

Midnite Mine Superfund Site

10090 Percent Design

Appendix V – Procurement Plan

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LIST OF ACRONYMS

BMP	Best Management Practice	AACE—American Association of Cost Estimation
BODR	Basis of Design Report	
CM	Construction Manager	Management
CQAP	Construction Quality Assurance Plan	
DMC	Dawn Mining Company, <u>LLC</u>	
EHS	Environmental Health and Safety	
EMR	Worker’s Compensation Experienced Modification	<u>Rating</u>
EPA	U.S. Environmental Protection Agency	
FFP	Firm-Fixed Price	
FUP	Fixed Unit Price	
HSWRP	Hillside Waste Rock Pile	
MSHA	Mine Safety and Health Administration	
Newmont	Newmont USA Limited	
O&M	Operation and Maintenance	
OM&M	Operation, Maintenance and Monitoring	
OSHA	Occupational Safety and Health Administration	
QA	Quality Assurance	
RA	Remedial Action	
RAWP	Remedial Action Work Plan	
RD	Remedial Design	
<u>RFI</u>	<u>Request for Information</u>	
RFP	Request for Proposal	
Site	Midnite Mine Superfund Site	
SOW	Scope of Work	
SWPPP	Stormwater Pollution Prevention Plan	
TERO	Spokane Tribe of Indians Tribal Employment Rights Ordinance	
T&M	Time & Material	
Tribe	Spokane Tribe of Indians	
WTP	Water Treatment Plant	

V1.0 INTRODUCTION

This Procurement Plan presents the process for procuring goods and services related to the remedial actions (RAs) at the Midnite Mine Superfund Site (Site). This Procurement Plan is an appendix to the *Midnite Mine Basis of Design Report (BODR)*, which presents the background and supporting information relevant to the Site and the planned RAs. The BODR also contains the engineering plans and specifications that will be used to solicit bids for products and services.

V2.0 CONTRACTING STRATEGY

There are a number of important principles that apply to the procurement of goods and services for the RA at the Site. Bidders must demonstrate a ~~past~~ history of similar project experience, exemplary safety performance, effective management controls, and skilled workmanship as prerequisites in order to be added to the list of Bidders. Bidders will be equitably treated in a manner consistent with high ethical standards.

It is anticipated that the Selected Remedy will be bid in phases conforming to the construction phases discussed in Appendix D and other key design appendices. Under this scenario, Newmont will ~~first solicit bids forgo out to bid on e.g.,~~ the Phase 1 ~~work activities in accordance with DMC/Newmont's Procurement Policies (included in Attachment V-2).~~~~earthwork.~~ The bidders will be provided the Midnite Mine Remedial Action Work Plan (RAWP), final design documents and ~~specifications, specification~~ and asked to provide costs for the initial phase of work.

The ~~major~~ Phase 1 work ~~activities include; includes:~~

1. Construction of the Site Access Road
2. Clearing, grading, and installation of the Construction Support Zone facilities
3. Initial BMP placement as ~~outlined~~~~outline~~ by ~~the~~ Construction ~~Stormwater Pollution Protection Plan (SWPPP)~~
4. Initial processing of the Hillside Waste Rock Pile (HSWRP)
5. Dewatering of Pit 4
6. Pit 4 ~~scaling~~~~Sealing~~ and other rockfall measures

7. Pit 4 sediment cleanup/dewatering, and sump construction
8. Construction and conveyance of water from the Pit 4 dewatering wells
9. Polishing of water as necessary to be used for dust suppression in uncontaminated areas
10. Backfilling of Pit 4
11. Hauling and placement of ~~borrow material, and revegetation~~Borrow Material, Revegetation of ~~borrow area~~Borrow Area once Pit 4 is completely backfilled (at the end of Phase 1)
12. Capping and revegetation of the Pit 4 cover, ~~in addition to other more minor work items associated with Phase 1 construction~~

DMC/Newmont will evaluate the selected RA ~~(or Prime/General)~~ Contractor's performance ~~toward~~at the end of the Phase 1 construction period and, based on ~~that evaluation, these evaluations~~ either ~~re-solicit bids go back out for bid because of concerns with Contractor's performance,~~ or continue with the selected RA Contractor into Phase 2 of the RA.

