have been downloaded, and that all of the information requested has been included in the SOQ response.

5.5. **Incurred Costs**

Those vendors submitting SOQs do so entirely at their own expense. There is no expressed or implied obligation by the DNR to reimburse any individual or firm for any costs incurred in preparing or submitting responses, for providing additional information when requested by the DNR, or for attending and/or participating in any follow-up interviews and negotiation sessions.

5.6. **Confidential Matter**

If any information submitted in the SOQ is considered confidential or proprietary, the respondent must identify this information by completing and including the Designation of Confidential and Proprietary Information (DOA-3027) with their proposal. A copy of form DOA-3027 is available at <https://doa.wi.gov/Forms/DOA-3027DesignationofConfidentialandProprietaryInformation.doc>.

6. SCHEDULE AND PROCEDURES

6.1. Calendar of Events

Key dates in the selection process are listed below. Dates are subject to change, except the deadline for questions and the SOQ due date.

- July 25, 2022- RFQ available date
- **August 2, 2022 - Deadline for submitting written questions (4:00PM CDT)**
- August 5, 2022 - Date for DNR to post answers to questions
- **August 31, 2022 – SOQ Due Date (4:00PM CDT)**
- September 13 – September 26, 2022 – Interviews with top ranked respondents
- October 7, 2022 – Selected consultant notified
- October 24, 2022 – Contract commencement date

6.2. Award Criteria

The SOQs will first be reviewed to determine if the mandatory requirements are met. Failure to meet mandatory requirements may result in an RFQ being rejected. Accepted SOQs will be evaluated by a review committee based on the criteria summarized below.

Firm Profile and EPA-Approved QAPP	5 %
Project Manager and Team Qualifications	25 %
Project Experience and References	20 %
Geographic Presence	5 %
Project Approach	20 %
Cost Proposal	25 %

6.3. Interviews

The DNR estimates that interviews will be conducted with up to six of the top ranked respondents to evaluate the PM and project team's ability to provide the services requested by this RFQ. The contractor's PM and one additional representative must be present at this interview.

6.4. Negotiations

After interviews and final evaluations are completed, the DNR may at its sole option open work scope and cost negotiations with two or more of the top-ranked proposers prior to award. The DNR also reserves the right to open negotiations with one or more alternate proposers if negotiations with one or more of the previously selected proposers are not successful. The DNR will not negotiate contract terms and conditions.

6.5. Rejection

The DNR reserves the right to reject any and all proposals, to waive any informality in the proposals that are received, to accept or reject any or all items in the proposal, and to award contracts to two or more environmental consulting firms in whole or in part. Moreover, the DNR reserves the right to make no selection if the proposals are deemed to be outside the fiscal constraint or not in the best interests of the DNR.

6.6. Award

The DNR will select the respondents whose SOQs best meet the DNR's needs as defined in this RFQ. Contractual commitments are contingent upon the availability of funds, and the number of sites identified. All contracts are subject to the approval of the DNR's legal counsel, and the DNR Secretary's office prior to execution. Once awarded, the contracts will be the final expression of the agreement between the parties and may not be altered, changed or amended except by mutual agreement, in writing.

ATTACHMENT 1

**State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Madison, Wisconsin**

THIS AGREEMENT is made and entered into by and between the State of Wisconsin, hereinafter called the "State", by its Department of Natural Resources, hereinafter called the "Department", executing this Agreement, and **[Consultant Name]**, hereinafter called the "Consultant", for the work included in the Consultant's Proposal based on the Department's Scope of Work, both specified in Section 34 of the General Terms and Conditions below. Costs for the work shall be reimbursed in accordance with the attached proposal up to a maximum agreed amount NOT TO EXCEED **\$[Numerical Amount]** (*[Amount Written]*).

For administrative purposes a contingency fund of **\$[Numerical Amount]** (*[Amount Written]*) is approved for use on this project. The contingency fund may be used only with the prior approval of the Department and at the sole discretion of the Department. This contingency fund is not part of the maximum NOT TO EXCEED amount agreed upon for the services in the proposal.

