



availability of personnel outside of normal business hours to assist the Department with assessment of emergency situations and providing technical guidance to the appropriate emergency-response agencies. This activity could also include post-incident tasks such as data collection, review and assessment of structures and facilities, and assisting the Department or City of New Castle with planning, designing, and implementing dike repairs.

At the Department's discretion, multiple firms may be selected to provide these services, and selected firms may be awarded multiple projects.

### **III. Qualification Statement Procedures**

#### **A. Qualification Statements**

To be considered, all qualification statements must be submitted in writing and respond to the items outlined in this RFQ. The State reserves the right to reject any non-responsive or non-conforming qualification statements. Each qualification statement must be submitted with five (5) copies in a sealed envelope conspicuously labeled "Qualification Statement - State of Delaware – Division of Soil and Water Conservation, Delaware Coastal Program - Dike Safety, Maintenance & Emergency Planning." The envelope should also contain the name, address and telephone number of the proposing firm. If delivered by mail, the qualification statement shall be enclosed in an "inner" enveloped labeled as indicated above.

All qualification statements must be delivered in person or by mail to:

DNREC  
Division of Soil and Water Conservation  
Delaware Coastal Programs  
5 E. Reed Street  
Weyandt Hall Suite 201  
Dover, Delaware 19901

Attn: David Carter

Any qualification statements submitted by mail shall be sent by either certified or registered mail. Qualification Statements must be received at the above address no later than 4:00 p.m. on Friday, November 20, 2009. Any qualification statement received after this date shall not be considered and shall be returned unopened. The proposing firm bears the risk of delays in delivery. The contents of any qualification statement shall not be disclosed as to be made available to competing entities during the negotiation process.

## **B. Modifications**

Any changes, amendments or modifications to a qualification statement must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted qualification statement. Changes, amendments or modifications to qualification statements shall not be accepted or considered after the hour and date specified as the deadline for submission of qualification statements.

## **IV. Required Information**

The following information shall be provided in each qualification statement in the order listed below. Failure to respond to any request for information may result in rejection of the qualification statement at the sole discretion of the State:

### **A. Minimum Requirements**

- (1) Delaware business license:  
Provide evidence of a Delaware business license.
- (2) Professional liability insurance:  
Provide evidence of professional liability insurance in the amount of \$1,000,000 each occurrence, \$3,000,000 aggregate.
- (3) General Insurance  
Provide evidence of comprehensive general liability insurance in the amount of \$1,000,000.

### **B. Supplemental Information**

Additional information should be provided with each qualification statement to document the firm's credentials with respect to the evaluation items listed in Section V of this RFQ.

## **V. Evaluation Process**

All qualification statements submitted in response to the RFQ shall be reviewed in accordance with the evaluation items listed below.

### **A. Qualification Statement Review Committee**

The Qualification statement Review Committee shall be comprised of staff from the Division of Soil and Water Conservation and other agencies as deemed appropriate by the Division of Soil and Water Conservation. The Committee shall determine the firms which meet the minimum requirements pursuant to selection criteria of the RFQ

and procedures established in 29 Del. C. §§ 6981, 6982. The Committee shall interview one or more of the qualified firms. The Committee may negotiate with one or more firms during the same period and may, at its discretion, terminate negotiations with any or all firms. The Committee shall make a recommendation regarding the award to the Soil and Water Conservation Division Director who shall have final authority, subject to the provisions of this RFQ and 29 Del. C. § 6982, to award a contract to one or more of the successful firms in the best interests of the State of Delaware

**B. Qualification Statement Selection Criteria**

The Qualification Statement Review Committee shall assign up to the maximum number of points as stated in this Section for each Evaluation Item to each of the proposing firms. All assignments of points shall be at the sole discretion of the Qualification Statement Review Committee.

The qualification statements shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFQ has been determined by the DNREC and the Qualification Statement Review Committee to be essential for use by the Committee in the evaluation and selection process. Therefore, all instructions contained in this RFQ shall be met in order to qualify as a responsive and responsible contractor and participate in the Qualification Statement Review Committee's consideration for award. Applicants who do not meet or comply with the instructions of this RFQ may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Committee.

The Committee reserves the right to:

Reject any and all applications received in response to this RFQ or to make no award or issue a new RFQ.

Waive or modify any information, irregularity, or inconsistency in applications received.

Request modification to applications from any or all contractors during the review and negotiation.

