

**Environmental Protection Commission
Iowa Department of Natural Resources**

ITEM

26

DECISION

TOPIC

Contract – University of Iowa Hygienic Lab for Laboratory Services for Contaminated Sites Program

Recommendations:

Commission approval is requested for a one year-service contract with University of Iowa Hygienic Lab. The contract will begin on July 1, 2009 and terminate on June 30, 2010. The total amount of this contract shall not exceed \$54,000. DNR shall have the option to renew this contract long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through EPA CERCLA, EPA Brownfields, and state Hazardous Waste Remedial Funds. No general fund monies are used.

Background:

Under various state and federal programs the Contaminated Sites Section of IDNR conducts investigations of environmental contamination. This process involves the collection of samples of unknown chemicals or environmental media potentially contaminated by chemicals. In order to positively identify and quantify the concentration of those chemicals it is necessary to have them analyzed by a qualified laboratory.

Purpose:

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide necessary analytical services.

Contractor Selection Process:

DNR is authorized to contract with UHL for these services according to the provisions of Iowa Code section 455B.103(3) (2009).

Matt Culp
Environmental Specialist Senior
Land Quality Bureau
6/8/09

SPECIAL CONDITIONS

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and The University of Iowa. The parties agree as follows:

Section 1 **IDENTITY OF THE PARTIES**

1.1 Parties. DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

The University of Iowa (Contractor), a State of Iowa educational institution is organized under the laws of the State of Iowa and authorized to do business in the State of Iowa. The Contractor's address is: 2 Gilmore Hall, Iowa City, IA 52242.

1.2 Project Managers. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

DNR Technical Contact for Contaminated Sites Section:

Matt Culp
DNR Contaminated Sites Section
502 East 9th Street
Des Moines, Iowa 50319-0034
(515) 242-5087
Matt.Culp@dnr.iowa.gov

DNR Administrative Contact:

Sandy Redding
DNR Contaminated Sites Section
502 East 9th Street
Des Moines, Iowa 50319-0034
(515) 281-8878
Sandy.Redding@dnr.iowa.gov

University Technical Contact:

Michael D. Wichman
University Hygienic Laboratory
102 Oakdale Campus, H101 OH
Iowa City, IA 52242
(319) 335-4500
mwichman@uhl.uiowa.edu

University Administrative Contact:

Wendy Beaver, Sr. Associate Director
Sponsored Programs
The University of Iowa
2 Gilmore Hall
Iowa City, IA 52242
319/335-42123
wendy-beaver@uiowa.edu

Section 2 **STATEMENT OF PURPOSE**

The parties have entered into this Contract for the purpose of retaining the Contractor to provide assistance to DNR in monitoring the condition of groundwater and soil in the state of Iowa. Assistance will include analysis of samples from environmental media (generally soil or groundwater) for a variety of chemistry parameters.

Section 3 **DURATION OF CONTRACT**

3.1 Term of Contract. The term of this Contract shall be July 1, 2009, through June 30, 2010, unless terminated earlier in accordance with the Termination section of this Contract, except that this Contract shall not begin until it has been signed by both parties.

3.2 Approval of Contract. If the amount of compensation to be paid by DNR according to the terms of this Contract is equal to or greater than \$25,000.00 (twenty five thousand dollars), then performance shall not commence unless by July 8, 2009 when this Contract has been approved by the Environmental Protection Commission

3.3 Renewal. The parties shall have the option to renew and extend this Contract for subsequent periods, adding up to no more than 6 years total, by executing a signed Contract amendment prior to the expiration of this Contract.

Section 4 DEFINITIONS

“Deliverables” shall mean services to be provided by, or on behalf of, the Contractor pursuant to this Contract. Deliverables shall include the tasks set out in this Contract and everything produced by the Contractor that is related to the tasks, such as reports, meetings, documentation, designs, copy, artwork, data, information, graphics, images, processes, techniques, materials, plans, papers, forms, studies, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature that are related to the deliverables.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the following tasks:

Task 1: Analyze and report environmental media samples collected by Department staff during contaminated sites investigations (WMSF).

- Analyze samples of water, soils, soil-gas, solvents, solid wastes, and other environmental media collected by the Department during contaminated sites investigations. The samples will be tested for parameters as specified by the collector.
- Samples submitted for analysis will be coded **WMSF**. All samples submitted to UHL by Department or UHL staff shall be coded to a specific monitoring activity and shall include a detailed list of the analyses to be performed unless other arrangements have been made before shipment of the sample to UHL. UHL log-in procedures shall accommodate this code. A monthly report of the logged-in samples shall be provided in a mutually agreeable format. Any deviation from normal sampling procedures, such as a change in sampling location, omission of samples for analysis, etc., shall be identified to DNR in writing prior to transmittal of analytical results.
- For analytical results below the quantitation limit, the test quantitation limit shall be reported as “less than”. Any results for tests run on samples after recommended holding times have been exceeded shall be so indicated or qualified as appropriate.
- Submit information on data quality requirements and assessments (such as detection limit, quantitation limit, estimated accuracy, accuracy protocol, estimated precision, and precision protocol) to DNR for any sample upon request. Information on the analytical reference method, sample preservation and holding time also shall be provided if requested.
- Provide copies of revised Methods Manuals and Standard Operating Procedure Manuals to the Department upon request. Copies of manuals and procedures shall be available from the laboratory.

5.2 Final Notice of Acceptance. If all the Tasks required by the Statement of Work have been timely completed consistent with the timeframes identified therein and all deliverables and services required by this Contract have been completed and delivered, and implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance within 30 days.