WITNESSETH

WHEREAS, the Department proposes development of a project, hereinafter named the "Project", which is described as follows: **[Very Brief Project Description]** located at **[Site Address]**

WHEREAS, the Department deems it advisable to engage the services of a Consultant to furnish professional services in connection with the Project.

WHEREAS, the Department has authority as provided in Section 23.41 of the Wisconsin Statutes to engage such services.

WHEREAS, the Consultant has signified its willingness to furnish services for the Department.

NOW THEREFORE, in consideration of these premises and their mutual and dependent agreements, the parties hereto agree as set forth in the following pages which are annexed hereto and made a part hereof. (Pages 1 to 8, inclusive.)

IN WITNESS WHEREOF, the Department and the Consultant have executed this AGREEMENT.

For the convenience of the parties, this Agreement may be executed via an electronic signature and any number of counterparts of this Agreement may be executed by the parties hereto. All such counterparts taken together shall constitute one and the same agreement.

[Consultant Name]

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

By _____

By _____
**[Name] Program and Policy Operations Director,
Remediation and Redevelopment**

Title _____

Date _____

Date _____

Approved:

By _____
**[Name], Program Director,
Remediation and Redevelopment**

Date _____

GENERAL SERVICES AGREEMENT
GENERAL TERMS AND CONDITIONS

- | | |
|---|--|
| 1. Affirmative Action. | 23. Ownership of Documents. |
| 2. Antitrust Assignment. | 24. Ownership of Wastes. |
| 3. Applicable Law. | 25. Payments. |
| 4. Approvals or Inspections. | 26. Payment Terms and Invoicing. |
| 5. Assignment. | 27. Period of Agreement. |
| 6. Cancellation; Termination | 28. Project Management. |
| 7. Change Orders. | 29. Records, Access. |
| 8. Deduction for Uncorrected Work. | 30. Rejection of Defective Materials. |
| 9. Deliverables. | 31. Release of Information. |
| 10. Disclosure. | 32. Request for Payment; Progress Reports. |
| 11. Dispute Resolution. | 33. Safety. |
| 12. Entire Agreement; Amendments. | 34. Scope of Services to be Provided. |
| 13. Extra Work and Special Cases. | 35. Site Access |
| 14. Force Majeure. | 36. Data |
| 15. Guaranteed Delivery. | 37. Standard of Performance. |
| 16. Indemnification; Liability. | 38. Survival. |
| 17. Independent Contractor. | 39. Successors and Assigns. |
| 18. Insurance. | 40. Tax Delinquency. |
| 19. Inventions, Patents, Trademarks and Copyrights. | 41. Taxes. |
| 20. Late Penalties. | 42. Testimony. |
| 21. No Waiver of Conditions. | 43. Titles. |
| 22. Nondiscrimination. | 44. Warranty. |

* * * * *

THE CONSULTANT shall provide professional services for the Project in accordance with the terms and conditions of this Agreement.

1. AFFIRMATIVE ACTION. If the amount of this Agreement is \$50,000 or more, the Consultant agrees to submit a written affirmative action plan to the Department within 15 business days after the Agreement commences if an acceptable plan is not already on file with the State of Wisconsin. (Consultants with an annual work force of fewer than 25 employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Consultant being declared an “ineligible” contractor, termination of the Agreement, or withholding of payment

2. ANTITRUST ASSIGNMENT. The Consultant and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Consultant hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.

3. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Wisconsin. The Consultant shall at all times comply with all federal,

state and local laws, ordinances and regulations in effect during the period of this Agreement.

4. APPROVALS OR INSPECTIONS. None of the approvals or inspections performed by the Department shall be construed or implied to relieve the Consultant from any duty or responsibility it has for its professional performance, unless the Department formally assumes such responsibility through a letter from the Department expressly stating that the responsibility has been assumed.

5. ASSIGNMENT. Neither this Agreement nor any right or duty in whole or in part by the Consultant under this Agreement may be assigned, delegated or subcontracted without the written consent of the Department.

