

STATE OF ALASKA

Department of Natural Resources
Division of Support Services



REQUEST FOR PROPOSALS (RFP) 2023-1000-0108

ENGINEERING PROFESSIONAL SERVICES FOR LARGE MINE AND DAM SAFETY PROJECTS

ADDENDUM 2

ISSUED 01/06/2023

This addendum is being issued to answer questions from vendors.

Important Note to Offerors: Important Note to Offerors: You are **not** required to sign and return this page of the addendum document with your proposal. Only the RFP terms and conditions referenced in this addendum are being changed. All other terms and conditions of the RFP remain the same. This Addendum is hereby made part of the RFP and is a total of two pages.

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COMPANY SUBMITTING PROPOSAL

AUTHORIZED SIGNATURE

DATE

QUESTIONS SUBMITTED BY OFFERORS AND ANSWER FROM THE STATE

Question 1: There is a lack of indemnity and limitation of liability to the State. Is there room for negotiation of liability terms that does not open the door to unlimited liability to the State and/or third party claims?

Answer 1: A state agency cannot agree to indemnify or to absorb a contractor's liability for third party claims arising from contractor negligence. The state can however agree to cap the contractor's liability for claims the state may bring under the contract.

Question 2: What is the potential liability of the State to dam owners and third parties for permitting/approving dams, such as where a permitted/approved dam fails? Does the State have immunity from claims for performing its regulatory functions under the laws of the State?

Answer 2: Per Risk Management, the indemnification obligations apply only to third party tort claims against the state for negligence of the contractor. The State cannot assume contractor's negligence. A state official may not enter into an unqualified indemnification agreement in the absence of an existing appropriation to cover the potential payment that may be required of the state. To find otherwise could create a financial obligation of the state without prior legislative authorization.

Question 3: Does WSP take on liability exposure to third parties for advising the State in permitting/approving dams, such as where a permitted/approved dam fails?

Answer 3: Risk Management has adopted the view that if the state has "detrimental reliance" on the work product of the contractor then we require the contractor to provide professional liability insurance to protect the state.

Question 4: RFP Sec. 3.18 – Insurance Requirements

This section of the RFP indicates that the State shall be entitled to coverage to the extent of the limits of the Contractor's insurance policy limits. We cannot give the State any coverage under our professional indemnity insurance and wanted to confirm whether this is what is being conveyed in this section.

Answer 4: The insurance requirements in Section 3.18 of the RFP refer to vendors providing a Certificate of Insurance (COI) with the coverage limits as specified in the RFP and also found in Appendix B of an executed contract. This COI would include a waiver of subrogation against the State of Alaska for Workers' Compensation Insurance and a statement indicating that the State of Alaska is additionally insured on the Commercial General Liability insurance certificate. Vendors obtain this Certificate from their insurance carriers.

END OF ADDENDUM 2