5.3 Non-Exclusive Rights. This Contract is not exclusive. DNR reserves the right to select other Contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

5.4 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor

written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive and pay the Contractor for any and all work performed prior to the issuance of the stop work directive.

5.5 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the environmental laboratory industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

5.6 Amendments to Statement of Work – Change Order Procedure. Modifications, deletions and additions may be made to a Statement of Work at any time during the term of this Contract by mutual written consent of the parties. Any amendment to a Statement of Work shall be called a Change Order, and the following procedures shall be followed:

- 5.6.1 Written Request.** DNR shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Services.
- 5.6.2 The Contractor’s Response.** The Contractor shall submit to DNR a time estimate and an estimated budget for the requested Change Order within five (5) business days of receiving the Change Order Request, if Contractor decides, in its sole discretion, to provide the services in the requested Change Order.
- 5.6.3 Acceptance of the Contractor Estimate.** If DNR accepts the time estimate and estimated budget presented by the Contractor within five (5) business days of receiving the Contractor’s response, the Contractor shall perform the modified services subject to time estimate and estimated budget included in the Contractor response. The Contractor’s performance and the modified services shall be governed by the terms and conditions of this Contract, with a begin date agreed to by the parties.
- 5.6.4 Adjustment to Compensation.** The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor’s compensation or the performance deadlines under this Contract and that such Change Order may require approval of the Natural Resources or Environmental Protection Commission.

Section 6 MONITORING AND REVIEW

6.1 Task Milestone Dates. Contractor shall use its best efforts to complete its obligations under this Contract by the Task Milestone Dates set out in the following table:

Obligation	Task Milestone Date
Task 1: Sample Log-in Report in a format attached discussed and agreed to by the parties.	To the Department quarterly to coincide with the submission of invoice due dates as described in section 7.4 of this Contract
Task 1: Provide sample information to the Department upon request. Provide copies of Methods Manuals/Standard Operating Procedure Manuals (available from the laboratory) to the Department upon request.	On-going throughout the term of the Contract

Contractor shall notify DNR within 5 working days upon discovery of any delay in any of the above-designated portions of its obligations. Contractor and DNR shall discuss updated Task Milestone Dates. If the parties are unable to mutually agree to updated Task Milestone Dates within 30 days of DNR’s receipt of notice of a delay, DNR may terminate this Contract for cause.

6.2 Review Meetings. Commencing with beginning performance of this Contract, the Project Managers shall meet quarterly to discuss progress made by the Contractor during the performance of this Contract. The meetings

shall occur, either in person or by telephone conference call, at the following times: the first Monday of the quarter at 9:00 a.m. Meetings may be postponed only on a case-by-case basis by mutual agreement of the parties.

- 6.3 Status Reports.** Prior to each review meeting, each Technical Contact shall provide a status report listing:
- o accomplishments during the previous period,
 - o activities planned for the upcoming period,
 - o Tasks completed or deliverables produced during the previous period,
 - o an updated schedule of upcoming deliverables, and
 - o any problems or concerns encountered since the last meeting.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

6.4 DNR Right to Review and Observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, within normal business hours and upon prior written notification to Contractor, to inspect its facilities and books and records relating to invoicing for the purpose of monitoring and evaluating performance of this Contract.

Section 7 COMPENSATION

7.1 Source of Funding. The source of funding for this Contract is State of Iowa and Federal monies appropriated to the Iowa Department of Natural Resources' Contaminated Sites Fund.

7.2 Not-to-Exceed Total Amount of Contract. Payment for the work performed by Contractor according to the terms of this Contract shall not exceed \$54,000 .. Payment shall be for satisfactory completion of the Statement of Work outlined in this Contract, provided that Contractor has complied with the terms of this Contract.

7.3 Budget. The budget for this Contract shall be as follows:

DESCRIPTION	Amount of Compensation Allotted to Task (Variable Payment)
Task 1: Contaminated Sites Laboratory Support	\$50,00
Facilities and Administrative Costs@8%	\$4,000
Total	\$54,000

7.4 Submission of Invoices. Invoices shall be submitted to DNR according to the following schedule:

Task Milestone Dates	Invoice Due Date
Task 1: September 30, 2009; December 30, 2009; March 30, 2009; June 30, 20010	October 30, 2009; January 30, 20010; April 30, 20010; July 30, 20109

Each invoice shall comply with all applicable rules concerning payment of such claims. Each invoice shall be itemized as per the line item budget categories in the budget contained in this Contract. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Invoices should be sent to: Sandy Redding Land Quality Bureau, Iowa Department of Natural Resources, 502 E. Ninth Street, Des Moines, Iowa 50319.

7.5 Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State of Iowa for any services provided by or on behalf of the Contractor under this Contract.

DNR will pay Contractor within sixty (60) days following receipt of invoices. Payment will be issued to:
University of Iowa Hygienic Laboratory – Accounts Receivable
102 Oakdale Campus, H101 OH
Iowa City, IA 55242

7.6 No advance payment. No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

7.7 Delay of Payment Due to Contractor's Failure. If DNR determines that the Contractor has failed to perform or deliver any service or product required by this Contract, then the Contractor shall not be entitled to any compensation for that service or product, or any further compensation if compensation has already occurred, under this Contract until such service or product is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the task or deliverable that was not completed, delivered and successfully deployed.

7.8 Erroneous Payments and Credits. Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

7.9 Final Payment. Unless otherwise provided in this Contract, by state law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall not constitute a waiver of either party's claims against the other party under this contract or applicable performance and payment bonds.