6. CANCELLATION; TERMINATION. A. The Department reserves the right to cancel this Agreement in whole or in part, without penalty, due to non-appropriation of funds or for the failure of the Consultant to comply with terms, conditions, or specifications of this Agreement.

B. The Department may terminate this Agreement for any reason at any time upon not less than 10 days' written notice to the Consultant.

C. In the event of termination the Department shall pay the Consultant for that portion of the work satisfactorily performed prior to the date of termination.

D. If this Agreement is canceled or terminated by the Department for reasons other than the failure of the Consultant to comply with terms, conditions or specifications of this Agreement, the Consultant shall also be entitled to reasonable cancellation or termination costs relating to costs incurred by the Consultant for commitments which had become firm prior to the cancellation or termination.

E. Upon cancellation or termination under PARAGRAPH A. or B., above, the Consultant shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and deliver or otherwise make available to the Department all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in progress.

7. CHANGE ORDERS. A. A change order is a written order to the Consultant signed by the Department, issued after the execution of this Agreement, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. Change Orders may be initiated by either party at any time.

B. Changes in work shall be within the general scope of the Agreement, consisting of additions, deletions or other revisions; the Contract Sum and the Contract Time being adjusted accordingly. Complete documentation of additional work, cost changes, and contract time shall be provided to the Department by the Consultant.

C. No adjustments to the Contract Sum or the Contract Time may be made for any changes performed by the Consultant that have not been ordered by the Department.

8. DEDUCTION FOR UNCORRECTED WORK. If the Department deems it expedient to accept defective work or work not performed in accordance with the Agreement, the difference in value, together with a fair allowance for the damages, may be deducted from the payments that are owed to the Consultant under this Agreement.

9. DELIVERABLES. Deliverables are defined as those items included in the Agreement's time schedule.

10. DISCLOSURE. If a state public official (as defined under Section 19.42, Wisconsin Statutes), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a 10% interest, is a party to this Agreement, and if this Agreement involves payment of more than \$3,000 within a 12 month period, this Agreement is voidable by the State unless appropriate disclosure is made according to Section 19.45(6), Wisconsin Statutes, before signing the Agreement. Disclosures shall be made to the State of Wisconsin Ethics Board, 44 E. Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608 266-8123).

11. DISPUTE RESOLUTION. In the event that a dispute arises between the Department's project manager and the Consultant's project manager, either party may request a conference between the Department's Director of the Bureau for Remediation and Redevelopment and the Consultant's project manager's supervisor (or designee) to resolve the dispute.

12. ENTIRE AGREEMENT; AMENDMENTS. This Agreement, together with the specifications in the proposal and referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this Agreement, signed by both parties prior to the ending date of this Agreement.

13. EXTRA WORK AND SPECIAL CASES. If the Department desires to have the Consultant perform work or render services in connection with the project, other than provided for by the expressed intent of this Agreement, this will be considered as Extra Work, subject to a change order, or extension to this Agreement, setting forth the nature and scope thereof and the compensation therefor as determined by mutual agreement between the parties. Work under a change order or extension may not proceed unless and until it is authorized by the Department.

14. FORCE MAJEURE. A. The Consultant shall cause all of its work to be performed within the time limits set forth in this Agreement unless performance is delayed by events that constitute a force majeure. For purposes of this Agreement, a "force majeure" is an event which is not foreseeable, is beyond the control of the Consultant and delays performance of any obligations required by this Agreement, including,

but not limited to, delays caused by the Department, delays in obtaining property access or delays in obtaining any necessary permit or license after a complete application is made.

B. The Consultant shall notify the Department in writing no later than 5 calendar days after the discovery of any event which the Consultant contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Consultant to minimize the delay, and the timetable by which these measures will be implemented. The Consultant shall have the burden of demonstrating that the event is a force majeure. The Department shall promptly provide the Consultant with a written decision as to whether and why the event does or does not constitute a force majeure after receiving notification from the Consultant. If the Consultant does not agree with the findings of the Department project management staff, then a conference with the Department's Director of the Bureau for Remediation and Redevelopment will be arranged with the Consultant to resolve the force majeure issue.