~~The~~ ~~It is likely the~~ selected RA Contractor will perform ~~all aspects of~~ the construction activities either by self-performing the construction tasks or by subcontracting specific portions of the ~~with the~~ Phase 1 earthworks ~~to specialty contractors~~ (e.g., the crushing and screening portion of the HSWRP) ~~, might be subcontracted to a specialty contractor~~. The selected RA Contractor will be required to have all ~~lower-tier~~ subcontracts comply with the contracting terms and conditions, certifications, qualifications and training requirements, etc. ~~that are~~ included in ~~the prime contract with DMC/Newmont~~this Procurement Plan.

~~A Construction Management (CM) contract also will be awarded to a qualified firm that is independent from the construction contractors or DMC/Newmont may supply or hire a qualified CM and staff. The CM will oversee the construction contractors and perform quality assurance (QA) duties in accordance with the Construction Quality Assurance Plan (CQAP).~~

The predominant means by which contracts will be awarded include the following:

- Comparable project management and work experience
- Technical ~~approach~~Approach and project scheduling

~~The general types of contracts considered for use, in order of preference for this project, are “Firm Fixed Price” (FFP), “Fixed Unit Price” (FUP), and “Time & Material” (T&M). Where assigned-agreements (sole source) are necessary, the price, terms, and conditions will be negotiated to the mutual benefit of all parties. Relevant prime contract terms and conditions will flow down to subcontracts.~~

The general types of contracts considered for use, in order of preference for this project, are “Firm-Fixed Price” (FFP), “Fixed Unit Price” (FUP), and “Time & Material” (T&M).

A Construction Manager (CM) contract may be awarded to a qualified firm that is independent from the RA Contractor, or DMC/Newmont may provide a qualified CM. The CM will oversee the RA Contractor and perform quality assurance (QA) duties in accordance with the Construction Quality Assurance Plan (CQAP).

V2.1 BIDDER’S INTEREST CAMPAIGN AND PRE-QUALIFICATION OF BIDDERS

DMC/Newmont will identify a list of Tribal and non-Tribal RA contractors. These contractors will receive a Request for Information (RFI). Responses to this RFI will be used as a screening tool to identify a smaller group of pre-qualified contractors that will receive the request for proposal (RFP) to perform the RA. An evaluation system will be established to determine the acceptable level of qualifications to bid as a Prime Contractor or perform in a support role to the Prime Contractor.

Candidate RA contractors will be notified and pre-qualified as follows:

1. DMC/Newmont (or their designated representative) will contact via certified-mail, and/or email, all Spokane TERO-listed contractors and non-tribal contractors and request the firms respond to a RFI questionnaire that includes necessary qualifications and experience as listed immediately below.
2. The RFI will seek responses to the following topics. The prospective RA contractors:
 - Native American business status (for compliance with TERO).
 - Technical capabilities and core competencies. Experience and performance on similar large construction, Superfund or Tribal projects, including client references.

- Safety record, including Occupational Safety and Health Administration (OSHA) 300 Logs, OSHA Incident and Severity Rate, and Worker's Compensation Experienced Modification Ratings (EMR).
 - Construction safety plans, policies, and procedures and their compliance with applicable laws and regulations.
 - Workplace Drug-Free policy and procedures.
 - Workplace discrimination policies and procedures.
 - Financial stability and resources necessary for the successful completion of the project. Resources evaluated include those related to personnel, equipment, and operating revenue.
 - Bank and credit references.
 - Payment history of subcontractors and suppliers.
 - Bond and insurance capacity.
 - Business and professional licensing and registration, as applicable to bidder's trade specialty.
3. DMC/Newmont will screen the prospective Contractor's RFI responses. The Tribal TERO representatives also will be given the opportunity to review and provide input on the responses. Based on these evaluations, DMC/Newmont will select a list of prospective Tribal and non-Tribal contractors that will receive a Request for Proposal (RFP) as discussed in Section V2.2 below.

