

## **EXHIBIT A**

### **STANDARD ENVIRONMENTAL, HEALTH AND SAFETY SPECIFICATIONS**

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# STANDARD ENVIRONMENTAL, HEALTH AND SAFETY SPECIFICATIONS

## 1. Scope

The goal of the New York City Department of Environmental Protection (DEP) is to run the safest operations and capital program in the country with the best environmental compliance record of any large water and wastewater utility. To achieve that goal, DEP strives to hire safe and environmentally compliant contractors and to systematically manage, monitor and evaluate contractors that are working on DEP projects and at DEP locations.

As such, DEP has developed procedures to ensure that contractors' environmental, health and safety (EHS) records and programs are evaluated when DEP is selecting a contractor or approving a subcontractor. These procedures require that all contractors are properly prepared and trained to safely complete the work and to adhere to all EHS laws, rules, and applicable standards as contractually required. DEP work sites are subject to requirements regarding qualification, supervision, and activities of contractors.

These contract requirements (Specifications) set forth the EHS eligibility standards for contract award as well as the applicable EHS training requirements and requirements specific to working on a DEP project. The Contractor must comply with applicable federal, state, and local codes and standards, including environmental and occupational safety and health requirements, as well as any additional special requirements invoked by other sections of the Contract.

Unless otherwise specified, these Specifications do not apply to:

- Contractors providing services with little likelihood of affecting DEP employee safety, DEP property, the public, and the environment, such as consulting services, light janitorial work, laundry, delivery (e.g., food and drink, furniture, filing cabinets), other supply services and shipping, or other products/services as determined by the contracting Bureau.
- Entities funded by DEP which do not directly provide labor or services to DEP, but which utilize funds to independently contract with others to provide services. Examples include other governmental agencies, grant recipients, and non-profit groups. Bureaus may require such entities to comply with the requirements of this policy by specifically adding these criteria into an agreement or contract;
- Other products or services, as determined by the contracting Bureau that do not have the potential to impact safety, public health or the environment.

## 2. Pre-Award

### 2.1 Contractor Safety Record Submittals

Within 5 business days of DEP request, the apparent low bidder shall provide the information specified below. Failure to provide the required information may result in a rejection of the bid.

#### 2.1.1 NY Intrastate Experience Modification Rating (EMR) for past 3 years.

Bidder shall provide its NY Intrastate EMR for the past 3 years on its insurance broker's letterhead. EMR information provided by the New York State Insurance Rating Board is also acceptable. If the bidder does not have a NY Intrastate EMR, its out-of-state EMRs shall be submitted. DEP may also request a company's Workers Compensation Loss Runs to verify EMR.

Bidders that do not have an EMR shall provide, for the past 3 years, their: (a) Workers Compensation Loss Runs (this information shall be provided by their insurance broker); (b) OSHA Total Recordable Cases (TRC); and (c) Days Away, Restricted, or Transferred (DART) rates.

Note: if the bidder is not required to maintain such information, it shall provide an explanation for the exemption.

Bidders are expected to have an EMR of 1.0 or below. If a bidder's EMR is greater than 1.0 in any single year within the 3-year period, the bidder shall submit the following:

- An explanation and supporting documentation explaining why the EMR is greater than 1.0 and detailed steps that have been taken to improve the bidder's EHS performance.
- Five years of Workers Compensation Loss Runs (this information shall be provided by the insurance broker) and documentation of payroll during that same period.
- For each indicated loss, the bidder shall provide a summary of the loss facts and investigation, including a summary of corrective actions undertaken and modifications or development of EHS programs.
- If the bidder has been notified by the New York Compensation Insurance Rating Board (NYCIRB) within the past 3 years that they must participate in the Industrial Code Rule 59, Workplace Safety and Loss Prevention, program then the bidder shall provide a copy of their Consultation Report from a Certified Consultant, documentation of the implementation of the Report identified

corrective action(s) and recommendation(s), and a copy of the carrier required re-inspection. If the bidder elected to instead receive a worker's compensation premium surcharge, they shall so indicate.

- 2.1.2 Last 3 years of OSHA 300 Forms (Logs of Work-Related Injuries and Illnesses) and/or 300A redacted summary worksheets (as available, to verify accuracy of information provided).

Note: if the bidder is not required to maintain such information, it shall provide an explanation for the exemption.

If a bidder's EMR is greater than 1.0, the bidder shall submit their OSHA 300A redacted forms for the entire period covered by the work loss runs indicated in Section 2.1.1 above.