C. If the Department agrees that a delay is attributable to a force majeure, the time period for a performance under this Agreement shall be extended for a reasonable time period attributable to the event constituting a force majeure.

15. GUARANTEED DELIVERY. Failure of the Consultant to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the Consultant liable for all costs in excess of the Agreement price when alternate procurement is necessary. Excess costs shall include the Department's administrative costs.

16. INDEMNIFICATION; LIABILITY. **A.** The Consultant agrees to save, keep harmless, defend and indemnify the State, the Department and all their officers, employees and agents, against any and all liability, claims and costs for injury to or death of any person or persons, and for loss or damage to any property (state or other) caused by or arising out of any willful misconduct, negligent act, error or omission by the Consultant or any of its agents, representatives, subcontractors or employees occurring in connection with or in any way incident to or arising out of performance of this Agreement. This PARAGRAPH does not apply to liability, claims and costs to the extent that they result from the willful misconduct, negligent act, error or omission of the State, the Department or their officers, employees or agents.

B. The Department recognizes and agrees that its employees are subject to liability as provided by Sections 893.82 and 895.46, Wisconsin Statutes.

Therefore, its employee will be liable for their acts under these provisions and will not be acting on behalf of or as agents of the Consultant.

C. The Consultant guarantees that the use of equipment incorporated into the Project will not infringe any United States patent, and likewise that the use of any method in conjunction with the Project will not infringe any United States patent. The Consultant agrees that it will at its own expense defend every law suit which shall be brought against the State of Wisconsin for any alleged infringement of any patent and agrees that it will pay all costs, damages, and profits recoverable in any such suit. The Department agrees to promptly notify the Consultant of any such suit and deliver all papers relating to such suit to the Consultant.

17. INDEPENDENT CONTRACTOR. The Department agrees that the Consultant shall have sole control of the method, hours worked, and time and manner of any performance under this Agreement other than as specifically provided herein. The Department reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the Agreement. The Department takes no responsibility for supervision or direction of the performance of the Agreement to be performed by the Consultant or the Consultant's employees or agents. The Department further agrees that it will exercise no control over the selection and dismissal of the Consultant's employees or agents.

18. INSURANCE. The Consultant performing services for the State of Wisconsin shall:

A. Maintain worker's compensation insurance for all employees engaged in the work.

B. Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage shall be \$1,000,000 liability for bodily injury and property damage including products liability and completed operations.

C. Provide motor vehicle insurance for all owned, non-owned, and hired vehicles that are used in carrying out the Agreement. Minimum coverage shall be \$1,000,000 per occurrence combined single limit for automobile liability and property damage.

D. Provide an insurance certificate indicating this coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of the Agreement.

E. The State reserves the right to require higher or lower limits where warranted.

19. INVENTIONS, PATENTS, TRADE-MARKS AND COPYRIGHTS.

A. The Consultant hereby assigns to the Department the entire right, title and interest for the entire world in and to all work performed, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees, either solely or jointly with others, while performing this Agreement or with use of information, materials or facilities of the Department received or used by the Consultant during the period in which the Consultant is retained by the Department or its successors under this Agreement or any extensions or renewals of this Agreement.

B. The Consultant shall promptly disclose to the Department all works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees in the course of the performance of this Agreement.

C. The Consultant shall sign, execute and acknowledge or cause to be signed, executed and acknowledged without cost, but at the expense of the Department, any and all documents and to perform such acts as may be necessary, useful or convenient for the purpose of securing to the Department or its nominees, patent, trademark or copyright protection throughout the world upon all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions, title to which the Department may acquire in accordance with the provisions of this SECTION.

D. The Consultant has acquired or shall acquire from each of its employees the necessary rights to all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made by such employees within the scope of their employment by the Consultant in performing services under this Agreement. The Consultant shall obtain the cooperation of each such employee to secure to the Department or its nominees the rights to such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions as the Department may acquire in accordance with the provisions of this SECTION.