V2.2 REQUEST FOR PROPOSALS

For the Midnite RA project, the relevant design elements ~~have been~~will be progressed to the ~~100%-Percent~~ level to allow for a clear scope of work (SOW) prior to seeking bids.

~~Following~~Between the RFI process discussed in Section V2.1~~90% and 100% submittal,~~ DMC/Newmont will assemble the Phase 1 procurement package (also known as the request for proposal (RFP). The). ~~It is anticipated that the~~ Phase 1 RFP package will contain the following information for the prospective Contractors to consider and ~~respond~~ to:

- A description of the Phase 1 activities that will be necessary to complete (i.e., a SOW) along with pertinent 100% design drawings, specifications and the RAWP. The

prospective Contractors will be required to detail their technical approach in performing the Phase 1 SOW and include a list of any exceptions they ~~may~~might have to the RFP documents.

- The RFP will state how bids will be evaluated, and what constitutes a responsive bid. Refer to sections 9 (Receipt and Opening of Bids), 10 (Bid Evaluation Procedures) and 11 (Recommendations and Purchase Order Award) in Attachment V-2 for general discussions of each of these topics as they relate to the contractor’s proposal and DMC/Newmont’s response to their submittal.
- A requirement to present other similar projects that the ~~contractors~~Contractors have executed and ~~references~~direct oversight personnel that can be contacted to determine how the ~~contractor~~Contractor performed. In addition, the ~~contractors~~Contractors will have to discuss in detail the size of their company, their current work load, and how they plan to accomplish the Phase 1 work based on their other commitments.
- Resumes of key project personnel and their degrees / training ~~(e.g., 40-hr. HAZWOPER, Health and Safety Training, etc.)~~.
- Information on all key subcontractors that are proposed.
- List of equipment that will be used for the project and whether it is leased or owned.
- Provide details on the ~~contractor’s and key subcontractors~~Contractor’s Health and Safety Program including:
 - a. A requirement to identify the company’s Environmental Health and Safety (EHS) Representative / Competent Person responsible for this project
 - b. A list Interstate Experience Modification Rating (EMR) for each of the last 3 years. Include a separate verification letter of the EMR data from ~~theyour~~ Insurance Carrier or Broker.
 - c. Provide the following injury information for the past 3 calendar years:

YEAR	FATALITIES	# OF OSHA RECORDABLE INJURIES	OSHA RECORDABLE RATE	LOST TIME RATE

- d. Any OSHA or MSHA “Serious or Willful” Citations in the past 3 years? Yes/No

- e. A description of work-related ~~fatalities~~fatality in the past 5 years. If ~~any~~so, provide the year of occurrence, circumstances and description of any post-fatality changes in ~~your~~Health and Safety Program or practices.
 - f. Attach a copy of the TABLE OF CONTENTS of the current EHS Management System Process.
 - g. All of the above information and documentation for all proposed ~~lower-tier~~ subcontractors.
- Licenses: List all applicable licenses the ~~contractors~~Contractors have or will acquire (including descriptions, numbers and expiration dates) to lawfully conduct the Work.
 - Bonding ~~capacity~~Capacity of the company.
 - A proposed Construction Schedule given the Phase 1 SOW activities.
 - An estimate of labor, equipment, and other direct costs that will be incurred in completing the Phase 1 SOW. DMC/Newmont will provide a bid schedule for the contractors to prepare their estimates. Any assumptions the ~~contractors~~Contractors use in preparing pricing should also be included with their cost estimate.
 - Any exceptions the prospective contractors might have to the DMC/Newmont's contract terms and conditions.~~to be reviewed and agreed upon before the selection of the Contractor~~

The DMC/Newmont RFP also will clearly ~~identify~~identifies the ~~contractors'~~Contractors' proposal due date, cutoff for submission of questions, site walk information, ~~the anticipated date of award,~~ etc. ~~DMC/Newmont will keep a record of prospective RA contractors' questions on the RFP during the proposal preparation phase and responses~~ so that all the perspective ~~contractors~~Contractors can review DMC/Newmont's responses ~~during preparation of their cost proposal.~~ ~~DMC/Newmont realizes there is some redundancy between the information that the prospective RA Contractors.~~ ~~The anticipated date of award will provide during the RFI and RFP process but this information is considered critical~~be listed in initial and final selection of the RA contractor. ~~the Phase 1 SOW.~~