- 2.1.3 List of all federal, state and local regulatory agency (e.g., OSHA, NYSDEC, USEPA, USDOT, DEP, FDNY and NYCDOB, etc.) notices of violation, notices of deficiencies, and fines issued/received in the past 3 years; the letter listing these (or stating that no notices of violation, notices of deficiencies, and no fines have been issued/received in the past 3 years) shall be on company letterhead and certified as complete and accurate by the sworn, notarized statement of a principal or officer of the bidder.
- 2.1.4 List of reportable releases of chemical or petroleum products associated with the bidder's operations during, at a minimum, the last 3 years; the letter listing these (or stating that no reportable releases associated with the bidder's operations have occurred during the past 3 years) shall be on company letterhead and certified as complete and accurate by the sworn, notarized statement of a principal or officer of the bidder.
- 2.1.5 A written description of the bidder's EHS programs (and associated training), including any EHS programs and procedures employees will be required to follow while providing labor or services for DEP. Upon request by DEP, the bidder shall also provide a protocol for the EHS evaluation of any subcontractors that could be proposed by it for DEP approval.
- 2.1.6 A sworn, notarized certification from a principal or officer that, if the bidder is awarded the Contract, its EHS programs shall meet all OSHA, USEPA, NYS and local regulations, and the bidder shall abide by applicable DEP policies and procedures, as appropriate, and as provided by DEP. (Refer to Bidder's EHS Performance and Program Review Questionnaire/Checklist that is included with the bid submission materials in the Invitation for Bids package).
- 2.1.7 For bidders that are joint ventures, the above information must be provided and will be reviewed for the joint venture itself and the individual joint venture partners.

## 2.2 Responsiveness

The items submitted under 2.1 will be evaluated as the contractor's safety record. Further, the bidder's EHS submittals and training program descriptions must indicate that the bidder:

- understands its regulatory requirements
- has a proactive and acceptable EHS and training program in place
- has performed acceptably on prior DEP projects as applicable.
- has adequate EHS professionals available for the project
- has demonstrated an acceptable safety record for the time periods reviewed.
- has demonstrated an acceptable safety record on similar projects over the past three years; and
- has certified that its program and training comply with all regulatory requirements.

## 3. Proposed Subcontractors

- 3.1 The subcontractor approval process requires an information submittal that includes the proposed subcontractor's EMR, EHS program descriptions and certifications like those in sections 2.1 and 2.2.
- 3.2 The standards listed in Section 2.2, above, shall also apply to the approval of proposed subcontractors that would be performing a significant volume or aspect of the project.

## 4. Contractor Orientation

- 4.1 Prior to commencing any work at any DEP location, the Contractor shall be required to attend an orientation. After attending the initial orientation, the Contractor shall, in turn, provide an orientation to any of the Contractor's employees assigned to work at the DEP location. This training must also be provided to subcontractors, suppliers<sup>1</sup>, and Contractor visitors who will be onsite.
- 4.2 During orientation, DEP will provide the Contractor with the most current:
  - 4.2.1 Work site-specific hazardous conditions and related information (e.g., hazardous chemicals present at the work site, locations of Safety Data Sheets, and required safe work practices including minimum Personal Protective Equipment (PPE) requirements);
  - 4.2.2 Facility-specific lockout/tagout requirements;

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<sup>1</sup> This requirement does not apply to suppliers providing services or products that are determined by the Bureau administering the Contract to have little likelihood of affecting DEP employee safety, property, the public, or the environment.

- 4.2.3 Applicable sections of the work site's Emergency Action Plan and, at a minimum, the emergency contact numbers, facility map, notification procedures, evacuation procedures, evacuation routes, assembly areas, and description of alarms;
  - 4.2.4 Access control procedure;
  - 4.2.5 Location of restricted areas accessible from the work area or approaches to the work area (e.g., Process Safety Management/Risk Management Plan-covered processes, permit-required confined spaces, and other high-hazard areas) and procedures for working in and around restricted areas;
  - 4.2.6 DEP's Workplace Violence Prevention Policy;
  - 4.2.7 DEP's Possession of Firearms in the Workplace Policy;
  - 4.2.8 All other applicable DEP policies and procedures that will, or may, be necessary for the work; and
  - 4.2.9 Information on known constituents of concern in the work area, including areas known to contain, or having historically contained, lead, asbestos, PCBs, and mercury.
- 4.3 If provided one by DEP, the Contractor shall distribute to all workers who are to attend the orientation a hazardous material and safe work practices information package. If possible, it will be distributed at least two days prior to the orientation. The workers shall sign for the packages and indicate that they have reviewed the contents prior to their attending the orientation.
  - 4.4 Prior to commencing any work, a responsible official of the Contractor shall certify that it understands its obligations to train its employees and that it has been informed of and will abide by applicable DEP policies and procedures while it is working at DEP work sites.
  - 4.5 If the Contractor or a subcontractor needs to add additional or replacement worker(s) to its crews, the new worker(s) must be provided with the same information received by other workers and receive the orientation for the work site(s).
  - 4.6 The Contractor shall use the Contractor Training Certification form provided by DEP (or an equivalent form), as the record of those Contractor and subcontractor employees who have completed the facility orientation.