20. LATE PENALTIES. **A.** The Consultant shall be liable for the payment of penalties to the Department of the sums set forth below for each week that the Consultant fails to submit a report or document required under this Agreement's time schedule unless the Department determines that such delay is attributable to a force majeure as defined in SECTION 14., above, or a different schedule is agreed to by the

parties, in writing, before the date the report or document is due. Penalties, if applicable, shall be due and payable by the Consultant within 15 calendar days of receipt of notification from the Department assessing the penalties. These penalties shall accrue in the amount of \$500 for the first week and \$1,000 for each week thereafter, for each report or document which is overdue. The Department may subtract penalties which accrue under this SECTION from payments that are owed to the Consultant under this Agreement.

B. Assessment of penalties under this SECTION does not preclude the Department from pursuing any other remedies or sanctions because of the Consultant's failure to comply with any of the terms of this Agreement, including a suit to enforce the terms of this Agreement.

C. With respect to any individual failure to submit a report or document required under this Agreement's time schedule, the Department may at its sole discretion, in whole or in part, waive its right to penalties otherwise due under this SECTION.

21. NO WAIVER OF CONDITIONS. The failure of either party to insist on strict performance of this Agreement does not constitute a waiver of any of the provisions of this Agreement or a waiver of any default of the other party.

22. NONDISCRIMINATION. In connection with the performance of work under this Agreement, the Consultant agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wisconsin Statutes, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Consultant further agrees to take affirmative action to ensure equal employment opportunities. The Consultant agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Consultant being declared an "ineligible" contractor, termination of the Agreement, or withholding of payment.

23. OWNERSHIP OF DOCUMENTS. Upon completion of the services provided for in this Agreement, or upon payment for services as provided

for in SECTION 7., all specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of the Department.

24. OWNERSHIP OF WASTES. The Department acknowledges that the Consultant is not, by virtue of this Agreement, the owner of any waste materials generated as a result of the services performed by the Consultant under this Agreement.

25. PAYMENTS. A. The Consultant shall be paid by the Department for the completed work or services rendered under this Agreement at the price set forth elsewhere in the Agreement, and for “Extra Work”, if any, at the compensation set forth in the approved orders covering the Extra Work.

B. Such payment shall be full compensation for work performed or services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the work.

26. PAYMENT TERMS AND INVOICING. Payment shall be considered timely if the payment is mailed, delivered, or transferred by the later of the following:

A. The date specified on a properly completed invoice for the amount specified in the order or Agreement, or

B. Within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or Agreement or within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order of Agreement, whichever is later if the Department does not notify the sender of receipt of an improperly completed invoice within 10 working days after it receives the invoice of the reason it is improperly completed.

27. PERIOD OF AGREEMENT. This Agreement shall commence upon its signing by both parties (including approval by the Governor of the State if required) and shall follow the schedule developed in the proposal, during which period all performance as described in this Agreement shall be fully completed to the satisfaction of the Department.

28. PROJECT MANAGEMENT. The Department’s project manager for this project is [Name], located in the Department’s [Region] Office in [City], Wisconsin. The Consultant has identified [Name] as its project manager. If either the Consultant or the Department changes its project manager for this project, notification of this change shall be sent to the other party within 10 days of such a change with the name of the new project manager included.

29. RECORDS, ACCESS. The Consultant shall, for a period of 3 years after completion and acceptance by the Department, maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this Agreement and a copy of the cost summary submitted to the Department. The Department, its agents and duly-authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The Consultant shall provide proper facilities for such access, inspection and copying. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until 3 years after the date of resolution of such dispute, appeal, litigation, claim or exception.

30. REJECTION OF DEFECTIVE MATERIALS. The Department may reject materials and workmanship which are defective or it may require their correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be removed from the Project site without charge to the Department. If the Consultant does not correct such condemned work and remove rejected materials within a reasonable time, fixed by written notice, the Department may remove them and charge the expense to the Consultant.

31. RELEASE OF INFORMATION. The Consultant may not issue press releases or provide information to any third party regarding the Project without the prior written approval of the Department.

