



DEPARTMENT OF ENERGY

Request for Information Regarding Treatment and Disposal of Elemental Mercury

AGENCY: Office of Environmental Management, U.S. Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy's (DOE) Environmental Management Consolidated Business Center and Office of Environmental Management are currently in the acquisition planning and regulatory planning stages for a potential future treatment and disposal (T&D) acquisition activity and fee rulemaking activities for elemental mercury waste. This planning supports DOE's efforts to implement the requirements of the Mercury Export Ban Act of 2008, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. DOE's Office of Environmental Management is issuing this RFI for the purpose of conducting market research in accordance with the Federal Acquisition Regulation (FAR). This RFI is also being issued to potentially support a future rulemaking action that would establish a fee to provide long-term management and storage of elemental mercury. No contract solicitation is available through this RFI.

DATES: Written comments and information are requested on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may submit comments via any of the following methods:

Email: mercury.mgt.fee@em.doe.gov. Please include "Treatment and Disposal of Elemental Mercury RFI" in the subject line, and submit comments in Microsoft Word, or PDF file format, and avoid the use of encryption.

Postal Mail: Timothy Herald, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM-4.22), 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Timothy Herald, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM-4.22), 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (240) 243-8753, Email: *mercury.mgt.fee@em.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Purpose and Introduction

The purpose of this RFI is to identify entities capable of providing (1) infrastructure, capabilities, and capacities for the treatment and/or disposal of elemental mercury, (2) documentation of permits held, or viable strategies for obtaining permits and regulatory approval for the T&D methods identified, and (3) physical and administrative methods to segregate and control the elemental mercury considered under this RFI separately from other hazardous wastes managed at the facility or facilities.

To that end, this RFI solicits input via capability statements from interested parties with the specialized capabilities necessary to meet all, or part of, the major elements of scope for the T&D of elemental mercury. Within these capability statements, DOE is seeking feedback from contractors, small business concerns, and other interested parties regarding options for innovative approaches to perform the work scope elements of this RFI. This feedback will assist DOE with identifying interested and capable sources, and with advancing development of DOE's acquisition strategy and future rulemaking action.

This RFI is issued as part of DOE's implementation of the requirements of the Mercury Export Ban Act of 2008 (Pub. L. 110-414), as amended by the Frank R. Lautenberg Chemical Safety for

the 21st Century Act (Pub. L. 114-182) (collectively identified herein as MEBA). Within MEBA, DOE interprets “long-term management” to include T&D. Elemental mercury managed under MEBA is a hazardous waste and thus must be treated and disposed of in accordance with applicable statutory and regulatory requirements.

DOE is aware that Land Disposal Restrictions (LDRs) described in the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*) (RCRA) at 40 CFR part 268, subpart D – Treatment Standards, do not currently include an approved treatment standard for non-radioactively contaminated elemental mercury waste that provides an LDR-compliant waste form acceptable for shallow land disposal. However, a treatment and land disposal path for non-radioactively contaminated elemental mercury would be available if the U.S. Environmental Protection Agency promulgated a new rulemaking (per 40 CFR 260.20) or approved a site-specific No Migration Variance (NMV) (per 40 CFR 268.6) or a site-specific Determination of Equivalent Treatment (DET) (per 40 CFR 268.42(b)). Recently, DOE received information that could provide other potential T&D options (*e.g.*, deep well injection) to disposition elemental mercury. Also, RCRA may allow for intermediary treatment methods that convert elemental mercury to a more stable form (*e.g.*, cinnabar/mercury sulfide) suitable for longer duration storage pending disposal availability. DOE therefore encourages all interested parties to identify their T&D methods for DOE consideration.

II. Performance Work Statement

DOE requires services for the T&D of elemental mercury conveyed to DOE pursuant to MEBA. DOE may initially seek T&D services for up to 120 metric tons (MT) of elemental mercury to which DOE holds title as established in an August 2020 settlement agreement with Nevada Gold Mines, LLC (NGM), whereby DOE agreed to accept title to and all further responsibility for 112 MT of elemental mercury that was in temporary storage at certain NGM facilities as of December 31, 2019.

DOE is considering additional contract options that could increase the quantity of elemental mercury T&D capacity over a 5-year contract period of performance. The potential need for additional T&D capacity is based on the expectation that additional quantities of elemental mercury would be conveyed to DOE, and such options would afford DOE the capability to disposition a much larger volume of elemental mercury waste. Interested parties' responses to this RFI should address their capabilities and capacities to treat and/or dispose of the following three volumes of elemental mercury waste during a base period of performance (estimated) through a maximum 5-year period of performance (PoP):

- 120 metric tons (MT) elemental mercury – base period proposed by responding entity.
- 1,500-2,000 MT elemental mercury (includes base 120 MT) – maximum 5-year PoP.
- 2,000-3,000 MT elemental mercury (includes base 120 MT) – maximum 5-year PoP.