## **5. Requirements During Work**

- 5.1 When and where required by the DEP Bureau of Police and Security, the Contractor, and its subcontractors, and all their respective employees shall, always when working at the site(s), wear photo-identification badges.
- 5.2 The Contractor shall develop a work plan that identifies and addresses safety hazards and environmental requirements prior to starting any work.
- 5.3 PPE must be utilized in accordance with the work plan.
- 5.4 The Contractor and its subcontractors and all their respective employees shall, upon request, produce certificates, licenses, and other documentation that laws or regulations require them to obtain them to conduct activities they are performing (e.g., Asbestos Worker Certificate, FDNY Certificate of Fitness in New York City).
- 5.5 The Contractor's and its subcontractors' employees are restricted from entering all high-hazard process areas unless access is required to perform their work. In coordination with the Contract Supervisor, the Contractor or subcontractor employees entering such process areas must obtain permission from the on-duty operator or supervisor in person or by the telephone before entering these areas. Further, Contractor or subcontractor employees must inform the on-duty operator or supervisor in person or by telephone upon leaving and follow all other facility access control procedures.
- 5.6 Any worker who fails to abide by the EHS requirements presented in the safety orientation shall, at the sole discretion of the DEP, be denied access to the facilities and shall be replaced by the Contractor, as directed by DEP.
- 5.7 The Contractor shall immediately inform the DEP Contract Supervisor and the facility's most senior manager of all incidents and all near misses; and of any notices of violation (NOVs), notices of deficiencies (NODs), and fines issued by and/or received from regulatory agencies resulting from work performed. Initial written reports shall be submitted by the next day. Note that other specification sections in this Contract may include additional investigation and reporting requirements and must be consulted. The more stringent requirements will apply in the event of any conflict.
  - 5.7.1 The Contractor must close out all NOVs, and all other violations/deficiencies, and pay the appropriate fines before final or subsequent payments can be made by DEP. The Contractor will not receive final payment if there are open violations or notices of non-compliance.

## **6. Evaluations of Contractor EHS Performance**

- 6.1 DEP will perform evaluations of the Contractor's performance to ensure compliance with all EHS laws and regulations and DEP and facility EHS requirements. Such



evaluations will be considered when evaluating the Contractor's bids for future contracts.

- 6.2 The Contractor shall be rated on each category shown on the Contractor EHS Evaluation form a copy of which should be provided to the Contractor by the Contract Supervisor. ("NA" is acceptable where the requirement was not applicable). The Contract Supervisor may include other specific EHS categories under "Other" that are of particular importance to the project. The Contract Supervisor shall inform the Contractor prior to commencement of work when this is the case.
- 6.3 DEP considers compliance with and conformance to EHS requirements to be of the utmost importance, and recognizes that, on particular projects, the importance of compliance with certain requirements may carry more weight than others, as failure to comply may present a greater level of risk. The final rating for the job in such a case may be weighted more heavily on specific categories (one or two) if compliance with that/those program requirement(s) is paramount to worker safety and/or environmental protection. In this case, the Contractor shall be notified prior to the commencement of work or through the development of risk-based safety plans during the project.
- 6.4 The following rating scale shall be utilized in conducting the Contractor evaluations:
- Excellent** – Contractor exceeded EHS contractual, policy, and/or regulatory requirements. Work was accomplished with no observed deficiencies and no violations. Contractor proactively and effectively addressed potential risks. Contractor demonstrated EHS leadership and best practices and showed alignment with DEP's EHS goals.
  - Good** – Contractor met or exceeded most EHS contractual, policy, and/or regulatory requirements. Work was accomplished with limited or minor observed deficiencies or minor violations. Correction and preventative actions taken by the Contractor were timely and effective.
  - Fair** – Contractor met EHS contractual, policy, and/or regulatory requirements. Observed deficiencies or violations were satisfactorily corrected and did not indicate a pattern of repetition. The correction and preventative actions taken by the Contractor were completed in a timely manner.
  - Poor** – Contractor did not meet some EHS contractual, policy, and/or regulatory requirements. EHS deficiencies and/or violations were identified, but the Contractor either did not identify corrective and preventative actions or proposed correction and preventative actions that appeared to be only marginally effective.
  - Unsatisfactory** – Contractor did not meet a significant number of EHS contractual, policy, and/or regulatory requirements. EHS deficiencies and/or violations were identified, but Contractor did not develop a Corrective and Preventative Action Plan, or failed to implement a Corrective and Preventative Action Plan, or implemented an unsuccessful Corrective and Preventative Action Plan. Deficiencies and/or violations indicated a pattern of repetition.

- 6.5 A Contractor that disagrees with an overall evaluation of “Poor” or “Unsatisfactory” can submit a written request for reconsideration to the DEP Contract Supervisor within 10 business days after receipt of the written evaluation. The request for reconsideration must set forth all the relevant information and arguments and be accompanied by any documentation relied on in support of the request. The request for reconsideration will be reviewed by the Deputy Commissioner overseeing the Bureau or his or her designee. The Deputy Commissioner or designee will notify the Contractor of the determination of the request in writing. Such determination will be final.
- 6.6 If its evaluation (other than the final evaluation) is “Poor” or “Unsatisfactory,” the Contractor must prepare a Corrective and Preventive Action Plan to correct and prevent recurrence of the deficiencies identified through the evaluation.

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