V3.0 GENERAL CONTRACT REQUIREMENTS

The ~~selected~~ RA Contractor(s) and ~~CM Construction Manager will be hired by DMC/Newmont~~ and will be required to perform work in accordance with the EPA-approved Final RD and specifications, the ~~Remedial Action Work Plan (RAWP)~~ and the ~~Construction Quality Assurance Plan (CQAP)~~. The RAWP and the CQAP describe how each ~~element/component~~ Element/Component of the Selected Remedy will be addressed during the ~~construction activities~~ RA, identify specific tasks necessary ~~to complete~~ for completing the Remedy RA, and provide an overall management and quality control/assurance strategy for completion of all such tasks. The RAWP ~~also~~ will include an updated project schedule for each major activity and submission of deliverables ~~required to be generated~~ during construction of the Remedy RA.

The RA Contractor and ~~CM Construction Manager~~ will participate in a pre-construction ~~preconstruction~~ conference prior to each construction season, as well as regular meetings with EPA ~~and the Spokane Tribe of Indians (Tribe)~~ to discuss the Remedy RA construction as it progresses. The RA Contractor and ~~CM Construction Manager~~ will provide full and complete access to EPA ~~and the Tribe~~ (or their designated representatives) for periodic scheduled inspections intended to assure that the construction activities RAs are proceeding or have been completed in substantial compliance with the approved Final RD and RAWP/CQAP. Should specific work activities be determined non-compliant, ~~DMC/Newmont the RA contractor(s)~~ will require the RA Contractor(s) ~~be required~~ to take necessary steps to correct deficiencies and/or bring the construction into compliance with the approved Final RD and RAWP/CQAP.

V4.0 DESCRIPTION OF MIDNITE REQUESTS FOR PROPOSAL

Work (or RFP) packages will be developed that align with the following RA Work Elements:

- Mine Waste Excavation and Containment – broken into phases 1, 2, and 3 of mine waste excavation and containment including backfilling, capping, revegetation and all the associated construction activities that support completion of these construction phases
- Water Collection and Treatment – permanent pumps, influent lines ~~Permanent Pumps, Influent Lines~~, and WTP construction ~~Construction~~

- Treated Water Conveyance Line – ~~effluent pipeline construction~~ Effluent Pipeline Construction
- Groundwater Controls – ~~dewatering trenches~~ Dewatering Trenches in the Far Eastern, Central and Western Drainages
- Construction Management – ~~quality assurance~~ Quality Assurance throughout the RA.

At the RFP level, the work will be broken down into “primary bid items” to manage the detailed costs of subcontract placement, administration, field oversight, and execution. The individual RFP packages will include the scope items discussed below. One or more of these ~~RFPs~~ RFP may be combined depending on the capabilities and performance of the selected RA Contractor in the Phase 1 Mine Waste Excavation and Containment procurement. For example, the selected Phase 1 ~~RA~~ earthworks Contractor might be able to implement the RFP discussed in V4.4 below. In that case, ~~the contractor~~ they would be asked to provide anticipated costs for the section V4.4 RFP without going through the entire bid process with other ~~contractors~~ Contractors.

V4.1 MINE WASTE EXCAVATION AND CONTAINMENT

The Mine Waste Containment RFPs will be broken into three phases ~~to follow the approach~~ (including tasks to be completed in each phase) ~~to follow the approach~~ as described in Appendix D of the BODR. Overall, the Mine Waste Excavation and Containment will include the following SOW items:

- Health and Safety Program (includes preparing the Site Safety and Health Plan to cover all activities performed by the contractor)
- Mobilization/~~construction support zone facility layout~~ Construction Support Zone Facility Layout and ~~staging areas~~ Staging Areas
- Surface ~~water~~ Water and ~~sediment controls~~ Sediment Controls
- Storage ~~ponds~~ Ponds and ~~conveyance lines~~ Conveyance Lines (including temporary conveyance lines from the groundwater controls)
- Demolition of existing Water Treatment Plant (WTP)
- Mine ~~waste excavation~~ Waste Excavation
- Mine ~~waste containment~~ Waste Containment including backfilling and capping