Negotiate any aspect of the application with any firm and negotiate with more than one firm at the same time.

All qualification statements shall be evaluated using the same criteria and scoring process.

The following criteria shall be used by the Committee to evaluate qualification statements:

<b>Evaluation Item</b>	<b>Maximum Points</b>
1) Evidence that the firm has successfully completed similar projects:	
a. Dike or dam breach analysis and inundation mapping	5
b. Preparation of Emergency Action Plans for dikes or dams	5
c. Preparation of Operation and Maintenance Manuals for dikes or dams	5
d. Providing engineering support services to agencies during and after dike or dam-related emergencies and incidents	5
2) Technical capability and expertise of current staff with projects involving dike or dam engineering, dike or dam breach analysis and inundation mapping, tide gate operations, preparation of emergency action plans and operation and maintenance manuals for dikes or dams.	25
3) Capacity to meet project requirements considering current staff, equipment, financial condition of firm, etc.	20
4) Geographic location and ability to provide timely response in the event of a dike -related emergency or incident.	15
5) Demonstrated ability to perform the work described in the Request for Qualifications with high quality in a timely manner.	10
6) Previous work experience in Delaware with an emphasis on successful partnerships with State and local governmental agencies.	5
7) Distribution of work to individuals and firms. Use of MBE, WBE, and SBE. Is the Contractor MBE, WBE or SBE.	5
<b>TOTAL POINTS</b>	<b>100 Points</b>

## **VI. Contract Conditions**

Any firm awarded a contract arising from negotiations following this RFQ shall be subject to the following contractual provisions:

### **A. Term**

The term of the contract between the successful firm and the State shall be negotiated. The contract may be terminated by either party upon 90 days written notice. In the event the successful firm materially breaches any obligation under this Agreement, the State may terminate this Agreement upon thirty (30) days written notice.

### **B. Non-appropriation**

In the event that the General Assembly fails to appropriate the specific funds necessary to continue the contractual agreement, in whole or in part, the agreement shall be terminated.

### **C. Notice**

Any notice to the State required under this Agreement shall be sent by registered mail to:

DNREC  
Division of Soil and Water Conservation  
Delaware Coastal Programs  
5 E Reed Street, Suite 201  
Dover, Delaware 19901

Attn: David Carter

### **D. Formal Contract and Purchase Order**

The successful firm shall promptly execute a contract incorporating the terms negotiated by the Qualification Statement Review Committee within thirty (30) days after requested by the DNREC. No work is to begin prior to receipt of a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the DNREC. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful firm.

### **E. Indemnification**

By submitting a qualification statement, the consultant agrees that in the event it is awarded a contract, it will indemnify and hold harmless the State of Delaware, the

Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the consultant's negligent performance under the contract, and any other liability for damages under which the consultant is required to indemnify the State, the Department and the Division under any provision of the contract.

**F.** In performance of this contract the firm is required to comply with all applicable federal, state and local laws, ordinance, codes and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful firm. The firm shall be properly licensed and authorized to transact business in the State of Delaware as provided in Delaware Code Title 30, Section 2502.

**G. Insurance**

The consultant shall maintain such insurance as will protect against claims under the Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under the contract. The consultant is an independent contractor and is not an employee of the State. During the term of the contract the consultant shall, at its own expense, carry insurance with minimum coverage limits as follows:

- a) Comprehensive General Liability \$1,000,000
- b) Professional Liability \$1,000,000/\$3,000,000

If the contractual service requires the transportation of Department clients or staff, the consultant shall, in addition to the above coverage, secure at its own expense the following coverage:

- Automotive liability (bodily injury) \$100,000/\$300,000
- Automotive property damage (to others) \$25,000

The policies must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property Damage and Professional Liability insurance to protect against claims arising from the performance of the consultant and the consultant's subcontractors under the contract.

**H. Non-discrimination**

In performing the services subject to this RFQ the firm agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful firm shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

**I. Covenant against Contingent Fees**

The successful firm warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees bona-fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warranty the State shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**J. Contract Documents**

The Purchase Order and the executed Contract between the State and the successful firm shall constitute the Contract between the State and the firm. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: Contract, and Purchase Order. No other documents shall be considered. These documents contain the entire agreement between the State and the firm.

**K. Applicable Law**

The Laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful firm consents to jurisdiction and venue in the State of Delaware.

**L. Scope of Agreement**

If the scope of any provision of this Contract is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.