32. REQUEST FOR PAYMENT; PROGRESS REPORTS. The Consultant shall submit invoices to the Department on a monthly basis during the progress of the work for partial payment on account, for the work completed and accepted to date. Pay request formats shall match as closely as possible to the cost proposal format. Each category from the cost proposal shall detail, by task, the hours and costs of each staff level. All invoices detailing the Consultant’s work and subcontracted work shall be attached. Copies of all staff time sheets or summary time data used to invoice pay requests should be attached to the invoice. Unless the Department directs otherwise, all receipts for equipment, materials and other expenses shall be

attached to the pay request. The pay request along with a monthly progress report shall be sent directly to the Department's project manager.

33. SAFETY. The Consultant shall initiate, maintain and provide coordination of safety precautions and programs in connection with its services. However, the Consultant is not responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the Project site carried on by other persons or firms directly employed by the Department as separate consultants or contractors. The Department agrees to require any such separate consultants or contractors comply with federal, state and local safety laws and regulations and to comply with all reasonable requests and directions of the Consultant for the elimination or abatement of any safety hazards at the Project site.

34. SCOPE OF SERVICES TO BE PROVIDED. Subject to the terms and conditions set forth in this Agreement, the Department engages the Consultant to furnish the services specifically described in the Consultant's Proposals entitled: "[Proposal Title]" dated [Date] and in the Department's Scope of Work Entitled "[DNR SOW/RFP Title]" dated [Date] for such other tasks as may be mutually agreed upon in writing between the Consultant and the Department. The Consultant's Proposal and the Department's Scope of Work are incorporated into this Agreement by reference and are made a part of this Agreement.

35. SITE ACCESS. Unless the Scope of Work included in Exhibit "A" provides otherwise, the Department shall obtain or provide reasonable access for the Consultant to the Project site when necessary and at any reasonable time requested.

36. DATA. The Department shall attempt to provide the Consultant with all relevant data and information in its possession regarding the Project site. However, in providing such data and information, the Department assumes no responsibility for its accuracy, reliability or completeness.

37. STANDARD OF PERFORMANCE. The Consultant's services shall be performed with the usual thoroughness, skill and competence of the consulting profession, in accordance with the standard for professional services prevailing at the time those services are rendered.

38. SURVIVAL. These General Terms and Conditions shall survive the completion of the services under this Agreement and the termination of this Agreement for any cause.

39. SUCCESSORS AND ASSIGNS. The Department and the Consultant each bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement.

40. TAX DELINQUENCY. Consultants which have a delinquent Wisconsin tax liability may have their payments offset by the State.

41. TAXES. The Department is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of all federal tax and Wisconsin sales or use tax on its purchases. The State of Wisconsin has issued tax exempt number ES 40690 to the Department. The Department may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Consultants performing construction activities are required to pay state use tax on the cost of materials.

42. TESTIMONY. The Consultant shall make its employees available to testify at administrative hearings and in court on behalf of the Department regarding the work conducted under this Agreement. Any costs associated with such testimony shall be billed to the Department on an itemized invoice. The hourly rates charged for testifying and for travel to and from the hearing or court proceeding may not exceed the rates listed on the Consultant's Classification Rate Schedule in effect at the time that the testimony is given.

43. TITLES. The headings or titles of SECTIONS of this Agreement are used for convenience and ease of reference and are not intended to limit the scope or intent of the SECTIONS.

44. WARRANTY. With respect to any construction work or construction activities performed under this Agreement, except where a longer warranty period is provided by the manufacturer or supplier of any equipment or materials, the Consultant warrants that for one year the work will be free from defects in material or workmanship and that all construction services and material furnished shall be in accordance with the Department's specifications or the proposal. This warranty shall survive acceptance and payment and shall not be exclusive. Manufacturers' warranties received by the Consultant which are applicable to any items furnished by the Consultant shall survive