- Site ~~revegetation~~ **Revegetation**

V4.2 WATER COLLECTION AND TREATMENT

The Water Collection and Treatment Work Package will include the following SOW items:

- Health and Safety Program (includes preparing the Site Safety and Health Plan to cover all activities performed by the contractor)
- Construction of ~~permanent influent lines~~ **Permanent Influent Lines** and ~~pumps~~ **Pumps**
- Construction of ~~new~~ **New** Water Treatment Plant
- Prepare ~~technical~~ **Technical** and O&M ~~manuals~~ **Manuals**

V4.3 TREATED ~~EFFLUENT~~ **EFFULENT** WATER CONVEYANCE LINE

The Treated Water (Effluent) Conveyance Line RFP will include the following SOW items:

- Health and Safety Program (includes preparing the Site Safety and Health Plan to cover all activities performed by the contractor)
- Mobilization/~~facility layout~~ **Facility Layout** and ~~staging areas~~ **Staging Areas**
- Construction of effluent conveyance line from new WTP to Lake Roosevelt
- Fabrication and installation of the diffuser in Lake Roosevelt

V4.4 GROUNDWATER CONTROLS

The Groundwater Controls RFP will include the following SOW items:

- Health and Safety Program (includes preparing the Site Safety and Health Plan to cover all activities performed by the contractor)
- Mobilization/~~facility layout~~ **Facility Layout** and ~~staging areas~~ **Staging Areas**
- Construction of groundwater extraction trenches and low-permeability barriers
- Installation of new wells/piezometers for performance monitoring

V4.5 CONSTRUCTION MANAGEMENT

The CM Work Package will include the following SOW items:

- Construction oversight

- Construction QA in accordance with the CQAP

V5.0 CERTIFICATIONS, QUALIFICATIONS, AND TRAINING REQUIREMENTS

The following certifications, qualifications and training are the minimum requirements that will be required to perform the Midnite Mine RA construction activities. These requirements will be included/refined in the RAWP and RFPs. As listed in Section V2.1 requirements will include:

- Resumes of selected project personnel and their degrees / training (~~e.g., 40 hr. HAZWOPER, Health and Safety Training, etc.~~)
- Details on the contractor's/Contractor's Health and Safety Program including:
 - a. A requirement to identify the company's ~~Environmental Health and Safety (EHS)~~ Representative / Competent Person responsible for this project.
 - b. A list Interstate ~~Experience Modification Rating (EMR)~~ for each of the last 3 years. Include a separate verification letter of the EMR data from your Insurance Carrier or Broker.
 - c. Provide the following injury information for the past 3 calendar years:

YEAR	FATALITIES	# OF OSHA RECORDABLE INJURIES	OSHA RECORDABLE RATE	LOST TIME RATE

- d. Any OSHA or MSHA “Serious or Willful” Citations in the past 3 years? Yes/No
 - e. A description of work-related ~~fatalities/fatality~~ in the past 5 years. If any/se, provide the year of occurrence, circumstances and description of any post-fatality changes in ~~your~~ Health and Safety Program or practices.
 - f. Attach a copy of the TABLE OF CONTENTS of ~~the/your~~ current EHS Management System Process.
 - g. All of the above information and documentation for all proposed ~~lower-tier~~ subcontractors.
- Licenses: List all applicable licenses the contractors/Contractors have or will acquire (including descriptions, numbers and expiration dates) to lawfully conduct the Work.

V6.0 TRIBAL EMPLOYMENT RIGHTS ORDINANCE

The Site is located on the Spokane Tribe of Indians Reservation; therefore, all RA ~~workcontract bidding processes~~ will be conducted in accordance with the Spokane Tribe of Indians ~~Tribal Employment Rights Ordinance (TERO).~~ ~~Preference will be granted to qualified Tribal contractors to perform the Site RA activities. In the event that a Tribal contractor cannot meet the pre-qualification requirements described below, the selected RA Contractor(s) will be required to comply with TERO hiring requirements.~~ These requirements include submitting to the Spokane TERO Office a Compliance Plan documenting how the RA Contractor (and all lower-tier subcontractors) will meet their obligations and responsibilities under TERO before commencing work on the Spokane Indian Reservation. A copy of the Spokane TERO Office Compliance Plan is included as Attachment V-1 to this Procurement Plan.