III. Request for Information

Within the context of the information contained in this RFI request, interested parties may provide responses to the following information requested below as deemed appropriate and applicable by the respondent, and to the extent the information is available:

1. Describe your experience managing hazardous materials and hazardous waste, including elemental mercury as a material and as a waste. Discuss roles and responsibilities of your company and any contemplated teaming partners specific to the performance work statement (PWS) elements of this RFI.
2. Describe your approach to meeting the PWS elements of this RFI in providing T&D services for elemental mercury waste. Specifically, discuss:
 - a. The permits you hold or your regulatory status/proposed strategy for obtaining regulatory approval (*i.e.*, DET, NMV, other RCRA T&D method, export to Organization for Economic Cooperation and Development country, etc.) to treat and dispose of elemental mercury waste.

- b. Your expected (existing or planned) annual throughput capacity (*i.e.*, metric tons of elemental mercury per year treated and disposed). Describe your ability to scale up processes, if required, to achieve T&D of (a) 1,500-2,000 MT during a 5-year PoP, or (b) 2,500-3,000 MT during a 5-year PoP.
 - c. For the existing (or planned) capacity identified in 2(b) above, describe the proposed facilities and processes and whether new construction or modifications would be required to treat and dispose of the requested quantities.
 - d. Capabilities to safely manage compromised (*e.g.*, leaking, damaged) containers of elemental mercury, including the ability to open containers for transfer to new containers, as well as interim products (*e.g.*, cinnabar).
 - e. Capabilities to process off-specification waste forms to allow disposal.
 - f. Management and disposition of secondary wastes generated during processing or handling.
 - g. Disposal facility receipt, handling, staging, and emplacement of the equivalent of the masses of elemental mercury identified above, accounting for volume increase due to treatment to produce an acceptable waste form for disposal.
 - h. Capabilities to monitor the performance of disposal (*e.g.*, monitoring wells, leachate collection and treatment, etc.) in accordance with regulatory requirements to identify and mitigate potential leak/release paths.
 3. Identify any challenges and risks in meeting the PWS elements of this RFI in providing T&D service for elemental mercury waste and any actions your organization would take to address those challenges and risks.
 4. Describe your approach to managing the infrastructure at the planned facility or facilities to provide segregation and control processes (*e.g.*, administrative, procedural, and physical) of DOE MEBA elemental mercury through all activities, including transportation, handling, treatment, and disposal.

5. Discuss your experience in implementation of environmental, safety, and health plans related to your (and any teaming partner's) work, including any prior relevant experience with work on or with DOE facilities, and your approach to addressing the requirements under 10 CFR part 851, Worker Safety and Health Program, as applicable.
6. Provide a brief Experience and Performance Record (within the past 15 years). Identify all DOE, other Government, or other commercial experience relevant to this RFI (include dollar value, contract type, role in the effort [i.e., prime contractor or subcontractor] date, scope, duration, and client).
7. DOE may require a leasehold interest in the real property or properties offering T&D services. Discuss any impacts this may have to your ability to respond to a request for proposal. Discuss any relevant experience with leasehold arrangements.
8. Highlight any factors that would make competing for this contract desirable or undesirable for your firm, including input on proposal evaluation criteria. Discuss any issues that DOE should consider when developing the solicitation for this proposal. Identify any Organizational Conflicts of Interest (OCI) concerns and/or potential OCI's that you or your teaming partners may have pertaining to the work described in this RFI. Additionally, please identify and describe any areas in the major elements of scope believed to be missing or in need of clarification.

Any additional information that would assist in the evaluation of the RFI.

IV. Response Guidelines

All interested parties are invited to submit a capability statement/response to this RFI. Responses to the RFI must be in writing and submitted no later than **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** via one of the methods provided in the **ADDRESSES** section. Electronic responses are preferred and can be provided as an attachment to an email. Please provide submittals as Microsoft Word (.docx), or PDF files.

Respondents may use formatting that best presents the information, but submittals of 15 pages or less are requested. Respondents may answer as many or as few topics as they wish. A response to this RFI will not be viewed as a binding commitment to develop or pursue projects, ideas, or proposals discussed.

This RFI is solely a request for information and is not a request for quote or proposal. DOE will not pay for any information that is provided in response to this announcement, nor will it compensate any respondents for the development of such information. DOE may contact firms responding to this announcement to clarify a respondent's responses or capabilities and other matters as part of this regulatory research process.

DOE reserves the right to use any, and all, information submitted by the responding party in any manner. DOE intends to utilize the information provided in response to this RFI to inform potential future T&D acquisition activity and fee rulemaking planning activities. Respondents are advised to avoid including any information that might be considered business confidential and/or proprietary information (CBI), if possible, in their submission. DOE will endeavor to protect such information to the extent legally permissible. If required to do so as part of the regulatory process, DOE would try to make the information available to the public in a manner that is not directly attributable to the responding party.

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Signing Authority

This document of the Department of Energy was signed on January 8, 2025, by Candice Trummell, Senior Advisor for Environmental Management, pursuant to delegated authority from the Secretary of Energy. The document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, D.C. on January 13, 2025.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

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