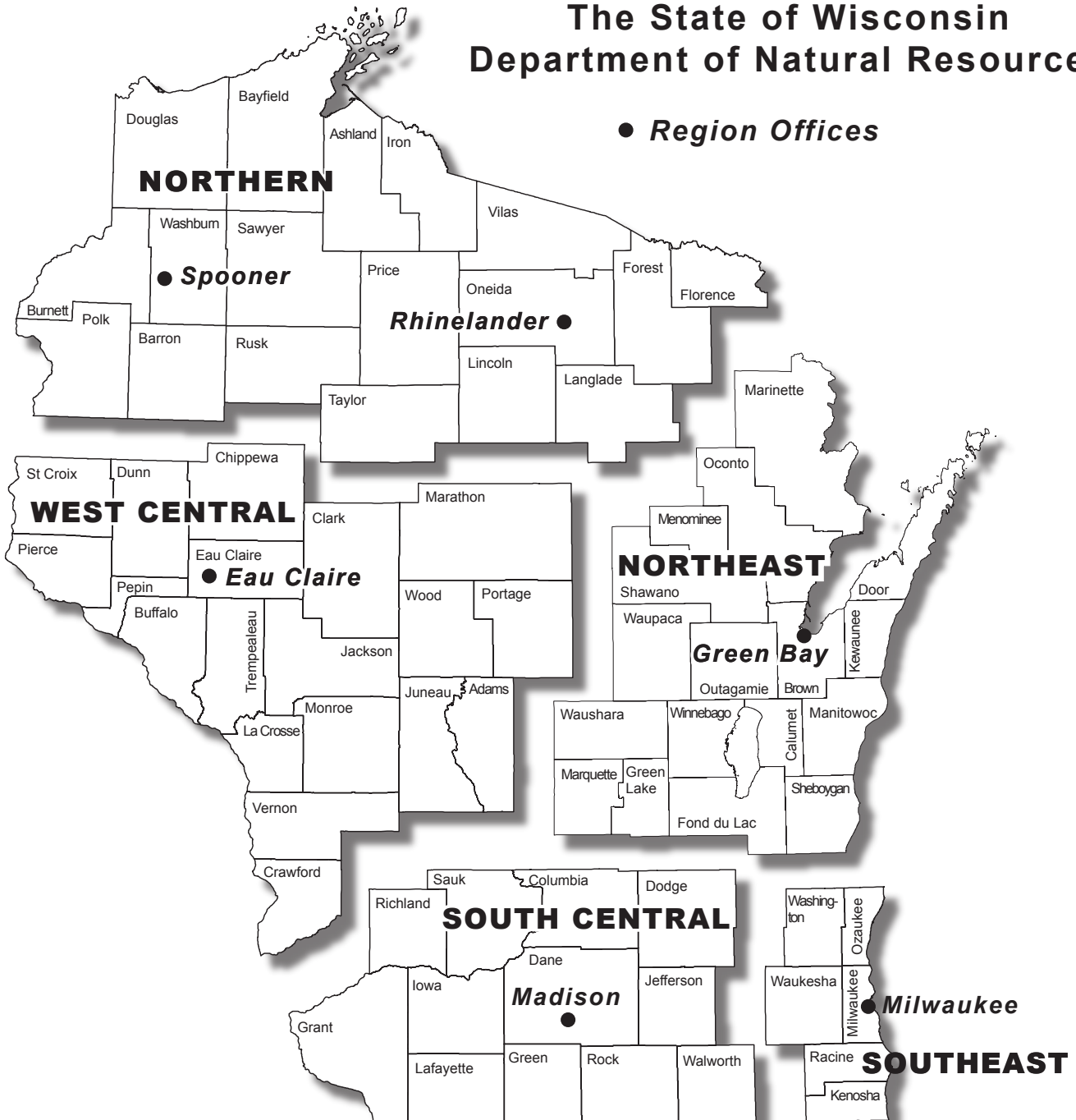
acceptance and payment, and shall run to the Department, its successors and assigns, and may not be exclusive. The Consultant shall obtain any warranties which vendors, contractors and subcontractors would give in normal commercial practice. At the Department's option, the Consultant shall either promptly repair or replace defective items and work after receipt of the Department's written notice of a defect.

- END -

ATTACHMENT 2

The State of Wisconsin Department of Natural Resources

● *Region Offices*



Note: These are the Remediation and Redevelopment Program's designated regions. Other DNR program regional boundaries may be different.