~~V7.0 BIDDER'S INTEREST CAMPAIGN AND PRE-QUALIFICATION OF BIDDERS~~

~~This section of the Procurement Plan describes the Contractor prequalification process.~~

- ~~1. The Tribal TERO office will be contacted to provide a complete listing of all TERO qualified general contractors and subcontractors.~~
- ~~2. DMC/Newmont (or their designated representative) will contact via United States Postal Certified mail all Tribal-qualified general contractors and subcontractors and any known local or regional general contractors or subcontractors qualified to provide the RA services. The submittal will include correspondence which requests the firms respond to a Subcontractor Qualification Questionnaire and a Statement of Work Qualifications and Experience.~~
- ~~3. DMC/Newmont (or their designated representative) and the TERO Director will conduct a pre-qualification screening.~~

~~The goal of the Qualification Questionnaire is to objectively develop a list of qualified Bidders. An evaluation system will be established to determine the acceptable level of qualifications, which will be correlated to the Qualification Questionnaire.~~

~~The General Contractor and Subcontractor Qualification questionnaire will seek responses to the following topics. It should be noted that in Section V2.1, the RFP process, has much of this same information listed as necessary to provide in the response to the RFP. However, once~~

~~this information is presented to DMC/Newmont, it will not have to be repeated but should be referenced by date of submittal in each bidder's proposal.~~

- ~~• Native American business status (for compliance with TERO).~~
- ~~• Technical capabilities and core competencies. Past performance on similar projects, including client reference checks.~~
- ~~• Safety record, including Occupational Safety and Health Administration (OSHA) 300 Logs, OSHA Incident and Severity Rate, and Worker's Compensation Experienced Modification Ratings (EMR).~~
- ~~• Construction safety plans, policies, and procedures and their compliance with applicable laws and regulations.~~
- ~~• Workplace Drug Free policy and procedures.~~
- ~~• Workplace discrimination policies and procedures.~~
- ~~• Financial stability and resources necessary for the successful completion of the project. Resources evaluated include those related to personnel, equipment, and operating revenue.~~
- ~~• Bank and credit references.~~
- ~~• Payment history of lower-tier subcontractors and suppliers.~~
- ~~• Bond and insurance capacity.~~
- ~~• Business and professional licensing and registration, as applicable to Bidder's trade specialty.~~

~~DMC/Newmont and TERO will receive, examine and group all qualification questionnaires returned. The potential Bidders will be grouped by the appropriate work package(s). Some Bidders may be well qualified in multiple specialty trades.~~

~~V8.0 SOLICITATION AND BID SELECTION~~

~~Following submittal of the 100% RD submittal, the Phase 1 RFP will be submitted to the Pre-Qualified Bidders for proposals in accordance with Newmont's Procurement Policies (included in Attachment V-2). The RFPs will be staggered as discussed in Section V1.0 based on the Selected Contractor's performance and according to the RA schedule included in the 100% RD~~

submittal. For example, construction elements that are planned for later in the RA schedule will not be solicited at the same time as the initial Work Package for the Phase 1 construction activities. At their discretion, and following consultation with the TERO office, DMC/Newmont will select the RA Contractor(s) from the Pre-Qualified Bidders list.

V9.0 ENGINEER'S COST ESTIMATE

The engineer's cost estimate at the 90% design stage for implementing the Selected Remedy was provided to EPA under a separate cover as Appendix W. The cost estimate at the 90% design stage is considered confidential business information in accordance with 42 USC 9604(e)(7) and 40 CFR 2.230(b).

Attachment V-1

Spokane Tribe of Indians TERO
Compliance Plan

Attachment V-2

Newmont USA Limited Procurement
Policies
